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REPORT FROM THE COMMISSION

Member States' replies to the Court of Auditors' 2011 Annual Report

{COM(2013) 118 final}

The Financial Regulation applicable to the General Budget of the European Union states in article 162.5 that as soon as the Court of Auditors (the Court) has transmitted its Annual Report, the Commission shall inform the Member States concerned immediately of the details of that report which relate to management of the funds for which they are responsible, under the rules applicable. Member States should reply to the Commission within sixty days and the Commission transmits a summary of the replies to the Court of Auditors, the European Parliament and the Council before 28 February of the following year.

Following publication on 6 November 2012 of the Court's Annual Report for the budgetary year 2011, the Commission duly informed Member States of details of the report. This information was presented in the form of a letter and three questionnaires (presented as annexes) which Member States were required to complete: Annex I was a questionnaire on the paragraphs in the report referring to individual Member States; Annex II was a questionnaire on the audit findings which refer to each Member State¹ and Annex III was a questionnaire on general findings related to the policies and programmes under shared management.

This Staff Working Document (SWD), which comprises the Member States' replies to Annex I and Annex III², accompanies the report from the Commission "Member States' replies to the Court of auditors' 2011 annual report".

¹ Annex II comprises the replies of the Member States to individual Statements of Preliminary Findings and is not included in the SWD, but is made available to the ECA.

² See previous footnote

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CHAPTER 1 – The Statement of Assurance and supporting information		
Table 1.4	Reservations issued by Commission's directorates-general for 2011	<u>Germany:</u> The Managing Authority for Berlin/Brandenburg (ERDF) provided the following remarks: On the basis of an analysis of the grounds for the errors flagged up in the Annual Control Report, an Action Plan to improve the management and control system was drawn up and implemented. Further checks were carried out in respect of irregularities in the award procedures and training was given on public procurement law and guidelines drawn up. For the other reservations, please refer to the remarks in Annex II. <u>Austria:</u> No. <u>Belgium:</u> Budget : En effet, la Cour des comptes européenne a des doutes quant à l'exactitude des montants RPT transférés vers le budget de l'UE. L'administration générale belge des Douanes et Accises (AGDA) a demandé le remboursement de 126 MIO EUR, c'est-à-dire 75% d'un total de 169 MOI EUR enregistrés erronément comme RPT dans la comptabilité de l'AGDA belge au cours de la période 2008-2010. La DG Budget (Commission européenne) a fait dépendre le remboursement d'un audit de système comptable par un auditeur indépendant. Cet auditeur doit également certifier le montant redemandé par la Belgique afin d'autoriser le remboursement de l'UE. L'adjudication pour la passation du marché avec un auditeur est terminée. La mission sera lancée début janvier 2013. On attend la certification du montant à rembourser par l'UE vers mars 2013. FSE : l'Agence FSE n'a pas fait l'objet d'un contrôle de la CCEur en 2011, donc aucune réserve. Bureau d'Intervention et de Restitution Belge : néant Autorité de Gestion PO FEDER (Région Bruxelles – Capitale) : néant

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		Autorité d’audit (Région Bruxelles- Capitale) : néant SPF Fin. Affaires fiscales : néant Autorité d’audit (Région wallonne – Communauté française) : néant PO FSE Compétitivité régionale et Emploi de la région de Bruxelles-Capitale 2007-2013 : néant ESF Vlaanderen (MA/CA/AA) : néant EFRO Vlaanderen (MA/CA/AA): néant ELFPO: néant Communauté germanophone de Belgique: pas concerné par le rapport de la Cour des comptes européenne Autorité d’audit du programme opérationnel développé dans le cadre du fonds social européen pour la période de programmation 2007-2013 : pas concerné par le rapport de la Cour des comptes européenne <u>Hungary:</u> Hungary considers an effective and efficient financial management in connection with programmes supported by the Structural and Cohesion Funds to be of particular importance. For that reason, we have carried out continuous checks since 2007. In recent times, we have achieved significant progress in the supervision of public procurement. Since 8 December 2010, a centralised public procurement audit system has been in operation at the National Development Agency. A specialised unit, the Public Procurement Supervisory Department was created with the primary responsibility of performing mandatory ex-ante and ex-post public procurement audits, drafting guidelines and providing expert supervision of the first-level controls carried out by intermediary organisations in the case of public procurements with a lower contract value. The competences required to carry out the above tasks are laid

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		down in national legislation. If a beneficiary wishes to claim support from the Structural and Cohesion Funds in order to realise a project, it may not launch a public procurement procedure and may not conclude or modify a contract without the Department's consent. Statistical data concerning the checks completed so far clearly attest to the decisive role the Department plays in ensuring legal compliance in public procurement. The National Development Agency carried out a concentration check in order to detect potential anomalies arising during the awarding of contracts and to prevent a distortion of competition in connection with Hungarian public procurement procedures. The results of the check prove that the degree of consolidated concentration is not excessive. However in order to maintain this level, we will regularly analyse such data. Since the system has been improved significantly and, according to the checks carried out to date, its concerns have proved unfounded, we sincerely hope that the European Commission will soon lift Hungary's unwarranted reservation status. <u>Ireland:</u> The Commission's reservations derive from preliminary findings based on an initial examination of closure documentation submitted. A contested procedure is currently underway. Ireland is confident of the robustness of its financial management and control systems and will vigorously defend them in the ongoing contested procedure. Furthermore, no such issues have been identified during the 2007-2013 round despite extensive checks and audits. <u>Italy:</u> NOT NECESSARY <u>Lithuania:</u>

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		Reservations of DG EMPL and REGIO presented in the table are related to the shortcomings identified in the Public Audit Report on operational programmes implementing the 2007-2013 strategy of Lithuania on the use of the EU structural support to achieve the convergence objective, the functioning of the management and control system (hereinafter referred to as the MCS) and the expenditure declared to the European Commission in 2010 (the annual control report under Article 62 of Regulation (EC) No. 1083/2006). The expenditure mentioned is essentially justified by the error rate identified by the aforementioned DGs of the EC (which, as estimated by the EC services, would be 4.36%, and the expected error rate given in the annual control report is 1.93%). We would like to point out that the Lithuanian audit authority carries out continuous monitoring of the implementation of recommendations to the MCS institutions given in the annual control report in accordance with the measures and within the deadlines for implementing the recommendations by the MCS institutions audited. At present 91% of the recommendations made in 2010 have been implemented. <u>Netherlands:</u> Explanatory Note: in May 2012, the European Commission launched the procedure to suspend payments to the 'North' and 'South' programmes (two of the four management authorities) on a temporary basis. This was because the auditing authority (AA) had noticed that their management and control systems needed improving and that there had been too high a percentage of errors two years. The AA was supposed (in consultation with the management and certifying authority) to provide information to the European Commission (EC) regarding three questions within two months. The AA sent the letters to the EC in June. Subsequently, in August, the EC then launched the more cumbersome procedure for suspending payments to North and South. This was because it had been concluded that there were serious weaknesses in the management and control systems of these programmes as the AA had found an error rate above the standard 2% for 2010. This was the conclusion for almost half of all the ERDF programmes in Europe (130 out of the 317). Within two months, the EC was informed of the approach taken in certain cases. On this basis, the EC decided at the end of October to stop the suspension procedure.

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		<u>Poland:</u> 1. Measure 4.5 of the OPIE Reservation of the European Commission pertained to the effective functioning of the management and control system in Measure 4.5. of the Operational Programme Innovative Economy (OPIE) in the process of selecting projects for funding. The functioning of the management and control system in Measure 4.5. of the OPIE has been verified by the Audit Authority for the European Commission. The audit report was submitted to the European Commission on 27 June 2012. Pursuant to the report, the management and control system for the above measure was evaluated in the category 1 (the system works well, only minor improvements are required). The audit of the MA of OPIE in the Implementing Authority for the aforementioned measure, conducted on 29 May - 1 June 2012, confirmed that the procedures in place in the Implementing Authority ensure the compliance of the selection and implementation of funded projects with Community regulations concerning the incentive effect, the risk of reallocation of funds, innovation and that they ensure the efficiency of public funds spending. As a result of remedial actions undertaken, the European Commission has resumed the certification of expenditures for projects under Measure 4.5. of the OPIE. 2. 7th axis of the OPIE Reservation of the European Commission pertained to the effective functioning of the management and control system in the 7th priority axis of the OPIE. Remedial actions were undertaken at the turn of 2012 - immediately upon the receipt from the Supreme Chamber of Control and from the Central Anti-Corruption Bureau of information on the irregularities in the implementation of projects funded under the 7th priority axis of the OPIE. Information on the implemented remedial actions was submitted to the European Commission, inter alia, in letters dated 10 and 18 May 2012. On 31 May the Remedial Action Plan was submitted to the European Commission (a document including detailed information on the corrective measures applied in order to ensure proper

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		implementation of projects under the 7th priority axis of the OPIE). The most important remedial actions implemented since the beginning of 2012 included: withdrawing from the certification of expenditures suspected of irregularities, subjecting the projects to increased monitoring, inter alia by closer linking of the procedures for settling expenditure with the verification of the material progress of projects, conducting in-depth trainings on public procurement and anti-corruption procedures for project beneficiaries and employees of institutions involved in the implementation of projects under the 7th priority axis of the OPIE. Due to the nature of remedial actions implemented - in particular, the increased project monitoring carried out on an ongoing basis - the measures undertaken should be treated as actions in progress. As a result of remedial actions undertaken, the European Commission has resumed the certification of expenditures for projects under the 7th priority axis of the OPIE. <u>Portugal:</u> As of July 2011 the national authorities implemented the second stage of the LPIS-GIS Action Plan. The measure involved all the plots of land declared in connection with the aid application, of which there were about 1 800 000, and its main objective was to update the land occupation register and correct the boundaries of the reference plots. The audit carried out in September 2012 by DG AGRI confirmed the improvements made to the system, noting that the Parcel Map action plan had been carried out in its entirety, with the exception of measures 2011.05 (establishment of the farmer's block) and 2011.9 (communication to farmers). Implementation of measure 5 was postponed for reasons to do with technical conditions; it was the subject of a specific action plan presented to DG AGRI on 6 November, which is supposed to be completed by February 2013. Measure 9 is also to be completed by this date, as it is dependent on the completion of measure 5. Specifically as regards the section of Table 1.4 supplied by DG AGRI (Reservation 3 – Deficiencies in the supervision and control of certified organic products), we would inform you that there is no connection between this point and the 2011 Activity Report. These issues are set out in Special Report No 9 of 2012, which deals with

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		the auditing of the system of checks on the production, processing, distribution and importing of organic products and which was published in May 2012, although the issues are presented in a general way that applies to all the Member States. <u>Czech Republic:</u> 1. As regards audit authorities: the report refers to a selected sample of 7 AAs (out of 112) whose work was assessed by the ECA. The negative assessment of the Czech Republic is based on an assessment of the situation in 2011, including a system which had originally been set up in 2007 (and subsequently approved both by the EC and the audit firm PricewaterhouseCoopers). At the time of the ECA audit, work had already been commenced to change this system, following an agreement with the EC. In their opinions, the ECA auditors even took into account assessments made of certain selected aspects from 2010 (Annual Control Reports). Including these into the Annual Report for 2011 is not systemically correct. 2. The differences in the results of the assessments performed by the Czech auditors and the ECA auditors were due, amongst other things, to the fact that until 2011 the Czech auditors assessed individual projects with consideration to the decision-making practice of the Office for the Protection of Competition (OPC) and the Czech courts, in order to ensure a specific degree of legal certainty for grant beneficiaries – this led to a discrepancy between the findings of the ECA and the AA, which thus resulted in a negative assessment of the Czech audit. In no case did this involve any deliberate modification of the results of the audits (and indeed the ECA’s Annual Report does not allege any such thing), and the work of the auditors was not therefore of poor quality. For example: a. During the performance of their verifications in 2011, the EC and the ECA stated that the decisive issue is the practice of institutions at EU level, not national level - i.e. in particular the OPC and the Financial Administration of the Czech Republic (the Commission’s Strategy Paper relating to the

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		new programming period 2014-2020 is very critical in regard to the decision-making practice of the OPC in particular). Differences in aspects of evaluation existed, for example, in relation to contractual penalties, which Czech legislation did not prohibit at that time (now prohibited), although in some of the cases which the ECA criticised these did not have an impact on the choice of the best tender – the tenderer with the lowest price won. A further case was the assessment of eligibility criteria relating to a required level of turnover (nowhere specified) and changes to projects during their implementation. b. For this reason, an agreement has already been made with the EC that starting from mid-2012 the Audit Authority will assess individual cases in accordance with EU practice, regardless of national practice. This may, however, result in an increase in the number of court cases brought against the Czech Republic by grant beneficiaries (or, alternatively, if a finding with a financial impact is made according to EU practice it will not always be possible to demand the repayment of the grant by the beneficiaries). 3. The Czech Republic is aware of the seriousness of this situation and wants to resolve these problems. At the end of last year it therefore began intensive discussions with the EC regarding steps aimed at improving the situation. The outcome was an “Action Plan”, whose implementation was approved by the EC in June, and based on which the EC lifted the blocks on funding for some operational programmes. 4. In addition to the main problems associated with management control at grantors (the managing authorities of operational programmes), the tendering of public contracts and speeding up the process for the treatment of irregularities, in the context of auditing the Action Plan also focuses on issues including, for example: a. increasing the independence of the authorised audit bodies currently existing in the management structures of the relevant ministries and regional councils

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		b. the overall quality of auditors' work, and methodological assistance c. as part of the measures under the Action Plan, commencing from 1.1.2013 audit activities will be centralised (auditors will be relocated from the managing authorities of the relevant ministries to the MF as required by the EC), thus ensuring greater independence and improving the quality of their work. 5. Most of the ACRs of the Audit Authority contained material findings in relation to the management and control systems of operational programmes. For these reasons, the Audit Authority could not provide the EC with assurance of the proper functioning of the operational programmes, and in its annual opinion on the legality and regularity of expenditures it issued a qualified opinion for most of the operational programmes (10 out of 19 OPs). In the case of some problematic operational programmes, financial corrections have already been applied based on the findings of the auditors of the AA. 6. During audits there are inherent limitations on the detection of serious economic crime. An auditor cannot, for example, make use of the means available to law enforcement authorities (audio surveillance, IT and other forensic techniques), and frequently does not have access to information from investigation files. The Audit Authority works together with all the law enforcement and criminal justice bodies (the Czech Police, the Public Prosecutor's Office and the courts). The use of certain documents, such as the report from the Security Information Service (SIS), is also problematic, because the information designated for the public in the SIS report is only of a general nature, and the potential for it to be used in the context of a Structural Funds audit is minimal. 7. In line with the audit strategies of the Audit Authority approved by the EC for individual OPs, audits were carried out which focused on reliance on the work of authorised audit bodies, and material deficiencies were found.

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		8. The errors found in public procurement and the evaluation of project applications which are mentioned in the ECA report are also frequent findings of the auditors of the Audit Authority. 9. In recent years, there have been dramatic developments in particular in the areas of public procurement and the decision-making practice of the OPC and the Czech courts, and national institutions are now adopting a stricter approach. The final reports from the EC and from the ECA (the 2010 DAS) are delivered very late, and inevitably this leads to delays in the application of the latest practices of the EC/ECA by the Audit Authority. 10. It must be pointed out that the ECA report is not based on a representative sample of projects from all the operational programmes in the Czech Republic (but only OP Transport and ROP Southeast). The ECA auditors audited all of the 8, respectively 4, projects of each of these operational programmes. The Audit Authority annually examines 650 projects from all the operational programmes. The conclusions drawn by the ECA auditors on the basis of this negligible sample are not, therefore, conclusive (especially from a statistical perspective) as regards the system of financial control and audit used for all the operational programmes in the Czech Republic. <u>Romania:</u> In 2011, following the identification of a series of weaknesses in the management and control system for the Sectoral Operational Programme Human Resources Development, DG Employment commissioned the MA SOP HRD to draw-up an Action Plan (RoadMap) for the Managing Authority for Sectoral Operational Programme Human Resources Development to enhance SOP HRD absorption capacity. The RoadMap is based on a proper assessment of the needs and problems encountered in the implementation of projects financed by SOP HRD. The plan is divided into 3 lines of action, namely: increasing direct support provided to beneficiaries, reinforcing

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		administrative capacity, and improving the activity of the entities involved in implementing SOP HRD. As required by DG Employment, MA SOP HRD reports quarterly the implementation status of RoadMap measures. (ACIS) <u>United Kingdom:</u> Scottish Government Audit Authority (SGAA): We note that the four programmes – Lowlands and Uplands Scotland (LUPS), the European Social Fund (ESF), the European Regional Development Fund (ERDF) and the Highlands and Islands (H&I) ESF and ERDF – were interrupted in early 2011 but have subsequently been lifted on 25 July 2011. <u>Slovakia:</u> Slovak Ministry of Education, Science, Research and Sport: Measures concern the shortcomings defined in the Final Commission Audit Report for OP Education (Commission Report No A-Rep 2010-1222) dated 11.5.2012. DG HOME – Statement on behalf of Slovak Ministry of Interior: Point 1 – The Security and Protection of Freedoms programme is managed directly by the European Commission; no shortcomings were found in the projects obtained from the programme by the Slovak Ministry of the Interior. Point 2 – SIS II project Preparations for the launch of the 2nd generation Schengen Information System (SIS II) are ongoing. Testing is currently taking place of the functionalities and it is due to be completed by the end of January 2012 – Slovakia will complete testing on 5.1.2012, to be followed by data migration, with launch of the whole system expected for the 1st quarter of 2013. DG MARE – Statement on behalf of Slovak Ministry of Agriculture and Rural Development: Measures adopted on

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		an action plan to remedy shortcomings found in the management and control system of the EFF for Slovakia were sent in a letter from the Slovak Ministry of Finance dated 14.08.2012 Slovak Ministry of Transport, Construction and Regional Development - RO OP Transport With reference to the findings of the Auditors' Report on Government Audit No 5/2010 (A336, K2250) the MA for OP Transport was sent a Warning Letter (Letter from the Commission's DG REGIO No REF(2011) 850395 dated 4.8.2011) concerning the suspension of payments for OP Transport from the Commission. The reply of the MA for OP Transport (Remedial measures adopted by the MA for OP Transport) to the Warning Letter was sent to the Commission as letter No 06140/2011/SRP/z.58728 dated 09.11.2011. With reference to the preceding list from the MA for OP Transport a further letter No 15398/2012/SOPD-32926 dated 11.06.2012 was sent to the Commission 's DG REGIO concerning further subsequently implemented procedures from the MA for OP Transport as part of preventive and remedial measures for the period from 11.11.2011 to 30.05.2012. In its letter No REF Ares (2012) 802048 dated 03.07.2012, the Commission 's DG REGIO sent the Commission's final reaction to the Warning Letter and also advised on the unblocking of payment for the MA of the OP Transport (except for Slovak Railways projects). On the matter of suspended payments for Slovak Railways projects, the MA for OP Transport sent the Commission letter No 04305/2012/SOPD-36885 dated 25.06.2012 about the state of investigations into suspicions of corruption in railway infrastructure projects. In its letter No Ares (2012)1117883 dated 25.09.2012 the Commission sent its reply to the explanatory letter of the MA of OP Transport dated 25.06.2012 Payments are still suspended at Commission reimbursement level, until the MA for OP Transport provides the Commission with satisfactory explanations on the issue of suspicions of corruption and conflict of interest in Slovak Railways projects. <u>Sweden:</u> The Court of Auditors makes no remarks giving rise to comments from Sweden

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CHAPTER 2 – REVENUE		
Table 2.1	Revenue – Key Information 2011	<u>Netherlands:</u> not applicable <u>United Kingdom:</u> Her Majesty’s Treasury (HMT): This is just a factual table on revenue and requires no response. <u>Sweden:</u> The Court of Auditors makes no remarks giving rise to comments from Sweden
2.5	The United Kingdom is granted a correction in respect of budgetary imbalances ('the UK correction') which involves a reduction in its payments of GNI-based own resources ³ . In addition, Germany, the Netherlands, Austria and Sweden benefit from a reduced call rate for VAT, and the Netherlands and Sweden	<u>Germany</u> None, only implementation of the Own Resources Decision <u>Austria:</u> According to the text under 2.5, the main risk is "that the Commission makes mistakes in these calculations". Thus, Austria is not affected. <u>Netherlands:</u> not applicable <u>United Kingdom</u> HMT: This is just a factual statement which includes reference to the fact that the UK receives an abatement and requires no response.

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	have a gross reduction in their annual GNI contribution for the period 2007-2013⁴. The principal risk is that the Commission makes an error in these calculations, notably in respect of the complex UK correction calculations. ³ Article 4 of Decision 2007/436/EC. This reduction was approximately 4 billion euro in 2011. The 52 million euro referred to in <i>Table 2.1</i> represents the effect of exchange rate differences. ⁴ Articles 2(4) and	<u>Sweden:</u> The Court of Auditors makes no remarks giving rise to comments from Sweden

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	2(5) of Decision 2007/436/EC. The 1 million euro reduction in the GNI-based contribution in <u>Table 2.1</u> is the effect of exchange rate differences.	
2.8	<u>Annex 1.1, Part 2</u>, of chapter 1 describes the Court's overall audit approach and methodology. For the audit of revenue, the following specific issues should be noted: (a) The audit involved examination at the Commission level of a sample of 55 recovery orders⁵ covering all types of revenue (see	<u>United Kingdom:</u> HMT: This simply states that the Commission undertook an examination of a representative sample of recovery orders and again requires no response.

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	<u>Annex 2.1).</u> (b) The assessment of systems covered: i) the systems for TOR, VAT-based and GNI-based own resources; ii) the Commission systems underlying the calculation of the UK correction (including an examination of the calculation of the definitive amount in respect of	

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	2007)⁶; iii) the Commission's management of fines and penalties; iv) the Commission's management representations, in particular the Annual Activity Report of Directorate-General for Budget (DG BUDG). ⁵ A recovery order	

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	is the procedure by which the Authorising Officer (AO) registers an entitlement by the Commission in order to retrieve the amount which is due. ⁶ See paragraph 2.16 of the 2010 Annual Report.	

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2.10	The Court carried out an assessment of supervisory and control systems in Germany, Spain and France, which together contribute more than one third of the total of TOR. It reviewed their accounting systems and examined the flow of TOR from establishment until declaration to the Commission in order to obtain reasonable assurance that the amounts recorded were accurate and complete. The audit included testing key controls relating to the application of preferential duty rates in France, Local Clearance Procedures (LCP) in Germany and Spain, and	<u>Germany:</u> None, only a description of the control activities of the Court <u>France:</u> La Cour affirme avoir mené des « <i>tests de contrôles clés relatifs à l'application de taux de droit préférentiels (...) et au traitement des coûts du fret et de l'assurance</i> ». Cette affirmation apparaît discutable. Tout d'abord, les tests menés par la Cour (sélection de 31 déclarations d'importation sur le thème de l'origine et de 50 déclarations sur le thème du traitement du coût du fret et d'assurance), non inscrits sur la lettre d'annonce, ont semblé un élément secondaire par comparaison aux autres thèmes de cette mission inscrits, quant à eux, sur la lettre d'annonce et le temps consacré à l'examen de cet échantillon (une demi-journée), couplé à l'absence de demandes de la part de la Cour au sujet de la réglementation et de la politique des contrôles, en amont ou lors de la mission, conduisent les autorités françaises à nuancer cette affirmation. A cet égard, en matière de contrôle de la valeur, la méthode de travail des auditeurs s'est déroulée en deux phases sur une sélection non aléatoire, à savoir les déclarations portant les incoterms EXW, FOB ou FCA pour lesquelles la valeur facturée est inférieure à la valeur en douane (50 déclarations sous le seul et même régime de l'entrepôt) puis identique à la valeur en douane (6331 déclarations soit 706281 articles tous régimes confondus). La seconde phase s'est déroulée 18 jours après la clôture de la mission des auditeurs en France. De plus, sur le fond, il est admis que l'essentiel du contrôle de l'origine préférentielle des marchandises, qui conditionne l'application du taux de droits préférentiels, repose sur la coopération administrative. Cette coopération implique que le pays importateur (ici la France) sollicite, a posteriori et non au moment où l'opérateur réalise les formalités de dédouanement, la communication des documents justificatifs de l'origine préférentielle visés par les autorités douanières du pays d'exportation, et les adresse au pays d'exportation, seul compétent pour apprécier l'authenticité du document et la régularité de son émission, comme le confirme une jurisprudence constante de la

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	warehousing and the treatment of freight and insurance costs in Germany , Spain and France.	CJUE. Pour les autres sujets, <i>cf</i> point 2.20 <i>infra</i> .
2.11	In addition, the Court reconciled the seven TOR recovery orders included in the sample referred to in paragraph 2.8(a) with the corresponding	<u>Germany:</u> None <u>Belgium:</u> Budget : N/A Pas d'erreur pour les sept ordres de recouvrement.

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	monthly statement from the Member States concerned⁷. ⁷ Belgium, Germany, Spain and the Netherlands.	FSE : l'Agence n'est pas concernée par les droits de douane perçus à l'importation (RPT) Bureau d'Intervention et de Restitution Belge : néant Autorité de Gestion PO FEDER (Région Bruxelles – Capitale) : néant Autorité d'audit (Région Bruxelles- Capitale) : néant SPF Fin. Affaires fiscales : néant Autorité d'audit (Région wallonne – Communauté française) : néant PO FSE Compétitivité régionale et Emploi de la région de Bruxelles-Capitale 2007-2013 : néant ESF Vlaanderen (MA/CA/AA) : néant EFRO Vlaanderen (MA/CA/AA): néant ELFPO: néant Communauté germanophone de Belgique: pas concerné par le rapport de la Cour des comptes européenne Autorité d'audit du programme opérationnel développé dans le cadre du fonds social européen pour la période de programmation 2007-2013 : pas concerné par le rapport de la Cour des comptes européenne <u>Netherlands:</u> not applicable
2.20	In the Member States visited, the Court's audit (see paragraph 2.10) revealed deficiencies in national customs supervision in:	<u>Germany:</u> Germany has issued a blanket rejection of the Court's conclusion that the risk analysis system, the local clearance procedure, the customs warehousing procedure and the customs value control procedure present significant weaknesses which cast doubt on the completeness of the collection of traditional own resources. <u>Spain:</u>

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	a) the application of preferential duty rates¹⁰; b) the control and ex-post audit of Local Clearance Procedures (LCP)¹¹; c) the ex-post audit of customs warehousing¹²; d) the risk analysis applied at import stage¹³; e) the treatment of freight and insurance costs¹⁴. Partially effective national customs supervision increases the	With regard to the local clearance procedure, measures have been adopted consisting of drawing up of two Internal Circulars (NS 19/2011 of 30 December and NS 06/2012 of 21 September from the Director of the Customs and Excise Department) and a ministerial order that is pending approval. Inspection of warehouses: the establishments inspection plan will be published at the end of 2012. <u>France:</u> Selon la Cour « [d]ans les États membres visités, l'audit de la Cour [...] a fait apparaître des insuffisances affectant la surveillance douanière au niveau national, en ce qui concerne [(a)] l'application de taux de droit préférentiels (...) et [(e)] au traitement des coûts du fret et de l'assurance ». S'agissant du point (a), le fondement réglementaire initialement cité par la Cour était erroné, non seulement parce qu'il ne visait pas une disposition applicable dans le cadre du SPG, mais également parce qu'il faisait mention de la règle traditionnelle de « transport direct ». La Cour a rectifié ses observations en admettant l'application du nouvel article 74 des DAC relatif à la présomption de non manipulation, qui remplace la règle du transport direct depuis le 1er janvier 2011 : « Conformément à l'article 74-2 des DAC pour le Système de préférences généralisées (SPG), les autorités douanières peuvent demander au déclarant de produire des preuves du respect des dispositions du point 1 de l'article 74 qui peuvent être apportées par tout moyen, y compris des documents de transport contractuels tels que des connaissements, ou des preuves factuelles ou concrètes basées sur le marquage ou la numérotation des emballages, ou toute preuve liée aux marchandises elles-mêmes. Une telle preuve (ou une preuve de non manipulation en vertu de l'article 74-1 des DAC) n'ayant été produite, bien que demandée préalablement par la Cour, l'observation est maintenue. » En revanche, la Cour n'a pas tiré les conclusions appropriées de cette correction réglementaire. En effet, l'article 74-2 dispose que « le respect des dispositions [de la non-manipulation] est présumé, à moins que les autorités douanières n'aient des raisons de croire le contraire [...] ». Par conséquent, la faculté dont disposent

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	risk that incorrect amounts of TOR are collected. ¹⁰ France ¹¹ Germany and Spain. In addition the Commission's own inspections of LCP revealed system weaknesses in 11 of the 21 Member States it inspected in 2011. ¹² Spain and France. ¹³ Germany and France. ¹⁴ Spain and France.	les autorités douanières de solliciter la preuve de la non manipulation est <u>exercée uniquement dans l'hypothèse où ces autorités ont un doute sur ce point</u>. Le déclarant n'est pas tenu de présenter cette preuve de façon systématique. Dans la mesure où la non manipulation est présumée et qu'une preuve formelle n'est demandée que si les autorités ont un doute sur ce point, <u>l'absence de cette preuve à l'appui des deux dossiers identifiés par la Cour ne permet pas de conclure au non respect de l'article 74-1 des DAC</u>. Il est <u>réglementairement inexact d'affirmer que le bénéfice de la préférence tarifaire doit être refusé</u> pour ce motif. Les autorités françaises contestent la conclusion de la Cour sur ce point et maintiennent donc que <u>l'application de droits préférentiels pour les deux opérations d'importation en cause n'est pas remise en cause</u>. S'agissant du point (c), selon la Cour, les opérateurs devraient faire l'objet d'un audit approfondi au moins une fois tous les trois ans et la fréquence des audits en France fait planer un doute concernant l'efficacité des contrôles mis en œuvre pour s'assurer de l'exhaustivité de la perception des RPT dans le cas du régime de l'entrepôt douanier. Sur les cinquante entrepôts douaniers sélectionnés par la Cour, seuls deux n'ont jamais été audités par les services douaniers, ce qui représente une part très faible. Sur ces mêmes cinquante entrepôts douaniers sélectionnés, seuls huit n'ont pas été contrôlés dans un intervalle de trois ans, ce qui est également assez faible et n'est, contrairement à ce qu'avance la Cour, pas forcément significatif en soi, dans la mesure où l'efficacité des contrôles en matière de dédouanement ne s'examine pas à l'aune de leur fréquence. Le jugement de la Cour sur les justificatifs fournis par la direction régionale de tutelle en matière de contrôles semble excessif, la plupart des directions douanières ayant pu justifier des contrôles effectués (dans le cadre de l'autorisation d'entrepôt elle-même ou de la procédure de dédouanement utilisée, ou encore d'audits réalisés sur un aspect annexe). La Cour ayant pourtant refusé de prendre en considération des pièces du dossier qui attestaient de la réalité des contrôles, la DGDDI s'interroge sur la teneur des informations qui selon elle doivent impérativement apparaître dans les comptes-rendus des contrôles réalisés. Dans la dernière version de la Constatation préliminaire n° 1005 du relevé de la Cour relatif à la mission d'audit

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		effectuée en France en octobre 2011 dans le cadre de la DAS 2011, la DGDDI demande aux auditeurs de préciser la teneur des informations qui selon eux doivent apparaître dans les comptes-rendus des contrôles réalisés par la douane. Mais il est indiqué sur le même document que la Cour a pris en compte les éléments apportés <i>a posteriori</i> par les directions régionales et a abandonné toute critique en la matière. L'informatisation début 2013 du processus de délivrance des autorisations d'entrepôt douanier par le biais de la télé-procédure SOPRANO va en tout état de cause conduire les services douaniers à procéder à un réexamen des autorisations d'entrepôt douanier déjà délivrées (avant intégration dans le système informatique), ce qui sera de nature à améliorer leur intégration dans la politique des contrôles mise en place au sein des directions régionales. S'agissant du point (d), selon la Cour, le système de dédouanement ne comporte aucun élément aléatoire pour sélectionner les déclarations à soumettre aux contrôles et, d'après des données synthétiques relatives à la réalisation d'une analyse de risque et de contrôles dans la région de Bretagne pour la période allant de février à août 2011, seuls 9,2 % des déclarations jugées à risque ont ensuite fait l'objet d'un contrôle correspondant. La sélection aléatoire automatisée a été implantée dans le système de dédouanement en ligne par traitement automatisé Delt@ (-C, -D et -X) le 8 décembre 2011. Les déclarations sont sélectionnées de manière aléatoire par le système parmi les déclarations validées et orientées en circuit vert. Le taux de sélection est de 0,02% à l'importation et à l'exportation. Ce point ne nécessite donc plus que des mesures soient prises par la DGDDI. S'agissant de la constatation que les déclarations en douane ciblées par l'analyse de risque automatisée ne font pas suffisamment l'objet d'un contrôle douanier, en juin 2012, la DGDDI a remédié à cela en modifiant les circuits de contrôle des déclarations en douane. L'objectif recherché est d'améliorer le ciblage en distinguant les risques réels des risques potentiels, tout en accélérant le dédouanement des marchandises correctement déclarées <i>a priori</i>. Cette modification comporte : • <u>la création d'un circuit noir</u> Afin de bloquer les marchandises dont l'exportation ou l'importation est prohibée ou restreinte, et de distinguer les risques réels des risques potentiels, il est apparu nécessaire de créer un circuit noir avec <i>timer</i>

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		illimité (profil bloquant) pour les DELT@ (DELT@-D inclus) • <u>l'allongement du <i>timer</i> pour les déclarations en circuit rouge</u> Afin d'éviter que les déclarations ne soient mises en contrôle abusivement dans le seul but d'éviter leur libération et non pour être contrôlées, la possibilité d'allonger le <i>timer</i> rouge pour une déclaration donnée est proposée à l'agent. Ce dernier dispose ainsi d'un délai de réflexion supplémentaire avant de décider ou non de la mise en contrôle. Afin de ne pas nuire à la fluidité du trafic, les agents ont la possibilité d'allonger la durée du <i>timer</i> pour les déclarations en circuit rouge uniquement, selon les modalités suivantes : – le <i>timer</i> ne doit être prolongé qu'une seule fois d'un temps égal à la durée initiale du <i>timer</i>. La durée du <i>timer</i> peut donc être doublée. L'agent chargé de la veille écran a la possibilité de l'écourter en contrôlant la déclaration ou en la libérant ; – l'allongement du <i>timer</i> ne doit intervenir qu'une fois la déclaration ouverte ; – l'allongement du <i>timer</i> ne doit pas être « suspensif », c'est-à-dire qu'il ne doit pas tenir compte des horaires de fermeture du bureau. Par exemple, si la durée du <i>timer</i> est de 15 minutes et que l'agent demande l'allongement du <i>timer</i> à 11h55 (alors que le bureau ferme entre 12h00 et 14h00), la fin du <i>timer</i> doit intervenir à 12h10 et non à 14h10 • <u>la libération immédiate 24h/24 des déclarations en circuit vert</u> L'agent chargé de la veille écran n'a plus accès aux déclarations orientées en circuit vert qu'en mode consultation. Cela rend impossible toute action de surveillance ou de mise à l'état « contrôle » de ces déclarations. Les autorités françaises considèrent donc qu'elles ont pris les mesures de correction nécessaires. S'agissant du point (e), les anomalies retenues sur les 15 déclarations en douane sur les 50 déclarations d'importation sous le seul régime de l'entrepôt montrent une mauvaise utilisation des incoterms qui, pour 5 déclarations, est sans incidence sur les ressources propres traditionnelles. En effet, il est démontré que :

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		- pour deux déclarations, l'opérateur déclare un prix CIF avec un incoterm FOB, - pour trois déclarations la valeur en douane est correctement déclarée. Les autorités françaises considèrent également que la demande portant sur 6 331 déclarations supplémentaires, communiquée après la clôture de la mission, ne relève pas, d'une part, du périmètre initial de la mission et, d'autre part, que les déclarations portant sur des valeurs facturées égales aux valeurs en douane ne sont pas nécessairement des anomalies, comme démontré dans l'échantillon des 50 déclarations contrôlées par les auditeurs.
2.21	In its 2010 Annual Report the Court reported that, for one A statement relating to a Member State¹⁵, it was not possible to reconcile the amount of TOR declared with the underlying accounting documents. In DG BUDG's Annual Activity Report for 2011 there is now a reservation on the reliability of the accounting data of this Member State. ¹⁵ Paragraph 2.15: Belgium.	<u>Belgium:</u> Budget : voir ci-dessus Chapitre 1, Tableau 1.4. FSE : l'Agence n'est pas concernée par les droits de douane perçus à l'importation (RPT) Bureau d'Intervention et de Restitution Belge : néant Autorité de Gestion PO FEDER (Région Bruxelles – Capitale) : néant Autorité d'audit (Région Bruxelles- Capitale) : néant SPF Fin. Affaires fiscales : néant Autorité d'audit (Région wallonne – Communauté française) : néant PO FSE Compétitivité régionale et Emploi de la région de Bruxelles-Capitale 2007-2013 : néant ESF Vlaanderen (MA/CA/AA) : néant EFRO Vlaanderen (MA/CA/AA): néant ELFPO: néant Communauté germanophone de Belgique: pas concerné par le rapport de la Cour des comptes européenne Autorité d'audit du programme opérationnel développé dans le cadre du fonds social européen pour la période de programmation 2007-2013 : pas concerné par le rapport de la Cour des comptes européenne

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Table 2.2	VAT reservations as at 31 December 2011	<u>Austria:</u> On account of the audit in autumn 2011, it is not possible to establish conclusively the number of reservations as at 31.12.2011. There was an intensive bilateral exchange in the period following the control of VAT own resources, and the latest situation with regard to the number of reservations upheld will be confirmed only in the comprehensive audit report which is expected at the end of 2012. As at November 2012 three reservations in connection with Austria can be confirmed in the following areas: WAR; Infringement proceedings No 2007/2453 – application of the Sixth VAT Directive (VAT exemptions); Infringement proceedings No 2010/2055 – application of the Sixth VAT Directive (VAT exemption for postal services). The above-mentioned reservations come from the draft audit report and reflect the current situation (as at 20.11.2012). <u>Belgium:</u> Budget : la réponse à cette remarque sera transmise sous peu. SPF Fin. Affaires fiscales : La mesure consiste à entamer un contrôle multilatéral avec les Pays-Bas et le Royaume-Uni (code FMCS/010). La première réunion de coordination a eu lieu le 15 octobre 2012. Sur la base de ces premières discussions, les États membres concernés poursuivent actuellement leur réflexion quant à l'opportunité et à la manière de poursuivre le contrôle multilatéral. Quoi qu'il en soit, l'administration belge réexamine en ce moment de manière globale l'ensemble de la problématique des livraisons et services à bord des navires, trains et avions lors de la partie intra-communautaire du transport de personne. Cette action se place plus spécifiquement dans le cadre d'un rapport récent des services de la Commission européenne qui touche directement à la problématique abordée dans le cadre du contrôle multilatéral. <i>Report from the commission to the council on the place of taxation of the supply of goods and the supply of services, for passengers on board ships, aircraft, trains or buses drawn up in accordance with Article 37(3) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax</i>, 22.10.2012).

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		Bureau d'Intervention et de Restitution Belge : néant Autorité de Gestion PO FEDER (Région Bruxelles – Capitale) : néant Autorité d'audit (Région Bruxelles- Capitale) : néant Autorité d'audit (Région wallonne – Communauté française) : néant PO FSE Compétitivité régionale et Emploi de la région de Bruxelles-Capitale 2007-2013 : néant FSE : néant ESF Vlaanderen (MA/CA/AA) : néant EFRO Vlaanderen (MA/CA/AA): néant ELFPO: néant Communauté germanophone de Belgique: pas concerné par le rapport de la Cour des comptes européenne Autorité d'audit du programme opérationnel développé dans le cadre du fonds social européen pour la période de programmation 2007-2013 : pas concerné par le rapport de la Cour des comptes européenne <u>Bulgaria:</u> New calculations have been presented or are being prepared, as recommended by the Commission inspectors, on three of the reservations. Legislative amendments are being made in respect of the other reservations. <u>Cyprus:</u> On 31 December four reservations were pending. The summary report on the findings and observations arising from the Commission inspection in Cyprus on the VAT bases for 2005-2007 was sent to the Cypriot authorities on 31 January 2011. According to this report, of the six reservations pending in 2010, two were lifted by the Commission and four were still pending at the end of 2011.

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		The Cypriot authorities started action to remove the Commission' reservations immediately after the conclusion of the inspection by Commission inspectors in November 2008. Additional measures were taken in 2010 and the Commission was sent the clarification report on 30 April 2010 and additional clarifications (Observations) on 16 September 2010. The Cypriot authorities continued their efforts to remove the remaining reservations by the end of 2011. From 6 to 10 February 2012 a team from the Commission carried out an inspection in Cyprus on the VAT own resources bases statements for the years 2008-2010. During the inspection various points raised by the Commission inspectors were presented and explained, and there was discussion of points where the VAT own resources bases statements needed improvement and/or further explanation. The above inspection visit in Cyprus resulted in the removal of all four pending reservations. <u>Denmark:</u> As of 31 December 2011, eight reservations have been registered concerning Danish VAT compensation. 1. One reservation concerns the correction for zero-rated newspapers. The compensation is based on information from Statistics Denmark on the sale of newspapers. Statistics Denmark's definition does not cover Weekend Avisen or Computerworld, and a standard correction for these has been carried out in the compensation. The Commission has asked that the correction be carried out on the basis of annual turnover figures for these two newspapers. The desired changes were performed in 2012, and the reservation was subsequently cancelled. 2. One reservation concerns the VAT exemption for small enterprises (artists). A new computation has been carried

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		out, which the Commission approved at the verification visit in June 2012. The reservation was therefore cancelled in 2012. 3. One reservation concerns foreign long-distance buses and taxis engaged in transport within Denmark. A computation concerning Swedish taxis that run to and from airports has been produced in connection with the verification visit in 2012, while there is still an outstanding problem concerning long-distance buses which do not have a sales office in Denmark and which are therefore not included in Danish transport statistics. Scope for an approximate calculation is being investigated. 4. One reservation concerns the inclusion of the deficit cover in public bus transport with a view to adjustment back to 2006. Because the Commission has cancelled its reservation (according to which the deficit cover need no longer be included in the compensation), the reservation was accordingly cancelled in 2012. The excessive compensation will then be adjusted as from 2006. 5. One reservation concerns the exemption for repair and maintenance of aircraft, the illegality of which became known in connection with the Cimber Air judgment relating to domestic flights (EU judgment C-382). The corrections were dealt with at the verification visit in 2012, and there is still an unexplained question concerning the computation performed for flying schools' and clubs' repair and maintenance of aircraft, which was not resolved at the verification visit in 2012. 6. One reservation concerns a treaty infringement case concerning VAT group schemes. A judgment has still not been handed down in the case. 7. One reservation concerns a treaty infringement case concerning VAT exemption for charities. A judgment has

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		still not been handed down in the case. 8. One reservation concerns exemption for catering services provided on board transport (ferries in foreign trade between EU countries). There have been doubts about the interpretation of the VAT rules in force in this area. There is also uncertainty about how such a computation could be performed. <u>Spain:</u> Table 2.2 in Annex I of the Court of Auditors' Report contains three outstanding reservations as of 31 December 2011 concerning VAT in Spain. Two of these arise from infringement proceedings opened against Spanish legislation for violation of EU law concerning: - The special VAT regime for travel agencies. Reservation issued by the European Commission in 2003. With the information available it is not possible to ascertain whether an adjustment is needed in the VAT base and if so, the amount of the adjustment, pending a decision on the infringement proceeding and pending guidance from the Commission to all the Member States affected by this reservation. - Exemption from VAT on services provided by notaries public in relation to certain operations. Reservation issued by the European Commission in 2008. Spain will include an adjustment once the possibility of its quantification has been verified. The third reservation issued by the Commission from 2009 onwards concerns the method of calculating the adjustment in revenues from farming under the flat-rate scheme. Spain will propose to the Commission an improvement in the method of selecting the group affected by this calculation, which could resolve the

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		Commission's objections concerning this matter. <u>Finland:</u> The Commission's most recent inspection in Finland to examine VAT-based own resources calculations took place between 22 and 26 March 2010. The next inspection will take place between 10 and 14 December 2012. The last inspection dealt with the 2006-2008 VAT base statements. The outstanding VAT reservations were also discussed during the visit and some of them were lifted. Before the visit there were ten VAT reservations, but in the course of the 2010 inspection two were lifted and two combined, leaving seven outstanding. At the end of 2010 there were eight reservations, of which two were laid down by Finland. One reservation was lifted in 2011. The reservation lifted by the Commission concerned the 2001-2009 VAT exemption for the supply of services on board ships sailing through the Åland Islands to another EU Member State. The VAT own resources base statement for 2009 was incomplete in this respect, but Finland remedied this satisfactorily shortly after giving its reply concerning the statement in December 2010. The reservation was lifted in a letter dated 1 April 2011 (Ares(2011)361398). In 2011, three new reservations were set. In the draft summary report of the inspection, the Commission added a new reservation that had not been dealt with during the inspection. The reservation concerned the fuel calculation included in the car compensation related to the VAT own resources base (item 5.3.7 of the summary) in 2007 and 2008. When examining the calculation the Commission inspectors found it unusual that the average fuel consumption per 100 kilometres of cars running on diesel was higher than that of cars using petrol. Finland revised the fuel calculation satisfactorily in autumn 2011, and the reservation will be lifted.

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		In its replies contained in the 2010 audit report Finland also mentioned that it will examine the Commission's reservation related to the pro-rata of non-deductibility of exempted industries for the years 2004 to 2008. The calculation was revised during 2011 and the changes were notified to the Commission's inspectors in July 2011 in connection with Finland's VAT-based own resources statement for 2010. The tables with the new weighted average rate for 2004-2008 were delivered to the Commission satisfactorily in autumn 2011, and the reservation will be lifted. In a letter dated 7 July 2011 (Ares(2011)743162), the Commission sent a claim for payment and notified that a new reservation concerning tax exemptions for passenger transport services between Member States was being too broadly applied to also cover restaurant and catering services. The reservation applied from 2007-2010. Finland delivered the calculations requested and accounted for the corresponding payments with default interest in autumn 2011. At the same time, Finland set its own reservation for the same topic. The calculations are still being inspected. As a result of the above-mentioned changes, the number of remaining VAT reservations was ten as at 31 December 2011, of which three were reservations made by Finland. The oldest reservation is Finland's reservation concerning the Åland Islands, made in 1995. Three reservations concern infringement procedures. The summary report of the inspection concerning 2006-2008 was received on 8 February 2012. Eight of the reservations it refers to remain. <u>France:</u> Il subsiste encore sept réserves après le dernier contrôle sur place effectué par la Commission européenne du 28 novembre au 2 décembre 2011. Trois réserves portent sur des litiges en phase juridictionnelle : Pour deux d'entre eux, la Cour de justice de l'union européenne, a déjà rendu son arrêt, il s'agit des litiges suivants

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		: ➤ le taux réduit sur les chevaux de courses, (<i>l'arrêt de la CJUE a été rendu le 8 mars 2012 ; la France a modifié les dispositions du code général des impôts, cependant la commission considère ces nouvelles dispositions comme demeurant non-conformes au droit communautaire</i>) ➤ la taxation de l'électricité, (<i>L'arrêt de la CJUE a déjà été rendu et la directive énergie a été transposée en droit français par la loi du 7 décembre 2010 portant organisation du marché de l'électricité</i>) Pour le dernier, la Cour n'a pas encore rendu son arrêt, il s'agit de : ➤ la taxation au taux réduit des services à domicile Deux réserves portent sur sujets en phase précontentieuse, il s'agit de : ➤ la mise à disposition de bateaux, (<i>la procédure juridictionnelle n'est pas encore engagée, la commission ayant adressé aux autorités françaises, en date du 21 novembre 2012, un avis motivé au titre de l'art 258 du TFUE préalable à l'ouverture d'un contentieux juridictionnel</i>) ➤ les transports de biens entre la France continentale et la Corse, (<i>la procédure juridictionnelle n'est pas encore engagée</i>) Une réserve porte sur un sujet technique (l'impact des terrains à bâtir sur le calcul du taux moyen pondéré) dont la Commission pourra vérifier les éléments lors du prochain contrôle sur place (en septembre 2013). La dernière réserve porte quant à elle sur des divergences d'interprétation des textes communautaires, qui pourront être abordées lors du prochain contrôle sur place et qui concernent le calcul de la compensation relative à la distribution d'eau en exonération de taxe. <u>Greece:</u> With regard to the number of the (7) outstanding reservations (control of VAT own resources - 9/2010), we would like to inform you that the Commission controllers have announced in a letter their response to the comments of our country submitted on 13 May 2011 and have removed two (2) more reservations. This has resulted in the number of

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		outstanding reservations being limited to five (5). <u>Ireland:</u> Following recent ACOR meeting in Brussels, the number of reservations now stands at 4, the reservation from 1998 has been lifted. <u>Italy:</u> Not necessary <u>Lithuania:</u> Having regard to the 2009 control report on the VAT-based own resources in Lithuania by the European Commission, on 5 March 2010 Lithuania submitted its observations to the Commission presenting updated calculations with a view to rectifying errors and lifting reservations identified during the control visit. At the request of the European Commission, additional explanations were presented on 10 May 2010 and 22 June 2010. On 22 October 2011 at the meeting of the Advisory Committee on Own Resources of the European Commission (ACOR) the EC representatives presented the 2009 control report and a summary document of Lithuania's observations and explanations lifting 5 of 7 reservations. 2 reservations remained valid until the European Commission representatives scrutinised the justification documents for rectifications (the calculation methodology presented by Lithuania was acceptable). During the VAT-based own resources control visit in Lithuania on 18-22 June 2012 the representatives of the European Commission scrutinised the justification documents for rectifications. Those documents contained official data used for calculations necessary for lifting the remaining 2 reservations. After this control visit the

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		European Commission representatives lifted the 2 reservations valid until 31 December 2011. Lifting of those reservations was officially confirmed in the 2012 VAT-based own resources control report by the European Commission published on 12 September 2012. <u>Malta:</u> The Commission's summary report dated 5 July 2012 shows that after the control visit of November 2011, 9 reservations were lifted while around two reservations were placed. This meant that Malta only had 3 outstanding reservations as at 5 July 2012. The National Statistical Office will address the said outstanding reservations in the next VAT Declaration, due by 31 July 2013. It should be noted that Malta's VAT base far exceeds 50% of its GNI and is thus capped at 50% of its GNI of own resources. <u>Netherlands:</u> The numbers mentioned by the Netherlands have been correctly reproduced. The outstanding reservations will be discussed with the Dutch authorities during the European Commission's planned control visit in June 2013. <u>Poland:</u> In order to remove the reservations, corrections of the statistical data were made in the verified reports for the years 2008-2010 and in the report for 2011 the data was recognised accordingly. Changes must be approved by the EC. <u>Portugal:</u> A - <u>Infringement procedures</u> 1. <u>Farmers</u>

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		In accordance with the ECJ's judgment of 8 March 2012, the state budget for 2013 provides for the revocation of Article 9, No 33 of the Portuguese VAT Code, so that transactions carried out by farmers will in future be covered by the general VAT rules. This will mean that such transactions will no longer be exempt; rather, they will be subject to VAT at the reduced rate, and will be included in List 1, which is an annex to the VAT Code. 2. <u>Travel Agencies</u> As the ECJ has not so far handed down a judgment on this subject, there is no change in the tax authorities' interpretation. 3. <u>Taxes on tolls</u> Given that European law has been amended in this respect, the procedure against Portugal is now closed. B – <u>Other reservations</u> 1. <u>Transport</u> As regards compensation in respect of own resources in connection with the total exemption applicable between mainland Portugal and the Portuguese islands and vice-versa, it is the tax authorities' understanding that Portugal is not to determine such compensation on the basis of a statement in the Council's minutes, as such statements do not supercede the Treaty of Accession of Portugal to the European Communities, according to which the derogation provided for by Article 15(15) of the Sixth Directive (now Article 149 of the VAT Directive) does not affect the calculation of own resources.

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		4. <u>Tax on nappies</u> Since these are deemed to be 'similar products', as referred to in 2.4(c) of List 1 in the annex to the VAT Code, the transfer of such products is taxed at the reduced rate. <u>Czech Republic:</u> The large number of reservations was, amongst other things, explained at the 68th meeting of ACOR - VAT, where the commissioner for audit stated that the large number of reservations in regard to the calculation of the EU's VAT own resources base was caused by the breakdown of the general reservation in the calculation of the VAT weighted arithmetic rate (falls within the competence of the Czech Statistical Office - CSO), and also by 5 irregularities ("infringements") in connection with EU VAT legislation. <u>Romania:</u> Following the submission of Romania's observations to the European Commission Report on VAT Base Declarations of its own resources for 2007 and 2008, the reservation placed by COM on VAT receipts – amounts for electronic commerce was raised. The checking cycle for 2007-2008 closed with the submission by the COM of its conclusions as adopted within the Advisory Committee on Own Resources (ACOR) – VAT of 20.10.2011. As regards the 4 remaining reservations, efforts are being made to solve them. UCRBUE <u>United Kingdom:</u> Her Majesty's Revenue and Customs (HMRC): The Commission carried out a VAT own resources control visit to the UK during October 2012. As a result, it is anticipated that a number of the outstanding reservations for the UK will be lifted. Confirmation will be included in the Commission's report on the visit (due to be issued in mid-

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		January 2013). <u>Slovakia:</u> Slovak Ministry of Finance: The Slovak Republic has adopted measures to remedy the reservation stated on the calculation of the Harmonised Basis for VAT for the years 2008 to 2010. The services of international water transport provided by foreign entities were calculated in addition and sent to the Commission on 31.8.2012. The Commission assessed this additional calculation as being relevant and correct and on 11.10.2012 in its Summary Report on the Results and Findings arising from inspection of the VAT base proposed that the stated reservation be cancelled. <u>Sweden:</u> The Court of Auditors makes no remarks giving rise to comments from Sweden
2.26	General reservations¹⁸ existed at the end of 2011 on the GNI data of EU-15 Member States for the period 2002 to 2007, EU-10 Member States for 2004-2007, and Bulgaria and Romania for 2007. ¹⁸ Article 10(7) of Regulation (EC,	<u>Romania:</u> General reservations on the GNI data of Romania and Bulgaria have been applied since their accession to the European Union (the last to join in 2007), while on the GNI data of other Member States there are specific reservations. Romania's GNI data were subjected to the standard verification process by the European Commission (Eurostat) under Council Regulation No. 1287/2003 of 15 July 2003 on the harmonization of GNI at market prices. The direct methodological checks on the GNI data resulted in certain Action Points to be solved by Romania until 2014. The first solutions to Action Points were submitted for approval by Eurostat within the GNI Quality Report and the GNI Questionnaire of 21 September 2012. INS

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	Euratom) No 1150/2000, as amended, states that, after 30 September of the fourth year following a given financial year, any changes to GNP/GNI shall no longer be taken into account, except on points notified within this time-limit by either the Commission or the Member State. These points are known as reservations. A general reservation covers all the data of a Member State. <i>Commission's reply to 2.26</i> <i>2.26. As the Court acknowledges in paragraph 2.28 the situation had changed markedly by January</i>	

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	<i>2012 when general reservations remained in place only for Bulgaria and Romania</i>	
2.27	At the beginning of 2011, there were four open specific GNP reservations¹⁹ relating to the period 1995 to 2001. The Commission subsequently lifted two reservations concerning the United Kingdom, leaving a balance of two³⁰ at the end of 2011. ¹⁹ A specific reservation covers discrete elements of GNI (GNP until 2001, GNI thereafter) such as gross value added of selected activities, total final	<u>United Kingdom:</u> HMT: ONS have resolved outstanding issues on UK GNP reservations and these should be lifted shortly.

³

These concerned Greece and the United Kingdom and related to methodological and compilation aspects.

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	consumption expenditure or gross operating surplus and mixed income. ²⁰ These concerned Greece and the United Kingdom and related to methodological and compilation aspects. <u>Commission reply to 2.27</u> The Commission is making progress via its cooperation with the two countries that still have GNP reservations for the period 1995-2001 (1 for Greece and 1 for the United Kingdom at end 2011) so that these reservations can be lifted	
2.35	Based on its audit work²⁴, the Court concludes that, for the year ended	<u>United Kingdom:</u> HMT: This just includes reference to the fact that the UK receives an abatement and requires no response

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	31 December 2011, (a) Member States' declarations and payments of TOR, (b) the Commission's calculation of Member States' contributions on the basis of the VAT and GNI data received from Member States, (c) the calculation of the UK correction, and (d) other revenue were free from material error.	

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	²⁴ For reasons explained in paragraphs 2.13 and 2.14, this conclusion does not provide an assessment of the quality of VAT or GNI data that were received by the Commission from Member States	
2.36	<u>Commission reply to 2.36</u> 2.36.(a) The Commission will follow up the Court's findings with the Member States concerned. 2.36.(b) The number and proportion of reservations long-outstanding according to the Court's definition continues to decrease – it is now less than 10% of the total. There will always be	<u>United Kingdom:</u> HMT: ONS have resolved outstanding issues on UK GNP reservations and these should be lifted shortly.

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	some long-outstanding reservations as there may be many ramifications for Member States to explore and to remedy. There has been an ongoing improvement in the frequency of consultations with Member States plus enhancement of the levels of cooperation between the Commission and Member States which will continue. 2.36.(c) The administrative processes necessary to provide each of the 25 Member States simultaneously with confirmatory official notification of the lifting of the general	

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	reservations and the specific reservations set concerning them were completed in early 2012. 2.36.(d) The Commission is making progress via its cooperation with the two countries that still have GNP reservations for the period 1995-2001 (1 for Greece and 1 for the United Kingdom at end 2011) so that these reservations can be lifted	
Annex 2.2	Results of examination of systems for revenue	<u>United Kingdom:</u> HMT: This relates to the Commission's calculation of the UK abatement and again no UK response needed.
Chapter 3 – Agriculture : Market and Direct Support		
3.4.	The main measures financed by EAGF are: - The <i>direct aid</i>	<u>Hungary:</u> Community legislation on aid has been reviewed and changes to it followed up continuously since Hungary's accession.

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	“<i>Single Payment Scheme</i>” (SPS). SPS payments are based on "entitlements"⁴ each of which is activated with one hectare of eligible land declared by the farmer. In 2011 SPS represented 31 082 million euro of expenditure (77 % of direct aids). - The <i>direct aid</i> “<i>Single Area Payment Scheme</i>” (SAPS) provides for the payment of uniform amounts per eligible hectare of	<u>Poland:</u> The paragraph informs about how the JPO system functions in Poland and does not include any reservations. <u>Czech Republic:</u> Not applicable – there is no error involved. <u>Romania:</u> APIA <i>As of 2007, Romania applies the single area payment scheme (SAPS) which involves granting direct payments as single payment per hectare, whereas the payment is done uniformly by dividing the national ceiling allocated to the Member State to the eligible area, which is the utilized agricultural area of the country.</i> <u>Slovakia:</u> Agricultural Payments Agency: Appropriate measures were adopted for the findings, see Appendix II Slovak Ministry of Agriculture and Rural Development: considers the Commission reactions to the ECA comments as adequate.

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	agricultural land and is currently applied in 10 of the Member States⁵ that joined the EU in 2004 and 2007. In 2011 SAPS accounted for 5 084 million euro of expenditure (13 % of direct aids). - Other <i>direct aid</i> schemes linked to specific types of agricultural production (such as suckler cows, cotton etc). In 2011 those schemes accounted for 4 012 million euro of expenditure	

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	(10 % of direct aids). - <i>Interventions in agricultural markets</i> covering e.g. intervention storage, export refunds, food programmes and specific support for the fruit/vegetable and the wine sectors (in total amounting to 3 533 million euro in 2011). ⁴ The number and value of each farmer's entitlement was calculated by the national authorities according to one of the models provided for under EU	

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	legislation ⁵ Bulgaria, Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland, Romania and Slovakia.	
3.9.	<u>Annex 1.1, Part 2</u>, of Chapter 1 describes the Court's overall audit approach and methodology. For the audit of market and direct support for agriculture the following specific issues should be noted: - the audit involved the examination of a sample - of 180 interim and	<u>Austria:</u> See points 3.14 and 3.15 <u>Denmark:</u> The Danish AgriFish Agency notes the Court of Auditors' comments under point 3.9 and deals more specifically with the criticism in points 3.19, 3.22, 3.23, and 3.24 below. <u>Finland:</u> This section describes the actions of the Court of Auditors, which the description shows as having been carried out. The Member State has no comments to make in this respect. The inspection results reported as a result of the Court of Auditors' work are discussed in the later sections of this document. <u>Hungary:</u> Community and national aid conditions are being kept up-to-date and applied continuously.

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	final payments; - as regards cross compliance, the Court focused its testing on selected GAEC obligations⁹ and SMRs¹⁰. Where cross compliance obligations were not met, the Court treated such cases as errors¹¹. These errors were included in the calculation of the overall error rate provided that it can be established that the error already existed in the year in which the farmer applied for aid¹². This represents a change from	<u>Italy:</u> See following points <u>Romania:</u> See the answer to question 3.34

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	previous years, when the failure to meet cross compliance obligations was not included in the error rate calculation; - reductions and exclusions (applied in cases where beneficiaries of EU aid over-claim the actual area or number of animals¹³) are not included in the Court's error rate calculation; - the assessment of systems covered IACS in five paying agencies in Member States applying the SPS – Austria, Denmark, Finland,	

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	Italy (Lombardia) and Spain (Galicia) – and in one paying agency in a Member State applying SAPS (Hungary); - the Court examined the implementation (at national level) of cross compliance standards and the control systems implemented by Member States. The results of this work are presented in Chapter 4 at paragraphs 4.30 to 4.32 but are also applicable to this Chapter; - the Court reviewed the work carried out	

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	by the certification bodies of Romania and Bulgaria under the new reinforcement of assurance procedure¹⁴; - the review of the Commission's management representations covered the annual activity report of DG AGRI concerning EAGF-related issues; - in the context of the Commission's clearance of accounts procedure the Court reviewed 17 of the EAGF certification bodies'	

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	certificates and reports relating to 17 paying agencies. The results are presented in Chapter 4 (see paragraph 4.36). ⁹ Avoiding the encroachment of unwanted vegetation, retention of terraces, maintenance of olive groves and respect of minimum livestock stocking rates or mowing obligations. ¹⁰ SMR 4 relating to the nitrates Directive ¹¹ Cross compliance obligations are	

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	substantive legal requirements that must be met by all recipients of direct aid and are the basic and in many cases the only conditions to be respected in order to justify the payment of the full amount of direct payments, hence the Court's decision to treat failure to meet such requirements as errors. ¹² For each infringement, the national	

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	system for reduction of payments has been used for the quantification of the error. 13 Regulation (EC) No 1122/2009 provides that, where the claimed area is found to be overstated by more than 3 % or two hectares, the aid amount shall be calculated on the basis of the area determined reduced by twice the area claimed	

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	irregularly. If the difference is more than 20 % no aid shall be granted for the crop group concerned. Similar provisions apply to animal premia. ¹⁴ See paragraphs 3.34 and 3.35.	
3.14.	<u>Commission's reply to 3.14 and 3.15</u> <i>3.14 and 3.15. The Commission considers that IACS, which accounts for 91 % of total EAGF expenditure, is generally an effective control system for</i>	<u>Austria:</u> Additional on-the-spot checks were carried out in 2012 for improving the administration of the Land Parcel Identification System (LPIS). In order to enhance the internal control system, new quality controls were introduced that become effective from the end of 2012 – ongoing measures are being taken.

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	<i>limiting the risk of error or irregular expenditure.</i> <i>The overall effectiveness and constant improvement of the IACS is confirmed by the results of the conformity audits which the Commission has carried out over the past years in all Member States and by the low error rate indicated in the control statistics which it receives from Member States. These statistics are verified and validated by the certification bodies and show a level of undue payments which is below the 2 % materiality threshold.</i> <i>Remaining deficiencies</i>	

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	<i>are generally of a lesser nature. Many of these deficiencies pertain to a rather limited scope, e.g. some kind of alpine pastures in Austria, and are not undermining seriously the effectiveness of IACS. All these deficiencies are followed up through conformity clearance procedures which ensure that the risk to the EU budget is adequately covered.</i> <i>Given that the deficiencies the Court detected in Austria are of a minor nature, the Commission considers the supervisory and control system in Austria to be effective.</i>	

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3.19.	EU legislation provides that after expiry of a specified deadline, farmers can no longer declare additional parcels and that any anomaly detected by the paying agency will lead to a reduction of the aid amount. However, the administration may correct a claim at any time without applying an aid reduction in the case of an obvious error defined as an inconsistency²¹ which becomes apparent from the data contained in the claim itself. The Court found that four paying agencies (Denmark, Finland, Italy (Lombardia) and	<u>Denmark:</u> The Danish AgriFish Agency agrees on the criticism raised by the Court of Auditors in the specific cases. Instructions for case handlers have been rectified. <u>Finland:</u> See the reply in Annex II, in the section entitled “2.2. Obvious error corrections do not meet the obvious error concept”. <u>Italy:</u> The ECA has criticised the use of the obvious error concept to accept applications for insurance contributions under Article 68 for farms which, although they had concluded the insurance policy, did not cross the application for contribution box in the 2010 single application. OPLO (Lombardy paying agency) considered it admissible to accept the obvious error request on the following grounds: • in order to apply for the contribution, a flag had to be inserted in a box in the aid application. The problem was a box that had not been filled in, and as it was the first time it might have been an oversight; • the good faith of the farmer and no possibility of fraud; • an error was detected by the paying agency when the individual applications were being checked against the supporting documents, which in this case were in the SIAM Insurance database. In any case, OPLO accepted the ECA's position and withdrew the contribution by Order No 4188 of 15 May 2012. On 30 June 2012 it completed recovery of the amounts withdrawn when the balance for 2012 single applications was paid. 64 applications were concerned, for which the total contribution granted was EUR 33 755.00, of which the Community share was EUR 20 063.95.

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	Romania) incorrectly applied the obvious error concept, by allowing the replacement of ineligible or double claimed parcels, with the result that the paying agencies did not apply aid reductions (see example 3.3). ²¹ Such as clerical error, inconsistency between graphical and alphanumerical information contained in the application, map reading errors, etc. <u>Commission reply to 3.19</u> <i>As regards Denmark,</i>	

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	<i>Finland and Italy, the national authorities have taken or are taking corrective actions by amending their internal instructions and procedures and, where necessary, by recovering overpaid amounts.</i> <i>As regards Romania, the Commission services' own audit found that the national guidelines for the determination of obvious errors were not always applied correctly by the regional paying offices</i>	
Example 3.3.	In the case of Romania the incorrect application of the obvious error concept was systematic. Parcels affected by over-	<u>Romania:</u> APIA According to EC working documents (Working Document No. 2011/2009) “... decisions on whether or not to apply the concept of “obvious error” depend on the circumstances of each case and the competent authority must be satisfied by the <u>obvious</u> nature of that error. The concept of obvious error can not be applied systematically; it is

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	declarations or double declarations are replaced in a significant number of cases by other parcels in different locations and of a different size or shape. Such replacements cannot be considered as a correction of obvious errors²². ²² The Court had already observed in its 2008 Annual Report (paragraph 5.38) that in Romania 5 500 farmers had benefited from a total of 2,2 million euro in EU SAPS aid as a result of the incorrect application of the obvious error concept.	<i>necessary to analyze each case.</i> <i>Secondly, considering the complexity of the procedures related to the submission and processing of aid applications, and especially the different procedures applied in the Member States, this document can not classify each type of potential error.</i> <i>Thirdly, Regulation (EC) No. 1122/2009 provides a series of procedural rights for farmers, and a special mention is made in Article 73 and Article 74, which state that in some cases no penalty shall apply.”</i> The management and control procedure for area payment applications provides the definition of obvious error as follows: “In establishing obvious errors after re-identifying a parcel in the physical block general criteria will be taken into consideration, which must be met cumulatively: the lack of points of reference in the two physical blocks and maintenance of specific elements of the plot initially declared (surface, crop). Re-identifying a parcel in another physical block can be considered/classified as obvious error if the APIA official finds that the aforementioned criteria have been met, except the results of on-the-spot checks. Only if the APIA official finds that the farmer had insufficient elements for a correct identification of the parcel in the physical block and the circumstances indicate that this is the case of an obvious error, then the re-identification of the parcel in another physical block can be considered/classified as obvious error.” Starting with 2010, the use of the IPA Online application allowed the physical location of the parcels within physical blocks. The concept of obvious error of was correctly applied, in accordance with the law, EC working documents and internal procedures.

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Example 3.4.	In two Member States²³ (Italy (Lombardia) and Spain (Galicia)), the Court found cases where “permanent pasture” reference parcels were recorded in the LPIS as being 100 % eligible despite the fact that they are fully or partially covered with dense forest or other ineligible features. The Court also observed that the LPIS was not updated with the results of on-the-spot inspections performed by paying agencies (Hungary, Italy (Lombardia) and Spain (Galicia)). ²³ The Court has already made this	<u>Spain:</u> One of the measures, specifically measure No 14, implemented as part of the plan to improve the LPIS update focuses on establishing objective criteria for applying the eligibility coefficient to pasture. The aim of this measure is to establish a series of parameters that will enable automatic calculation of an eligibility coefficient for areas of pasture in all the Autonomous Communities, so that they can be uploaded to LPIS-GIS at a national level after calculation. In the RD on the application of direct payments for agriculture and livestock breeding, the eligibility coefficient for pastures has been introduced from 2013. This means that areas of pasture with characteristics preventing full use of these areas because of the presence of unproductive elements, steep slopes or other characteristics determined by the competent authority are assigned a coefficient in the Geographical Agricultural Land Information System (LPIS-GIS) reflecting the eligibility percentage in terms of the LPIS-GIS ‘recinto’. In this LPIS-GIS ‘recinto’ the maximum eligible area for the purpose of the direct aid schemes is the area of the ‘recinto’ multiplied by this coefficient. In the event of disagreement with the coefficient assigned, a reasoned objection can be submitted to the LPIS-GIS. Another of the measures in the plan of measures to improve updating of the LPIS-GIS is to check that the changes detected in the inspections are entered in the LPIS-GIS as indicated in EU law and in the coordination circulars drawn up for that purpose by FEAGA. LPIS-GIS update following on-the-spot checks: As evidenced in the European Court of Auditors’ audit, in the Galicia Autonomous Community the LPIS-GIS is updated systematically using the results of the on-the-spot checks carried out in aid management. Since the 2009 marketing year this work has been based on the geographical information obtained by a GIS application called CONSUPAC developed specifically to carry out these checks.

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	observation for Spain in Annual Reports for 2008, paragraph 5.36, for 2009, paragraph 3.38, and for 2010, paragraph 3.31, and for Italy in the 2009 Annual Report, paragraph 3.38. <u>Commission reply to Example 3.4</u> <i>Incorrect data in the LPIS</i> <i>According to the Italian authorities, the issue has been rectified as from 2011. The Commission is pursuing this through the conformity clearance procedure of accounts.</i> <i>The Commission is aware of the issues related to</i>	Despite this, in the 2009 and 2010 marketing years, in some cases it was not possible to update the new uses in the graphic display in time before the publication of the data corresponding to the following marketing years, due basically to two reasons: delays in completing the checks relating to completion of the new control system (the CONSUPAC application) and temporary halts to the editing of changes in the SIGPAC owing to the process of convergence with the land register. However, these problems, which had already been overcome in 2011, did not prevent appropriate inspection of these areas, since although the graphic changes could not be seen on Internet they were carried out from the start in the alphanumerical database used to manage the case files. These changes were notified to the farmers by various different methods, in particular using the pre-applications provided to them. <u>Hungary:</u> The case should be regarded as isolated; the error identified has been corrected. At a systemic level, LPIS data have been updated continuously based on the findings of on-the-spot checks carried out in previous years, thus no systematic measure was necessary. <u>Italy:</u> As regards the updating of the LPIS with the results of on-the-spot checks, the AGEA started to do this with the 2011 on-the-spot inspections; it updated the reference parcels in real time directly on OPLO's LPIS-GIS via photo interpretation per block of parcels and subsequent matching up with the reference parcel. The problem has therefore been resolved. As to the permanent pasture parcels, wrongly registered in the LPIS as eligible, when system is updated under the 2012 'refresh', the parcels/areas identified as ineligible by the inspectors in the years prior to 2011 will be checked for any incorrect payments to be recovered.

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	<i>the eligibility of pasture areas in Spain. The Spanish authorities were requested to act on this matter and presented the LPIS Improvement Plan in November 2010 including, notably, measures to implement the application of an eligibility coefficient to pasture parcels and to ensure systematic update of LPIS with the results of on the spot checks. The Commission will continue to monitor the implementation of this plan by the national authorities.</i> <i>The Commission has also found some cases in Hungary where LPIS was</i>	This procedure can also be used for the rough pastures, for which photo interpretation more in line with the ECA's comments is planned.

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	<i>not updated with the results of the on the spot checks and has requested the Hungarian authorities in writing to take action in this respect.</i>	
3.21.	For SPS aid to be granted, every entitlement held by the farmer needs to be declared together with one hectare of eligible land. The Court has observed that this principle is not respected in certain circumstances in Austria (see example 3.5). <u>Commission's reply to 3.21</u> <i>The Commission has so</i>	<u>Austria:</u> The conformity clearance procedure is still ongoing.

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	<i>far imposed 0,214 million euro in financial corrections on Austria concerning entitlements for alpine pastures in claim years 2005, 2006 and 2007 in the context of the conformity clearance procedure.</i> <i>See also joint reply to paragraphs 3.14 and 3.15.</i>	
Example 3.5.	In Austria, when an applicant claiming Alpine pasture areas does not have enough hectares to activate all entitlements the national authorities, contrary to EU legislation, reduce the number of applicant's entitlements (to match it with the number of	

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	hectares) and increase their values proportionately²⁴ ²⁴ The Court has raised this issue already in its 2006 Annual Report (paragraph 5.23).	
3.22.	All payment entitlements should be recorded in the entitlement database the total value of which must not exceed a ceiling laid down in EU legislation. In two Member States the Court found inaccurate information in the entitlements databases due to the incorrect treatment of unused entitlements²⁵ (Denmark) and to differences between regional and central databases	<u>Denmark:</u> The work on analysing the causes and scale of the problem is on-going. Payment rights that have not been exercised two years in succession will subsequently be revoked and improperly paid support reclaimed. <u>Spain:</u> Concerning the European Court of Auditors' queries, the 2011 Annual Report (which includes, inter alia, the final conclusions of the audit of the IACS-SPS systems carried out by the Court) emphasises, with regard to the Single Payment Scheme in points 1.2 and 2.2. of Annex II, the differences detected in the databases during the visit to the Galicia paying agency (PF 4805). In FEAGA's report replying to the preliminary findings of the Court of Auditors (on 6 June 2012 and 3 September 2012), it provided reasons for and clarification of the origin of the discrepancies detected in the data sent to the Court by FEAGA and FOGGA. These discrepancies were owing to the different versions provided by the two bodies for the 2009 bound duties (versions 2 and 3). FEAGA supplied the version of the 2009 duties that FOGGA had initially supplied (V2). We then compared the two sets of statistics.

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	(Spain²⁶). ²⁵ EU legislation provides that entitlements not activated during two consecutive years revert back to the national reserve, see Article 42 of Regulation (EC) No 73/2009. ²⁶ This issue has already been reported by the Court in its 2008 Annual Report (paragraph 5.37) <u>Commission reply to 3.22</u> <i>As regards Denmark, the</i>	This comparison revealed slight differences between the data supplied by each body for bound duties both in 2009 and 2010. However, as was attempted to explain and demonstrate in these reports and subsequently in the Court of Auditors' visit to FEAGA on 29 October, these discrepancies <u>did not really correspond to different data but rather each body, using the same data, employed a different accounting system in terms of working and organisational methods. This had no impact or effect on the related payments.</u> However, an error was admitted by the Galicia Autonomous Community when drawing up the 2010 statistics submitted to the Court of Auditors, since it included in the calculation 42 codes more than those actually assigned and notified by FEAGA for correct payment. Therefore, once again, this discrepancy did not have any impact on the payments or cross-checks made, since the error in question was an inconsistency in accounting when drawing up the summary table submitted to the Court. This body wishes to state and <u>confirm that the consistency and uniformity of the system for identifying and recording single payment duties in Spain is guaranteed</u>, which is why no measures were adopted in relation to this comment by the Court of Auditors. As the coordinating body, FEAGA is responsible for maintaining the National Databases created for identifying, recording, maintaining and managing single payment duties and ensuring that they operate properly. As we attempted to explain during FEAGA's visit on 29 October, the main feature of the National Databases (BDA, GDR and BDD) is the constant flow of information between these databases and the Autonomous Communities. This means that the databases are fed with information from the Autonomous Communities, as Paying and Management Agencies, while FEAGA makes all the information available to the Autonomous Communities once it has been validated, the necessary cross-checks performed (both between databases and between the information sent by the various Autonomous Communities) and all the processes enabling the duties corresponding to a marketing year to be calculated and assigned have been carried out. In this way, our databases are constantly updated, either through the different versions generated throughout the marketing year, which incrementally incorporate the processes corresponding to the year (v0- advance, v1- decoupling of sectors, v2- allocation of national reserve...) or through the RI application, through which the information sent in a

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	<i>Commission has found similar issues and Danish authorities have agreed to take appropriate corrective measures. The Commission will follow this up in the context of the conformity clearance procedure.</i>	given year can be corrected and updated for one or more specific beneficiaries. To conclude, we can confirm that this is a <u>single Database which is uniform for the whole of Spain. It is a dynamic database</u> due to the constant flow of information. The discrepancies found by the Court are therefore due solely to the different methods use by the two bodies (Autonomous Community and FEAGA) for accounting and drawing up statistics based on the same data.
3.23.	The quality of the on-the-spot measurements is of key importance for the correct determination of aid amounts. The Court has re-performed a number of measurements carried out by the paying agencies. In three Member States the Court's measurements differed from the results reported by the paying agencies (in Denmark for	<u>Denmark:</u> It should be pointed out that quality assurance and improvements in quality are performed continuously. <u>Spain:</u> The system for measuring parcels in the Autonomous Communities of Galicia is in accordance with the conditions laid down in EU law and in the Commission documents As mentioned in point 3.4, in Galicia a specific GIS application has been developed called CONSUPAC, with undeniable advantages with respect to any other system possible for Galicia. These include: • It is possible to carry out inspections with computer tablets on the spot. The inspector can at all times clearly see his position on the digital ortho-photos and the LPIS division into parcels. In this way the inspector travels round the perimeter of the parcels and verifies whether it is necessary to make discounts or differentiate uses. This benefit is fundamental in a region of mini-holdings such as Galicia. Since it is so thickly wooded, this often distorts the measurements obtained solely with GPS.

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	five out of 18, in both Spain (Galicia) and Finland for four out of 21 measurements).	• The application makes it possible to consult plentiful information on declarations, LPIS, etc, in a very operational form. • It has numerous checks of the consistency of the information and alerts which largely avoid errors. • It provides total consistency between the graphic and alphanumerical information obtained on the spot, enables the photos taken on the spot to be clearly linked to the 'recintos', optimises subsequent use of the information, etc. However, the checks can only be carried out properly if the rules are applied correctly by each inspector. The computerised system itself requires all the 'lots' of field work to be supervised before the meeting with the farmer. This guarantees an appropriate general quality level. Four of the five errors mentioned by the Court of Auditors relate to the same inspection file. In the other case, the error committed in measuring was to class as eligible certain vegetation masses located on the edge of extensive meadow 'recintos', in a steeply sloping area beside a river. The other four measurements, corresponding to parcels very close together and included in a single report, showed that the inspector did not comply with the rules. ▪ In two cases, unproductive land that could be seen in the LPIS ortho-photo in the computer tablet was not discounted.

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		▪ The inspector found that the applicant had erroneously declared a reference next to his own (which could be considered to be a ‘manifest error’) but did not correct the declaration because he wrongly considered that it was not necessary, since the error did not affect the payment. ▪ The last parcel was a wooded area next to the main meadow in the holding, with trees growing spontaneously (i.e. not planted). Clear proof was found (numerous animal droppings) that the livestock habitually uses this area at the same time as the adjacent meadow as an area for resting protected by trees. Although there were almost no signs of grazing (this may have been due to a persistent drought lasting many months, which is not usual in Galicia), clearly there was evident and highly intense livestock activity in the wooded area. The inspector therefore classed it as eligible, bearing in mind the definition of ‘eligible hectare’ laid down in Article 34(2) of Council Regulation 73/2009. In the training courses for inspectors held each year in Galicia, participants are continually reminded of the procedures for carrying out inspections correctly and the need to conduct monitoring as effectively as possible before drawing up the reports. <u>Finland:</u> The Finnish Agency for Rural Affairs makes reference to the reply in Annex II, Section 3.1.2. and takes the view that the areas must not be determined in the manner suggested by the Court of Auditors. The Agency for Rural Affairs is of the opinion that the method of measurement suggested by the Court of Auditors is not compliant with Commission Regulation (EC) No 1122/2009. The calculations performed by the Agency for Rural Affairs indicate that the measurement results of two parcels were outside the duplicate deviation. However, the Agency for Rural Affairs is of the opinion that this will not result in a risk to the fund, because the audits performed by the Court of Auditors have found that the subject parcels have more eligible area than what was measured in the control (or

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Paragraph	Observation in the 2011 Annual Report	Member State reply													
		declared by the farmer in the aid application).													
3.24.	The Court examined the accounting records of the paying agencies audited to establish if the amounts to be recovered are properly accounted for and if these amounts are correctly reported to the Commission. In Denmark the Court could not reconcile the amounts reported with underlying records. <u>Commission reply to 3.24</u> <i>The Commission shares the Court's assessment that four out of the six systems audited were</i>	<u>Denmark:</u> The Court of Auditors' criticism of the debtor tables is issued with reference in part to the historic problems that the Danish AgriFish Agency has experienced with producing error-free debtor reports for the Commission and also the fact that the provisional tables extracted immediately before the visit could have errors as they had not yet been checked off. These tables, comprising more than 9 000 claim lines and associated historic data, are produced mechanically, after which the Agency checks them off properly and corrects data in the table, where errors are found in the extract. Adjustments are made only for a few per cent of the claim lines, and the Agency has thus achieved a level where further programming is unaffordable from a cost benefit perspective. Only a few more minor adjustments are currently outstanding. It has been relatively expensive to devise a mechanical solution with this clarification. In addition, the Court of Auditors' criticism attests to the complexity of these debtor tables. The Court of Auditors has thus, for various reasons, between its first communications of audit results and until its final report, mixed debtor lines for a second debtor together with the Agroferm case. All the subsequent criticism in the Court of Auditors' section 4.2 (under case PF 4505) concerning weaknesses in relation to enforcement procedures are thus groundless and should not have been covered by its final report. In other words, this arises from an error on the Court of Auditors' part. <table border="1"> <tr> <td>A</td><td>B</td><td>C</td><td>D</td><td>E</td><td>F</td><td>G</td><td>H</td></tr> </table>						A	B	C	D	E	F	G	H
A	B	C	D	E	F	G	H								

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	<i>effective and two partially effective (see Annex 3.2). The Commission also considers that the debts management and recovery systems have improved in the last years, not least due to the introduction in 2006 of the so-called 50/50 rule, which gives a strong incentive to Member States to recover undue payments as effectively and as quickly as possible. This is the reason why the Commission has proposed a '100 % rule' for the 2014-2020 period (i.e. 100 % of unrecovered amounts after a 4 or 8 year delay</i>	Year of origin	Object of legal case	Original amount for recovery	Corrected amount in total	Amount declared a bad debt	Financial year for irrecoverability	Amount collected	Amount to be credited to the EU budget
		2005	N	2 264 464.10	488 379.81	-	2011	646 151.28	323 075.64
		2006	N	0.00	739 122.02	-253 338.97	2011	485 783.05	242 891.53
		2007	Y	71 280 272.03	28 121 794.47	0.00		98 949 683.75	98 949 683.75
		The Court of Auditors' conclusions are thus based on the first two claim lines, which concern a second debtor. The claim line from the same extract concerning the Agroferm case is included above as the third line, with the Court of Auditors' criticism of incorrect depreciation clearly being groundless. The above comments on point 3.24 in the Court of Auditors' annual report is otherwise repeated under the comments on sections 4.1 and 4.2 under case 4505 (see case conditions No 10 and No 11 in ANNEX II).							

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	– <i>depending on whether the case is under administrative or judicial procedure – will be charged to the Member States concerned</i>)¹. <i>In the specific case of Denmark, the Certifying body also identified some reconciliation issues with regard to recovered amounts or between the reporting to the Commission through the Annex III tables and the paying agency's debtors' ledger. The Commission will review the compliance with the accreditation criteria and the infrastructure and control systems put in</i>	

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	<i>place.</i> 1 Article 56(2) of SEC(2011) 1153.	
3.28.	For 2011 the Commission reports that for EAGF all 81 statements of assurance delivered by heads of paying agencies were unqualified and that all but one (Spain (Cantabria)) opinions given by the respective certification bodies were also unqualified²⁷. The certification bodies perform their audits on the basis of Commission guidelines under a “standard” or, on a voluntary basis, “reinforcement of assurance” procedure	<u>Spain:</u> It was found that the Cantabria Paying Agency did not include a reservation in the 2011 Declaration of Assurance, and that the Certifying Agency that audited the accounts and the Declaration of Assurance did not make a reservation or state that any reservation should have been made in any of the EAGF and EAFRD funds audited. <u>Romania:</u> AA The Certification Body (CB) has issued audit reports for EAGF and EAFRD on 30.5.2012, after the deadline for reporting to the European Commission (1 February 2012) as the paying agencies have prepared and made available to the auditors the documents for annual accounts after the agreed deadlines, some of the documents being transmitted to the CB later than 1 February 2012.

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	involving additional checks. ²⁷ No certification body reports have been received for the two Romanian paying agencies	
3.33.	Furthermore, several certification body reports indicate that the Commission requested further clarifications³¹ by the paying agencies with regard to the inspection statistics initially submitted. Potential amendments to the inspection statistics resulting from these requests are not analysed in the context of	<u>Germany:</u> Protein crop premiums Among the applicants for protein crop premiums (PCP) are a total of 26 farms making claims for areas of less than 0.3 ha. No financial assistance is being granted to these applicants, because of failure to meet the minimum area requirement. No area discrepancies were found in these 26 applications during either the administrative or the on-the-spot controls. The area for which no payment was made was not included in the reduced area statistics. The amount which was not paid because the claimed area was too small is, however, included in the statistics as a reduction. In 2010, 24 applicants who were not subject to on-the-spot controls, with a PCP area of 4.79 ha, did not achieve the minimum area required for support. The unpaid assistance in question amounted to € 266.18 (4.79*55.57€). When the 4.79 ha are added to the reduced areas of 10.90 ha, already included in the statistics under D1, the result is a total reduced area of 15.69 ha. By dividing the €871.90 reduction included in the statistics by the reduced area of 15.69 ha, the result obtained is the correct payment amount for protein plant aid, i.e. €55.57/ha.

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	certification body audits. ³¹ The certification body report explains that the control statistics for Germany (Bayern) had been readjusted six times in response to clarification requests by the Commission, the last definite version was received on 7 November 2011.	The reduced area referred to above was incorporated into the statistics under D.1.3. Two farms were also audited in respect of PCP within the framework of overall audits of the undertakings. The reduced areas are included in the statistics under D.2.2 and D.3.2. Value per ha of the farms selected for on-the-spot controls compared with the farms with over-declarations The approach taken by the Commission in this area to compare and calculate the statistics is, in our view, not quite correct. The Commission calculated average amounts per ha on the basis of aggregate values and then compared these. The aggregate values, however, give a different result from the comparison of the individual values for each farm. Since the statistics only show total values, a comparison is not appropriate. The problem of comparing total values can be seen clearly from the data of three randomly selected farms. <table><tr><th>A Farm</th><th>B Total area ha</th><th>C Total values €</th><th>D €/ha Application data (C/A)</th><th>E Over- declared areas ha</th><th>F Reduction €</th><th>G €/ha Reduction (F/E)</th></tr><tr><td>I</td><td>32,17</td><td>13.586,36</td><td>422,33</td><td>0,69</td><td>291,41</td><td>422,33</td></tr><tr><td>II</td><td>4,06</td><td>794,91</td><td>195,79</td><td>1,15</td><td>225,16</td><td>195,79</td></tr><tr><td>III</td><td>19,52</td><td>5.574,33</td><td>285,57</td><td>0,21</td><td>59,97</td><td>285,57</td></tr><tr><td>Total</td><td>55,75</td><td>19.955,60</td><td>357,95</td><td>2,05</td><td>576,54</td><td>281,24</td></tr></table> High Error Rate The high non-compliance rate in respect of land area and the major financial impact this has on the protein crop	A Farm	B Total area ha	C Total values €	D €/ha Application data (C/A)	E Over- declared areas ha	F Reduction €	G €/ha Reduction (F/E)	I	32,17	13.586,36	422,33	0,69	291,41	422,33	II	4,06	794,91	195,79	1,15	225,16	195,79	III	19,52	5.574,33	285,57	0,21	59,97	285,57	Total	55,75	19.955,60	357,95	2,05	576,54	281,24
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		premium stem from a relatively small number of farms (6 farms with area discrepancies of more than 1.0 ha) whose PCP claim area is, however, relatively large, and for which the claim for part or all of the land was rejected primarily owing to failure to comply with the conditions for the granting of premiums. This is not a matter of areas not found, but of a rejection of areas as a result of failure to comply with growing and harvesting conditions. The 6 farms in question distort the statistics, with claimed areas of 96.46 ha and a rejected area of 53.45 ha. The rejected area of one farm alone, totalling 37.47 ha paints a false statistical picture. The whole claimed PCP area of this farm has not, in fact, been planted with clover, but, contrary to the rules, mixed with other non protein crops. The total area subject to on-the-spot controls comprises 1 052.50 ha with an observed divergence of 60.03 ha. In 2010, EUR 411 584.22 was paid in Bavaria for CC relevant wine measures. This amount belongs in cell E5 of Table 5 of the Bavarian statistics. In 2010 only holdings that had received corresponding wine payments in 2009 were selected for a CC on-the-spot control. Only one holding selected for 2010 also received payments in 2010. It received EUR 2959.98. Since the holding was selected on the basis of a risk analysis (Article 51(1) of Regulation (EC) No 1122/2009) for an on-the-spot control in the framework of cross compliance, the amount of EUR 2925.98 is to be entered in cell E6. No holding selected on a random basis (Article 51(2) of Regulation (EC) No 1122/2009) for an on-the-spot check also received wine sector payments. This is why the amount in cell E7 remains at EUR 0. In 2010, CC breaches were detected in respect of 5 holdings which received wine sector payments in 2009. None of these holdings also received payments in 2010. Amounts of EUR 0 should also be entered, therefore, in cells E9 to E17.

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3.34.	In 2010 the Commission introduced on a voluntary basis³² a new control framework called “Reinforcement of assurance on the legality and regularity of the transactions at the level of the final beneficiaries through the work of the certification bodies”. The reinforcement exercise requires the certification body to re-perform, for each paying	<u>Bulgaria:</u> The Guidelines for the reinforcement of assurance on the legality and regularity of the transactions at the level of the final beneficiaries through the work of the certification bodies are applied by the Member States on a voluntary basis. The document has been the subject of a series of comments by the Member States and of discussions between the European Commission and the Paying Agencies’ Certification Bodies aimed at improving it further. Thus, as is made clear in point 1 of Part A ‘Audit strategy’, the Guidelines apply only to EAGF and EAFRD schemes and measures covered by IACS. <u>Luxembourg:</u> Dans son rapport dans le cadre de l’assurance renforcée, l’organisme de certification n’avait pas formulé d’observations particulières ! <u>Romania:</u> AA For the year 2011, the Certification Body (CB) applied the consolidation of insurance for EAGF-IACS and EAFRD-IACS populations. Related audit reports and certificates were issued in December 2011 and were submitted to the European Commission on 12.12.2011

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	agency and each of the four expenditure populations, EAGF-IACS, EAGF-non-IACS, EAFRD-IACS and EAFRD-non-IACS, the check of a representative sample of transactions which the paying agency has checked on the spot. ³² For the financial year 2011 only Luxembourg, Bulgaria and Romania opted to apply the reinforcement of assurance procedure.	

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3.38.	The Court noted substantial deficiencies in the implementation of the reinforcement of assurance procedure in both Member States audited (Bulgaria and Romania, see example 3.6)	
Example 3.6.	In Bulgaria, the re-performance of the on-the-spot checks was outsourced by the certification body to a service provider. In several cases re-performed by the Court the	<u>Bulgaria:</u> Bulgaria's Certification Body does not accept the findings of the European Court of Auditors (ECA) and has detailed its reasons in a letter of 14 May 2012 to Mr Augustyn Kubik and during the ECA audit mission of 12-16 November 2012. We would point out that the audit procedures concerning the repeat on-the-spot checks include the following main steps: • Planning the engagement; • Assessing the control environment at the Paying Agency; • Preparing samples for the selection of parcels; • Remeasuring parcels/recounting livestock on the spot;

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	service provider had incorrectly assessed the eligibility of land. Furthermore, the certification body did not observe that the paying agency did not offset area surpluses found on one parcel against deficits found on another parcel, as required by EU legislation. Another shortcoming undetected by the certification body was that where the same area was claimed by two	• Analysing the results and evidence gathered; • Calculating a rate of error at beneficiary level; • Detailed administrative tests on the files; • Recalculating the amount of eligible support before imposing penalties and reductions; • Calculating penalties and reductions; • Calculating and assessing the rate of error at population level; • Reporting. The Certification Body at Bulgaria's Paying Agency did not outsource all the on-the-spot checks but just those involving the technical measurement of the reference parcels. The need to select such a subcontractor and the procedures for its selection are described in detail in our audit strategy, which we presented to the European Commission and the European Court of Auditors. Procedures for monitoring and controlling the work of the subcontractor were, moreover, drafted and applied in accordance with Deloitte's International Audit Standards and Policies. The main elements are: • designing a method and instructions for determining the eligibility of parcels and for synthesising reporting data; ; • training the subcontractor's staff; • approving their working documents; • jointly performing measurements (a team comprising a member of the subcontractor's staff and a representative of the Certification Body) on over 50% of the parcels in the sample. As regards point 1 of the ECA's comments, we reject the approach applied by the ECA, which involved assessing the correctness of the review of the eligibility of parcels by an on-the-spot check a year after the on-the-spot check by the Certification Body and the Technical Inspectorate of the Paying Agency. This approach means that checks

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	farmers (multiple-claims) the paying agency, contrary to EU legislation, replaced the area claimed by one of the farmers concerned by an equivalent unclaimed area in another part of the reference parcel. In Romania, the paying agency withheld all payments selected by the certification body and presented to that body payment	on the admissibility of the parcels declared by the beneficiaries are effectively performed two years after the date on which the parcels were declared, which is a direct breach of Article 53(6) of Regulation (EC) No 1122/2009, which requires on-the-spot checks to be carried out in the calendar year in which the beneficiary lodged their application. Had we taken the same approach as the European Court of Auditors, our opinion on the parcels' eligibility in terms of farming condition might have been different, since it is undoubtedly the case that a parcel can change in the course of a year. As for the rate of error calculated by the ECA (78%), we believe it should be based on the surface area of parcels in hectares rather than on the number of parcels. (As regards the comment on point 1, please see 1.1 of the detailed explanation given by the Certification Body to the ECA at the time of the audit mission of 12-16 November 2012, which is annexed to this table.) <u>Romania:</u> AA, APIA As the ECA auditors also noted and recorded in the Annual Report, at the time of the audit conducted by the auditors of the Certification Body (CB) the parcels in question were not accepted for payment by the Agricultural Payments and Intervention Agency (APIA); this happened subsequently, after the results of the audit of the Certification Body were transmitted to the paying agency. Under these circumstances, at the time of the CB audit, it could not determine whether the changes made by the paying agency in parcel positioning were obvious errors or not. We reiterate that, under Art. 21 of <i>Regulation (EC) No. 1122/2009</i>, as subsequently amended and supplemented,

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	simulations based on lists of parcels which excluded all ineligible parcels. However, after the completion of the audit and the validation of the payment simulations by the certification body, the paying agency added new parcels to the list by way of incorrect application of the obvious error concept and paid higher amounts than those validated by the certification body. As a	and under <i>EC Working Document no. 09/2011</i> (submitted to the auditors during the mission), “an aid application can be corrected at any time after its submission, in the case of obvious errors recognised by the competent authority. Thus, the competent authority decides whether or not the error is “<u>obvious</u>” and whether or not it leads to reductions and exclusions, as set out in Title IV of the Regulation”. The farm was subject to the on-the-spot check conducted by APIA and to the on-the-spot check conducted by CB and ECA audit for 2010. These checks found that the land is used. Moreover, for 2012, the farm was selected for the on-the-spot check. Two of the three parcels in question were selected and verified on-site, the inspectors confirming the location of these parcels in the physical blocks where they were relocated in 2010 , accepting it as an obvious error. According to EC working documents (Working Document No. 2011/2009) “... <i>decisions on whether or not to apply the concept of “obvious error” depends on the circumstances of each case and the competent authority must be satisfied with the <u>obvious</u> nature of that error. The concept of obvious error can not be applied systematically; it is necessary to analyze each case. Secondly, considering the complexity of the procedures related to the submission and processing of aid applications, and especially the different procedures applied in the Member States, this document can not classify each type of potential error. Thirdly, Regulation (EC) No. 1122/2009 provides a series of procedural rights for farmers, and a special mention is made in Article 73 and Article 74 which state that in some cases no penalty shall apply.</i>” Management and control procedure for area payment applications provides the definition of obvious error as follows: <i>“In establishing obvious errors after re-identifying a parcel in the physical block general criteria will be taken into consideration, which must be met cumulatively: the lack of points of reference in the two physical blocks and maintenance of specific elements of the plot initially declared (surface, crop). Re-identifying a parcel in another physical block can be considered/classified as obvious error if the APIA official finds that the aforementioned criteria have been met, except the results from the on-the-spot checks. Only if the APIA official finds that the farmer had insufficient elements for a correct identification of the parcel in the physical block and the circumstances indicate that this is the case of an obvious error, then the re-identification of the parcel in another physical block</i>

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	result, the certification body issued an unqualified opinion on the legality and regularity of payments despite the weaknesses highlighted by the Court.	<i>can be considered/classified as obvious error.”</i> Starting with 2010 , the use of the IPA Online application allowed the physical location of the parcels within physical blocks. The concept of obvious error was correctly applied in accordance with the law, EC working documents, and internal procedures.
3.40.	DG AGRI's 2011 AAR contains a reservation in respect of serious deficiencies in IACS in Bulgaria and Portugal. However, the Commission lifted its previous reservation for	<u>Bulgaria:</u> In June 2009 a consolidated plan to improve the working of the IACS was drawn up and approved by the European Commission. It was to be implemented by the end of November 2011. Quarterly progress reports on the action plan were drawn up and sent to the European Commission. The consolidated plan's implementation was monitored by Commission representatives and the final report on its implementation was sent to the Commission at the end of November 2011. <u>Portugal:</u> No comment. <u>Romania:</u> APIA IACS is a reliable, solid, detailed and transparent system for the management and control of applications submitted

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	IACS expenditure in Romania. In the light of the observations referred to in paragraph 3.19 and example 3.6 the Court considers that this was premature.	by farmers, which accurately reflects existing documents on file and meets the processing flow of the applications set out in APIA procedures and in compliance with European regulations. IACS system reliability is an ongoing concern for APIA. In designing the system, it has been considered that the work done during the processing of an application should be managed by an automated system (Workflow Management System) based on stats. One can not move to a new stage of processing until the completion of the previous stage. All the operations required during processing are recorded in the file history, stored in the database and accessible at all times. During operation, when opportunities to improve workflow and audit trail they were or are highlighted, the system has been and will continue to be updated accordingly.
3.41.	Furthermore, DG AGRI considers that the anomalies found by paying agencies during randomly selected on-the-spot inspections reflect the residual error rates. The Court reiterates its criticism of this approach already made in its 2010 Annual Report because: - it is based on inspections, the	<u>Germany:</u> The amounts listed in point 6.2 of the Annual Report of the Mecklenburg-Vorpommern (MV) Certifying Body include recoveries which, following retrospective area comparisons, have been incorporated into the updated results of the Land Parcel Identification System (LPIS). In Mecklenburg-Vorpommern, the field block register has been used as the reference system since 2005. This register was established on the basis of aerial photographs from 2002 and 2003 and is maintained, updated and adjusted continuously. If changes are detected in the area reference, these take effect as soon as they arise, not when then are detected. Retrospective area cross-checks are carried out to verify to what extent retroactive changes detected in area references affect the claimed areas for the relevant claim years. Retroactive changes to the reference are mainly the result of new aerial surveillance of the land surface area. In agreement with the State Office for Internal Administration, the aerial photographs of the Mecklenburg-Vorpommern land surface area are updated at least every four years.

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	quality of which the Commission's own audits³⁵ and the Court's audits (see paragraph 3.23) have shown to be insufficient, in the case of a number of paying agencies; - it relies on inspection statistics which, according to certification body reports, are affected by compilation errors (see paragraph 3.30) and; - it is incomplete because it disregards the residual errors in the administrative management of claims which the	Once the photographs have been through the requisite quality control procedures and once the necessary technical calculations have been done, they are submitted to the LU. Photos are usually transmitted at the end of December of the year in which they were taken. These up-to-date aerial photographs are incorporated by the LU into the LaFIS-LFK IT System, superimposing them on the existing raster images and vector data of the physical blocks. So-called reference tasks are then established to check the physical blocks photographed from the air. A visual check is then carried out using the data available to detect any changes to the vector reference data used to date which would render correction necessary. The date on which required corrections take effect is, in principle, 1 January of the year of the photo flight. If the corrections are the result of infrastructure measures, notification must be given of the actual withdrawal from agricultural use of the land area concerned and 1 January of the year in question is established as the date when the corrections take effect. The verification and adaptation of the reference on the basis of the aerial photos currently on file is, as a rule, fully completed by the STÄLU at the end of the calendar year following the photo flight (n+1). In accordance with Article 28 of Regulation (EC) No 1122/2009, administrative controls include cross-checks between the agricultural parcels as declared in the single application and the reference parcels as contained in the identification system for agricultural parcels to verify the eligibility for aid of the areas as such. This cross-check is performed in Mecklenburg-Vorpommern in the c/s profile using the reference area comparison. Reference area comparisons are made on the basis of the reference that is valid at that particular point in time for the respective application year. As a rule, three reference area comparisons are carried out in the current calendar year for each respective application year. This ensures that, before payment is made, an adequate cross-check is carried out between the agricultural parcels as declared in the single application and the reference parcels as contained in the identification system for agricultural parcels. Retrospective reference area comparisons are made in order to check whether the reference changes give rise to newly disputed claims in respect of declared areas. As a rule, two retroactive reference area comparisons are carried

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	Court's (see paragraphs 3.19, 3.21 and 3.22) and the Commission's own audits have shown to be deficient³⁶. ³⁵ Clearance of accounts reports AA/2011/15 (Portugal), paragraph 3.2, AA/2011/09 (Finland), paragraph 3.2.1, AA/2011/05 (Germany, Mecklenburg-Vorpommern), paragraph 6.2, AA/2011/12 (Italy, Emilia-Romagna), paragraph 3.4.2, AA/2010/16 (Romania), paragraph 3.3, AA/2011/17 (Slovenia), paragraph 3.2,	out for the two previous claim years. After the reference area comparison files have been processed, IT-supported image recapture is used to verify which applications result in negative differences and the claims in question are automatically recalculated. This automated procedure ensures that all claims are checked comprehensively. The most up-to-date calculation of the respective claims is always used to establish the control statistics. When the control statistics were published, a significant proportion of the recalculations, which serve as the basis for the amounts reported on under point 6.2 of the Annual Report of the Mecklenburg-Vorpommern Certifying Body, had already been carried out. The control statistics for the 2010 calendar year were established on 21.11.2012, again taking full account of all recalculations. Of all the applicants subject to on-the-spot checks, it turned out that only one had made an overclaim (of 2.83 ha) which was not included in the control statistics published in July 2011. This application was picked up in the risk analysis. Retroactive discoveries have no effect on the error rate of the randomly selected applications. <u>Finland:</u> The finding is directed at the Directorate General for Agriculture and Rural Development. The Agency for Rural Affairs has no comment to make here. <u>Portugal:</u> No comment. <u>Romania:</u> See the response in section 3.19

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	AA/2011/06 (Spain, Navarra), paragraph 3.4, AA/2011/07 (Spain, Castilla y Leon), paragraph 3.4. ³⁶ For example, clearance of accounts reports AA/2011/01 (Bulgaria), paragraph 3.3, AA/2010/15 (Portugal), paragraph 3.3, AA/2011/12 (Italy), paragraph 3.2, AA/2011/06 (Spain), paragraph 3.2 and AA/2011/13 (Lithuania), paragraph 3.3.	<u>Slovenia:</u> <u>Reply from the Ministry of Agriculture and the Environment of the Republic of Slovenia:</u> The results of the IACS statistics and of the quality assessment of the land identification system in 2011 show that the LPIS is adequate in SI. A DG AGRI audit carried out in SI in 2011 did not identify any irregularities in LPIS to support the claim that it is artificially designed <u>with the aim of increasing the measurement tolerances</u>. SI defines the reference unit as a unit having the same type of actual use and follows natural shapes. SI has a system in place for regularly updating LPIS by eliminating ineligible areas.
Annex 3.2.	Results of examination of systems for agriculture: market and direct support	<u>Austria:</u> See example 3.5. <u>Denmark:</u>

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		The Danish AgriFish Agency notes the Court of Auditors' assessments in Annex 3.2 and will, in accordance with the answers provided under points 3.19, 3.22, 3.23 and 3.24, carry on working to rectify the matter about which criticism has been levelled. <u>Finland:</u> The replies to the findings compiled into the table are shown among the replies to individual cases in Annex II. <u>Hungary:</u> Community and national aid conditions are being kept up-to-date and applied continuously. <u>Italy:</u> See answers to individual findings
Annex 3.3.	Follow-up of previous recommendations for EAGF	<u>United Kingdom:</u> RPA: the review mentioned in the table is currently ongoing.
Chapter 4 – Rural development, Environment, Fisheries and Health		
4.5.	In its 2010 Annual Report, the Court noted that rural development expenditure is particularly prone to error ³ . The main risk to	<u>Bulgaria:</u> The Bulgarian authorities regularly update the approved version of the RDP, including the relevant national legislation. The updates are intended both to provide new opportunities for candidates and to improve control mechanisms. To avoid any confusion among applicants about the conditions and requirements, the Bulgarian authorities also regularly conduct information campaigns aimed at explaining the opportunities and the

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	regularity is caused by the often complex rules and eligibility conditions. In addition, as some programmes have low implementation rates⁴, there is a risk, especially towards the end of the programming period, that ineligible expenditure is declared to avoid decommitments. ³ See paragraph 3.18 of the Court's 2010 Annual Report. ⁴ Five years after the start of the 2007-2013 programming period, execution rates (i.e. payments/financial plan) were still very low for Bulgaria (29,1 %), Romania (34,3 %) and	requirements that applicants have to meet. To prevent the declaration of ineligible costs to the Commission, the Bulgarian authorities check that the accredited rules applied by the Paying Agency are in strict conformity. The Bulgarian authorities have not set a specific starting date for action because this process is ongoing and began with preparations for the application of the programme for the current period and, with a view to the effective, efficient and proper management of these actions, will continue until this programme's monitoring ends. <u>Italy:</u> The costs borne in 2012 entailed a rise in the implementation rate for the Italian State. On 15 October 2012 it was 44.4%. Moreover, the Italian State has implemented the 'refresh' procedure for agricultural areas, which makes possible: 1. updated aerial imaging for 1/3 of Italian territory per year, according to a pre-established 'complete regions' plan; the digital orthophotos are in colour and very high resolution (50 cm on the ground); 2. photo interpretation of land use with the digital photographs makes for 'full coverage' of the areas, since it is carried out for both agricultural and non-agricultural areas; 3. the areas are photo interpreted directly and continuously on the orthophotos by subdividing the land into homogeneous plots of land delimited by natural or artificial physical borders (roads, water, physical boundaries, ditches, mountaintops, etc.); this "objective identification of land use" is independent of the information provided by farmers about their management or ownership of the pieces of land. This is a precautionary system, already operational, for keeping down the error rate in area measurement for Rural

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	Italy (36,2 %) (based on data from DG AGRI as at 31.12.2011).	Development purposes. <u>Romania:</u> APDRP 1. Termination of funding agreements signed in 2008, 2009, 2010 for which there was no request for payment (non-bankable agreement termination). The decommitted amounts were reallocated. 2. Shortening the deadline for the verification of the payment application. 3. Limiting the number of addenda seeking extension of the implementation deadline. 4. Issue of Government Decision No. 1036 of 24 October 2012 on over-contracting so available funds would be allocated immediately. 5. Period analysis of procurement and payments stages for each agreement. Please note that the actions taken are permanent.
4.9.	<u>Annex 1.1, Part 2</u> , of Chapter 1 describes the Court's overall audit approach and methodology. For the audit of rural development, environment, fisheries and health, the following specific issues should be	<u>Austria</u> See Annex II for measures. <u>Denmark:</u> The Danish AgriFish Agency notes the Court of Auditors' comments under point 4.9 and addresses more specifically the criticism in points 4.24, 4.25, 4.26, 4.28, 4.30, 4.31 and 4.38 below. <u>Spain:</u> This reservation was corrected when Royal Decree 401/2012 of 17 February 2012 was published. This Royal Decree implemented the basic organic structure of the Ministry of Agriculture, Food and the Environment, which

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	noted: - the audit involved the examination of a sample of 178 interim and final payments, comprising 160 payments for rural development and 18 concerning environment and climate action, maritime affairs and fisheries, and health and consumer protection; - with respect to cross compliance, the Court focused its testing on compliance with GAEC (good agricultural and	designates the Spanish Agricultural Guarantee Fund (FEGA) as the Certifying Authority and the Directorate-General of Fishing Management as the Managing Authority. All this was sent to the Court at the time. <u>Finland:</u> This section describes the actions of the Court of Auditors, which, on the basis of the description, have been carried out. The Member State has no comments to make in this respect. The inspection results reported as a result of the Court of Auditors' work are discussed in later sections of this document. <u>Hungary:</u> The referenced part did not require Hungary to take any action. <u>Italy:</u> No comments on the audit methodology.

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	environmental condition) obligations and selected statutory management requirements (SMRs)⁸ for which evidence could be obtained and a conclusion reached at the time of the audit visit; - reductions and exclusions (to be applied by Member States in cases where beneficiaries of EU aid over-claim the actual area, number of animals or eligible expenditure⁹) are not included in the Court's error rate	

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	calculation¹⁰; - the assessment of systems for rural development covered one paying agency in each of six Member States: Denmark, Spain (Galicia), Italy (Lombardia), Hungary, Austria and Finland. For Maritime affairs and fisheries the Court tested the internal control system of DG MARE; - the review of the Commission's management representations covered the annual activity reports of	

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	DG AGRI (concerning rural development), DG CLIMA, DG ENV, DG MARE and DG SANCO; - in addition, in order to assess the basis for the Commission's financial clearance decisions the Court reviewed DG AGRI's clearance of accounts audit work and the EAFRD certification bodies' certificates and reports related to 15 paying agencies. ⁸ All requirements	

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	for SMRs 6-8 (concerning the identification and registration of animals) and obvious non-compliance with SMRs 4 (nitrates Directive) and 18 (animal welfare). 9 Articles 1 6, 17 and 30 of Commission Regulation (EU) No 65/2011 of 27 January 2011 laying down detailed rules for the implementation of Council Regulation (EC)	

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	No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ L 25, 28.1.2011, p. 8). ¹⁰ Except in cases where Member States had already found the irregularity without applying the due reductions/exclusions.	
4.20	<u>Annex 4.2</u> contains a summary of the Court's	<u>Austria:</u>

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	examination of Member States' supervisory and control systems. Concerning the six rural development supervisory and control systems audited, the Court found that one of the control systems implemented was not effective (Denmark), four were partially effective (Spain (Galicia), Italy (Lombardia), Hungary and Finland) and one was effective (Austria) in ensuring the regularity of payments.	No. Austria is mentioned under 4.20, but its system is described there as "effective". <u>Denmark:</u> The Danish AgriFish Agency notes the Court of Auditors' comments under point 4.20 and addresses more specifically the criticism in points 4.24, 4.25, 4.26, 4.28, 4.30, 4.31 and 4.38 below. <u>Spain:</u> See details in this document. <u>Finland:</u> This section is a summary of the more detailed inspection findings shown below. The inspection findings are discussed in the sections below and in Annex II. <u>Hungary:</u> Please provide more details on the above finding. <u>Italy:</u> No comments on the overall assessment.
4.24	The Court identified weaknesses in the implementation of administrative checks related to eligibility	<u>Austria:</u> See Annex II for measures. <u>Denmark:</u> Steps have been taken on one project. Follow-up of the other projects is on-going.

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	conditions and commitments in five of the six Member States audited (Denmark, Italy (Lombardia), Hungary, Austria and Finland). An illustration of this is given in example 4.5. In one Member State (Denmark), the Court examined a sample of five randomly selected projects for non-area-related measures. The audit identified ineligible expenditure in four of the projects, which had not been detected by the paying agency.	Administrative audits based on records have been increased to 5% of the cases for which payment is sought. 100% audits based on records are conducted on selected schemes. The Payment Body is devising a development plan aimed in part at cutting the number of future non-approvals in the project support area. The Agency is examining and improving on-going instructions and guidance and ensuring uniformly documented case handling with clear audit trails. <u>Finland:</u> See the reply in Annex II, in the section entitled “11.P.T05.NR2.1504-01 /No check against irregular double financing”. <u>Hungary:</u> Please provide more details on the above finding. <u>Italy:</u> See answer to Example 4.5
4.25	In addition, the Court found that three of the six Member States audited (Denmark, Italy	<u>Denmark:</u> A standard memorandum was drawn up in January 2012. The guidelines for the use of penalties have been included in the case handling instructions

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	(Lombardia) and Finland) did not correctly apply the reductions as stipulated in the legislation.	<u>Finland:</u> See the reply in Annex II, in the section entitled “11.SYS.TO5.NR2.1504 / No recovery for area decrease of more than 20 % or 5 ha”. <u>Italy:</u> The implementing provisions for the measure, the Paying Agency's manual of procedures and controls and the checklist for undertakings for Measure 121 provide that failure to submit the application for adjustment is a breach of an essential undertaking and therefore results in total forfeiture (100% reduction) of the operation being financed. But despite having received precise instructions from the Regional Paying Agency, the agency carrying out the controls made a mistake in applying a reduction of 3% rather than totally rejecting the aid application. The Paying Agency itself took a decision to recover the aid of EUR 86 313.32 (44% of which was cofinanced by the EAFRD) (Order No 3801 of 3 May 2012). In order to prevent errors by the bodies to which the Regional Paying Agency (RPA) delegates control work, work procedures have been amended to stipulate fortnightly meetings to discuss the control procedures to be applied, including the system of reductions provided for in the manuals and implementing provisions for the measure (20 meetings have now been held).
4.26	One of the key administrative checks ¹⁴ of measures for improving the competitiveness of the agricultural sector, such as modernisation of farms, and improvement	<u>Denmark:</u> In accordance with Article 24(2)(d) of the Control Regulation (65/2011), the Payment Body has chosen to adopt comparison of various tenders as a general evaluation system. In specific terms, this means that the EU provision is based on a requirement for, as a rule, two tenders to be submitted together with applications for subsidy. The Payment Body has nevertheless at the same time laid down de minimis thresholds for costs for movable property and for costs for building and construction tasks and for services. The rules are set out in guidance and instructions. The Agency assesses costs under the de minimis thresholds on

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	and development of rural infrastructure, is to assess whether the costs claimed are reasonable. Member States are therefore required to implement suitable systems for evaluating the amounts claimed by beneficiaries. The Court found that this regulatory requirement was not effectively implemented by four of the six national authorities audited (Denmark, Spain (Galicia), Italy (Lombardia) and Hungary). This situation is confirmed by the sample of transactions, where errors were reported for 21 out of the 70 transactions (30 %)	the basis of reference costs such as list prices, etc. <u>Spain:</u> On 11 May 2012 the new regulatory framework for the aid was published. These include the comments by the Court of Auditors concerning the obligation to ask aid applicants for three estimates for amounts of under €12 000. Measures were taken from 11 November 2011 in relation to the other comments made. <u>Hungary:</u> The Managing Authority's Communication No 86/2012 on the catalogue of machines for 2012 was published on 20 July 2012. In the course of updating the catalogue of machines, particular effort is made to ensure that the reference prices contained therein reflect the actual market prices <u>Italy:</u> We agree with the Commission's answer. As we noted already in our responses to the ECA's comments, the Regional Paying Agency disagrees with the ECA auditors' assessments of the procedures relating to the eligibility of general costs for the following reasons: • the maximum percentages of general costs set in the invitations to tender are in line with the Community rules requiring that the costs be reasonable, because they were set taking account of the impact of the operations that form part of the costs themselves, on the basis of their market cost; • three quotations are not needed since the bulk of the costs relate to professional services which entail fiduciary relations and fall within the discretionary power of the agricultural holdings; moreover they can be substantiated within the limits set by the relevant provisions; • the same reporting rules and procedures apply to general costs as to other costs, i.e. the submission of tax documents, which guarantees the correctness of the transactions;

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	examined. A similar finding was already reported last year but for other paying agencies (see paragraph 3.35 of the Court's 2010 Annual Report). ¹⁴ Referred to in Article 24 of Regulation (EU) No 65/2011. <u>Commission reply to 4.26.</u> <i>The Commission shares the view that administrative checks of the reasonableness of costs are essential for ensuring the effectiveness</i>	final verification of the reasonableness of the general costs by the bodies concerned is carried out on the documents which prove the eligibility of the costs and compliance with the limits set by the relevant provisions, since the reasonableness of the costs is implicit in the maximum percentages set.

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	<i>of the whole control system. These essential checks are systematically examined during Commission audit missions. However, the Commission notes that in the case of Italy the Court's finding concerns amounts (general costs) which are usually paid on a flat rate basis of maximum 10 % or even fixed or outside the influence of the beneficiary (taxes, cost for quality system certification, etc).</i>	
4.28	The Court found in five of the six Member States audited (Denmark, Spain (Galicia), Italy (Lombardia), Hungary	<u>Denmark:</u> For cross-compliance, the Danish AgriFish Agency cannot find in the Court of Auditors' comments or provisional reports any indications that, during the visit in Denmark, the Court found that the verification did not cover all aspects that were verifiable at the time of verification. Under-implementation concerning cross-compliance is dealt with in 4.30 (NO 13)

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	and Finland) that the checks implemented did not cover all the commitments and obligations of a beneficiary which can be checked at the time of the visit, as required by the legislation.	<u>Spain:</u> In 2012 an on-the-spot count was taken of bovine, ovine, caprine and equine species in the LPIS aid applications, measures 211, 212, 214 and 215. <u>Finland:</u> See the reply in Annex II, in the section entitled “11.SYS.TO5.NR2.1504 / On-the-spot checks do not cover all the commitments and obligations of the beneficiary”. <u>Hungary:</u> : We dispute the Commission’s position that the check performed by the paying agency does not comply with Article 28(2) of Regulation (EC) No 1975/2006. The provisions of the Regulation can also be interpreted to mean that all obligations of a beneficiary related to a single project or application for support must be checked at the same time. The wording of Article 61 of the draft horizontal regulation on the CAP currently in negotiation, to be introduced in 2014, is similar to Article 28(2) of Regulation (EC) No 1975/2006. At the meeting of the Council Working Group on 13 February 2012, the Hungarian authorities raised their concern about the ambiguity of the wording of that provision. In response to the Hungarian suggestion, the Commission promised to clarify and improve the wording. We stand by our view expressed during the Commission’s audit that simultaneous systematic checks of all obligations of a beneficiary relating to all their projects and applications for support are neither effective nor efficient: – A beneficiary may be eligible for support or receive support on several different grounds. These forms of support are unrelated to each other in time, space, in terms of conditions, etc. The assessment of individual

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		requirements demands the involvement of different experts, and no auditor can be expected to have expertise in all fields. Investment projects may be at different stages and therefore cannot necessarily be checked at the same time. Furthermore, Article 27(1) of Regulation (EC) No 1975/2006 states explicitly that on-the-spot checks must be carried out before the final payment is made for the project. – A mandatory control rate must be applied when selecting on-the-spot checks using risk analysis. Yet it is difficult to comply with the selection rate and maintain its audit trail on the basis of the recommendations of the Commission’s audit service. Including the amounts paid out under other entitlements in the rate of on-the-spot checks would radically reduce the number of beneficiaries subject to on-the-spot checks. However, excluding them would mean further on-the-spot checks in excess of the control rate, resulting in an unnecessary burden for the paying agency. Neither of the two options is feasible. – The possibility of a project being financed under several entitlements is examined and eliminated as part of the comprehensive and systematic administrative checks. Where an administrative check draws the attention of the on-the-spot auditor to possible issues, then it makes sense to investigate a beneficiary’s obligations under different entitlements also as part of the on-the-spot check. This practice is applied consistently by the Hungarian authorities. – The Hungarian authorities are convinced that they have interpreted Article 28(2) of Regulation (EC) No 1975/2006 correctly. The Commission’s audit service was able to ascertain during its visit that the authorities subjected all obligations of a beneficiary relating to a project or an application for support to strict controls. In addition, the Hungarian authorities’ interpretation of the Regulation in no way poses a financial risk in the case of aid financed by the rural development fund. – The Hungarian authorities wish to point out that all the minutes of the measure inspected contain the following question: <i>‘Does any indication or circumstance on site raise suspicion of a duplication of funding</i>

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		<i>through another Community or national programme?’</i> The on-the-spot auditor must answer the question in a way that takes into account both previous, already closed projects and currently on-going projects of the beneficiary. The Commission’s audit service also managed to verify this, since the on-the-spot auditor was also familiar with the other projects of the beneficiary in question. Owing to this method, the procedure applied during on-the-spot checks by the Agricultural and Rural Development Agency complies in full with the ambiguous provisions of Article 28(2) of Regulation (EC) No 1975/2006. Please note that the European Commission has accepted the Member State’s reply. Hungary will investigate this question further and take all necessary and rational measures in order to comply with the Court of Auditor’s requirements. <u>Italy:</u> Regarding the area measurements, in January 2012 OPLO approved the updating of the operational manual, which provides the inspectors with precise instructions for establishing the exact points to be checked to verify the commitments made. As for the structural measures, OPLO will approve the updated version of the operational manual for on-the-spot checks by the end of the year, with the same objective.
Example 4.5	<u>Insufficient quality of Member State’s administrative and on-the-spot checks</u> One of the Court’s re-	<u>Italy:</u> The European Commission has already launched a conformity procedure under Article 31(2) of Regulation (EC) No 1290/2005 and has asked the Regional Paying Agency to inform it by 11 January 2013 of the corrective measures taken or planned and the timetable for implementation. The Paying Agency is preparing the draft reply indicating the steps taken and planned to assure the Court of Auditors of the effectiveness and efficiency of our control system:

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	performance checks in Italy (Lombardia) was of a project to construct a two-storey building on a farm including a laboratory for the processing of fruit and other farm products, a storage area and a terrace for drying fruits. The paying agency approved the full amount of the final payment claim of 221 205 euro following both administrative and on-the-spot checks. However, the Court found that the building had predominantly the characteristics of a private residence and not	• withdrawal of the aid granted to the beneficiary (Order No 6768 of 26 July 2012); • revision of the operational manual for on-the-spot checks for structural measures, with the addition of a specific section to enable the delegated agencies carrying out technical checks to distinguish clearly between buildings for residential use and buildings for agricultural use; • regular meetings with the delegated agencies performing the checks for training purposes to increase the effectiveness and efficiency of the control procedures described in the manuals; • repetition of the technical and administrative checks to properly verify the eligibility of the costs in all aid applications with a risk factor submitted under Measure 121 since the programme began; • in the 2012 second level control plan for Measure 121, the percentage of second-level checks for measure 121 will be increased in 2012; • audit action on the management of Measure 121 and the Province of Bergamo; increased percentage of ex-post checks on measure 121 and any other measures judged to be at risk.

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	of an agricultural building and that thus the related costs were not eligible. The fact that the national authorities accepted the full amount of expenditure declared indicates a material system weakness in the administrative and on-the-spot checks. <u>Commission reply to Example 4.5 — Insufficient quality of Member State's administrative and on-the-spot checks</u> <i>Example 4.5. The Commission will, in the context of the conformity clearance procedure, follow-up the case with</i>	

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	<i>the Italian authorities.</i>	
4.30	<u>Commission reply to 4.30</u> <i>The Commission has carried out cross compliance audits in the six Member States audited by the Court (although not the same regions in Spain and Italy) and has also observed serious weaknesses in the definition and control of the GAEC standards and SMRs. Whenever in these six Member States a risk for the Funds had been clearly established, the Commission has applied a financial correction in the framework of several</i>	<u>Austria:</u> The conformity clearance procedure is still ongoing. <u>Denmark:</u> The implementation of SMR 1 – bird protection and of minimum requirements concerning the use of plant protection products has been adjusted with effect from 15 March 2012. Measures have been concluded. The implementation of SMR 4 – nitrates is being adjusted with effect from 01 February 2013. Measures will be concluded on 01 February 2013. The implementation of GAEC is being adjusted with a view to improving as from 01 February 2013 the implementation of the GLM standards laid down by Regulation. In addition, consideration is, for GAEC, being given to implementing further measures in the course of 2013 and 2014 on the basis of the Commission letter dated 31 July 2012 concerning notification of the Commission regarding measures to implement conditions for good agricultural and environmental condition. <u>Hungary:</u> In line with the findings of the Commission audits, we have adjusted the cross compliance audit system and resolved the problems. <u>Italy:</u> No comment on the methodology.

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	<i>of these enquiries (Denmark, Hungary, Austria and other regions of Italy and Spain) or clearance of accounts procedure is ongoing in relation to enquiries concerning these six Member States.</i>	
4.31	Furthermore, the planning and timing of the checks showed weaknesses in five of the six Member States audited (Denmark, Spain (Galicia), Italy (Lombardia), Hungary and Finland). For instance, one Member State (Italy (Lombardia)) carried out all checks for three SMRs ¹⁶ between October and December.	<u>Denmark:</u> Since 2011, the cross-compliance verification of certain GAEC requirements and certain requirements under SMR 1 and SMR 5 has been released from area verification, with a number of cross-compliance verifications being started earlier in the year, where verification of the requirements is appropriate. The change has had an effect in the verification year 2012 and later. <u>Spain:</u> In the 2011 and 2012 marketing years all the inspections were carried out within and throughout the calendar year. <u>Finland:</u> The instructions regarding the on-the-spot cross compliance sample checks performed under the responsibility of the Agency for Rural Affairs and the Food Safety Authority (Evira) specify that the checks should be performed during the same calendar year during which the aid application is submitted. Of the on-the-spot sample checks reported for 2010, 66 were performed in 2011. A total of 24 on-the-spot cross compliance sample checks scheduled

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	Hence the requirements which had to be respected outside these months, such as the ban on spreading manure and other substances containing nitrates on the fields until 28 February in nitrate vulnerable zones, were not effectively checked. ¹⁶ SMR 1 (Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds (OJ L 103, 25.4.1979, p. 1)); SMR 4 (Council Directive 91/676/EEC of 12 December 1991 concerning the protection of waters against pollution	for 2011 were postponed to 2012. At the regional level, it is only a matter of individual cases in the different regions of the Centres for Economic Development, Transport and the Environment. In Finland, the climatic conditions pose limitations to the timing of some on-the-spot cross compliance checks. For example, the on-the-spot GAEC checks and SMR checks must be performed during the season in which cultivation work is carried out at the farms; in other words, the checks are in practice primarily performed between June and October. <u>Hungary:</u> The Commission did make preliminary remarks about the timing of the checks but later retracted them in view of the Member States' replies and did not reiterate them in subsequent stages of the procedure. <u>Italy:</u> Regulation (EC) No 1122/2009 provides:. in Article 53(1) that '...each farmer selected for an on-the-spot check shall be checked at a time when most requirements and standards for which he was selected may be checked. ...'; in Article 53(3) that 'the checks ... shall, as a general rule, be carried out as part of one control visit ...'; in Article 53(6) that 'On-the-spot checks related to the sample provided for in Article 50(1) shall be carried out within the same calendar year where the aid applications are submitted.' OPLO therefore makes its selections on the basis of the following factors: - receipt of the aid applications for the current calendar year, the submission deadline being 15 May of each year. In this connection we would point out that although Article 51(3) Regulation (EC) No 1122/2009 allows the possibility of a partial selection of the control sample before the end of the application period, this does not alter the fact that an application needs to have been actually submitted before the checks can be carried out. In

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	caused by nitrates from agricultural sources (OJ L 375, 31.12.1991, p. 1)) and SMR 5 (Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild flora and fauna (OJ L 206, 22.7.1992, p. 7)). <u>Commission reply to 4.31.</u> <i>During the cross compliance audits, the Commission systematically verifies the compliance with the planning and timing of on the spot checks requirements (whether</i>	Lombardy applications are all submitted very close to the deadline; the Paying Agency cannot justify checks where no application has been submitted; - the availability of the reference rules for the year concerned, particularly the coordination circular issued by AGEA, which must be implemented through the issue of a new control manual; - in the light of Article 51(4) of Regulation (EC) No 1122/2009, which provides that: ‘The samples of farmers to be checked in accordance with Article 50 shall be selected from the samples of farmers which were already selected pursuant to Articles 30 and 31 and to whom the relevant requirements or standards apply...’, OPLO has to select the sample of farmers after the selection of the eligibility sample. Furthermore, given the diversity of time limits relating to the commitments under the cross-compliance system, it is impossible to find a suitable period that meets all the requirements and standards for which an application was selected. Lastly, as specified in the manual for cross-compliance checks, obligations arising in periods preceding the on-the-spot cross-compliance checks are verified on the basis of the negative results of the checks carried out by the competent local authorities (municipalities, managing bodies for SCIs and SPAs, the State Forestry Authority, etc.) as part of their institutional duties. OPLO will endeavour to adjust the scheduling of the checks for 2013 to comply with the ECA's comments.

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	<i>appropriate level of control is achieved by the Member States during the year, whether inspections are carried forward to the following year, the respect of the notification deadlines, etc). The Commission has also observed these weaknesses in Hungary, Italy and other Member States and follows them up through the conformity clearance procedure.</i>	
4.32	The Court also found in three of the Member States audited (Italy (Lombardia), Hungary and Finland) that, when the checks were carried out, non-compliance did	<u>Finland :</u> See the reply in Annex II, in the section entitled “1 1.SYS.TO5.NR2.1504 / No sanction for repeated non-compliance”. <u>Hungary:</u> In accordance with the Commission’s remarks, the Member State changed the way the above-mentioned non-compliance cases were handled in order for the required reductions to be applied properly.

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	not always lead to the required reductions. In one Member State (Italy (Lombardia)), for the six SMRs relating to animals, no reductions on the basis of the criteria set by the legislation (extent, severity and permanence of the non-compliance) were set. Instead, this Member State evaluated whether the error was correctable and whether this was the first time that an error was identified for the beneficiary checked. Consequently, the majority of non-compliance cases were treated as minor for which no reduction was	<u>Italy:</u> In response to the ECA’s comments, for 2013 we shall make the appropriate changes to the system for evaluating cases of non-compliance detected during checks by the veterinary services. In any case, in Italy (Lombardy) reductions have always been made on the basis of the criteria laid down in the legislation (extent, severity and permanence of the non-compliance), since minor instances of non-compliance for which veterinary orders have been issued are considered to be of insignificant extent or severity. As regards the evaluation of the veterinary orders, we consider that the provisions of Article 24(2) of Regulation (EC) No 73/2009 were correctly applied, since for each act a list was made of all the minor cases of non-compliance, the corrective action to be taken immediately or by a specified deadline, including the details of how and when the action was to be taken, and infringements which cannot be considered minor since they constitute a direct risk to public and animal health. The following is the reference legislation for the bovine register (A7), for example: Article 4 of Legislative Decree No 58 of 29 January 2004, Penalties for infringements of Regulations (EC) No 1760/2000 and (EC) No 1825/2000 on the identification and registration of bovine animals and on the labelling of beef and beef products pursuant to Article 3 of Law No 39 of 1 March 2002, provides that <i>‘In the case of a first report on the holding of a keeper of animals, the authority performing the check shall, if it detects infringements that can be remedied while guaranteeing the reliable identification of the animals, prescribe to the keeper the adjustments to be made to fully rectify the infringements detected, setting a time limit of not more than fifteen days, without prejudice to any shorter time limits provided for in Community legislation. Where the keeper of the animals complies with all the instructions issued by the authority for rectifying the situation within the time limit set, the penalties relating to the infringements shall be cancelled’</i>. The above provisions are also the basis for the following passage from Circular ACIU.2012.214 of 15 May 2012, which, regarding “minor cases of non-compliance” provides that: <i>“In general terms, the breaches of commitments described shall be considered minor if both the following conditions are fulfilled:</i>

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	applied. <u>Commission reply to 4.32.</u> 4.32. The Commission pays particular attention to the evaluation and sanctioning system established by the Member States for cross compliance (leniency of the system, adequate use and follow up of minor non compliances, non compliances not leading to a reduction because of the incorrect use of tolerances , etc). These weaknesses have also been observed by the Commission in the Member States mentioned by the Court and the consequent risk for the	- it is possible to correct them (e.g. by updating the register or adjusting the quantity of livestock farmed); - they have been detected for the first time on the farm concerned. Any non-compliance that makes it impossible to correctly identify the animals present on the holding, transferred or slaughtered within the time limits and according to the procedures laid down, and which it is therefore impossible to remedy, shall not be considered minor’.

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	<i>Funds is being followed up through the conformity clearance procedure. The Commission has also observed specific serious deficiencies in relation to the cross-compliance controls on animal SMRs in Italy and is following this up through the conformity clearance procedure.</i>	
4.38	The Court also reviewed the work done by the certification body concerning EAFRD in the Member State (Denmark) where it had identified the most serious weaknesses in the supervisory and control systems. The Court found	<u>Denmark:</u> The approval body – whose tasks are taken care of by the audit firm Deloitte – states the following: “Re (a) Based on our organisation and internal and external rules, we consider the criterion of complete independence to be fulfilled. Under international auditing standards relating to the use of other auditors’ work (ISA 600), it is general practice for auditors to be able to support opinions from declarations issued by other auditors. ISA 600 should be read in

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	that this certification body: (a) was not fully independent as legally required, as the firm which carried out the certification work was also involved in pre-payment eligibility checks in 35 % of the 65 files audited; (b) relied to a significant extent on the work carried out by the internal audit unit of the paying agency, without documentation showing that this work was sufficiently	conjunction with ISA 200 “Overall Objective of the Independent Auditor, and the Conduct of an Audit in Accordance with International Standards on Auditing”. (The competent auditor, who draws up the said declarations (independent auditor declaration), promises on the declaration standard to comply with the rules governing independence.) Independence has been ensured between auditors who issue declarations concerning the annual accounts and auditors who issue declarations on the individual project accounts, etc. Since the start of the task, independence declarations have been used for all employees connected with the task as an Approval Body. The individual employee has declared that they have not and will not assist Deloitte clients with drafting accounts or applications that form the basis for payments from grant schemes under the said funds, and that the employees have not otherwise provided advice that may compromise their independence with respect to the Danish AgriFish Agency. The employees further declare that they, their household or their immediate family have not received support from grant schemes under the said funds. We would further point out that, based on agreement with the Danish AgriFish Agency, we have followed previous practice in this area, and our solutions are therefore in line with the approach adopted by previous auditors. We have been informed that the responsible body is considering a different model. Our measures are based on the issue of specific declarations of independence (enclosed as <u>Annex A</u>) for the Approval Body’s team. Furthermore, by agreement with the Danish AgriFish Agency for 2012, we have examined 10 random system samples in which all records are called up and verified, which has given us a further audit opinion.

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	reviewed; (c) had not sufficiently checked that the expenditure complied with all eligibility conditions. In seven of 11 files selected which had been checked by the certification body, the Court identified ineligible expenditure representing 8 % of the EAFRD amount checked. <u>Commission reply to 4.38</u> <i>(a) and (b) In the framework of the financial clearance procedure, the</i>	Re (b) In accordance with ISA 610 “Statement on internal audit work in assessing whether the nature and scale of internal audit work is sufficient for certification purposes”, the Approval Body has conducted a documented (working paper 1410 supplied to the Commission) evaluation of the Internal Audit Unit within the Payment Body. The evaluation is based on four essential characteristics: • Organisational placement • Functional description of the Internal Audit Unit • Professional competence of the Internal Audit Unit • Whether audit planning for the internal audit has been carried out in accordance with good auditing practice The four essential characteristics must be fulfilled for us to be able to use work performed by the Internal Audit Unit. The Approval Body’s review of these criteria has not prompted any comments. Based on the recommendations received, we have for 2012 revised the audit in accordance with the recommendations from the Court of Auditors and the Commission. As a measure from 2012, checklists containing conclusions for the review of the Internal Audit Unit’s work have been drawn up. Re (c) We have noted the Court of Auditors’ interpretations and have organised our audit in accordance with this. As a measure for 2012, checklists for the review of cases have been adapted in accordance with the Court of Auditors’ recommendations, and the audit team has been informed of the Court of Auditors’ interpretations of eligible expenditure.”

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	<i>Commission will follow up the issue with the Danish authorities, notably with a view to reinforcing the operational independence.</i> <i>(c) The work that the certification bodies have to do in relation to the financial clearance procedure is mostly aimed at checking that the accounts are complete, accurate and true.</i>	
Annex 4.2	Result of examination of systems for rural development	<u>Austria:</u> No. (The monitoring and control systems were described as <u>effective</u> in the overall assessment for Austria). <u>Denmark:</u> The Danish AgriFish Agency notes the Court of Auditors' assessments in Annex 4.2 and will, in accordance with the answers provided under points 4.24, 4.25, 4.26, 4.28, 4.30, 4.31 and 4.38, continue to work on rectifying the

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		aspects criticised. <u>Finland:</u> The replies of the Agency for Rural Affairs to the findings compiled into the table are shown among the replies to individual cases in Annex II. <u>Hungary:</u> Measures taken by the Member State are indicated under points 4.20-4.32 of Annex I. <u>Italy:</u> See answers to individual findings Point b, ‘Incorrect national implementation of the Nitrates Directive’, no longer applies since the final document ARPF 4604 was drawn up.
Chapter 5 – Regional Policy; Energy and Transport		
5.27	<u>Annex 1.1, part 2</u> , of Chapter 1 describes the Court's overall audit approach and methodology. For the audit of regional policy, energy and transport, the following specific issues	<u>Hungary:</u> The referenced part did not require Hungary to take any action. <u>Portugal:</u> No comment. <u>Czech Republic:</u> Not applicable – there is no error involved.

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	should be noted: a) the audit involved the examination of a sample of 180 interim and final payments¹⁴ in Member States and at the Commission; b) the assessment of systems covered; - audit authorities for ERDF, ESF and CF in the 2007-2013 programming period¹⁵; - the procedures implemented at Commission and Member State level with regard	<u>Romania:</u> AA The ECA preliminary audit report (May 2012) has undergone an internal review within the Audit Authority in Romania. Following this action, the Audit Authority (AA) has formulated and submitted to ECA its views on the preliminary findings, providing ECA auditors additional information to support the AA position. AA also expressed their willingness to participate in a tri-partite meeting (ECA, EC, AA) where to support their position and present ECA the measures to be taken on the matters which ECA auditors considered to need some improvement. The tri-partite meeting was held in June 2012. Following these actions, some preliminary findings of the ECA have been reconsidered in the final audit report of the ECA, which led to a new classification of the AA in the sense of increasing the overall level of its effectiveness (final audit report received from AA in October 2012).

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	to the programme closure for the 2000-2006 programming period; - a review of the Commission's management representations contained in the Annual Activity Reports of DG Regional Policy, DG Mobility and Transport and DG Energy. ¹⁴ This sample comprises 180 payments made to 129 ERDF, 39 CF, 8 Energy and 4	

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	Transport projects. 148 of the payments to ERDF/CF projects relate to the 2007-2013 programming period and 20 to the 2000-2006 period. The sample was drawn from all payments, with the exception of advances which amounted to 1,4 billion euro in 2011. ¹⁵ The Court's audit work regarding AAs consisted of: (a) an examination of a sample of seven AAs (and,	

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	where applicable, delegated audit bodies) in seven Member States (Czech Republic, Greece, Italy (Sicily), Latvia, Hungary, Portugal and Romania); and (b) a review of the Commission's supervisory activities of AAs as a whole. See the 2010 Annual Report, paragraphs 4.37 to 4.44.	
5.58	The Court's examination covered the initial phase of the closure process and was based on:	<u>Germany:</u> 1. The ESF Managing Authority is continuing to work together with the Commission on the closure of the Programme for the 2000-2006 Programming Period and is making the necessary information available upon request.

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	(a) a review of procedures, manuals, checklists, monitoring and reporting tools within DG Regional Policy and DG Employment, Social Affairs and Inclusion; (b) an examination of the Commission's assessment of closure documents for a sample of 31 OPs (both ERDF and ESF) in eight Member States³² none of which had been formally closed at the time of the audit;	2. The ERDF Managing Authority in Mecklenburg-Vorpommern (MV) gave the following information (extracted from ARES file 2012 1122176): The European Commission, DG REGIO, in its audit report of 26 September 2012 published its preliminary findings on the verification of the winding up declarations for the ERDF Objective 1 Programme for Mecklenburg-Vorpommern for the 2000-2006 programming period. The difference between the error rates, which the MV Audit Authority and the Commission auditors detected in the eight cases selected for audit by random sampling is so slight that the quality of the Article 10 controls as a whole was held to be appropriate. The contradictory procedure has not yet been completed. MV has rejected the individual audit findings with a financial impact. <u>Austria:</u> No <u>Ireland:</u> The Commission's reservations derive from preliminary findings based on an initial examination of closure documentation submitted. A contested procedure is currently underway. Ireland is confident of the robustness of its financial management and control systems and will vigorously defend them in the ongoing contested procedure. Furthermore no such issues have been identified in the 2007-2013 round despite extensive checks and audits. <u>Netherlands:</u> All OPs where the Netherlands was involved have been closed and there are no indications that the assessment of the European Court of Auditors had any impact on their closure. <u>United Kingdom:</u>

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	(c) visits to nine winding-up bodies in two Member States, covering 14 of the 31 sampled programmes, and including analysis of the data underlying the information reported in their closure documents. ³² Germany, Ireland, Spain, France, Italy, Netherlands, Austria and United Kingdom. For Italy, the audit was carried out in coordination with	DCLG: Simply a factual statement and no UK response required.

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	the Italian Supreme Audit Institution (Corte dei Conti Italiana) on the basis of a Memorandum of Understanding and a Joint Declaration signed by the Presidents of the Corte dei Conti and of the European Court of Auditors. For this audit, the coordinated activities essentially covered the collection of audit evidence.	
Table 5.2	Effect of unjustified reductions of final error	<u>Austria:</u> Austria sees no need for comment or follow-up. The European Commission has analysed and accepted the

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	rates reported in winding-up declarations	winding-up declaration, and has approved payment of the outstanding final installment. <u>Spain:</u> The letter of 16 October 2012 sent to the Commission included the explanation given to the Commission of why the rate of irregularity was not felt to be justified, on the basis of the Action Plan imposed on the Directorate-General of Local Administration by the Commission itself and the corrective measures imposed, which were accepted by the Commission. Also included was the breakdown of the expenditure corresponding to the years prior to this Plan, which explain the overall rate of irregularity included in the Addendum to the additional report to the winding-up report drawn up by the IGAE. <u>United Kingdom:</u> Department for Communities and Local Government (DCLG): On the 7 December 2012 DG Regio sent DCLG a letter which they had received from the ECA accepting that the so called “unjustified” reductions were in fact justified and they withdrew this point. The Welsh Authority (WA): WA rejects the comment above in relation to objective 1 ERDF programme. Correspondence has been received from the ECA to confirm that no further action is required in relation to its audit visit.
Annex 5.2	Results of examination of systems for cohesion (regional policy and employment, social affairs and inclusion)	<u>Hungary:</u> The Audit Manual has been modified, the measure is being continuously implemented. <u>Portugal:</u> No comment. <u>Czech Republic:</u>

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		Methodology for audits of operations: Audit work carried out to examine the regularity of operations is based on checklists containing questions that verify the requirements of the applicable regulations at a sufficient level of detail to address the associated risks. From the very beginning these checklists have formed part of the AA's Manual for Audits of Management and Control Systems and its Operational Manual. At the same time, the delegated bodies of the AA also used their own checklists in view of the specific nature of each relevant operational programme. Neither EU legislation nor the COCOF guidelines stated that uniform checklists must be used for all operational programmes, and their level of detail was likewise nowhere specified (i.e. whether primarily to verify the regularity of expenditures based mainly on invoices, or whether to verify the actual selection of projects based on calls). In this area the Audit Authority has learned from the European Commission's auditors during the performance of their audit missions in the Czech Republic. The Audit Authority therefore added additional questions to the checklists and made the lists available to its delegated audit bodies. However, in addition to these checklists, checklists were still completed which were specific to each of the individual operational programmes. Due to the different levels of detail in the checklists used in different Member States, the Commission made its checklists available to the Member States, although only in October 2011. The Audit Authority immediately applied these checklists during audits of operations carried out from 1.1.2012. In connection with revisions made to the methodology, these checklists are currently being improved and refined, with the aim of using them - including in the information system of the AA - from 1.1.2013. Review of audits of operations: Audits of operations were carried out in accordance with the sample selected for the relevant period and in accordance with the methodology developed by the AA, and all the phases of the audits of operations were properly documented. The selection of the samples for 2010 and 2011 has already been mentioned in the points above. The sample for 2012 will be selected, as stated, in the AA's information system, with consideration given to the AA's opinions on the individual operational programmes and to the recommendations of the European Commission. In view of the

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		low level of reliability of the management and control system, a considerably greater number of audits will be selected for the sample. Although the Audit Authority has carried out a review of its administrative capacities using process maps in connection with the centralisation process, a question remains as to whether these capacities will be sufficient. Audit documentation is stored in audit files and in the AA's information system, together with the checklists. It is true that the level of detail of this documentation sometimes varies. The Audit Authority is therefore improving both its information system and its checklists so that the documentation of the entire course of the audit will be as precise as possible. Once audit activities have been centralised the AA will be able to focus more attention on the issues involved, and more easily introduce the application of a uniform approach to the contents of the audit files. <u>Romania:</u> AA Having regard to the issues noted by ECA auditors in the audit report on the evaluation of the activity carried out by the AA on ROP and SOPT, actions were initiated at AA level leading to the strengthening of the audit methodology, especially as regards audit operations, and the effective application thereof. Thus, in terms of audit methodology, actions are aimed mainly at reviewing the check lists on operations audit (e.g. updates/additions with issues to be checked in state aid, income generating projects, cost-benefit analysis, approval of major projects) and in procurement (e.g. formalization and extension of checks within procurement procedures, namely the open procedure and clarification of some aspects related to audit documentation). In terms of the application of audit methodology, AA has already held, in November 2011, a meeting with the auditors at the local level, during which aspects from the ECA audit report were disseminated and analysed, with the discussions falling within the scope of the coordination and supervision at central level of activities at local level. AA management will continue to hold regular meetings to discuss issues on the application of audit

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		methodology to ensure a uniform approach at the level of AA structures.
Chapter 6 – Employment and Social Affairs		
6.19	6.19. The Court assessed the work of two audit authorities (AAs) in two Member States in 2011, as part of its examination of a total of seven AAs covering the ERDF, CF and ESF. The scope of the Court's audit is described in paragraph 5.40. For the two ESF AAs audited in Italy (Sicily) and Latvia the review of their work and re-performance of their audits of operations focused on ESF expenditure. The results of the Court's audit of the	

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	AAs for all Structural Funds are reported in Chapter 5 (paragraphs 5.41 to 5.43 and <u>Annex 5.2</u>).	
6.20	The AA of Latvia is rated as effective in complying with key regulatory requirements and in ensuring the regularity of transactions. The AA of Italy (Sicily) is rated as partially effective. The Court noted particular problems in the AA's sampling of operations for audit and in its extrapolation of errors, which led to the disclosure of an understated error rate in the AA's Annual Control Report (ACR). The	

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	Commission, based on its own work, also considered the error rate as unreliable (see paragraphs 5.42 to 5.43). <u>Commission reply to 6.20.</u> <i>6.20. In 2011, DG EMPL carried out audits to review the work of 42 ESF audit authorities, including the AA of Sicily and Latvia. In this sample, 12 AAs were selected following a risk analysis, updated on an annual basis, and the other 30 were chosen at random. Based on its own audit work, DG EMPL concurs with the assessment of the two AAs sampled by the</i>	

ANNEX I. Paragraphs in the 2011 Annual Report and for each of the 2011 findings made by the Court referring to each particular country		
Paragraph	Observation in the 2011 Annual Report	Member State reply
	<i>Court.</i>	
Chapter 7 – External aid, development and enlargement		
7.12	7.12 <u>Annex 1.1, Part 2</u>, of Chapter 1 describes the Court’s overall audit approach and methodology. For the audit of external relations, aid and enlargement, the following specific issues should be noted: (d) The audit involved examination of a sample of 150 payments, comprising 30 advances and 120 interim and final	<u>Ireland:</u> With regard to issues raised on ECHO funding we would like to point out that ECHO has a range of its own partners (UN agencies and NGOs) who receive funding that is governed by “Framework Partnership Agreements”. Ireland has no connection whatsoever with these agreements. The comments made with respect to certain transactions of some of ECHO’s partners thus pertain to ECHO , not Ireland. Furthermore, in section 7.22 of the ECA’s report ECHO itself responds to the points raised in section 7.12.

⁴ Cameroon, Georgia, Malawi, Palestine, Philippines, Russia, Tunisia and Vietnam (EuropeAid) and Albania, Montenegro and Serbia (DG ELARG).

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	payments. The advances audited covered 18 countries. The tested interim/final payments approved by Commission headquarters or EU delegations covered 11 countries⁴. In the case of DG ECHO, the audited interim/final payments were made under projects implemented by four DG ECHO partners⁵. (e) The assessment of systems covered the supervisory and control systems of EuropeAid, DG	

⁵ Two based in Switzerland, one in France and another one in Ireland (payments made under 16 humanitarian aid projects implemented in 11 countries were audited).

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	ECHO and FPI at headquarters as well as at EU delegations, where relevant, including: (i) ex-ante controls, (ii) monitoring and supervision, (iii) ex-post controls/external audits, (iv) internal audit. ⁴ Cameroon, Georgia, Malawi, Palestine, Philippines, Russia, Tunisia and Vietnam (EuropeAid) and	

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	Albania, Montenegro and Serbia (DG ELARG). 5 Two based in Switzerland, one in France and another one in Ireland (payments made under 16 humanitarian aid projects implemented in 11 countries were audited).	
Chapter 9 – Administrative and other expenditure		
9.17	In the case of one negotiated procedure relating to printing services, the specification for the location of the services to be provided	

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	was not drafted in a clear and transparent manner. In addition, the potential tenderers consulted were all based in Luxembourg, thereby restricting cross border competition. Out of the 11 potential tenderers consulted, only the previous contractor submitted a bid and was awarded the contract for 60 000 euro over four years. Furthermore, compliance with selection criteria was not checked before entering into the negotiation, in contradiction with the provisions of Article 122(3) of the implementing rules of the Financial Regulation.	

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Paragraph	Observation in the 2011 Annual Report	Member State reply
9.19	Commission reply to 9.19 9.19. An automatic update of the amounts of the allowances of like nature from the Belgian State is being implemented by the Commission in SYSPER2/Rights (the information system for the management of individual entitlements) since April 2012. This automatism will significantly decrease the risk of errors as the update will not be done manually any more. The other Member States will follow.	<u>Belgium:</u> Budget : N/A Bureau d'Intervention et de Restitution Belge : néant Autorité de Gestion PO FEDER (Région Bruxelles – Capitale) : néant Autorité d'audit (Région Bruxelles- Capitale) : néant SPF Fin. Affaires fiscales : néant Autorité d'audit (Région wallonne – Communauté française) : néant PO FSE Compétitivité régionale et Emploi de la région de Bruxelles-Capitale 2007-2013 : néant FSE : néant ESF Vlaanderen (MA/CA/AA) : néant EFRO Vlaanderen (MA/CA/AA): néant ELFPO: néant Communauté germanophone de Belgique: pas concerné par le rapport de la Cour des comptes européenne Autorité d'audit du programme opérationnel développé dans le cadre du fonds social européen pour la période de programmation 2007-2013 : pas concerné par le rapport de la Cour des comptes européenne

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	Additionally, a new module will be put in place in the front office of SYSPER2/Rights. Staff will be asked to declare the professional activity of their spouse. The other modules of SYSPER2/Rights being implemented also include sections of allowances of like nature.	
9.25	Commission reply to 9.25 9.25. The EEAS will address its staff regularly, once a year, to request the update of their personal file and remind them of their duty to declare such allowances. This message will be issued in September. The IT systems must allow a	<u>Belgium:</u> Budget : N/A Bureau d'Intervention et de Restitution Belge : néant Autorité de Gestion PO FEDER (Région Bruxelles – Capitale) : néant Autorité d'audit (Région Bruxelles- Capitale) : néant SPF Fin. Affaires fiscales : néant Autorité d'audit (Région wallonne – Communauté française) : néant PO FSE Compétitivité régionale et Emploi de la région de Bruxelles-Capitale 2007-2013 : néant FSE : néant ESF Vlaanderen (MA/CA/AA) : néant EFRO Vlaanderen (MA/CA/AA): néant

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	regular update of the amounts perceived in accordance with national or regional legislation/rules on increases of such allowances. The EEAS understands that PMO has developed an IT tool and recently tested it for allowances perceived from Belgium authorities and will successively extend this IT application for other populations including EEAS staff. The EEAS will ask PMO to be able to benefit from this IT application as soon as possible.	ELFPO: néant Communauté germanophone de Belgique: pas concerné par le rapport de la Cour des comptes européenne Autorité d'audit du programme opérationnel développé dans le cadre du fonds social européen pour la période de programmation 2007-2013 : pas concerné par le rapport de la Cour des comptes européenne
9.33	Commission reply to 9.33 9.33. The EEAS will address its staff regularly,	<u>Belgium:</u> Budget : N/A Bureau d'Intervention et de Restitution Belge : néant

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	once a year, to request the update of their personal file and remind them of their duty to declare such allowances. This message will be issued in September. The IT systems must allow a regular update of the amounts perceived in accordance with national or regional legislation/rules on increases of such allowances. The EEAS understands that PMO has developed an IT tool and recently tested it for allowances perceived from Belgium authorities and will successively extend this IT application for other populations including EEAS staff.	Autorité de Gestion PO FEDER (Région Bruxelles – Capitale) : néant Autorité d’audit (Région Bruxelles- Capitale) : néant SPF Fin. Affaires fiscales : néant Autorité d’audit (Région wallonne – Communauté française) : néant PO FSE Compétitivité régionale et Emploi de la région de Bruxelles-Capitale 2007-2013 : néant FSE : néant ESF Vlaanderen (MA/CA/AA) : néant EFRO Vlaanderen (MA/CA/AA): néant ELFPO: néant Communauté germanophone de Belgique: pas concerné par le rapport de la Cour des comptes européenne Autorité d’audit du programme opérationnel développé dans le cadre du fonds social européen pour la période de programmation 2007-2013 : pas concerné par le rapport de la Cour des comptes européenne

ANNEX I. Paragraphs in the 2011 Annual Report and for each of the 2011 findings made by the Court referring to each particular country		
Paragraph	Observation in the 2011 Annual Report	Member State reply
	The EEAS will ask PMO to be able to benefit from this IT application as soon as possible.	
9.34	Commission reply to 9.34 9.34 An automatic update of the amounts of the allowances of like nature from the Belgian State is being implemented by the Commission in SYSPER2/Rights (the information system for the management of individual entitlements) since April 2012. This automatism will significantly decrease the risk of errors as the update will not be done manually any	<u>Belgium:</u> Budget : N/A Bureau d'Intervention et de Restitution Belge : néant Autorité de Gestion PO FEDER (Région Bruxelles – Capitale) : néant Autorité d'audit (Région Bruxelles- Capitale) : néant SPF Fin. Affaires fiscales : néant Autorité d'audit (Région wallonne – Communauté française) : néant PO FSE Compétitivité régionale et Emploi de la région de Bruxelles-Capitale 2007-2013 : néant FSE : néant ESF Vlaanderen (MA/CA/AA) : néant EFRO Vlaanderen (MA/CA/AA): néant ELFPO: néant Communauté germanophone de Belgique: pas concerné par le rapport de la Cour des comptes européenne Autorité d'audit du programme opérationnel développé dans le cadre du fonds social européen pour la période de programmation 2007-2013 : pas concerné par le rapport de la Cour des comptes européenne

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	more. The other Member States will follow. Additionally, a new module will be put in place in the front office of SYSPER2/Rights. Staff will be asked to declare the professional activity of their spouse. The other modules of SYSPER2/Rights being implemented also include sections of allowances of like nature. EEAS reply to 9.34 The EEAS will address its staff regularly, once a year, to request the update of their personal file and remind them of their duty to declare such	

ANNEX I. Paragraphs in the 2011 Annual Report and for each of the 2011 findings made by the Court referring to each particular country

Paragraph	Observation in the 2011 Annual Report	Member State reply
	allowances. This message will be issued in September. The IT systems must allow a regular update of the amounts perceived in accordance with national or regional legislation/rules on increases of such allowances. The EEAS understands that PMO has developed an IT tool and recently tested it for allowances perceived from Belgium authorities and will successively extend this IT application for other populations including EEAS staff. The EEAS will ask PMO to be able to benefit from this IT application as	

ANNEX I. Paragraphs in the 2011 Annual Report and for each of the 2011 findings made by the Court referring to each particular country		
Paragraph	Observation in the 2011 Annual Report	Member State reply
	soon as possible.	
Annex 9.3	FOLLOW-UP OF PREVIOUS RECOMMENDATIONS FOR ADMINISTRATIVE AND OTHER EXPENDITURE Commission replies Annex 9.3 - Commission — DG RELEX, Payment of social allowances and benefits to staff members An automatic update of the amounts of the allowances of like nature from the Belgian State is being implemented by the Commission in SYSPER2/Rights (the Information System for	<u>Belgium:</u> Budget : N/A Bureau d'Intervention et de Restitution Belge : néant Autorité de Gestion PO FEDER (Région Bruxelles – Capitale) : néant Autorité d'audit (Région Bruxelles- Capitale) : néant SPF Fin. Affaires fiscales : néant Autorité d'audit (Région wallonne – Communauté française) : néant PO FSE Compétitivité régionale et Emploi de la région de Bruxelles-Capitale 2007-2013 : néant FSE : néant ESF Vlaanderen (MA/CA/AA) : néant EFRO Vlaanderen (MA/CA/AA): néant ELFPO: néant Communauté germanophone de Belgique: pas concerné par le rapport de la Cour des comptes européenne Autorité d'audit du programme opérationnel développé dans le cadre du fonds social européen pour la période de programmation 2007-2013 : pas concerné par le rapport de la Cour des comptes européenne

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	the management of Individual Entitlements) since April 2012. This automatism will significantly decrease the risk of errors as the update will not be done manually any more. The other Member States will follow. Additionally, a new module will be put in place in the front office of SYSPER2/Rights. Staff will be asked to declare the professional activity of their spouse. The other modules of SYSPER2/Rights being implemented also include sections of allowances of like nature. Le PMO, qui assure la	

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	gestion du personnel du SEAE au Siège, appliquera une mise à jour automatisée des allocations perçues par ailleurs. Cette mise à jour sera étendue au personnel du SEAE au Siège dès cet automne 2012. S'agissant de la population SEAE en délégations, le SEAE mettra à profit la mise en production d'une application de déclaration des 'allocations perçues par ailleurs' ('PPA') dans Sysper2 pour inviter son personnel se conformer à ses obligations qui découlent de l'article 67 du Statut.	
Chapter 10 – Performance issues		

ANNEX I. Paragraphs in the 2011 Annual Report and for each of the 2011 findings made by the Court referring to each particular country		
Paragraph	Observation in the 2011 Annual Report	Member State reply
Box 10.1	Special Reports adopted by the Court of Auditors in 2011	<u>Lithuania:</u> Special Report No. 13/2011 of the European Court of Auditors “Does the control of customs procedure 42 prevent and detect VAT evasion?” On 15 December 2011 the Council of the European Union received the Special Report No. 13/2011 of the European Court of Auditors entitled “Does the control of customs procedure 42 prevent and detect VAT evasion?”. Following the rules laid down in the Council conclusions on improving the examination of special reports drawn up by the Court of Auditors, the meeting of the Committee of Permanent Representatives of 10 January 2012 commissioned the Working Party on Taxation Issues to examine this report. The Working Party on Taxation Issues examined the report and at the meeting of 24 February 2012 agreed on the Council conclusions approved as an A-list point by the ECOFIN on 13 March 2012. The Council conclusions mention that the Council of the European Union - takes note of the Court’s recommendations while pointing out that since the reporting period (2009) measures to improve the regulatory framework have been stepped up: among other things, Article 143(2) of the VAT Directive has been modified and in the customs area a unanimously agreed administrative arrangement for the <i>Single Administrative Document</i> has been made and will be implemented by all Member States at the latest by 1 January 2013. - encourages Member States to continue to strengthen cooperation in this field and to stay vigilant as to the prevention and detection of VAT evasion in connection with customs procedure 42. It must be pointed out that in implementing the amendment to Article 143(2) of the VAT Directive 2006/112/EC

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Paragraph	Observation in the 2011 Annual Report	Member State reply
		Lithuania accordingly amended Article 35 of the Law of the Republic of Lithuania on Value Added Tax (<i>Law of the Republic of Lithuania on amending and supplementing Articles 2, 3, 5¹, 9, 12, 12¹, 12³, 13, 14, 15, 19, 35, 36, 40, 41, 42, 45, 46, 47, 50, 51, 52, 53, 56, 58, 71, 71¹, 75, 83, 92, 95, 98, 101, 104, 106, 115¹, 115², 115³, 115⁵, 116, 118 and 120 and Annex 2 to the Law of the Republic of Lithuania on Value Added Tax (Official Gazette, 2010, No. 148-7562)</i>)). <u>Slovakia:</u> On point 13/2011, Slovak Ministry of Finance: Although Slovakia is not mentioned in the report on the aim of eliminating VAT fraud in the use of the customs regime 42, a provision has been introduced into the VAT Act by amendment No 246/2012 effective from 10.1.2012, under which the customs office may require security duties on imports of goods that are imported under regime 42. The customs office may require a tax security if it considers that the import of goods constitutes a risk transaction on the basis of the goods themselves or on the basis of person importing the goods. The amount of security shall be applied at the value of tax that would be paid if the exemption did not apply in respect of delivery of goods to another state than the importing state. If the office is shown that the transport of the goods has ended in another member state, and the customs office is provided proof of this, the office will release the security. No other departments have provided statements in respect of this part.
10.23	In 2011, the Court continued to find and report on cases where sound needs analyses had	<u>Bulgaria:</u> This finding does not concern Bulgaria. <u>Slovakia:</u>

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	not been carried out. For example, early strategies for e-Government – where projects may be supported by the European Regional Development Fund (ERDF) – were prepared mainly in response to political declarations rather than rigorous needs assessments, with the result that projects did not address the most important issues²⁰. And for two out of the three nuclear decommissioning programmes audited by the Court, no needs assessment was carried out in relation to the programmes' objective to reduce the impact of closing the nuclear plants	Slovak Ministry of the Economy: An assessment of needs, from which was derived a specific strategy to mitigate the consequences of decommissioning nuclear facilities, which forms the basis of strategic plans defined for the audited projects did not take place in the Slovak Republic (the Bohunice programme). A needs assessment was carried out only in Lithuania, but such a review is not current because (as stated in the European Court of Auditors Report No 16 of 2012), "any project that is in line with the national strategy in the field of energy is considered to be result of decommissioning a power station".

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	earlier than originally planned²¹. ²⁰ Special Report No 9/2011 'Have the e-Government projects supported by ERDF been effective?', paragraph 56(a) (http://eca.europa.eu). ²¹ Special Report No 16/2011 'EU financial assistance for the decommissioning of nuclear plants in Bulgaria,	

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	Lithuania and Slovakia: achievements and future challenges', paragraph 26 and figure 7 (http://eca.europa.eu).	
10.24	One consequence of inadequate needs analysis is that it makes it harder to determine which of competing projects are likely to offer the best value for money. This was the case in the audit of e-Government projects referred to above ²² , and also in the audit of the EU support for agri-environment. In the latter case, the Court reported that targeting funds at those areas most in need	<u>Romania:</u> MA NRDP As stated by the European Commission, in the opinion of the Romanian authorities this observation does not cover the National Plan for Rural Development of Romania.

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	was key to enhancing the environmental effects of agri-environment support; however, Member States had not considered targeting on the basis of an analysis of the costs and benefits involved²³. ²² Special Report No 9/2011, paragraph 56(b). ²³ Special Report No 7/2011 ‘Is agri-environment support well designed and managed?’, paragraphs 72 and 78 (http://eca.europa.eu). <u>Commission’s reply to</u>	

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	<u>10.24</u> <i>The Commission agrees that needs analysis can help identify the priority projects. However, as regards agri-environment support, some Member States have considered the desirable degree of targeting on the basis of an analysis of the costs and benefits involved. Romania, for example, targets High Nature Value agri-environment payments on a geographical basis, and the eligible areas are established using macro-level data. In view of e-Government projects, following EU policy initiatives, today, all</i>	

ANNEX I. Paragraphs in the 2011 Annual Report and for each of the 2011 findings made by the Court referring to each particular country		
Paragraph	Observation in the 2011 Annual Report	Member State reply
	<i>Member States have developed more sophisticated e-Government Strategies based on the e-Government Action Plan 2011-2015.</i>	
10.32	<u>Commission reply to 10.32</u> <i>The Commission considers that the evaluation of the added value of the expenditure programmes has to be done in relation to the objectives set and in relation to the criteria used when testing initially the added value of the Commission proposals. (see Box 10.2)</i>	<u>Bulgaria:</u> On 24 November 2011 the Commission proposed a Council regulation on Union support for the nuclear decommissioning assistance programmes in Bulgaria, Lithuania and Slovakia (COM(2011) 783) for the period 2014-2020. This was accompanied by a comprehensive impact assessment that includes an evaluation of the EU added value. Bulgaria is playing an active part in discussions of this proposal at EU level. <u>Slovakia:</u> No department submitted any statement in respect of this point.

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	- <i>First indent: The Commission is already taking the observation into account in the discussions and planning for the next generation of financial instruments in the post-2013 Multiannual Financial Framework, where ‘ensuring EU added value’ is one of the key principles that must be respected by all proposed instruments.</i> - <i>Second indent: The Commission notes that the Court's performance audit found high employment effects for the examined tourism projects.</i>	

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Paragraph	Observation in the 2011 Annual Report	Member State reply
	- <i>Third indent: The Commission considers that the EU added value of the programmes was clear: without them, reaching the overall goal of significantly improving EU nuclear safety, as well as helping Member States mitigate the effects of early closure, would have been extremely difficult.</i> <i>On 24 November 2011 the Commission proposed a Council regulation on Union support for the nuclear decommissioning assistance programmes in Bulgaria, Lithuania and Slovakia (COM(2011) 783) for the</i>	

ANNEX I. Paragraphs in the 2011 Annual Report and for each of the 2011 findings made by the Court referring to each particular country		
Paragraph	Observation in the 2011 Annual Report	Member State reply
	<i>period 2014-2020. This was accompanied by a comprehensive impact assessment that includes an evaluation of the EU added value.</i>	

ANNEX III A

Questions put to Member States concerning policy areas Agriculture and Cohesion

Part A. Please reply to the general questions below

1) In its report, the Court found weaknesses in the checks made by national authorities ("first level checks"). The Court also identified some cases in which national authorities had not effectively assessed whether costs claimed were reasonable. - see Chapters 4.26, 5.29, 6.15.

In your opinion, which of these reasons is at the origin of this problem:

- a) Too few staff members performing first level checks
- b) Staff not adequately qualified or experienced to perform first level checks
- c) Poor methodology (e.g. checklists),
- d) Any other reasons (specify which in detail)

2) The Court recommends that the Commission should encourage audit authorities "to carry out specific system audits concerning 'first level checks' done by managing authorities and intermediate bodies". (See for example Chapter 5.73, recommendation 4)

Does your Member State envisage carrying out additional and specific system audits in this area?

Yes ☐ If yes, please provide some details of these specific audits

No ☐ If no, please explain why

3) The European Court of Auditors found that public procurement procedures constitute an important source of error (Box 3.1, paragraph 4.12, paragraph 5.32, Example 6.3 (c)).

What in your opinion contributes the most to these errors?

- Complexity of national public procurement rules,

- Complexity of EU public procurement directives,
- insufficient "first level" checks.

4) The Court identified non-compliance with national rules as one of the risks to regularity of payments. It also provided examples of breaches of these rules - (Box4.1, Example 5.2(c), and Example 6.3c). In paragraph 6.30, the Court recommends that the Commission assess whether national eligibility rules could be simplified.

Do you agree that national rules need simplifying?

Yes ☐ if Yes, please give examples

No ☐

5) For **Chapter 5-** Regional policy, Energy and Transport and **Chapter 6-** Employment and Social Affairs, tripartite meetings with the Court, the Commission and Member States are regularly organised. For these chapters, the meetings have proved to be highly successful in avoiding contradictions concerning the assessment of errors. In the case of Agriculture and Rural development, only one such meeting was organised in 2012.

Would your Member State be interested and willing to participate in tripartite meetings for the Agriculture and Rural development chapters?

Yes ☐

No ☐ if No give reasons

6) In the chapter "Rural Development, Environment, Fisheries and Health" (§4.32), the Court of Auditors found that the non-respect of the cross-compliance requirements in three of the six Member States audited did not always lead to the required reductions in payments.

In your opinion, why has this happened:

- a) The cross compliance requirements are not sufficiently clear;

- b) Your Member State does not consider the cross-compliance requirements to be enforceable;
- c) There is an absence of communication between the authority performing the control and the one enforcing the reduction;
- d) Any other reasons (specify which in detail).

Member States replies to questions in Annex III

MS	Q1	Q2	Q3	Q4	Q5	Q6
AT	It can be assumed on the basis of the audit results for projects in the 2012 reference period under the two ESF programmes in Austria (error rate around 2% in each case) that the administrative authorities' "first level checks" do not contain any serious weaknesses. The results of the system checks carried out in the past did not indicate this either. D - Inconsistent implementation of the provisions at delegated institutions. A/B/C/D - The errors established by the audit authority in the area of the ERDF are based on all the above-mentioned reasons (a-c). With	NO - BMLFUW: No. The audit system is sufficiently detailed. BMASK: No. It can be assumed on the basis of the audit results for projects in the 2012 reference period under the two ESF programmes in Austria (error rate around 2% in each case) that the administrative authorities' "first level checks" do not contain any serious weaknesses. The results of the system checks carried out in the past do not indicate this either. In addition, the ESF audit authority also carries out "systemic" checks when auditing projects. BKA: In general, key element IV (appropriate administrative checks) is verified during the	BMASK: The most recent checks (project and system checks) by the ESF audit authority in both ESF programmes (2011 reference period) did not reveal any serious sources of errors with regard to public procurement procedures. A/B/C - BKA: The audit authority believes that this is a combination of the above-mentioned points, in connection with the fact that the contracts had already been awarded when the first level check took place, and the fact that the findings with regard to proper procurement procedures already have financial consequences for the beneficiary. The first level check body is therefore often under particular pressure. There are a few first level check bodies that	YES - BKA: The audit authority believes that the source of the errors should be analysed first. Subsequently it should be considered at which points and to what extent the national rules should be updated. Thus, for example, greater clarity would be created by making a distinction according to project types. It is essential that the rules are formulated in such a way that they are unambiguous and the leeway for interpretation is not too great. This measure necessitates greater accuracy with regard to the agreed eligible costs in the aid commitment, as well as a clear agreement on the		N/a.

	regard to the other reasons (d), past experience shows that often not enough specific criteria are laid down when checking and approving the application, which then complicates the first level checks.	system check at the administrative authorities and their intermediate bodies. However, as a rule these checks cannot be carried out in conjunction with checks at the beneficiaries, which would allow individual cost items to be assessed and checked. The system checks are at least carried out at the body to be checked (first level check body). The audit authority does not have the resources to undertake more thorough complementary spot checks at the level of the beneficiary.	apply the European Commission's guidelines for making financial corrections in such cases, but others do not.	proof to be provided. The eligibility rules can be considered only as a general framework, while concrete information is required in the aid commitments for the individual projects supported (not everything that is eligible in principle under the rules must also be eligible or approved in a concrete case). However, if simplification is understood to mean that inspection activities should be reduced or that essential steps in the inspection process are no longer carried out, then an amendment to the national eligibility rules would be counterproductive.		
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BE	A - Non, mais dans certains services, les effectifs sont insuffisants pour augmenter le nombre de contrôles D - complexité D - Pour la Wallonie, la question ne se pose pas. En effet, pour ce qui concerne le contrôle de premier niveau, nous n'avons pas constaté de lacunes significatives dans les systèmes que nous avons audités. Les faibles taux d'erreur constatés dans les campagnes de contrôle d'opérations au sens de l'article 62, §1er, b) du règlement 1083/2006, en attestent. L'effort de centralisation du contrôle de premier niveau sur pièces	YES - Cet élément est déjà contrôlé exhaustivement lors de l'évaluation de la principale disposition n° 4 dans le cadre de l'audit de système Autorité de Gestion et Instance de Médiation. Il est pris en compte et vérifié le FEDER Flandre chaque année. En outre, des audits de système sont effectués pour les questions horizontales telles que: législation sur les marchés publics, législation sur les aides d'Etat, publicité. Les résultats de ces évaluations et les résultats des audits sur les actions concrètes permettent d'évaluer globalement les contrôles de premier niveau. S'il s'avère sur base des audits sur les actions concrètes (AA) que les contrôles de premier niveau sont	A - La complexité des règles est certainement un facteur important débouchant sur des situations d'erreurs. Toutefois, la notion même « d'erreur » mériterait d'être clarifiée dans ce contexte spécifique. En effet, la quantification d'un non respect d'une des règles prévues par la législation sur les marchés publics, est parfois malaisée. Sur ce point, l'orientation utilisée par la Commission européenne en matière de corrections financières forfaitaires (« Orientations pour la détermination des corrections financières à appliquer aux dépenses cofinancées par les fonds structurels et le fond de cohésion lors du non respect des règles en matière de marchés publics – Document	YES - Donner et utiliser la possibilité d'utiliser les coûts simplifiés au lieu des coûts réels – coût forfaitaires + coûts unitaires • Possibilité d'inclure les coûts du personnel • Assouplir les règles des échéances d'éligibilité • Assouplir le principe de concentration territoriale YES - Diminution de la charge administrative par l'utilisateur notamment des coûts forfaitaires. YES - Introduction de simplifications telles que taux forfaitaire pour les coûts indirects (max. 20%), barèmes standards et forfaits. YES - Introduction de simplifications telles que frais généraux forfaitaires, barèmes	A - Les exigences d'éco-conditionnalité sont une liste de règlements et de directives, et de conditions pour maintenir des sols en bonne condition agricole et environnementale. Il n'est pas évident pour les autorités nationales de traduire cela en conditions concrètes devant être respectées par les bénéficiaires. D - La manière de calculer les réductions/sanctions est très complexe.
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	dans le contexte des programmes cofinancés par le FEDER en Région wallonne, permet de spécialiser les ressources dédiées à la vérification ; cet effort a certainement conduit à une amélioration du contrôle de premier niveau et doit être renseigné à titre de bonne pratique.	insuffisants, il est possible, grâce à la flexibilité dans le planning de l'AA, de prendre presque immédiatement la décision d'étendre le contrôle de système de la principale disposition n° 4. NO - Pour la Wallonie, la réponse est non parce que ces audits ont déjà été effectués, pour l'essentiel. En effet, pour ce qui concerne les programmes opérationnels cofinancés par le FEDER et le FSE en région wallonne et communauté française, les vérifications de premier niveau sur pièces ont fait l'objet d'audits de système spécifiques au cours des années 2010 à 2012 et ce conformément aux stratégies d'audit	COCOF 07/0037/03-FR-version finale du 29/11/2007) et dont l'utilisation est fortement recommandée aux Etats membres, est parfois malaisée à appliquer sachant que les objectifs de cette orientation hésitent entre d'une part sanction d'un comportement irrégulier et d'autre part quantification d'un préjudice potentiel pour le budget de l'Union européenne. Nous comprenons que la Cour des comptes européenne quant à elle, peut adopter une autre approche (voir sur ce point, Rapport DAS 2011, Page 344, Annexe 1.1. « Approche et méthodologie d'audit », point 11). Une révision de la note d'orientation de la Commission de même que des efforts de formation sur	standards et forfaits / simplification de pièces justificatives pour les coûts de personnel / traitement simplifié des recettes. YES - Les modalités 2014-2021 vont dans le bon sens mais il faut à tout prix la même lecture des règlements de la part des différentes autorités (gestion, certification, audit) en et y compris la CCE et la CCEur. NO - La question est quelque peu ambiguë. Si les règles sont définies au niveau national, il n'appartient plus à la Commission de les simplifier. Pour le surplus, en gardant à l'esprit que dans le cadre de la programmation 2007-2013, les règles d'éligibilité sont essentiellement		
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	déposées auprès de la Commission européenne et approuvées par celle-ci en 2008 et 2009. Pour le surplus, l'Autorité d'audit continue à exécuter le planning pluriannuel de ses audits conformément aux stratégies précitées. Le point précis sur l'état d'avancement de la programmation des audits, est fait systématiquement chaque année dans le rapport annuel de contrôle et lors de la rencontre bilatérale annuelle entre les autorités d'audit œuvrant au niveau belge et la Commission européenne. NO - Le programme d'audit de système couvre à ce jour, les différents types de risques : dentifiés. En	l'application de celle-ci (formations dispensées par la Commission), faciliteraient l'exercice du contrôle par les acteurs concernés dans les Etats membres. A - : la problématique rencontrée par nos opérateurs n'est pas la complexité du système européen mais bien celui du droit belge qui, souvent est sujet à de la jurisprudence. Le fait de cumuler tous les montants sur plusieurs années crée également des confusions dans les différents modes de passation de marché.	définies par les Etats membres eux-mêmes (article 56, §4 du règlement 1083/2006 « Les règles d'éligibilité des dépenses sont établies au niveau national, sous réserve des exceptions prévues dans les règlements spécifiques à chaque Fonds »), nous n'avons pas d'exemples spécifiques concernant les possibilités de simplification. De manière générale, les autorités de gestion sont attentives aux possibilités laissées par les règlements et orientations définis au niveau européen, en ce qui concerne le recours aux coûts forfaitaires (cf orientation de la Commission sur « les		
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	outre, l'A.A. de la R.C.C. ne contrôle que de petits programmes.		coûts indirects déclarés sur la base d'un taux forfaitaire, les coûts à taux forfaitaire calculés au moyen de l'application de barèmes standards de coûts unitaires ou les montants forfaitaires »). Le recours à ces dispositions permet de faciliter la mise en œuvre des projets et leur contrôle, et par conséquent a un impact sur le taux d'erreur.		
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BG	NO - In accordance with the audit strategies for the operational programmes for which the Audit of European Union Funds Directorate is the Audit Authority, it performs annual systems audits, selecting the key requirements to be audited on the basis of an assessment of the risk. The first level checks recommended by the ECA are part of Key Requirement 4 – ‘Management verification’ for the operational programmes’ management and control systems. Since the risk for this key requirement in 2012 has been assessed as high, the Audit of European Union Funds Directorate is currently carrying out a	A/B - We share the conclusion that public procurement procedures are the main source of errors. We believe this is due to the complexity of national public procurement rules.	YES - Audits on the operational programmes have found the eligibility rules to be increasingly complex. A horizontal audit on simplifying structural fund rules is now under way and the results will be presented at the start of 2013.		
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		scheduled audit of the systems covered by this key requirement. The systems audits will be completed at the start of 2013. We therefore see no need for an additional audit.				
CY		With regard to the Structural Funds, in the framework of systems audits conducted in the Managing Authority and the intermediate bodies as part of the assessment of key requirement No 4 'Adequate management verifications' of the Management and Control System, Cyprus is examining the following, as provided for in the Commission's Guidance Document on a common methodology for the assessment of management and	The position of the Internal Audit Service is that the reasons listed in the questionnaire contribute little to errors.	With regard to the Structural Funds, the position of the Internal Audit Service is that any simplification helps better understanding on the part of beneficiaries so that they can follow the rules and facilitates the procedures for verifications and checks. Therefore we believe the rules could be simplified. The Managing Authority, being the competent authority for the establishment of national eligibility rules, should consider this matter.	YES - Although the Internal Audit Service does not act as Supervisory Authority for these programmes, nevertheless it would be good if CAPO as the responsible body in Cyprus participated in such tripartite meetings.	A - This relates to point 4.32 of the Report and does not apply to Cyprus, as the three Member States where the problems were identified are Italy (Lombardy), Hungary and Finland.

	control systems in the Member States (2007-2013 programming period) [COCOF 08/0019]: • the existence of a written procedure in relation to the conduct of verifications (first-level checks), • whether administrative verifications are completed before certification, • whether all applications for payment are subject to administrative verifications, • whether on-the-spot verifications are undertaken when the project is well under way, • whether evidence is kept, • whether on-the-spot verifications are based on adequate risk, • whether there are assessment procedures		For example there could be a simplification of the eligibility rules of indirect costs (overheads) by claiming a percentage of total direct costs. This does not apply to CAPO.		
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		to ensure that the CA receives all information. This does not apply to CAPO.				
CZ	D - • the difference between the ECA and the MS in how corrections are applied (the EC does not take COCOF specifics into account in the AR)• the ECA audit does not take national legislation into consideration• the ECA audit ignores the time aspect involved – assessment of deficiencies found by the ECA in 2012 using knowledge	YES - In 2011, the EC (DG REGIO) ordered (at the 2011 Coordination Meeting in Brussels) the performance of a single systems audit in relation to all FBs 1-7 for MAs/IBs, and to do so for all entities. As at 30.6.2012 the Czech Republic had performed this for all the OPs (ERDF).	None of the options above is the main cause of these errors. The main cause of these errors is the ambiguous wording of the directives regulating public procurement and the associated different perspective of contracting authorities on these provisions. Contracting authorities usually apply these general and ambiguous provisions in a different manner to how these provisions are	NO - The ECA's Annual Report does not indicate that the declaration of ineligible expenditures is a direct result of the complexity of the national rules. The Ministry for Regional Development-National Coordination Authority (MRD-NCA) has prepared a set of Rules for the Eligibility of Expenditures for OPs 2007-2013, as well as		Does not apply to the Czech Republic - we cannot make an assessment.

	existing in 2012 in relation to projects submitted and implemented in the years 2008-2009		interpreted by the Court, and the Court performs its audits ex-post. Contracting authorities can take the Court's findings into account in the case of contracts awarded in the future, but cannot apply them to contracts already awarded. In its findings, the Court often argues on the basis of an infringement of basic principles. However, the basic principles of public procurement have no universal interpretation which could automatically be applied to every public contract, and so different individuals may justifiably have different opinions precisely in regard to the question of compliance with these basic principles, or the degree of their potential infringement. In some cases, the procedure of contracting authorities is	a methodological guide to the eligibility of expenditures, which sets out a basic set of rules and general principles for determining expenditures eligible for co-financing from SFs and the CF. Grantors of aid then further elaborate these rules into the form of binding rules for the aid beneficiaries, and thus set specific limits for each type of expenditure directly in the decision on the granting of the aid. This procedure directly ensures that the aid beneficiaries are provided with the relevant information. Inaccurate or incorrect declaration of expenditures results from failures to comply with the conditions of		
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		indeed calculated, and their aim is to disregard these principles. However, this type of procedure only occurs in a minimal number of cases.	decisions on the granting of aid, not from the complexity of the national methodological regulations. The centrally specified framework of rules on the eligibility of expenditures reflects the requirements for clear, comprehensible and simple rules to the greatest possible extent, and there is only very limited scope for their further simplification.		
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DK	C - Re point 4.26 in Chapter 4: Development of rural areas, the environment, fisheries and health The Payment Body had a poor method. Despite an instruction concerning reasonable prices, this was not exhaustive or updated. Checklist questions in the IT system have not been specifically elaborated, but are now being formulated. In accordance with Article 24(2)(d) of the Control Regulation (65/2011), the Payment Body has chosen to adopt comparison of various tenders as a general evaluation system.	YES - In relation to rural areas In 2012, the Internal Audit Unit within the Danish AgriFish Agency chose to conduct a systems-based audit of LAG schemes under the Rural Areas Programme. The audit focuses on follow-up of the audit comments that the Commission, the Court of Auditors, the Approval Body and the Internal Audit Unit itself made in 2011 and 2012. Because there are still significant problems, the Internal Audit Unit will in 2013 also conduct a follow-up systems-based audit in this area. In relation to structural funds The Danish Business Authority's audit authority has, with	A/B/C - The complexity of national regulations and EU Directives relating to public calls for tender makes it difficult to implement the verification and often leads to a risk of inadequate verification at the "first level".	YES - In relation to rural areas The Danish AgriFish Agency welcomes simplifications at both national and EU level. The Danish AgriFish Agency is currently preparing the design of a new rural areas programme for 2014-2020. This will include a review of the rules governing, for example, ecological support and the care of grassed areas (environmentally friendly agriculture) compared with administrative experience from the current programme. The Agency will try to incorporate this experience in the new programme with a view to promoting the greatest possible simplification for users/support	The Danish authorities have cut support for all cross-compliance infringements that the authorities identified during the Court of Auditors' visits in 2011. It is also apparent from the Court of Auditors' report (point 4.32) that the missing payment reduction for infringement of the cross-compliance requirements concerns Italy (Lombardy), Hungary and Finland.
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	In specific terms, this means that the EU provision is based on a requirement for, as a rule, two tenders to be submitted together with applications for subsidy. The Payment Body has nevertheless at the same time laid down de minimis thresholds for costs for movable property and for costs for building and construction tasks and for services. The rules are set out in guidance and instructions. The Agency assesses costs under the de minimis thresholds on the basis of reference costs such as list prices, etc.	regard to the Regional Fund (ERDF – both national programmes and Interreg initiatives) and the Social Fund (ESF), conducted systems-based audits of the parties implementing programmes; these include certification and administrative authorities, including first-level checks. As part of the auditing of operations (projects), auditing of the effectiveness of the first-level verification work is also performed on the basis of random samples. The audit results are discussed continuously with the certification and administrative authority to assess the effectiveness of the first-level verification. The administrative authority also holds meetings with the unit		recipients. In relation to structural funds The parties implementing programmes for the ERDF and the ESF consider that the rules should be made as simple as possible. Work is going on all the time to simplify the rules. The parties implementing programmes for the ERDF and the ESF hope that information meetings can prevent, for example, errors in hourly records and the calculation of wages and salaries. Individual information meetings are now held for all support recipients, whereas previously general information meetings on the rules		
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		that performs the first-level verification, in which observations and results are discussed.		for the structural funds used to be held.		
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FIN	B - • The turnover of personnel may cause shortages of competence, particularly when the programming period changes to the next one. D - • The main factors behind the deficiencies in basic level inspections include the complex eligibility rules associated with many aid systems and the challenges associated with the application of rules concerning public sector procurement. The managing authority has issued common instructions and checklists for the basic level inspections of Finnish ERDF and ESF programmes. The checklists cover compliance with the key eligibility criteria	YES - • The Agency for Rural Affairs implements in all ELY Centres inspections of the administration and control system for the purpose of analysing the functioning and practices of the system in all actions. Each ELY Centre is inspected during the programming period, and the inspections seek to ensure that more uniform practices are adopted throughout the country.		YES - • The national procedures can be simplified by harmonising the national eligibility rules and by introducing simplified cost models as widely as possible. • For example, presenting the receipts at the time of submitting the aid payment application is a cumbersome procedure for both the beneficiary and the administration. A less onerous procedure would improve compliance with rules in this respect.		
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	• It would be possible to reduce further the ambiguity of both the regulations and the instructions. A simpler method, clear instructions and sufficient training would surely make the basic level inspections more efficient than now.					
FR	D - Complexification croissante de la réglementation communautaire (multiplication des objectifs de contrôle et des articles dans les règlements ad hoc) ce qui aboutit à un transfert de la charge de contrôle par la Commission vers les Etats membres.	NO - La méthodologie développée (par la Commission européenne) pour les audits de système couvre déjà les contrôles de premier niveau.	A/B/C - L'ensemble combiné des trois causes peut-être considéré comme une cause des erreurs identifiées, sachant que l'application des règles de marchés publics soulève souvent des questions en opportunité et/ou d'interprétation juridique plus que d'audit strictement dit.	NO - La réglementation pour la période 2007-2013 prévoit que les règles nationales d'éligibilité soient fixées au niveau des Etats membres (compétence propre). Par ailleurs, il faut cependant noter que la Commission a déjà, dans le cadre de l'article 7 du règlement 1080/2007, fixé un cadre très simple pour les règles d'éligibilité.		

DE		NO - The Court's recommendation is rejected. Audits of the functioning of first level checks are already an integral part of systems audits. Specific risk areas can be checked separately by means of horizontal/thematic (partial-)systems audits. See also: • Guidelines for a uniform method for the evaluation of management and control systems in the Member States (see Key Requirement 4: 'Adequate management verifications'). • The Commission's answers to the Court's observations, OJ C 344 of 12 November 2012, p.144	A/B/C - For the ERDF, the following specific sources of error were flagged up:- Use of rules which are designed for private management use, particularly when it comes to selecting the type of tender procedure to be used- Use of the rules by management in such a way as to favour certain private bidders seeking to win the contracts, but who are not familiar with open tender procedure rules, e.g. by publishing the tender notices in procurement journals, while the market waits for a direct request for bids - Requirements set in stone regarding the provision of statements and evidence that conditions are met for exercising discretion in selecting alternatives, taking account of the rules on public procurement. Instead of	YES - For the ERDF, it has been pointed out on numerous occasions that the overly complex EU rules need to be simplified as a matter of priority. Individual national examples have been provided on numerous occasions, showing that the partly complex national provisions stem from the relevant EU provisions, which need to be simplified. The following individual examples were provided as examples of rules that need to be simplified: • More extensive possibilities for the use of flat rates or dispensing with the need to provide timesheets, or simplification of flat rates for overheads, which, however, if		A/B/C/D - Germany was not among the Member States affected by the above.
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		a plausible and feasible result, the outcome is the subjective opinion of someone without expert knowledge. The choice of tender procedure is no longer linked to the purpose of the contract and the efficiency of the procedure, but only to the avoidance of the risk of losing funds through a lack of expertise during the selection procedures.- Failure to recognise typical circumstances as sufficient grounds in comprehensive procurement procedures - Unclearly worded rules: national rules used by the selection and award bodies are drafted with the help of private associations and contain in the award notice unclear award criteria which should only be used in isolated cases and do not necessarily correspond to the	simplification is to be achieved, should not be audited afterwards by the EU and classed as ineligible. (Both of the above are only possible if the corresponding provisions at European level are simplified).• Complex rules governing eligibility and too many conditions in connection with the approval of grants. • Avoidance of multiple audits, at considerable administrative expense, and which do not lead to a significant rise in audit certainty. The greatest potential for simplification lies in the EU rules.Simplification of the relevant EU rules in the area of the EAFRD is also fundamental. Germany has put	
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		situations of private bidders; the EU rules are not always properly translated- There are no remedial measures in place to deal with apparent or real procedural errors, such as national fiscal rules, which could allow procedural errors to be dealt with on the basis of market accessibility, non-discrimination and transparency, thereby instigating weaknesses in the drafting of the procurement rules- Interpretation of the remedies for procedural errors are held to be unlawful with collusion taking place, enabling certain bidders to gain a competitive advantage - Assumption that the results of secondary controls are accurate- Failure to allow different types of tender procedure, irrespective of the contractual value,	forward a whole range of concrete proposals.		
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		where notification of competition is given, in line with Directive 2004/17/EC. In the case of the ESF, it was pointed out that the control authorities systematically verify the regularity of the public procurement procedure as well as compliance with the national legal provisions in place to guarantee the regularity of the expenditure declarations submitted to the Commission. The Commission is informed of these results in the Annual Control Reports. A system check is currently in place in respect of the open tender procedure but it has not yet been finalised and so the results and analyses are not yet available.			
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GR	D - The reasons are complex and mostly depend on who performs the first level check. First level checks are performed either by Administrative Authorities or intermediate bodies authorized to that end and which have a different form. Hence the first 3 reasons combine depending on the body conducting the check. Under the approved management and control system (MCS), first level checks (the verifications under Article 13 of Regulation (EC) No 1828/2006) are performed by the managing authorities (Managing Authorities and	YES - The control manual of the Financial Control Commission (EDEL) posted on www.edel.gr (Audit Activities - Control Strategy and EDEL Control Manual) for the programming period 2007-2013 provides in Section B.4 "Special System Checks" for the performance of special system checks aimed at investigating high-risk horizontal issues. One of these horizontal issues concerns the fundamental requirements (procedures) for the operation of the (common) management and control system, including management verifications. In pursuance of the above, special system checks were designed		YES - National laws must be unified and there must not be two or more laws in force regarding the implementation of the same operation (e.g. Law 3614, Law on Municipalities and Communities – Kallikratis, etc.). National eligibility rules establish the expenditure co-funding rules. However, they come to supplement the national rules under which the projects are implemented. Most of the problems encountered in terms of compliance with national eligibility rules are due to the fact of having many different legal frameworks for the implementation of an operation depending on the type of the beneficiary who		
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	Intermediate Managing Bodies) administratively on each expenditure statement of the beneficiary and on-the-spot on operations selected on the basis of a documented sampling method. To perform both administrative and on-the-spot verifications, the MCS requires the use of standard check lists which must be filled in by the officers conducting the verifications and are signed in order to substantively document the verification. As regards administrative verifications, weaknesses can be observed in cases of projects involving a	for the audit period 1/7/2009-30/6/2010. For the seven bodies checked in terms of individual criteria of evaluation of this fundamental requirement, it was found that they work well with a need for only minor improvements relating—as appropriate—to training, compliance with and implementation of the program of on-the-spot inspections, failure to develop sampling or document sampling methodology. The response of the bodies to the recommendations of the checks was satisfactory. The above are mentioned in EDEL's 2010 the Annual Control Report.		implements the project and/or of the operation implementation time. The fact that the national institutional framework for implementation varies frequently but also due to different sources, leads to uncertainty as to the applicable provisions but also to errors because different provisions on the same issue may serve different purposes and, therefore, their implementation is a matter of interpretation.		
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	particularly large number of expenses to be verified and, therefore, of supporting documents to be reviewed. Typically, these projects are implemented by means of grants. The problem is exacerbated by the wide diversity of both co-funded actions implemented by means of grants and beneficiaries who implement them under the existing national framework applicable to them. As for on-the-spot verifications, weaknesses may, in individual cases, be due to variation in the number of staff members of the competent unit in charge of carrying out on-the-spot verifications during					
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	the programming period. This combined with the great diversity in the national framework under which projects are implemented within an OP does not allow, in some cases, the timely implementation of the annual program of on-the-spot verifications. Furthermore, and based on the fact that in accordance with the approved MCS, on-the-spot verifications are performed on operations for which the managing body has already verified the expenditure administratively and at a time that may follow their certification at the Commission, external audits of the certified expenditure					
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	at the Commission may identify errors which are corrected by the Member State at a later time. The above suggests the importance of the role of administrative verifications which due to the volume of work they require and their frequency should be given special attention with a view to simplify and systematize them to achieve their goal at an acceptable cost-benefit ratio and without repeating the procedures followed at the level of the beneficiary. This is considered an issue of particular importance for projects implemented by means of grants.					
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HU	D - in previous years, the shortcomings of first-level checks were mostly attributable to compliance checks of public procurements; however, the audit system has been improved in this regard since 2011.	YES - based on risk analysis and taking into account the European Commission's recommendations.	A - bearing in mind that the audit results are based on procedures launched under the previous Public Procurement Act C- (Since 8 December 2010, a centralised public procurement audit system has been in operation at the National Development Agency, which has helped us achieve significant progress in the supervision of public procurement. For more detail, see reply to Heading 1 of Annex I.)	YES - introduce simplified accounting in practice; introduce claims based on an average rate.		
IRL	D - In Ireland's experience several findings of weaknesses in national first level verifications have arisen from a lack of familiarity by contracted Commission auditors with public administration and financial	NO - For the 2007-13 period our Audit Authority continues to roll out our programme of systems audits on MA/IB Key Requirement No 4 'Adequate Management Verifications' to all interventions that declare expenditure in the	B - One of the main reasons for a high error rate finding in respect of public procurement is a very narrow interpretation of procurement rules being taken by Commission Auditors. Furthermore, arising from recent audit findings, contract compliance issues are being treated as	YES - There may be scope for greater simplification and clarity. This issue is related to the interpretation of EU procurement rules, as noted in the response to Question 3 above, along with the translating of those EU rules into national rules and the	YES - Yes in principle and depending on the frequency and the level of administrative burden that such tripartite meetings would engender.	D - There are a number of possible reasons. Member states may consider certain breaches as minor leading to no reduction. Eligibility and GAEC issues are interlinked. Breakdown in communication

	management procedures.	2007/13 programming period and updates on the progress made to date on these audits is included at Appendix 5 of the respective Annual Control Reports.	procurement compliance issues, even though they are quite distinct.	application of those rules to EU funded projects.		between the specialised body and the paying agency
IT		We are not answering this question as the recommendation quoted concerns regional policy, energy and transport. Furthermore, it does not seem to us that any similar recommendations have been made concerning the agricultural Funds (cf. Chapters 3.45 and 4.54).		THIS CONCERNS NATIONAL LEVEL		D - there is evidence that the interpretation of the Regulations give rise to the possibility to remedy minor defaults through the implementation of appropriate corrective measures

LV	D - Comments relating to regional policy, energy and transport, and also employment and social affairs: We are of the opinion that the main reason for the weaknesses in first-level checks is the complex nature of the legislation and the rules for its implementation, which allow various interpretations; we also believe that in certain cases an insufficient level of detail is provided regarding first-level checks. Comments relating to agricultural and rural development: The basic principles for the implementation of aid measures laid down in the relevant	YES - Comments relating to regional policy, energy and transport, and also employment and social affairs: Management and control system audits are performed in all bodies concerned; all of the basic requirements and basic criteria which are binding on a specific body are evaluated on the basis of the COCOF 08/0019/00-EN guidelines issued by the Commission. As a result, first-level checks are audited annually in all of the bodies which administer EU funds. In addition, the Audit Authority has identified areas which come under the scope of first-level checks and which are subject to horizontal audits in all EU fund bodies, for		YES - Comments relating to agricultural and rural development: Simplification needs to be carried out in order to reduce the administrative burden; however, potential risks to the administration of EU fund payments must also be evaluated. Examples: - more efficient cooperation between national authorities, including the interconnectivity of IT systems; - operation of the project application administration system – joint in situ inspections, legal aspects of the commitment of funds, the use of accessible IT systems for the submission of project applications and reports/reviews, and		A - The Latvian authorities are of the opinion that the basic principles laid down in the relevant external legislation (regulations) for determining cross-compliance requirements are not clearly defined and are general in nature; as a result, Member States can interpret and implement these provisions in various different ways.
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	external legislation (regulations) are not clearly defined and are general in nature; as a result, Member States can interpret these provisions in various ways (e.g. with regard to determining the eligible costs which are possible under a project); First-level checks (administrative assessment) are performed in accordance with the principles/procedures laid down by the Managing Authority and the Paying Agency for each aid measure or group of measures; however, a wide range of project applications are received for each aid measure (various different types of activity, categories of expenditure etc.), and	example; 1) public procurement; 2) commercial aid; 3) publicity requirements; 4) equal opportunities; 5) environmental protection requirements; 6) and others.		for communication, etc.		
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	each project application must be evaluated separately and in detail (it is not possible to create a separate administrative procedure for each specific project, and so a human factor exists in the application of these provisions).					
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LITH	YES - The Lithuanian audit institution notes that specific system audits related to the initial inspections carried out by managing and intermediary institutions in Lithuania are performed annually (as part of the MCS performance audit during the respective reporting period taking account of the level of materiality and the level of audit reliability laid down in the Audit Strategy (where the audit sample depends on the inherent reliability of the audited MCS institution, its internal control and self-reliability)).	A/B/C - Non-compliance due to the failure to observe the formal provision of the Directive having no impact on the procurement outcome and application (non-application) of the financial correction should not be taken into consideration when analysing the issue of eligibility of costs	YES - With a view to reducing the administrative burden on contracting authorities, the public procurement procedure is simplified. The requirement to the contracting authority to publish technical specifications of all procurement procedures has been eliminated, and only the technical specifications of procurement procedures of large scope and importance are subject to publication. Another change is the elimination of the requirement to publish suppliers' proposals in the Central Public Procurement Information System if they are of a very large volume and contain technical		
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			drawings, charts, etc. Given that the supplier's proposal used to be rejected for the sole reason of inaccurate or ineffective wording of the supplier's declaration, now the supplier's declaration is evaluated when verifying the supplier's qualification. The time limits for analysing claims have also been extended. To reduce the administrative burden on projects and with a view to ensuring more efficient administration of funds, action was taken to overcome the lack of current assets of project implementers, there is no longer a requirement to submit certified copies of documents, the		
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			application of fixed unit rates of project costs and fixed amounts of project costs has been introduced. The rules for establishing and paying indirect project costs on the basis of a uniform rate have been drafted and are already successfully used by the ESFA. These rules stipulate the procedure for establishing and paying indirect, or overhead, costs of projects implemented under the operational programme on the development of human resources and co-financed by the European Social Fund using a uniform rate. The provision that advance payment can be made without the supplier submitting an advance payment invoice and the		
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				provision that eligible advance payments are the ones identified in legal acts (e.g. students' scholarships) has been supplemented.		
LUX	D - L'appréciation du caractère raisonnable des dépenses ne se limite pas dans certains cas à une analyse quantitative eu égard aux objectifs fixées dans la fiche de candidature et nécessite une compétence technique spécifique, notamment pour les	YES - L'audit interne fait des contrôles spécifiques des différents régimes agricoles selon un plan triennal établi sur base d'une analyse des risques potentiels. NO - L'AA ne comprend pas cette recommandation. La qualité des contrôles de premier niveau est constatée chaque	A/B/C - Les 3 éléments peuvent jouer, la complexité joue surtout au niveau des porteurs de projets qui ne sont pas, en général, des spécialistes en marchés publics. B - ces directives transposées en législation nationale contribuent ensuite à la complexité des règles nationales en la matière	YES - Les règles nationales pourront toujours être simplifiées mais un travail initial de simplification au niveau des règles prévues dans les directives serait appréciable. NO - Dans les exemples donnés, les règles paraissent claires		

	projets de recherche. Par ailleurs, il ne faut pas perdre de vue qu'il s'agit dans ce cas d'une obligation de moyen et l'absence d'atteinte de résultat significatif ne signifie pas forcément que les dépenses ont un caractère déraisonnable. Dans tous les cas, intégrer la vérification du respect du principe de bonne gestion financière très tôt dans le processus de contrôle limite ce genre de problème.	année à travers les contrôles d'opération. Des constats et des recommandation sont faites par l'AA. Un suivi est également effectué par l'AA.				
MT		YES - The Paying Agency in Malta has a permanent internal auditor so that the various measures implemented by the agency can be examined in detail. The current internal auditor prepares a five-		YES - The Paying Agency has no say in changes to national regulations. Although they may be too stringent in certain cases, this is in order to safeguard public and European funds. The Paying Agency		A/D - Malta is of the opinion that beneficiaries apply for certain measures with the intention of benefiting from funding and make little effort to learn about the

	year plan including revisions of all of the measures offered by the Paying Agency, together with a detailed examination of the accreditation criteria. This reassures the management that certain errors, flaws in internal processes and incorrect implementation of the regulations are identified immediately. The Agency is thus working pro-actively to identify its errors before the Certification Body or ahead of a mission from the European Commission or the Court of Auditors, so that action can be taken.		would prefer if these laws could be simplified.		obligations they are taking on.
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NL	A/B/C - All three are equally necessary. If one of the three is missing or is not functioning properly, this has a direct bearing on the quality of the controls.	NO - Once a year, the Dutch Audit Authority carries out a system audit of all the first line audits for all the Structural Funds	NO - With the implementation of the 'standard subsidy framework' (national) as of 1 January 2010 , the Netherlands has substantially simplified the rules for implementation and justification of national subsidies, leading to a reduced implementation burden for the authority and a reduced administrative burden for the subsidy recipient. For example: mandatory flat-rate or performance-based (PxQ) subsidisation of subsidies below €125 000, withdrawal of the advance payment applications and limitation of the number of interim reports. It is often EU provisions themselves that mean this	D - The Netherlands would leave this to the judgment of the Member States concerned.
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			'standard subsidy framework' cannot be used in all cases. Furthermore: the European Court of Auditors' examples mainly concern decision-making on which target group and/or which costs to take into consideration for subsidisation. A broader formulation of the target groups and of the eligible costs does not lead to a simplification in terms of reduced burden in the Netherlands' opinion. To conclude, the European Commission does not have the competence to amend national subsidy rules.		
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PL	A/B/C/D - According to the Coordinating Institution of the National Strategic Reference Framework (CI of the NSRF), we should agree with the opinion of the Commission, presented in relation to chapters 5.29 and 6.15, pursuant to which - in accordance with adopted solutions - institutions conduct an in-depth control of expenditure at the project trial upon the certification of these expenditures to the Commission. And the mandatory verification of each payment request is not of the in-depth control nature, therefore it may not produce the effect in the form of the discovery of each	NO - These cases are examined by the SCC – within the scope of selected elements of the system – basically in each control concerning directly the use of EU funds. The SCC does not provide for additional, special controls concerning first-level checks. In the opinion of the Court presented in the annual report for the year 2010,	A - ;(in particular high frequency of changes, lack of specification of some important concepts, e.g. "abnormally low price")B - one of the causes for errors in the area of public procurement may be problems resulting from the differences in interpretation regarding the correctness of the application of the national and EU law. It should be noted that it is not appropriate to treat national legislation and the EU directives on the public procurement as separate entities. To a large extent the content of national legislation is in fact a consequence of the adoption of specific solutions in directives. As a result, Member States have somehow limited opportunities for introducing simplifications in this	NO - National law and regulations implement EU law requirements as well as often complicated and detailed guidance and recommendations of the Commission DGs as how to implement EU law.		Does not concern Poland
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management and control systems in Poland are effective. As part of the conducted audit no. PF-4452, the ECA

	irregularity. However, the irregularities are discovered during the aforementioned in-depth control on the site where projects are implemented in relation to the project test sampled based on those developed by individual institutions. The MA of the OPI&E does not agree with the allegations of ECA auditors concerning control deficiencies in the system. In the opinion of the MA of the OPI&E, the institutions operated in accordance with the applicable legal standing. Moreover, the control system is monitored by the AA and EC on an ongoing basis and they do not find any major defaults. Moreover, the public	checks". During a system control, the Managing Authority of the Operational Programme of the Development of Eastern Poland (MA of the OP DEP) verifies whether the functions specified in Art. 60 and 70 of the Council Regulation (EC) No. 1083/2006 of 11 July 2006, entrusted by the IB of the OP DEP Agreement, are performed in the right manner and the management and control system of the OP DEP operates properly, effectively and in accordance with the law. This verification includes first-level checks carried out by the intermediary body. During the conducted operation audits, the Audit Authority (Tax Audit Office) also	area. Therefore, the nature of the cause of problems connected with the public procurement law should only identify its complexity, without specifying the author of relevant legal acts C - the time devoted to individual first-level checks is sometimes so short that it does not offer the possibility of a thorough/detailed control			
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	procurement control system under the OPI&E was found by the EC to be effective. In the opinion of the MA of the OPIE the main reasons of irregularities in "first-level checks" executed in the OPIE is the high degree of complexity of IT projects and highly specialist nature of research and development projects. This may cause that the staff performing control/audit activities may not have sufficient qualifications and adequate/sufficient checklists. According to the Managing Authority of the Human Capital Operational Programme (MA of the HCOP) the	draws attention to the issue of first-level checks carried out by the managing authority and intermediate body. A number of other authorised audit authorities (Public Procurement Office, SCC) also perform activities in this area. The applicable control system is designed to eliminate deficiencies in first-level checks. Pursuant to the provisions of the Principles of control under the HCOP, Intermediate Bodies (IBs) are required to conduct annually, in the years 2008-2015, at least one system control in each institution to which they delegated a part of their tasks. And during the development of the Annual Control Plan for a given year, the				
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	reasons of any irregularities performed by individual institutions include in particular staff shortages, i.e. in the units responsible for the implementation of the control process too few employees are employed in relation to the number of system controls and project controls to be performed/the scope of works performed by these units (examination of complaints, appeals, etc.). This causes difficulties in the possibility of performing an in-depth analysis of the materials presented for the control. High volume of control tasks also makes it difficult to improve employees' skills and	MA of the HCOP always prepares a risk analysis, based on which the most risky institutions in the system are selected for auditing. Moreover, the MA assumes the possibility of extending system controls in the IBs when it finds that such activities are justified (e.g. in case of finding numerous irregularities in the implementation of the HCOP), inter alia with controls in the subordinate Intermediate Body of the 2nd degree. A system control is aimed at checking the correctness, effectiveness and compliance with the law of the procedures, as well as the functioning of the management and control system of the HCOP and allows for				
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	update their knowledge. According to the Coordinating Institution of Regional Operational Programmes (CI of ROP) - change in the legal environment and interpretation of laws by controlling bodies, audit authorities and courts. In the opinion of the Supreme Chamber of Control (SCC) erroneous methodology contributes to the problem in the area of agriculture and rural areas. Furthermore, the time devoted to individual first-level checks is sometimes so short that it does not offer the possibility of a thorough/detailed	the adequate examination of all areas of the operation of the institution. In addition, the implementation system of the HCOP also provides for conducting temporary system controls when major defaults in the operation of the institutions involved in the implementation system are suspected. Such controls are carried out in practice, i.e. in case when the institution finds a threat in the functioning of a lower-level institution.				
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	control.	Therefore, in the opinion of the MA of the HCOP, there is no need to conduct additional first-level checks, as those that are conducted at present make it possible to find errors in the functioning of the institution and to take appropriate remedial actions. In the opinion of the Managing Authority of the European Territorial Cooperation MA of the ETC), the system control at the present level is sufficient. In the opinion of the MA of the OPI&E, the recommendation concerns the EC and the AA ("The Court recommends the Commission to (...) encourage auditing authorities to conduct detailed system controls concerning				
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	first-level checks conducted by managing authorities and intermediate bodies"). Notwithstanding the foregoing, bearing in mind the reservations of the MA of OPI&E submitted to the aforementioned findings of the ECA, and the fact that in the regular system controls (conducted under relevant regulations), both the EC and the Audit Authority do not find any serious deficiencies in the management and control system of the OPI&E, the MA of OPI&E does not plan to carry (or have carried by the IB) special system audits within the scope of the "first-level checks". Nevertheless, the aforementioned scope is also verified by the				
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	MA and the IB while conducting system controls, in accordance with the Annual Control Plans. In the opinion of 16 MAs of the ROP, the recommendations in question concern the Audit Authority which controls MAs of the ROP, which are additionally controlled by the CC and SCC. Moreover, internal audits of the procedures of MAs of the ROP are conducted. In the opinion of MAs of the ROP, the sanction system is extensive and sufficiently rigorous. Procedures specified in the implementation process allow for strict adherence to the eligibility requirements. With respect to the OPIE, the MA marked				
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	answer YES. It also informed that "First level checks" in the management and control system of the OPIE are the checks carried out by the Implementing Institutions (institutions which are parties to contracts for project co-funding). The correctness of such checks is a mandatory element of system controls carried out by the MA of the OPIE in Implementing Institutions. The MA of the OPIE conducts annually system controls of each Implementing Institution - based on the annual control plan. At the request of the European Commission, the Audit Authority conducted an additional				
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		control/audit of the management and control system in the measure 4.5 of the OPIE. The Audit Authority does not plan to conduct any other/additional/special audits.				
PT						

RO	D - diversity of measures opened within the NRDP and the large number of sessions per calendar year, leading to agglomeration of projects in a short period of time as regards the APDRP evaluation	NO - The current system audits carried out on each operational program include specific objectives aiming to assess the functioning of first level checks both within the Managing Authorities (MA) and within the intermediate bodies (IB). Checks conducted in regard to these objectives especially take into account the risk areas identified by both the MA and the European Commission during the previous audit activities (e.g. the public procurement area). The purpose of these evaluations is to obtain appropriate assurance for the correctness, regularity and eligibility of the amount requested for refund by beneficiaries. Please note that in 2011 and				
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	2012 audit actions on the procurement area were also conducted at UCVAP and ANRMAP level (new institutions formally integrated in the management and control systems) to assess, on the ex-ante segment, how these entities support the checks carried out at MA and IB level. According to the audit strategies amended and sent to the EC, this type of actions undertaken at UCVAP and ANRMAP level are planned to be conducted every year up to the end of the programming period				
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SK	D - staff turnover, time-consuming process of the project may cause variation in the adequacy of the expenditure verification time, unclear rules for eligibility.	NO - The performance of the system audits aimed at determining the effectiveness of the management and control system provides adequately for the uncovering of deficiencies in the area of first-level control at national level.		YES - - Harmonisation of eligibility rules supplemented by national rules based on the same principle - Retain and expand the current mechanisms by applying the simplified costs methods, with the aim of reducing the administrative burden (see primary application of unit costs)- Applying the sampling method for audit, based on risk assessment- Fewer input documents, greater emphasis on outputs- Simplification of procedures in public procurement- Simplified definition of rules on expenditure eligibility for financial and insurance services.In the 2014 – 2020		D -other reasons, probably to specific incidents in specific Member States. In Slovakia, where the non-compliance with the requirements of cross-compliance results in lower payments.
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				programme period the Managing Authority for OP Education and OP Science and Research plans to use a simplification by applying a fixed amount of indirect project costs and applying fixed costs calculated on a standard scale of project unit costs.		
SL	D- For the implementation of measures to improve competitiveness (121 farm modernisations and infrastructure developments) SI has produced catalogues of eligible costs which it has used since 2007 and which were last updated in 2011. On the basis of the eligible costs, ARSKTRP only approves expenditure in applications that is within the limit of the maximum	NO - : Because management checks are the subject of detailed examination in each system audit (key: key requirement 4 – management checks); as a result of the findings of an audit of expenditure transactions certified in 2010, in 2011 the Slovenian audit body carried out a system audit of the intermediate body that focused on key requirement 4 (first-level checks).	A - Public procurement award procedures entail significant and varied inherent risks; the issue is complex and cannot be dealt with adequately in a single-sentence reply	YES - UNP's reply: The Commission cannot of course change national eligibility rules directly, but a Member State can in order to allow sufficient room for manoeuvre in eligible areas or rather to say what is not eligible in specific areas. It is essential that eligibility rules are prepared in good time, that they are unambiguous and that they are designed		

	eligible. During the authorisation procedure, account is taken when authorising payment only of amounts that have been previously approved and comply with the catalogue of eligible costs.			bearing in mind the burden that they impose on the beneficiary in terms of preparing evidence and on the party executing checks at every level of implementation. MKO and ARSKTRP's reply: Simplifications of the legislation make sense and we are preparing them for the next programming period. The main focus will be in the area of penalties where the emphasis will be on penalising according to seriousness and for recurrent offending. Likewise more attention will be paid to informing and training farmers via the farm management plan. Requests for individual measures and sub-measures must be formulated in		
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			such a way as to be administratively verifiable.		
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ES	D - Discrepancies with the interpretation of the Court of Auditors	NO - In the management and control system audits one of the points to be analysed is the first-level control procedure. It is not considered necessary to conduct a specific audit. It is not considered necessary to conduct a specific audit.				
SW	D - SE considers that it is important to examine costs before disbursement to project owners and certification to the Commission.	YES - This will become apparent from the ESV's [Swedish Financial Management Authority] audit strategies. We will know more in a few weeks.		YES - When drafting new rules the aim should always be to make them effective and appropriate, and therefore not unnecessarily complex. It is not, however, the		

				Commission's job to examine this		
UK	A/B/D - The Scottish Government Audit Authority (SGAA): In our opinion, there could be several issues that impact on the first level checks carried out by the national authorities. Insufficient training may well have an adverse impact on the ability of staff to identify weaknesses or effectively assessed whether costs being claimed were reasonable. In addition, the actual volume of transactions would have an impact on the ability of staff to undertake the checks in sufficient detail that would be required if there were insufficient staff available to pick up the high levels of	YES - SGAA:• Certifying Authority: Systems for certifying expenditure, drawing down funds, reconciling certified amounts to EC with accounting records and SEAS data to Eurosyst• Managing Authority (MA): Review of the revised control structure following the removal of the Intermediate Body tier from the control structure and the incorporation of the duties of the Bodies within the MA framework.• Managing and Certifying Authorities: Systems for recording irregularities, pursuing recoveries and maintaining the debtors' ledger• Managing Authority: Compliance with	A - SGAA: In the view of the SGAA, the complexities of the EU Public procurement rules has had an impact on the areas of error noted during audit reviews. These are not particular easy to follow and have led to issues involving first level checks. Also the penalties associated with errors in procurement appear quite draconian in terms of penalties with no real leeway for judgement calls.BIS: Public procurement is a recurrent source of errors. I don't feel best placed to advise whether the underlying issue is national or EU rules, but I do think that the Commission needs to recognise this difficulty and take all possible steps to provide guidance and training to	YES - SGAA: In the case of Scotland, National Rules in the view of the SG AA are overly prescriptive. The detailed levels of controls noted in the national rules makes it more difficult to manage the programmes as there is no real room for making reasonable assessments of specific issues. Controls prescribe what is and what is not acceptable. There is therefore no real room for manoeuvre and things are not usually that black or white. This can lead to conflict between the MA and beneficiaries in terms of what is acceptable and what is not. However this level of		A/D - SGAA: We have not come across the issues described in the ECA report as the cross-compliance regime in Scotland operates in general effectively. However, as requested, in the opinion of the SG AA the main reason would in all probability be down to bad communications between the authorities performing the control and the one enforcing any subsequent reduction. If good communications

	transactions that may be created from time to time in the programming period. Department for Business innovation and Skills (BIS): The multiple choice question is rather simplistic. Structural Funds are complex and it would be difficult to eliminate errors entirely, but in the UK MAs have certainly responded positively to issues that have arisen in recent years in terms of reviewing their management and control systems. For example, in England DCLG introduced a comprehensive action plan in 2011 showing how they were working to strengthen management controls, standardise	Article 60 of Council Regulation (EC) No. 1083/2006• Managing Authority: Compliance with the requirements regarding Financial Engineering instruments (Venture Capital and Loans Funds, etc).• Managing Authority: Systems for fraud prevention, detection and investigation. RPA: Internal Auditors work for the agency to provide an independent, objective assurance and consulting activity on systems, processes and core controls designed to add value and improve the Agency's operations. Each year they conduct transaction testing of first level checks performed for that year's claim population. This supplements the	MSs on the interaction of public procurement rules and Structural Funds to reduce the proportion of errors arising in this area for the next round of programmes. Department for Communities and Local Government (DCLG): The complexity of the EU procurement directives make this inherently complex and difficult. The guidance about the treatment of sub-OJEU procurement and the pressure on audit authorities to probe to a similar depth into sub-OJEU procurement and pre-existing framework contracts has moved this to another level of complexity.	detail makes it easier from an AA viewpoint to undertake audit work. BIS: UK Ministers have agreed that as part of the interdepartmental work to prepare the UK Partnership Agreement for 2014-20 Structural Fund programmes, officials will develop options for administrative simplification and reducing burdens on beneficiaries. Options will need to be evaluated for cost and feasibility but could focus on: • greater alignment of national eligibility rules for projects; • improved harmonised guidance to applicants; • a common portal for applicants with underlying management		are not in place then inevitably there would be instances of reductions in payments following cross-compliance checking being missed. There may also be issues surrounding the way in which cross-compliance checking is carried out if a number of agencies/organisations undertake such checks. This could lead again to wider communication issues if proper procedures have not been developed.
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	procedures and improve guidance following interruptions imposed in 2010. More recently, DCLG has focused on enhancing the quality of its Article 13 management checks.	Certifying Body audits currently completed by the National Audit Office on compliance with accreditation regulations and accuracy of payments. BIS: Audit Authorities in the UK carry out systems audits and operations audits as part of the Audit Strategy, details of which can be found in the Annual Audit Summary. Additional systems audits can be carried out if high error rates are found in audits of operations.		processes harmonised wherever possible; and • steps taken to ‘hide the wiring’ through use of common or similar forms and single contact points for applications to more than one fund. Officials should also explore whether management and control functions can be strengthened by establishment of a co-ordination function across funds and/or structural change, e.g. for ERDF and ESF, merging the certifying authority function into the managing authority within individual funds and merging audit functions across the funds.		
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**Part B. Please enter any general comments you have
concerning the 2011 Annual report
or general issues relating to the discharge procedure.**

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MS	B
AT	No comments.
BE	
BG	

CY	
CZ	
	The annual report for 2011, etc. Denmark considers it satisfactory that the Court of Auditors has through the years – since the introduction of the audit opinion with effect from the financial year 1994 – with certain reservation regarded the EU’s accounts as providing a true and fair view of the Communities’ income and expenditure and its financial position. Taken in its entirety, this part of the audit opinion has in other words been positive through the years, and has for the last five financial years been free from reservations (blank opinion). Denmark considers it unsatisfactory that the Court of Auditors has again had to issue a negative audit opinion as to the legality and regularity of the transactions within, inter alia, areas of expenditure in which administration is shared between the Commission and Member States. Based on the progress in financial management and control of the budget achieved in recent years, there are nevertheless grounds for a certain degree of optimism as regards scope for achieving an audit opinion that continues to include few reservations.
DK	Particular importance is attached to the section of the annual report concerning the achievement of results with the aid of the EU budget. This section confirms the need for an improvement in the quality of expenditure and thus better compliance with the principle of sound financial management, i.e. thrifty, productive and not least effective use of the Union’s appropriations. There is a significant need for greater transparency concerning the true European added value of the EU interventions, as there is also a need for a stronger commitment from the Council in this area. The section on the achievement of results may help bolster the Council’s discussion of scope for better linkage of, on the one hand, assessments of results and, on the other, budgetary and legal regulation of the various policy areas. Denmark also appreciates the fact that the Court’s presentation of the audit results has become more satisfactory in recent years. This applies in particular to the following aspects: the publication of the most likely error percentages in the audited payments; integration of the Commission’s management opinions in the relevant sections of the annual report; the splitting of policy areas between several sections; and the enlarged description of the audit approach and method. This clearer presentation increases scope for rectifying weaknesses in the financial implementation of the budget and in the quality of the expenditure, and makes it easier year by year to identify whether and at what rate the necessary progress is being made.

EST	
FIN	This questionnaire was implemented in a technically clumsy fashion. The boxes in the questionnaire cannot be ticked directly.
FR	
DE	In the field of agriculture, the ECA attributed an error rate of almost 100% in respect of the open tender procedure. This error in the area of tender procedures concerns claims which were entirely eligible for support. With this assessment, the ECA fails to single out claims which are wholly ineligible and have a 100% error rate attributed to them. The Federal Ministry for Food, Agriculture and Consumer Protection (BMELV) considers that this approach followed by the ECA does not differentiate enough and must be corrected.
GR	
HU	We are pleased that the European Court of Auditors has again issued an unqualified opinion regarding the reliability of the report for the financial year 2011 and that, according to the Court's assessment, the report provides a picture of the financial situation of the EU, outlining its operational and financial results, which is accurate from every essential point of view. With regard to the legality and conformity of the underlying transactions, we regret that, compared with the previous year, the rate of the most common irregularities relating to payments in general has increased slightly. We are pleased, however, that the error rate in the Regional policy, energy and transport chapter again decreased in 2011 against the previous year, proving the success of the efforts made by the Commission and the Member States in that regard. Of course, we do not believe that we have reached our intended objective, but in our opinion this serves as an indication that we are on the right track and that most parties involved are working to promote the lawful and correct use of aid. Our general view on the structure and content of the report is that its length and level of detail are appropriate. While the description of the identified weaknesses is characterised by a measure of generalisation, it is understandable that due to length constraints it was not possible to describe every shortcoming in detail. Furthermore, we find it useful that several chapters of the report also contain specific examples of identified irregularities related to the underlying transactions.

IRL	• Ireland welcomes the ECA 2011 annual report.
	• In relation to policy group which includes Cohesion Policy, Ireland welcomes the fall in the error rate and the fact that the level of error remains well below those reported by the Court in the period 2006-2008. Ireland continues to consider that this is a positive development and a reflection that the provisions in the 2007-13 regulatory framework are working.
	• The issue of interpretation of procurement rules continues to be a significant factor in contributing to the error rate and Ireland would welcome greater clarity on their application to EU Cohesion programme implementation.
	• Ireland will continue to work in partnership with the Commission services and the ECA to ensure sound financial management of EU Funds.
IT	
LV	
LITH	
LUX	
MT	
NL	
PL	The most likely error rate in total payments, estimated by the Court, in 2011 (3.9%) remained at the same level as in 2010 (3.7%). Given that during this period there was an increase in payments by EUR 7 164 million (5.85%) from EUR 122 231 million to EUR 129 395 million, it should be viewed positively. According to the Court, the largest increase in the likely error rate in payments for 2011 compared to 2010 occurred in the former group of policies (1) Agriculture and Natural Resources (Agriculture: Market Support and Direct Aid as well as Rural Development, Environment, Fisheries and Health) and in the group of policies (2) Research and Other Internal Policies. In the opinion of the Commission, the increase in relation to the previous year under the sub-group of policies Agriculture: Market Support and Direct Aid is still within the standard range of statistical changes from year to year and does not demonstrate that the general quality in expenditure management and control by Member States has deteriorated. However, under the sub-group of policies Rural Development, Environment, Fisheries and Health, the Commission reports the deterioration of situation, but to a more limited extent than it was stated by the Court. In the context of the group of policies Research and Other Internal Policies, the Commission is of the opinion that its management and control systems provide reasonable assurance (taking into account the reservations) of maintaining a balance between the

	objectives of legality and correctness, and issues concerning the ratio of risk and proportionality and control profitability. It should be noted that the most likely error rate, estimated by the Court, under the former group of policies Cohesion, Energy and Transport (Regional Policy, Energy and Transport and Employment and Social Affairs), whose funds are used by Poland the most, has decreased. Poland will continue to participate actively in the debate on the acceptable error rates in spending EU funds, but above all, it will continue to endeavour to ensure that the funds spent in our country are free from defaults
PT	
RO	
SK	No department submitted any comments on the ECA Annual Report for budget year 2011.
SL	

ES	We would highlight the following aspects of the Court's findings: • The findings include an uneven distribution of errors by type of project. Thus, a simple analysis of the operations controlled shows that the largest error rates are detected by the Court in those involving the lowest amounts, whereas the error rate of those relating to the highest amounts is virtually zero. There is no evidence that the Court has taken this fact into account in its analysis. The result is an extrapolation of the error rate of the small projects to the whole of the aid received, regardless of the project type or size or of the body responsible for managing them. In our view, this method of extrapolating results means that the resulting error rate cannot give an accurate indication of how well Community funds are managed by the managing bodies. • In some cases, the Court's findings do not relate to manifest non-compliance with a rule but rather are based on interpretations of the audit team without providing a clear legal basis in support of these findings. • In any case, as regards the ERDF and Cohesion Fund, the Court of Auditors should review the criteria for quantifying the financial consequences of the errors and, in any case, apply the principle of proportionality laid down in Article 99 of Council Regulation (EC) 1083/2006 of 11 July 2006. • In the case of Agriculture, the error percentage has increased, due mainly to non-respect of cross compliance (good agricultural and ecological practices). To avoid this non-respect in future, the rules and conditions would have to be simplified and clarified in order to facilitate work in the first-level audit and reduce the audit team's margin for interpretation as far as possible.
SW	
UK	BIS: We have commented previously on the Annex II list of ECA audits which does not identify which programme is involved. Unless the ECA identify the CCI No of the programmes concerned, this section would be ignored. BIS and HM Treasury do NOT receive copies of ECA audit letters or reports so we are not in a position to know which of our programmes are audited. Regarding the actual report, BIS feels that the separation of ESF from ERDF and Cohesion Fund is unhelpful and counter-productive – Energy and Transport should be separated from Cohesion policy and ESF returned to that Chapter. The artificial split in the 2011 report does not highlight the reduction in error rates in Cohesion Policy (Structural and Cohesion Funds) in 2011. RPA: The UK are disappointed to see the ECA's conclusion that the Commission's 'residual error rate' is not yet a reliable indicator

of the extent to which transactions remain affected by error after the operation of supervisory and control systems. The Commission must be able to assess the residual error rate accurately if it is going to be able to tackle the problem effectively.

The UK call on DG AGRI to work urgently with the ECA, other parts of the Commission and Member States to agree a robust methodology for measuring the legality and regularity of expenditure, after the application of controls to claims, so that certification bodies can use this in their annual audits.

The UK agrees with the ECA and DG AGRI that it is essential that rural development programmes after 2013 are simple to implement and administer, so that error rates are reduced. Regulatory requirements must help rather than hinder Member States to simplify the implementation of their programmes as envisaged by Article 9 of the Rural Development Regulation. Careful consideration also needs to be given to the timetable for implementation.

The UK believe that Member States should also be able to simplify their administrative processes and reduce the burden on claimants to ensure that their rural development measures are “verifiable and controllable” under Article 69.

Whilst the error rate for expenditure on market measures and direct support is lower than that for rural development, it is still above the materiality threshold. The error rate on Pillar 1 could rise significantly above the current 2.9% if additional administrative complexity is introduced due to measures such as greening and the active farmer test. Action is therefore needed to ensure that control requirements are as simple as possible across the whole of the CAP.

The UK note that the ECA provided an opinion (No. 1/2012) on the CAP reform proposals. It would be useful to have a further assessment from ECA next year as to whether the reform is likely to reduce future error rates.

DCLG: Table 5.2: The ECA did not consult either the Managing Authority (DCLG) or the Audit Authority (DCLG) or DG Regio before making these wholly inaccurate statements. In a letter to DG Regio dated December 2012 they have now admitted that the removal of unrepresentative errors and the reduction of the residual error rate was justified.

The ECA should now withdraw the references to Merseyside and West Midlands programmes and republish table 5.2.