

EUROPEAN
COURT OF AUDITORS

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CONSEQUENCES FOR PUBLIC ACCOUNTABILITY
AND PUBLIC AUDIT IN THE EU AND THE
ROLE OF ECA IN THE LIGHT OF THE CURRENT
FINANCIAL AND ECONOMIC CRISIS



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INTRODUCTION

1. The global financial and economic crisis that started in 2007 has had major consequences for the European Union. In response to the crisis, the EU has taken measures to support the sustainability of the financial industry, to promote economic recovery and growth, to provide financial assistance to Member States and to strengthen fiscal and economy policy coordination by Member States. These measures have changed the conduct of economic and monetary policy, created new bodies and instruments, and established new policy structures and processes. They also have important implications for the use of public funds – taxes paid by the EU citizens – in the EU. The changes in the economic policy set-up of the Union raise new challenges for accountability, transparency and public audit.
2. The Court considers that these new measures should respect the principle that where public funds are at stake there should be adequate arrangements for transparency, public accountability, and public audit. This paper examines the consequences for public audit of key elements of the EU's response to the crisis, including for the role of the European Court of Auditors (the Court).

THE PUBLIC AUDIT IMPLICATIONS OF THE EU RESPONSE TO THE CRISIS

FINANCIAL INDUSTRY SUSTAINABILITY

3. The EU has taken a number of measures to encourage a sustainable financial industry, including the establishment of the European System of Financial Supervision. As regards micro-prudential supervision, a major development is the establishment of three **new supervisory agencies**, the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA) – operational since 1 January 2011. The Court carries out the financial audit of these authorities¹. In addition, the Court is planning a performance audit in this area.

4. The problems of the financial industry also revealed weaknesses in private sector accounting and audit arrangements. In the area of international **accounting standards**, work is under way in order to achieve a “single set of high quality global accounting standards”. Concerning the international **audit standards**, the Commission, in its October 2010 Green Paper on Audit, has asked for the stakeholders’ views on various subjects including the introduction of International Standards on Auditing (ISAs) in the EU. ISAs provide an important source of inspiration for the standards applied by public auditors. The Court will use its expertise in this area to consider how to contribute to these consultations, and to the development and implementation of the International Public Sector Accounting Standards in the European Union.

¹ See, for example, Article 64 of the Regulation 1093/10 establishing the EBA.

RECOVERY AND GROWTH

5. In November 2008, the Commission's Communication on a **European Economic Recovery Plan** set out ideas on how the Member States and the EU could "support the real economy and boost confidence". The EU budget played a role in this initiative by providing an additional EUR 5 billion to address the challenge of energy security and to bring high-speed internet to rural communities, as well as through additional advance payments under cohesion policy amounting to EUR 11 billion. Moreover, the European Investment Bank (EIB) has boosted its SME lending possibilities by EUR 15 billion. The Europe 2020 Strategy develops these ideas further, presenting a strategy for exiting the crisis and achieving smart, sustainable and inclusive growth which will guide spending from the EU budget. The Court will audit the expenditure in the EU budget as a part of its normal audits. There is also scope for cooperation with Member States' Supreme Audit Institutions

² Operating as balance of payments assistance with an EU budget guarantee.

³ Article 9a of the Regulation 333/2002 (amended by Regulations 1360/2008 and 431/2009).

FINANCIAL ASSISTANCE TO EU MEMBER STATES IN NEED

6. The economic crisis resulted in the need for the EU to provide financial assistance to some Member States in the form of loans. For non-euroarea Member States, the EU was able to use an existing instrument, the **Community medium-term financial assistance facility**². The legal base for this instrument gives the Court the "*right to carry out, in the Member State receiving the Community medium-term financial assistance, any financial controls or audits that it considers necessary in relation to the management of that assistance.*"³ The Court is planning to carry out an audit covering loans approved by the Council.
7. The EU created two temporary instruments to assist Member States of the euroarea. First, the **European Financial Stabilisation Mechanism** was set up in 2010 to grant Union financial assistance with EU budget guarantees. So far, assistance has been granted to Ireland and Portugal. Regulation 407/2010 gives the Court "*the right to carry out in the beneficiary Member State any financial controls or audits that it considers necessary in relation to the management of that assistance.*" The Court intends to audit the reliability of loan disbursements in its audit of the implementation of the EU budget for the 2011 financial year (DAS audit).

8. Secondly, the **European Financial Stability Facility** (EFSF) can provide assistance to euro area Member States (with a volume of up to EUR 440 billion). The Framework Agreement between the Euro Area Member States and the EFSF itself has no provision for external public audit (private auditor has been appointed). The European Financial Stability Facility is a private company (*société anonyme*), with 100 % sovereign ownership, incorporated under national (Luxembourgish) law.
9. The European Council has agreed to replace these two temporary instruments in 2013 with a permanent **European Stability Mechanism** (ESM). The Court sent in November 2010 a President's letter i.a. to the Presidents of the European Council and the Commission to inform them of the Court's position on audit and accountability arrangements for the foreseen ESM. How to divide the work in this area between public and private audit as well as between European Institutions and Member States SAs is an important question. The Court's aim is to contribute to a transparent structure safeguarding sufficient public audit.

FISCAL AND ECONOMIC POLICY COORDINATION

10. The Commission submitted in September 2010 proposals concerning enhanced surveillance of Member States' fiscal policies, macroeconomic policies and structural reforms. The European Council has supported this initiative and agreed on the Euro Plus Pact aiming at better quality of **economic policy coordination**. A new procedure has already been approved to coordinate ex ante Member States' policies i.e. the European Semester. The Court will take up a discussion with Member States SAs on how to audit this policy area.
11. Two other issues worth further reflection on the European level concern the **European system of central banks** and the new **set of rules to shape national fiscal policies**. In some EU Member States as well as in some non-EU countries, these policy areas fall to a greater extent than in the EU under the scope of public review and sometimes public audit. In the case of the central banks the reason for further reflection at this stage is the large financial risks now taken up, which could ultimately fall on the European taxpayers, and the new macro-prudential tasks now given to the European Central Bank. When it comes to fiscal policy, the issue is the need for an effective and independent follow-up of the policies pursued in Member States, a task similar to that pursued in some Member States by "Fiscal Councils".

CONCLUSIONS

12. The financial crisis has raised new issues related to public audit in the European Union. Within its mandate the Court will carry out audits in relation to new supervisory authorities, assistance mechanisms with EU budget guarantee and – to the extent possible – the Commission's activities in the European Semester. However, the Court also identifies cases where public audit arrangements are not adequate. For example, the Court considers that the Treaty establishing the European Stability Mechanism should include provisions for public external audit. Finally, the Court notes a number of cases where accountability and transparency issues need to be reflected on by the competent institutions within the Union, in particular the European Parliament and Council. They concern accounting/audit standards, central banking activities and the follow-up of fiscal policies under the new set of rules being established.

The Court of Auditors, at its meeting of 19 May 2011, agreed to make this document public. It was presented to the Budgetary Control Committee of the European Parliament on 25 May 2011 and sent to the Presidents of the EU Institutions, to the Presidents of the Supreme Audit Institutions of the EU Member States and to the Permanent Representatives of the Member States to the EU.

For the Court of Auditors



Vítor Manuel da SILVA CALDEIRA

President