



# EUROPEAN COURT OF AUDITORS

AUDITING THE FINANCES OF THE EUROPEAN UNION





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# **EUROPEAN COURT OF AUDITORS**

AUDITING THE FINANCES OF THE EUROPEAN UNION

## Notice to the reader:

This brochure was produced by the External Relations Department of the European Court of Auditors purely for information purposes. It is not, therefore, in any sense an official interpretation of the functions conferred upon the Court by the Treaties.

For practical reasons, only the provisions of the Treaty establishing the European Community (EC) have been cited. Similar provisions exist in the Treaties establishing the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (EAEC).

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# AUDITING THE MANAGEMENT OF PUBLIC FUNDS

*'... the specific objectives of auditing [are] the proper and effective use of public funds; the development of sound financial management; the orderly execution of administrative activities; and the communication of information to public authorities and the public through the publication of objective reports...'*<sup>1</sup>

The above definition sums up the function of auditing very well, namely to examine the acts of those responsible for management, with the double aim of improving results and accounting to the taxpayer for the managing authorities' use of public funds.

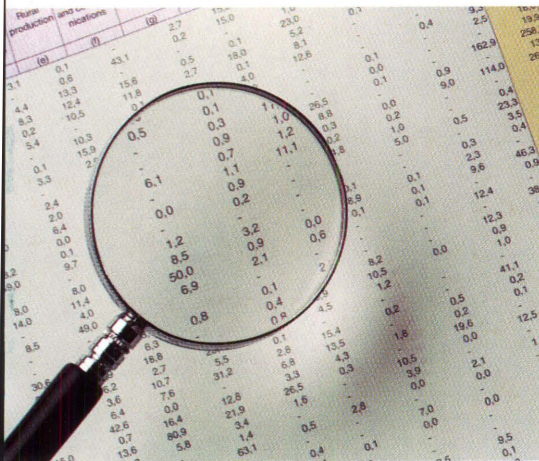
Under the constitutional systems of modern States the auditing function is generally considered to be one of the elements which ensure that the activities of the public sector are conducted democratically. Within the organizational framework of public-sector financial management, it normally takes two separate but complementary forms, known respectively as internal control and external auditing.

generally the case in the Community system, its role is to verify in advance the legality of each item of revenue or expenditure and provide the management authority with an assurance that measures concerning, in particular, the safeguarding of the assets and the regularity of the accounting are adequate. The fact that such controls have been carried out is usually indicated by some form of signature and the check itself is normally the final stage provided for in the management systems before the operations in question are carried out.<sup>2</sup>

External auditing, on the other hand, implies the existence of a body which is entirely separate from and independent of the authority responsible for management. The institution in question is usually responsible for the whole public sector and its activities include comprehensive audits, which usually combine auditing the accounts and examining the legality of revenue and expenditure with consideration of the soundness of the management. This type of auditing may be termed 'global', because its ultimate aim is, firstly, to provide an assurance as to the transparency and reliability of public accounts and the legality of the operations carried out and, secondly, to evaluate the results achieved in relation

## INTERNAL CONTROL AND EXTERNAL AUDITING

In the context of the separation of powers that normally characterizes the implementation of national budgets (the management of funds is kept separate from the monitoring of their utilization), internal control is carried out independently, *ex ante* or *ex post*, within the body responsible for management. When it is carried out *ex ante*, as is



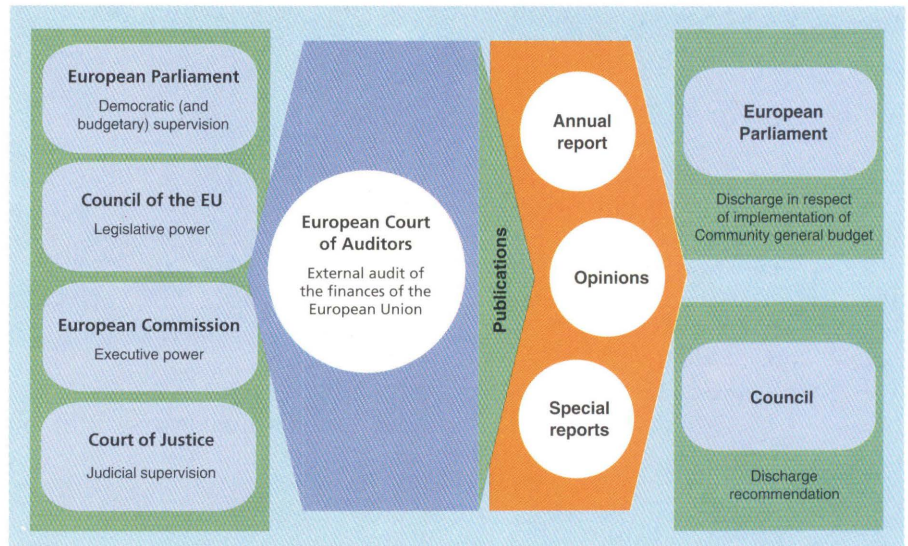
to the objectives targeted and the resources employed.

In principle, these two types of control are complementary: the external audit looks at the results of internal control checks and carries out a broad evaluation, using this as a starting-point for more thorough checks and thus avoiding unnecessary duplication, if internal control is found to be functioning satisfactorily.

This type of public finance review gives the external auditors an overview of the situation, enabling them to situate the various failings and shortcomings found in a global context and to identify the underlying management system weaknesses that give rise to them.

It is not the function of an external auditor to make judgments of a political nature on the policies that managing authorities intend to pursue. His task is to comment on the implementation and concrete results of these policies and to call for any changes that may be deemed necessary by indicating where and why they should be made. In accordance with the principle of the separation of powers, the external auditor will then leave it to the authorities responsible for management of public funds to establish how to make them.

In conclusion, auditing in its broadest sense does not only involve uncovering shortcomings or devising sanctions; it



is primarily an efficient way of improving management and hence of improving the results it is intended to achieve.

<sup>1</sup> From the 'Lima Declaration', a document on the fundamental principles of auditing adopted by the International Organization of Supreme Audit Institutions (Intosai) at the Lima Congress, which was held in October 1977.

<sup>2</sup> Under the Community system, internal control is not confined to checks as to legality/regularity but also includes compliance with the principles of sound financial management.

# WHY IS A EUROPEAN COURT OF AUDITORS NEEDED?

The observations made in the preceding chapter point to the conclusion that external auditing is a necessary corollary of the management of public funds, especially where the amounts involved are very high.

The existence of an autonomous European Union budget, separate from that of the Member States, and the fact that this budget is managed independently by the European institutions are two arguments in favour of the creation of a specific external institution with specific responsibility for the audit of Community revenue and expenditure.

## THE DEVELOPMENT OF THE EUROPEAN UNION'S PUBLIC FINANCES

The creation of a European Court of Auditors<sup>1</sup> coincided with two particularly important events — the extension of the European Parliament's powers in the field of budgetary control and the use of own resources to finance the whole of the European Union budget.

With regard to the first of these points, it should be noted that the Treaty which created the Court of Auditors

also invested the European Parliament with the power of granting discharge to the Commission in respect of the implementation of the budget, which is the latter's responsibility.<sup>2</sup>

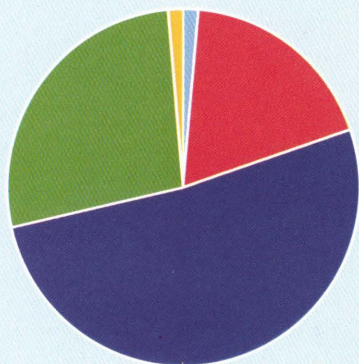
A further resource, the VAT own resource, based on the application of a uniform rate to the Member States' VAT assessment bases, was added to the existing own resources (customs










### Own resources 1995

(Mio ECU)



Total: 75 438 of which

	Sugar and isoglucose 1 017.6
	Customs duties 12 942.1
	VAT 39 894
	GNP 15 444
	Agricultural levies 946.2

duties and agricultural levies). The VAT resource was planned for 1975, but did not actually make its appearance until several years later, and was then followed by a fourth own resource based on GNP.

### A FULLER AND BROADER FORM OF CONTROL

In parallel with the increase in own resources and the granting to the European Parliament of the power to grant discharge for the implementation of the budget, it became essential to make a qualitative change in the external audit of the latter, which had hitherto been carried out by an audit board (for the general budget) and an auditor-general (for the budget of the European Coal and Steel Community (ECSC)).

At the functional and structural levels, it became necessary to create an independent organization with adequate resources. At the initiative of Mr H. Aigner, President of the European Parliament's Budgetary Control Committee, who since 1973 had strongly argued the case for a Community-level audit body, the European Court of Auditors was established by the Treaty of Brussels of 22 July 1975. Having become operational in October 1977, the European Court of Auditors was promoted to the rank of a Community institution on 1 November 1993 with

the entry into force of the Maastricht Treaty. As regards audit powers, this body was granted the right to organize its own audits independently and to extend them explicitly to include the field of sound financial management (which is not yet the case for some of the national audit institutions (NAIs)).

The object of all these provisions was to ensure that the ever-growing Community resources would be subjected to a level of control that was at least the equivalent of that provided by the NAIs with regard to the budgets of their countries. At the same time, there was a need for the body in question to be able to use its audit work as the basis for proposals to encourage the institution responsible for management (the Commission), and, to a similar extent, the legislative authority (the Council of the European Union and the European Parliament)<sup>3</sup> to make the necessary improvements.

In short, the creation of the European Court of Auditors illustrated the Community's need for a 'financial conscience', as Mr H. Kutscher, the then President of the Court of Justice, defined it at the time of its inauguration in October 1977.

<sup>1</sup> The Treaty of Brussels was signed on 22 July 1975 and the Court of Auditors took up its duties at the end of 1977.

<sup>2</sup> See Articles 205 and 206 of the EC Treaty, which are quoted in Annex 1.

<sup>3</sup> The Treaty on European Union, which entered into force on 1 November 1993, granted legislative powers to the European Parliament.

# THE STRUCTURE OF THE EUROPEAN COURT OF AUDITORS

## THE MEMBERS

The European Court of Auditors is organized and functions in accordance with the principle of collective responsibility. The EC Treaty states that there are to be 15 Members of the Court.<sup>1</sup> The Members are appointed for a (renewable) term of six years by the Council of the European Union, acting unanimously after consulting the European Parliament.<sup>2</sup>

As for the principles governing the appointment of the Members, the EC Treaty specifically mentions three criteria:

ria: they must be qualified and independent and they must work full time at the Court.

In fact, the Members of the Court of Auditors are chosen from among persons who belong or have belonged to external audit bodies in their respective countries, or who are especially qualified for this office.<sup>3</sup>

They must be completely independent, and, in the performance of their duties, they may neither seek nor take instructions from any government or any other body. They must also refrain from

any action that is incompatible with their duties.<sup>4</sup>

During their term of office, the Members of the Court of Auditors may not engage in any other occupation, whether gainful or not.<sup>5</sup>

## THE PRESIDENT

The President of the European Court of Auditors is elected by the Members for a term of three years and may be re-elected. His role is that of a *primus inter*

List of Presidents of the Court since its foundation in 1977

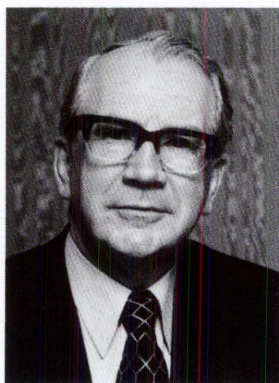
Sir Norman Price (UK)

Senior Member — 18.10.1977-10.11.1977



Michael Murphy (IRL)

11.11.1977-17.10.1981



Pierre Lelong (F)

18.10.1981-17.10.1984



*pares* and he ensures that the various departments of the Court operate smoothly and that the institution discharges its duties correctly. He is also its representative in its external relations, especially with the other European institutions and the NAIs.

## THE COURT'S INTERNAL ORGANIZATION

The European Court of Auditors enjoys organizational autonomy and has adopted its own rules of procedure. Its audit functions are carried out by audit groups which divide up the various auditing sectors among the members in each group and, first and foremost, are responsible for the groundwork for the Court's subsequent deliberations.



Each Member of the Court, except for the President and the two Members responsible for the ADAR audit (development and reports) sector and, the SOA (statement of assurance) sector respectively, is also appointed counter-rapporteur for an audit sector other

than his own. The counter-rapporteur's brief is to deliver an opinion on the audit planning memorandum, the draft chapters for the annual report and the draft observations or opinions that the rapporteur intends to submit to his audit group and to the Court.

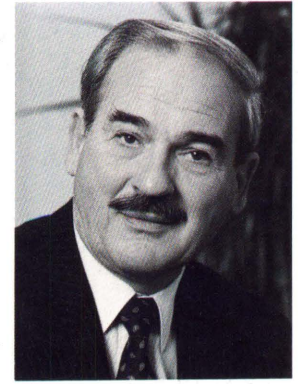
Marcel Mart (L)  
18.10.1984-8.1.1990

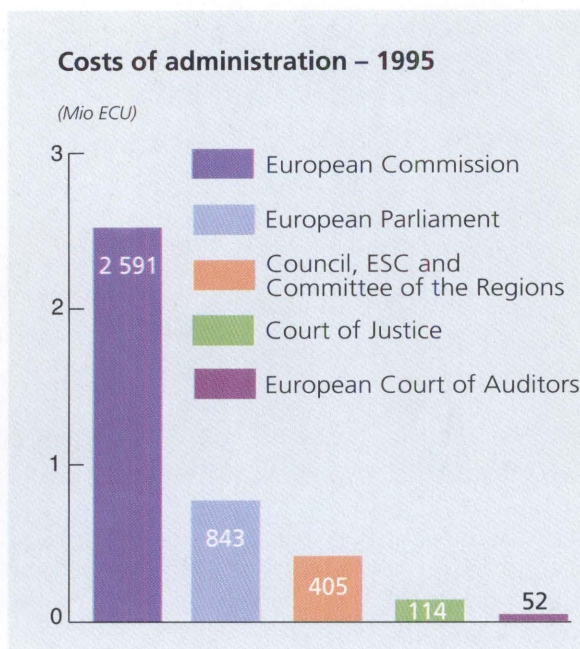
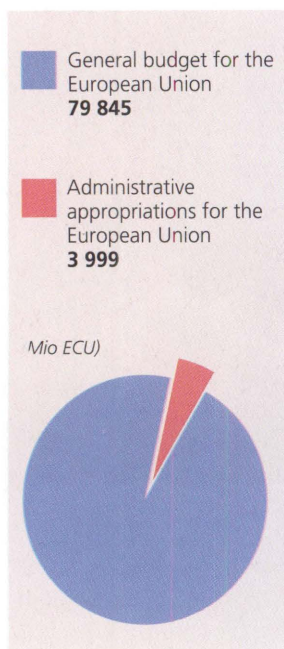


Aldo Angioi (I)  
9.1.1990-20.12.1992



André Middelhoek (NL)  
21.12.1992-20.12.1995





stitutions as a whole (or 0.06% of the general budget total).

External audits of the utilization of these appropriations are carried out by the same members of the Court's staff who are responsible for auditing the administrative expenditure of all the institutions. These audits may give rise to the publication of observations in the Court's annual report.

In order to guarantee the greatest possible transparency in the implementation of the European Court of Auditors' section of the budget, a further audit is carried out every year by a private firm of accountants. The results of this audit are forwarded to the European Parliament and are published in the *Official Journal of the European Communities*.<sup>6</sup>

The fact that the Court is collectively responsible for its actions means that the individual Members are answerable to it for the activities of their sectors and, more especially, that the Court as a whole decides how the observations that emerge from its audits are to be followed up and is thus responsible for adopting its annual reports, special reports and opinions.

Taking into account all categories of staff (both permanent and temporary posts), the Court's establishment comprises approximately 500 people. As is the case for all European institutions, staff distribution takes account of the

multilingual context of the Court's work.

The seat of the European Court of Auditors is in Luxembourg.

## THE ADMINISTRATIVE BUDGET

In 1995, the appropriations in the European Court of Auditors' section of the general budget of the European Union (which are managed directly by the Court itself) amounted to ECU 52.1 million, or about 1.3% of the administrative expenditure of the European in-

<sup>1</sup> See Article 188b(1) of the EC Treaty, which is quoted in Annex 1. There is one Member for each Member State of the European Union. The European Council meeting at Brussels on 10 and 11 December 1993 confirmed this principle and decided that in future the number of Members of the Court would increase in line with the accession of new Member States to the European Union.

<sup>2</sup> See Article 188b(3) of the EC Treaty, which is quoted in Annex 1. In Resolution A3-0345/92 of 17 November 1992 (OJ C 337, 1992, p. 51), the Parliament laid down the procedures, principles and criteria for giving its opinion on this subject.

<sup>3</sup> See Article 188b(2) of the EC Treaty, which is quoted in Annex 1.

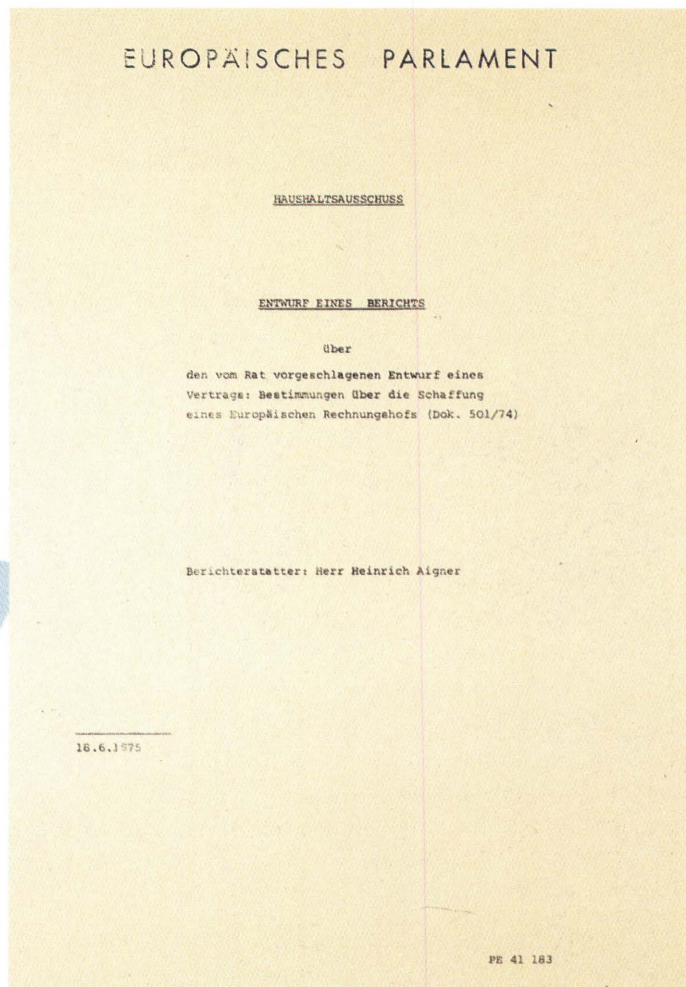
<sup>4</sup> See also Article 188b(2) and (4) of the EC Treaty, which is quoted in Annex 1.

<sup>5</sup> See Article 188b(5) of the EC Treaty, which is quoted in Annex 1.

<sup>6</sup> The first audit results to be so published concerned the accounts for the financial year 1992 (see OJ C 274, 12.10.1993, p. 7).



The rapporteur:  
Mr Heinrich Aigner,  
President of the Committee on Budgetary Control



Facsimile of the first page of the draft report  
of the European Parliament on the draft Treaty  
establishing a European Court of Auditors

# THE ROLE OF THE EUROPEAN COURT OF AUDITORS IN THE INSTITUTIONAL FRAMEWORK OF THE EUROPEAN UNION

Alongside the European Parliament, the Council of the European Union, the Commission and the Court of Justice, the European Court of Auditors carries out its control and consultative func-

tions independently and autonomously. It is free to organize its own work, and, in particular, to plan its own auditing activities, to decide when and how to present its observations and to

establish the extent of publicity to be given to its special reports and opinions.



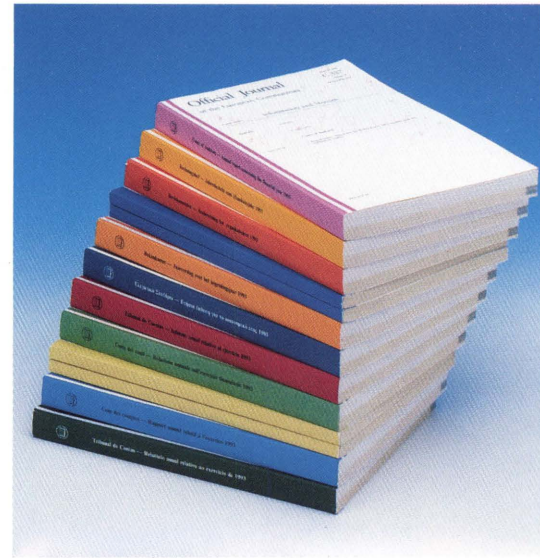
The Treaty on European Union, which came into force on 1 November 1993, enhanced the Court's authority and strengthened its position of independence by raising it to the rank of a Community institution. The Court's new status gives it access to the various forms of legal redress that are available to the institutions and has thus reinforced the safeguards which ensure that it is able to perform effectively.

### **THE EUROPEAN UNION'S 'FINANCIAL CONSCIENCE'**

The Court of Auditors' main task is to monitor the European Union's finances and point out areas where the management needs to be improved.

The EC Treaty stipulates that the Court of Auditors is to assist the European Parliament and the Council of the European Union in exercising their powers of control over the implementation of the budget and, more generally, that it may, at any time, submit observations on specific questions and deliver opinions at the request of one of the European institutions.<sup>1</sup>

The Court's task of assisting the European Parliament and the Council of the European Union is carried out mainly within the procedure for the discharge in respect of the implementation of the budget, which provides the Court with



the most appropriate opportunity to present the observations contained in its annual report<sup>2</sup> for the previous financial year to the competent authorities. Immediately after its adoption, in November each year, the President of the Court presents the report to the European Parliament. It is the key factor in the Parliament's decision on whether to grant discharge to the Commission.<sup>3</sup>

The Court normally exercises its right to submit observations on specific questions by way of special reports,<sup>4</sup> which record the audit results obtained, usually over several financial years, in specific management areas. These reports are also taken into consideration as part of the discharge procedure.



The other Community institutions may also request the Court to deliver opinions<sup>5</sup> on particular questions. The opinion of the European Court of Auditors is also an obligatory requirement for the adoption of any legislation that is financial in nature, especially legislation concerning financial regulations and the making available of own resources.<sup>6</sup>

The Treaty on European Union has added a new and vital element to the European Court of Auditors' tasks. It is now required to provide the Council of the European Union and the European Parliament with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions and revenue received and payments to final beneficiaries, in particular.<sup>7</sup> It is designed to attest to the regularity of the use that is made of the Union's finances, by giving a general assurance as to the degree to which the European taxpayers' money has been used in the intended place and for the intended objectives. These provisions have thus further enhanced the formal status of the opinion which the European Court of Auditors is required to provide concerning the implementation of the Union's budget.

## **A PROCEDURE WHICH TAKES ACCOUNT OF THE AUDITEE'S REPLIES**

The observations which the Court of Auditors publishes in its annual and special reports are accompanied by the replies to them that it has received from the Commission and the other institutions concerned. As soon as the initial findings are known, the institutions that have been audited are, in fact, given the opportunity to justify their management and formulate such counter-arguments as they feel to be necessary. The Court then takes them into account before it adopts the final observations.

<sup>1</sup> See Article 188c(4) of the EC Treaty, which is quoted in Annex 1.

<sup>2</sup> The report is published in the *Official Journal of the European Communities*. It also contains, for the record, a list of the reports and opinions adopted by the Court during the previous five years.

<sup>3</sup> See Article 206 of the EC Treaty and Article 89 of the Financial Regulation, which are quoted in Annexes 1 and 2.

<sup>4</sup> These documents are normally published in the *Official Journal of the European Communities*.

<sup>5</sup> See Article 188c(4) of the EC Treaty, which is quoted in Annex 1. The Court's opinion is communicated only to the institution which requested it. The Court does not publish these opinions.

<sup>6</sup> See Article 209 of the EC Treaty, which is quoted in Annex 1. These opinions are published in the *Official Journal of the European Communities*.

<sup>7</sup> See Article 188c(1) of the EC Treaty, which is quoted in Annex 1.





## REVENUE AND EXPENDITURE SUBJECT TO SCRUTINY BY THE EUROPEAN COURT OF AUDITORS

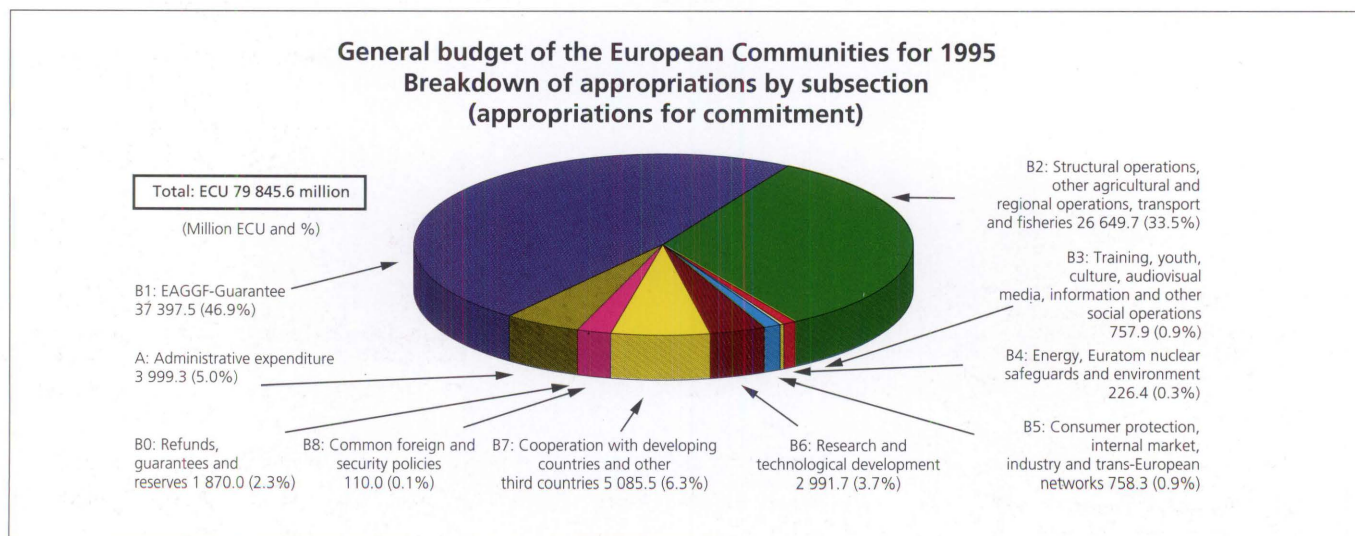
The European Court of Auditors examines the revenue and expenditure of the Communities and of all bodies set up by them, in so far as the relevant constituent instrument does not preclude such examination.<sup>1</sup>

The Court therefore audits not only the general budget of the Union, but also Community loans and borrowings, the revenue and expenditure entered in the ECSC budget, as well as the revenue and expenditure of the European

Development Funds (EDFs), the European Centre for the Development of Vocational Training (Cedefop), the European Foundation for the Improvement of Living and Working Conditions, the Euratom Supply Agency, the Joint European Torus research undertaking, the European Schools and certain other bodies.

The Agreement concerning the creation of the European Economic Area (EEA)<sup>2</sup> was concluded between the

Member States of the European Union, on the one hand, and six member States of EFTA. Three of them, Iceland, Norway and Liechtenstein, are still EFTA members. Austria, Finland and Sweden, on the other hand, have joined the Union. The Agreement provides for the latter to participate in various areas of Community activity and accordingly make financial contributions to the Union budget. As regards the question of auditing this additional revenue and expenditure,



the Agreement provides that the European Court of Auditors is to retain the audit powers which it enjoys with regard to the implementation of the general budget.<sup>3</sup>

Overall Community lending and borrowing activities, particularly in the fields of the European Coal and Steel Community (ECSC), the New Community Instrument (NCI), measures in support of Member State balances of payments, the European Atomic Energy Community (Euratom) and measures in support of the countries of Central and Eastern Europe, amount in 1995 to a total of approximately ECU 29 000 million.

To this should be added the appropriations allocated to the European Development Funds which represent an overall allocation of ECU 10 950 million for the period 1991-95 (seventh EDF).

Other appropriations that are subject to audit by the European Court of Auditors are shown in the following table:

(million ECU)<sup>4</sup>

Description	Planned expenditure, 1995 <sup>5</sup>
General budget of the European Union <sup>6</sup>	75 438
Budget of the European Coal and Steel Community	291
European Schools <sup>7</sup>	140
Joint European Torus <sup>7</sup>	88.1
European Centre for the Development of Vocational Training <sup>7</sup>	10.1
European Foundation for the Improvement of Living and Working Conditions <sup>7</sup>	13.5

The general budget of the Union, which is the largest item, is made up as follows (1995 figures):

(million ECU)

Revenue	VAT resource	%	GNP resource	%	Customs duties and agricultural levies	%	Sundry	%
75 438, of which:	39 894	53	15 444	20	14 905	19.8	5 194	6.8

<sup>1</sup> See Article 188c(1) of the EC Treaty, which is quoted in Annex 1.  
<sup>2</sup> The Agreement came into force on 1 January 1994.  
<sup>3</sup> See Article 7 of Protocol 32 to the Agreement, which is quoted in Annex 3.  
<sup>4</sup> ECU 1 = approximately BFR/LFR 40 or FF 6.6.  
<sup>5</sup> In payment appropriations.  
<sup>6</sup> See the general budget of the European Union for the financial year 1995.  
<sup>7</sup> The budgets of these bodies are largely financed from the general budget.  
<sup>8</sup> In payment appropriations.

Expenditure <sup>8</sup>	EAGGF Guarantee Section	%	Structural measures	%	Internal policies	%	External policies	%	Sundry	%
75 438, of which:	37 394	49.5	23 480	31.1	4 497	5.9	4 197	5.5	5 870	7.8

The volume of revenue and expenditure subject to audit by the European Court of Auditors represents approximately 4 to 5% of the total budgets of all the Member States.



# THE AUDIT OF THE ACCOUNTS AND THE EXAMINATION OF LEGALITY AND REGULARITY AND THE SOUNDNESS OF THE FINANCIAL MANAGEMENT

## THE EUROPEAN COURT OF AUDITORS' AUDITING POWERS

In accordance with the provisions of the EC Treaty, the audits carried out by the European Court of Auditors are based on records and may, if necessary, be performed on the spot in the other European institutions and the Member States. The documents and information which the Court needs to carry out its task are forwarded to it, at its request, by the other European institutions, the NAIs and the competent national departments.<sup>1</sup> This includes, in particular, access to accounting and administrative documents — including data held on the computer systems of the Commission and the Member States — in connection with operations under the Union budget.<sup>2</sup>

## THE NATURE OF THE COURT'S AUDITING RESPONSIBILITIES

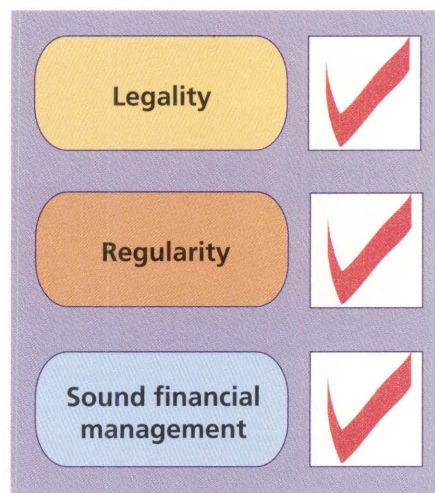
In accordance with the provisions of the EC Treaty, the European Court of Auditors examines the accounts of

Community revenue and expenditure and considers whether the revenue has been received and the expenditure incurred in a lawful and regular manner and whether the financial management has been sound.<sup>3</sup>

The purpose of the examination of the accounts is to check that the amounts due to and owed by the Union have been duly established, recorded, entered in the accounts and, respectively, recovered or paid, and to verify that the operations carried out have been backed up with supporting documents and that the available information is sufficient to enable the management and control authorities to carry out their respective tasks to the full.

The accounting system must conform to generally accepted standards and, in particular, must incorporate measures and procedures which ensure that all transactions are recorded, the assets are safeguarded and there is provision for preventing and detecting fraud.

The Court's examination as to legality and regularity, on the other hand, is based first and foremost on checking



whether individual acts of assessment and payment of revenue, and, in parallel with these, individual commitment and payment operations, have been carried out in compliance with the relevant legal provisions (sectoral regulations, conventions, mandates, agreements and contracts). The audit of legality — which is one of the fundamental elements of the Court's remit — also includes a review of the management as a whole. It therefore includes not only an assessment of the extent to which revenue and expendi-

ture conform to the underlying legislation, but also checks as to their legality in relation to the Treaty and secondary legislation (the budget and the budget nomenclature, the Financial Regulation and internal management rules).

As for the question of establishing whether the financial management is sound, it is possible to identify certain general aspects of the question; traditionally it seeks to establish whether, to what extent and at what cost management objectives have been attained. For example, the European Court of Auditors has already had occasion to explain that the mere availability of commitments under a budget heading can never constitute proper justification for the use of those commitments if the principles of sound financial management have not been taken into account.<sup>4</sup>

An analysis of this type must be based on a thorough investigation and evaluation of the internal mechanisms and systems that govern the revenue and expenditure in question and must also take into account their nature and individual characteristics. This implies an analysis of various types of data and information, according to the sector under investigation: data that are both internal and external to the administration or organization in question, macroeconomic data and comparative studies of other management systems.

'The money broker and his wife' by Quentin Massys (1514): the handling and control of money has inspired many painters over the centuries.



Rather than seeking to impose his own judgmental criteria, the auditor must try to ascertain the extent to which the managing authority has equipped itself with resources and taken steps which are appropriate to the attainment of the predefined objectives.

In practice, the auditor must examine a significant number of operations and gradually arrive at a judgment, which must be as objective as possible, which will enable him to express an opinion as to whether the system that has been implemented is likely to lead to the results that it was meant to achieve. It is also part of his task to uncover any shortcomings and obstacles that stand in the way of the achievement of the best possible result, by pointing out, for example, the inadequacy of the resources with respect to the objectives, the existence of weak points in the system and any conflict with the objectives of other policies. In this way, the management authority is able to acquire precious information which will enable it to make the necessary corrections.

<sup>1</sup> See Article 188c(3) of the EC Treaty, which is quoted in Annex 1.

<sup>2</sup> As regards the making available to the Court of documents held by the institutions, see Article 87, fifth paragraph, of the Financial Regulation of 21 December 1977 (quoted in Annex 2), which states that the grant of Community funds to beneficiaries outside the institutions is subject to the agreement in writing by the beneficiaries to an audit of the utilization of the amounts granted being carried out by the Court of Auditors.

<sup>3</sup> See Article 188c(1) and (2) of the EC Treaty, which are quoted in Annex 1.

<sup>4</sup> See paragraph 0.8 of the annual report concerning the financial year 1990 (OJ C 324, 13.12.1991, p. 6). Article 2 of the Financial Regulation of 21 December 1977 states that the budget appropriations must be used in accordance with the principles of sound financial management, and, in particular, those of economy and cost-effectiveness. Quantified objectives must be identified and the progress of their realization monitored.

# THE PROCEDURES AND TIMETABLE FOR THE COURT'S AUDITS

## THE COURT'S AUDITING METHOD

Since 1977, the Court of Auditors has held that the limited means at its disposal do not enable it to investigate all operations. Furthermore, it would not even be desirable to check every transaction because the cost would outweigh the benefits. The Court has therefore adopted a systems-based audit approach, except where other methods seem more appropriate.

Systems-based auditing is based on the idea that every organization must create its own internal control mechanism or, in other words, a structure, along with manual or computerized procedures, that is able to guarantee that the system is functioning properly and that the transactions involved are legal. If the systems and procedures used for internal control appear to be valid, the auditor will identify and examine their essential features, which enables him to limit the number of samples that needs to be taken before he can arrive at a conclusion. These tests include compliance tests (to check that the system's fundamental procedures are operational), analytical review procedures (comparisons between various types of data) and substantive tests (to check



whether there is anything missing from the accounts or whether they contain evidence of any significant errors).

The Court has chosen the same method with regard to the question of sound financial management auditing.

In this field, however, systems-based auditing not only consists of verifying how management information is produced and checked but also extends to assessing the procedures underlying decisions. Thus, checks are made on





decision-making, planning, implementation and control procedures.

Where both financial and financial management audits are to be carried out at the same time, the Court holds that it is logical and efficient to carry out a comprehensive audit combining both types of investigation.

There is an internal controller to investigate the control systems and procedures applied within the Court of Auditors itself.

### **THE ADVANTAGES OF SYSTEMS-BASED AUDITS OF INTERNAL CONTROL**

This method offers two main advantages:

(i) The way in which the managers discharge their responsibility and account for their management is also included in the audit, thus enabling the Court to acquire information by means of which it can assess their options and deci-

sions. Systems-based auditing makes it possible to establish a link between individual errors and the inadequacies in the system that caused them or allowed them to be made. This sort of investigation makes it possible to give an overall assessment of the probable consequences of shortcomings in internal control and make constructive suggestions for corrective measures for the future.

(ii) Despite its relatively meagre resources, the Court of Auditors is able



in this way to audit a wide area of activities with a greater degree of efficiency than would be possible with a methodology based on isolated samples.

## CONSTANT MONITORING

The Court of Auditors' audits may be carried out before the closure of accounts for the financial year in question.<sup>1</sup> The audits thus take place during the financial year and may begin as soon as the event giving rise to the revenue or expenditure in question has occurred. It should also be remembered that it is even possible for the Court, at any time, to submit observations on specific questions on the basis of these audits.<sup>2</sup> The result of this is that management and monitoring are carried out with a greater degree of simultaneity than would otherwise be possible.

It should also be stressed that the Court's auditing activity is continuous and thus goes beyond the limits of any given financial year. In particular, this occurs, as is the case with infrastructure investments, where the financing and implementation of Community operations are spread out over a period of several years. The result of this is that the Court's checks must take into account the state of progress of the operations in question and will inevitably cover more than one financial year.



In more general terms, the Court's audits are more a starting-point than an end in themselves: previous audits form the basis for later checks, further investigations and horizontal audits regarding several sectors and national administrations. The result of this is that the Court's control function is, in fact, constant and continuous.

The independent character of the Court of Auditors is directly expressed not only by the fact that it decides autonomously on when and how to carry out its audits, but also by the fact that it can do so both at the European institutions, on the basis of documentary material, and by means of on-the-spot investigations at the actual place of origin of the item of revenue or expenditure in question. In general, audits involve both of these to a greater or lesser extent according to the nature of the checks being made.

## **A WORLDWIDE AUDITING ACTIVITY**

Although the auditing activities of the European Court of Auditors are directed principally at the Commission, and are therefore concerned chiefly with revenue and expenditure for which the latter is responsible, it should not be forgotten that the Union delegates a large proportion of the management of Community policies to

national authorities (corresponding currently to almost 90% of Community revenue and expenditure). The implication of this is that the European Court of Auditors cannot limit its audit activities to the European institutions but must also examine the numerous bodies and national administrations that play a role, at every level, in the collection of Community revenue and the implementation of Community expenditure.

However, despite the wide scope of this field of activity, it does not cover the whole of the Court's role, because the European Court of Auditors also monitors activity outside the geographical boundaries of the European Union. Examples of this are the measures provided for by cooperation agreements between the European Union and numerous developing countries (African, Caribbean, non-Community Mediterranean, Latin American and Asian countries, in particular) or Community aid to Central and Eastern Europe. The Court's brief also includes the effects that the activities of the authorities of non-member States may have on customs revenue and import levies (e.g. the preparation of documents certifying the place of origin of merchandise) and also on the exportation of Community agricultural produce to non-member States in receipt of Community aid.

In practice, given the fact that it examines the ultimate transactions that gen-

erate Community revenue and expenditure, the Court actually carries out its checks throughout the world, even though the bulk of its work is obviously carried out within the European Union.

## **COOPERATION WITH THE NATIONAL AUDIT INSTITUTIONS**

The Treaty lays down that the Court of Auditors is to carry out its audits in liaison with the national audit bodies or, if these do not have the necessary powers, with the competent national departments.

The objective of this provision is to establish a functional link between the European Court of Auditors and the national audit institutions. The latter are entitled to participate in the Court's audits and constitute an essential point of reference, given the human resources available to them,<sup>3</sup> for the information available from their own checks, and for their knowledge — which is indispensable for any auditor — of the legislation and the workings of the administration of their own countries.

The increasing decentralization of Community management towards the national authorities is gradually shifting the centre of gravity of the Court's audits towards the Member States. Thus, cooperation between the Court

of Auditors and the Member States is becoming less of a legal obligation and more a necessity dictated by the fact that Community and national management competences have become intimately linked. This form of management makes it virtually impossible to carry out an adequate audit except by means of a horizontal approach that integrates and coordinates the resources of both the national audit institutions and the Community. In this way, fruitful relationships have developed between the national audit institutions and the Court of Auditors which have already resulted in the carrying-out of joint audits.

It should be added that the Court of Auditors is also in contact with numerous audit institutions outside the European Union. In particular, it participates in the work of Intosai, the International Organization of Supreme Audit Institutions and Eurosaï, its European equivalent, which the Court helped to found.



<sup>1</sup> See also the fourth subparagraph of Article 188c(2) of the EC Treaty, which is quoted in Annex 1.

<sup>2</sup> See also the second subparagraph of Article 188c(4) of the EC Treaty, which is quoted in Annex 1.

<sup>3</sup> In all, the Member State NAIs employ a total number of auditors which is more than 20 times greater than the Court's auditing staff.



## THE COURT'S WORK PROGRAMME

The areas of management that are to be subjected to a detailed and rigorous analysis are listed in the work programme that the Court adopts, each year for the next, on the basis of a periodically updated multiannual work programme. The Court's work programme is drafted on the basis of various criteria, including, for example, the representativeness and/or financial significance of the measure in question, a high probability of irregularities being found, the results of any previous audits, and also, of course, the availability of resources. Any requests received from the other institutions, and in particular from the European Parliament and the Council of the European Union, are also given due consideration.

The annual work programme thus determines, to a broad extent, the content of the next annual report and such special reports as may be drawn up, because, in general, they may only cover the subjects included in the programme.

All the areas of intervention are audited once every four to five years.



# THE ROLE OF THE EUROPEAN COURT OF AUDITORS IN THE PREVENTION OF FRAUD

Fraud is clearly prejudicial to the European Union's budget and therefore constitutes a particular phenomenon, which, like the unproductive use of public funds and the inadequacies of internal control systems, is one of the means by which financial resources are wasted. Similarly, inadequate and passive management systems are an ideal breeding-ground for fraudulent behaviour.

Thus, the European Court of Auditors, whose activities are basically directed towards defending the European Union's financial interests, tries to point out all the aspects of both the systems under investigation and the current and proposed legislation that may become sources of inefficiency, irregularities or fraud.

For example, as regards the common organization of agricultural markets, the Court has pointed out that certain regulations do not provide for any administrative sanctions aimed at deterring fraud. The only risk faced by aid recipients who tried to defraud the Union was that their applications might have been refused.

The Court considers that the Member States are responsible for the detection of fraud and irregularities, for carrying out investigations of such matters and for applying penal or other sanctions, as provided in their national legislation.<sup>1</sup> Moreover, with a view to eliminating any economic advantage that might be derived from an infraction, the Court has recommended, as a mat-

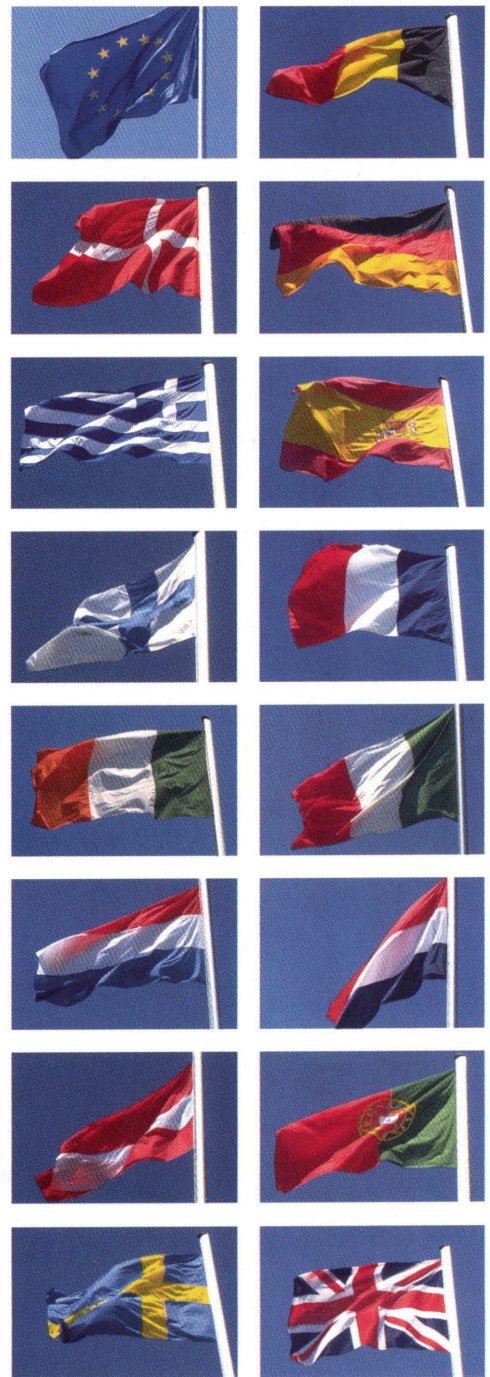
ter of urgency, the introduction of a system of interest charges and administrative sanctions in the field of fraud and irregularities prejudicial to the EAGGF, as well as the definition of common criteria for the harmonization of the sanctions they impose.

More generally, the European Court of Auditors must stress the importance of



prevention in the fight against fraud. To achieve this, close cooperative links must be forged between the national authorities and the Commission and it is important that the regulations themselves should not become a means of encouraging fraud, as a result, for example, of the vagueness of the objectives pursued or because there are inadequate checks or sanctions for perpetrators of fraud.

<sup>1</sup> It should be noted that since the entry into force of the Treaty on European Union the Member States have been obliged to take the same steps to combat fraud that is prejudicial to the Community budget as they would take to combat fraud that is prejudicial to their own financial interests. To this end, the relevant national administrations and the Commission are required to collaborate closely. See Article 209a of the EC Treaty, which is quoted in Annex 1.

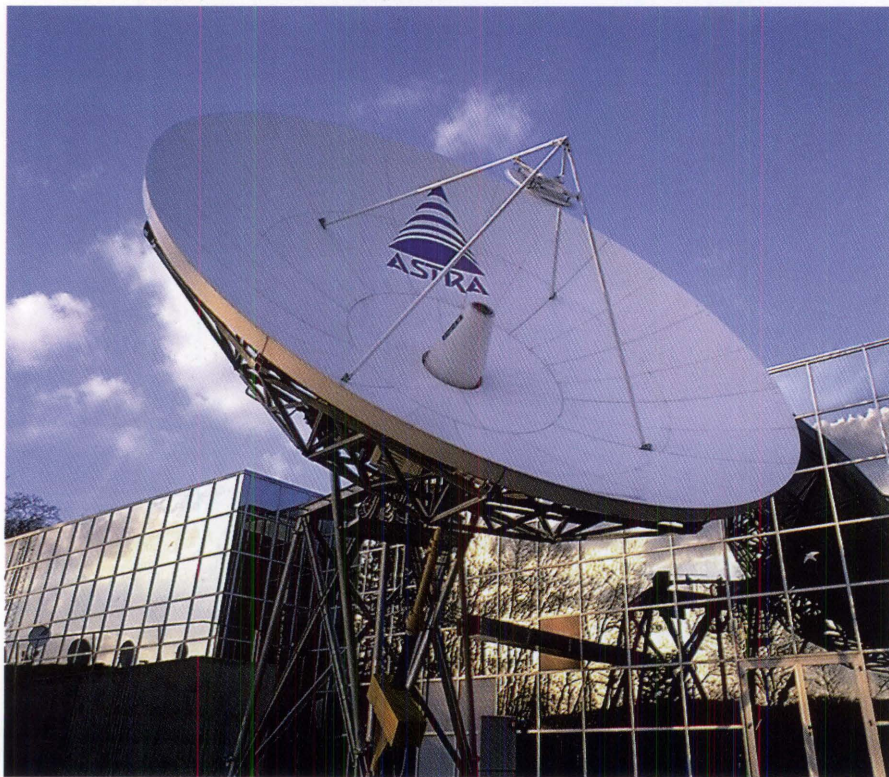


## THE RESULTS OF THE WORK OF THE EUROPEAN COURT OF AUDITORS

The Court of Auditors has no jurisdictional powers, so its pronouncements do not have any *res judicata* value. Indeed, it should not be forgotten that the institutional development of the European Union has not yet reached

the stage where it can act independently of the national courts, especially as regards the sanctions (particularly penal ones) to be imposed on persons found guilty of violating Community law.

This is not surprising, considering that the Court's auditing activities, which are made public in the form of the observations set out in both the annual and special reports, are directed more at the management as a whole than at individual items of revenue and expenditure, although, of course, any irregularities uncovered during an audit are promptly reported to the institution in question to enable it to take the necessary corrective measures and the irregularities are also the subject of special attention.



It would, however, be wrong to think that the fact that the Union's audit institution cannot directly impose sanctions means that its observations are not taken into account by the management authorities. It may, furthermore, be pointed out that the management authorities and, more generally, the national and European authorities involved in various ways in the implementation of the European Union's budget very often voluntarily take the necessary corrective measures as soon as the Court has drafted the preliminary observations that immediately follow its audits, and such measures include the recovery of sums paid out wrongly.



The results of the Court's analysis of the quality and reliability of the systems of management and internal control that are published in the Court of Auditors' reports are forwarded to the budgetary authorities (the Council of the European Union and the European Parliament) so that they can draw the necessary conclusions, both from a legislative point of view and from the point of view of determining the areas of management in which improvements are necessary.

In this connection, the Court must lay special emphasis on those areas of Union intervention where its previous observations have not produced — or not to the requisite extent — the changes that proper management would be bound to bring.

## THE RESPONSIBILITIES OF THE BUDGETARY AUTHORITIES

It is above all in the context of the annual procedure for the discharge in respect of the management of the previous financial year that the European Court of Auditors' observations, set out in its annual and special reports, provide the basis for the decision taken by the European Parliament, and, more specifically, for its discharge resolution.

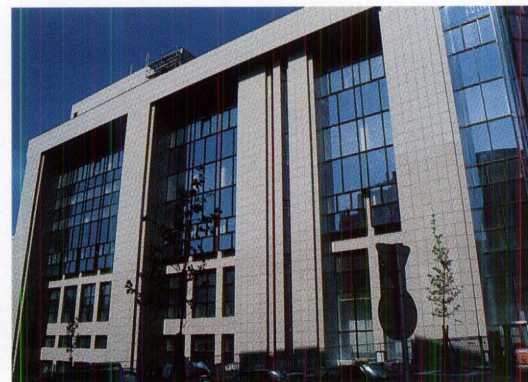
Moreover, in accordance with the Treaties, the discharge procedure includes



an assessment of the responsibility of the Commission in the implementation of the budget.<sup>1</sup> The European institutions are required to follow up the observations contained in the European Parliament's resolution<sup>2</sup> and take steps to safeguard the European taxpayers' money by improving the quality of management systems and adopting the necessary measures to protect Union finances.

The Financial Regulation also stipulates<sup>3</sup> that the institutions must give an account of the measures taken.

The essentially horizontal character of the Court of Auditors' observations means, however, that accepting them not only implies rectifying a few specific operations but sometimes also involves the management systems themselves and may therefore imply a revision of the systems in question, which, in turn, may require the adoption of new legal measures. This effectively illustrates how the institution which audits the European Union's finances also represents the financial conscience of the European Union.



The discharge authorities:  
the European Parliament (Strasbourg)  
and the Council (in Brussels).

<sup>1</sup> See Article 206(2) and (3) of the EC Treaty, which are quoted in Annex 1.

<sup>2</sup> As a rule, the discharge resolution is adopted before 30 April of the second year following the financial year in respect of which discharge is being given.

<sup>3</sup> See Article 89(5), which is quoted in Annex 2.

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# EXTRACT FROM THE EC TREATY

## ARTICLE 4\*

1. The tasks entrusted to the Community shall be carried out by the following institutions:

- a EUROPEAN PARLIAMENT,
- a COUNCIL,
- a COMMISSION,
- a COURT OF JUSTICE,
- a COURT OF AUDITORS.

Each institution shall act within the limits of the powers conferred upon it by this Treaty.

2. The Council and the Commission shall be assisted by an Economic and Social Committee and a Committee of the Regions acting in an advisory capacity.

## ARTICLE 188a

The Court of Auditors shall carry out the audit.

## ARTICLE 188b

1. The Court of Auditors shall consist of 12 Members.

2. The Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective countries to external audit bodies or who are especially qualified for this office. Their independence must be beyond doubt.

3. The Members of the Court of Auditors shall be appointed for a term of six years by the Council, acting unanimously after consulting the European Parliament.

However, when the first appointments are made, four Members of the Court of Auditors, chosen by lot, shall be appointed for a term of office of four years only.

The Members of the Court of Auditors shall be eligible for reappointment.

They shall elect the President of the Court of Auditors from among their number for a term of three years. The President may be re-elected.

4. The Members of the Court of Auditors shall, in the general interest of the Community, be completely independent in the performance of their duties.

In the performance of these duties, they shall neither seek nor take instructions from any government or from any other body. They shall refrain from any action incompatible with their duties.

5. The Members of the Court of Auditors may not, during their term of office, engage in any other occupation,

\* As amended by Article G(6) TEU.



whether gainful or not. When entering upon their duties they shall give a solemn undertaking that, both during and after their term of office, they will respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion as regards the acceptance, after they have ceased to hold office, of certain appointments or benefits.

6. Apart from normal replacement, or death, the duties of a Member of the Court of Auditors shall end when he resigns, or is compulsorily retired by a ruling of the Court of Justice pursuant to paragraph 7.

The vacancy thus caused shall be filled for the remainder of the Member's term of office.

Save in the case of compulsory retirement, Members of the Court of Auditors shall remain in office until they have been replaced.

7. A Member of the Court of Auditors may be deprived of his office or of his right to a pension or other benefits in its stead only if the Court of Justice, at the request of the Court of Auditors, finds that he no longer fulfils the requisite conditions or meets the obligations arising from his office.

8. The Council, acting by a qualified majority, shall determine the conditions of employment of the President and the Members of the Court of Auditors and in particular their salaries, allowances and pensions. It shall also, by the same majority, determine any payment to be made instead of remuneration.

9. The provisions of the Protocol on the privileges and immunities of the European Communities applicable to the Judges of the Court of Justice shall also apply to the Members of the Court of Auditors.

## **ARTICLE 188c**

1. The Court of Auditors shall examine the accounts of all revenue and expenditure of the Community. It shall also examine the accounts of all revenue and expenditure of all bodies set up by the Community in so far as the relevant constituent instrument does not preclude such examination.

The Court of Auditors shall provide the European Parliament and the Council with a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

2. The Court of Auditors shall examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound.

The audit of revenue shall be carried out on the basis both of the amounts established as due and the amounts actually paid to the Community.

The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.

These audits may be carried out before the closure of accounts for the financial year in question.

3. The audit shall be based on records and, if necessary, performed on the spot in the other institutions of the Community and in the Member States. In the Member States the audit shall be carried out in liaison with the national audit bodies or, if these do not have the necessary powers, with the competent national departments. These bodies or departments shall inform the Court of Auditors whether they intend to take part in the audit.

The other institutions of the Community and the national audit bodies or, if these do not have the necessary powers, the competent national departments, shall forward to the

Court of Auditors, at its request, any document or information necessary to carry out its task.

4. The Court of Auditors shall draw up an annual report after the close of each financial year. It shall be forwarded to the other institutions of the Community and shall be published, together with the replies of these institutions to the observations of the Court of Auditors, in the *Official Journal of the European Communities*.

The Court of Auditors may also, at any time, submit observations, particularly in the form of special reports, on specific questions and deliver opinions at the request of one of the other institutions of the Community.

It shall adopt its annual reports, special reports or opinions by a majority of its Members.

It shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget.

## ARTICLE 205

The Commission shall implement the budget, in accordance with the provisions of the regulations made pursuant to Article 209, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management.

The regulations shall lay down detailed rules for each institution concerning its part in effecting its own expenditure.

Within the budget, the Commission may, subject to the limits and conditions laid down in the regulations made pursuant to Article 209, transfer appropriations from one chapter to another or from one subdivision to another.

## ARTICLE 206

1. The European Parliament, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the European Parliament in turn shall examine the accounts and the financial statement referred to in Article 205a, the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors and any relevant special reports by the Court of Auditors.

2. Before giving a discharge to the Commission, or for any other purpose in connection with the exercise of its powers over the implementation of the budget, the European Parliament may ask to hear the Commission give evidence with regard to the execution of expenditure or the operation of financial control systems. The Commission shall submit any necessary information to the European Parliament at the latter's request.

3. The Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council.

At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget. These reports shall also be forwarded to the Court of Auditors.



## **ARTICLE 209**

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and obtaining the opinion of the Court of Auditors, shall:

- (a) make Financial Regulations specifying in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts;
- (b) determine the methods and procedure whereby the budget revenue provided under the arrangements relating to the Community's own resources shall be made available to the Commission, and determine the measures to be applied, if need be, to meet cash requirements;
- (c) lay down rules concerning the responsibility of financial controllers, authorizing officers and accounting officers, and concerning appropriate arrangements for inspection.

## **ARTICLE 209a**

Member States shall take the same measures to counter fraud affecting the financial interests of the Community as they take to counter fraud affecting their own financial interests.

Without prejudice to other provisions of this Treaty, Member States shall coordinate their action aimed at protecting the financial interests of the Community against fraud. To this end they shall organize, with the help of the Commission, close and regular cooperation between the competent departments of their administrations.



# EXTRACT FROM THE FINANCIAL REGULATION

NB: The consolidated text of the Financial Regulation was published in OJ C 80, 25.3.1991.

## ARTICLE 83

1. The Court of Auditors and its Members may, in carrying out the task of the Court, be assisted by officers of the Court. The Court itself or one of its Members shall notify the authorities with which the delegated officer is to work of the tasks delegated to him.

2. The European Parliament, the Council and the Commission shall inform the Court of Auditors, as soon as possible, of all decisions and rules taken pursuant to Articles 4(3), 7(2), (3) and (6), 9, 17(1) and 26.

3. The institutions shall transmit to the Court of Auditors any rules of procedure they adopt in respect of financial matters.

4. The Court of Auditors shall be informed of the appointment of authorizing officers, financial controllers, accounting officers and administrators of imprest accounts and of the acts of delegation or appointment under Articles 22, 24, 25 and 54.

## ARTICLE 84

Each institution shall forward to the Court of Auditors every three months and at the latest within the month which

follows the end of the quarter, and, in the case of the fourth quarter, at the latest within the month which follows the close of the financial year, the documents supporting the accounts, in particular the documents and certificates in respect of the correct application of the provisions which govern the implementation of the budget and relating to commitments and payments, to the establishment and collection of revenue, subject to Article 18 of Council Regulation (EEC, Euratom) No 1552/89 and to Article 85 of this Financial Regulation. The Court of Auditors may question each institution on the subject of the said supporting documents.

## ARTICLE 85

The audit carried out by the Court of Auditors shall be based on records and, if necessary, performed on the spot. Its purpose shall be to establish that all revenue has been received and all expenditure incurred in a lawful and proper manner having regard to the provisions of the Treaties, the budget, the Financial Regulations and all other Acts adopted pursuant to the Treaties, and that the financial management has been sound.

For the performance of its task, the Court of Auditors shall be entitled to consult, in the manner provided for in Article 87, all documents and information relating to the financial management of the departments or bodies subject to its inspection; it has the power to make enquiries of any official responsible for a revenue or expenditure operation, and to use any of the auditing procedures appropriate to those departments or bodies.



The Court of Auditors, in order to obtain all the necessary information for the performance of the task entrusted to it by the Treaties and the Acts taken to implement them, may be present, at its request, during the operations carried out by the Commission in implementation of Articles 8 and 9 of Regulation (EEC) No 729/70 and Articles 17 and 18 of Regulation (EEC, Euratom) No 1552/89. This measure shall also apply to the inspection of any fund set up by the Communities.

At the request of the Court of Auditors, each institution shall authorize finance organizations holding Community deposits to enable the Court to ensure that external data tally with the accounts.

## **ARTICLE 86**

The Court of Auditors shall ensure that all securities and cash on deposit or in hand are checked against vouchers signed by the depositaries or against official memoranda of cash and securities held. The Court may carry out such checks itself.

## **ARTICLE 87**

The Commission and the other institutions shall afford the Court of Auditors all the facilities and give it all the information which the Court may consider necessary for the performance of its task, and shall in particular provide all the information obtained as a result of the checks which they have carried out, as required by the rules laid down by the Community, within the departments responsible for the management of the Communities' finances and for effecting expenditure on their behalf. In particular they shall place at the disposal of the Court of Auditors all documents concern-

ing the conclusion and implementation of contracts and all accounts of cash or materials, all accounting records or supporting documents, and also administrative documents pertaining thereto, all documents relating to revenue and expenditure, all inventories, all lists of posts in the departments, which the Court of Auditors may consider necessary for auditing the revenue and expenditure account on the basis of records or on the spot and all documents and data created or stored on a magnetic medium.

To this end, the officials whose operations are checked by the Court of Auditors shall in particular:

- (a) show their records of cash in hand, any other cash, securities and material of all kinds, and also the supporting documents in respect of their stewardship of the funds with which they are entrusted, and also any books, registers and other documents relating thereto;
- (b) present the correspondence and any other document required for the full implementation of the audit referred to in the first subparagraph of Article 85.

The information supplied under (b) may be requested only by the Court of Auditors.

The Court of Auditors shall be empowered to audit the documents in respect of the revenue and expenditure of the Communities which are held by the departments of the institutions and, in particular, by the departments responsible for decisions in respect of such revenue and expenditure.

The task of establishing that the revenue has been received and the expenditure incurred in a lawful and proper manner and that the financial management has been sound, includes the utilization by bodies outside the institutions of Community funds received by way of aid.

The grant of Community funds to beneficiaries outside the institutions shall be subject to the agreement in writing by

the recipients to an audit being carried out by the Court of Auditors on the utilization of the amounts granted.

## ARTICLE 88

The annual report of the Court of Auditors provided for in Article 78 of the ECSC Treaty, Article 206a of the EEC Treaty and Article 180a of the Euratom Treaty shall be governed by the following provisions:

1. the Court of Auditors shall transmit to the Commission and the institution concerned, by 15 July at the latest, any comments which are, in its opinion, of such a nature that they should appear in the annual report. These comments must remain confidential. Each institution shall address its reply to the Court of Auditors by 31 October at the latest. The replies of the institution other than the Commission shall be sent simultaneously to the Commission;
2. the annual report shall contain an assessment of the soundness of financial management;
3. without prejudice to any summary report or general comments which the Court of Auditors may see fit to make, the annual report shall include a section for each institution. The Court shall take all the necessary steps to ensure that the replies of each institution to its comments are published immediately following those comments;
4. the Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by 30 November at the latest, its annual report accompanied by the replies and it shall ensure publication thereof in the *Official Journal of the European Communities*.

## ARTICLE 89

1. The European Parliament, upon a recommendation from the Council acting by a qualified majority, shall, before 30 April of the following year, give a discharge to the Commission in respect of the implementation of the budget. If that date cannot be met, the Parliament or the Council shall inform the Commission of the reasons for the postponement.

If the European Parliament postpones the decision giving discharge, the Commission shall make every effort to take measures, as soon as possible, to facilitate removal of the obstacles to that decision.

2. The discharge decision shall cover the accounts of all revenue and expenditure of the Communities, the resulting balance and the assets and liabilities of the Community shown in the balance sheet. It shall include an assessment of the responsibility of the Commission's budgetary management over the past financial year.
3. The Financial Controller shall take account of the comments in the decisions giving discharge.
4. The institutions shall take all appropriate steps to act on the comments appearing in the decisions giving discharge.
5. At the request of the European Parliament or the Council, the institutions shall report on the measures taken in the light of these comments, and, in particular, on the instructions given to those of their departments which are responsible for the implementation of the budget. Such reports shall also be transmitted to the Court of Auditors.

The institutions must give an account, in an annex to the revenue and expenditure account for the next financial year, of the measures taken in the light of the comments appearing in the decision giving discharge.



6. Supporting documents pertaining to the accounts and the preparation of the revenue and expenditure account and the balance sheet shall be kept for a period of five years following the date of the decision giving discharge in respect of the implementation of the budget.

However, the documents relating to transactions not finally closed shall be kept for longer than the said period until the end of the year following the year in which such transactions are finally closed.

Each institution shall decide which department will keep the supporting documents.

3. If the opinions referred to in paragraph 1 do not relate to proposals for legislation or draft legislation on which it has been consulted, they may be published by the Court of Auditors in the Official Journal. The Court shall take its decision on publication after consulting the institution which requested the opinion or the institution concerned by the Court's analysis. Opinions published in the Official Journal shall be accompanied by the replies of the institution or institutions concerned.

## **ARTICLE 90**

1. In addition to the annual report, the Court of Auditors may also, at any time, submit observations, in the form of special reports, on specific questions and deliver opinions at the request of one of the institutions of the Communities.

2. The special reports shall be transmitted to the institution or body concerned.

The institution concerned shall have two and a half months in which to inform the Court of Auditors of any comments it wishes to make on the observations in question.

Should the Court of Auditors decide to have such observations published in the *Official Journal of the European Communities*, it shall include after them any comments submitted by the institution or institutions concerned.

The special reports shall be transmitted to the European Parliament and the Council, each of which shall decide in conjunction with the Commission what action, if any, is to be taken in response.

# **EXTRACT FROM THE AGREEMENT ON THE EUROPEAN ECONOMIC AREA**

## **ARTICLE 7 OF PROTOCOL 32 TO THE AGREEMENT ON THE EEA**

### CONTROL

1. The control of the determination and of the availability of all income as well as the control of the commitment and of the scheduling of all expenditure corresponding to the participation of the EFTA States, shall take place in accordance with the provisions of the Treaty establishing the European Economic Community, of the Financial Regulation and of the applicable regulations in the fields referred to in Articles 76 and 78 of the Agreement.

2. Appropriate arrangements shall be established between the auditing authorities in the Community and in the EFTA States with a view to facilitating the control of income and expenditure corresponding to the participation of EFTA States in Community activities in accordance with paragraph 1.



European Union — Court of Auditors

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