European Court of Auditors

ISSN 1831-449X

MAY
MAI
N° 05

2011

JOURNAL

Cour des comptes européenne

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PRODUCTION
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Mise en page, diffusion / Layout, distribution : Direction de la Présidence - Directorate of the Presidency
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"MORE PUBLIC AUDITING IS NEEDED ON THE EU LEVEL"

Farewell interview with Mr Lars Heikensten, Member of the European Court of Auditors

By Rosmarie Carotti

Mr Lars Heikensten, Member of the Court

R. C.: Sir, when you came to the Court you stressed in my first interview with you the need for increased transparency in the Court. How do you think the Court has been doing during recent years? Has communication improved?

Lars Heikensten: I think that there have been several improvements. Some are very concrete. We now have an Information Note on the Annual Report that can be understood by readers outside of the house. Also, we have an Annual Activity Report. On the latter one, more needs to be done to demonstrate that we are useful and that we work efficiently. But progress is being made.

Also, I think that we have been doing better during recent years in the COCUBU and vis-à-vis media. But again, more can and should be done. We are not prepared for an acute and serious media upheaval. In the end, since we are a College, with important powers in this field resting with the individual Members, most will depend on how each of us are doing, not least in our own countries.

Internal communication has also improved. We have more regular meetings between the President and other Members on the one hand and staff on the other. Similar steps have been taken in many of the Chambers. Also, we have a better Intranet. But we need to use it more; it should be the habit of everyone to begin the working day with a check at the Intranet!. In general, we still have severe problems with internal communication. Too much of the information and dialogue does not take place via normal professional structures, but is spread in the cafeteria.

So, things have improved. But much more should be done.

R. C.: You have also constantly stressed the need for better efficiency and productivity? How is that going?

Lars Heikensten: Well, I see improvements here as well. Most important are the changes that have taken place in our governance. They have already - and will even more - shape the way we work and function. Important powers and responsibilities have been delegated to the Administrative Committee and to the Chambers. This will speed up decision making. But not only that, I also believe that the changes will have a positive effect on the quality of our work. To some extent quality is probably improved when more people are involved in a decision. This might be true when moving from one or two decision makers to five or six. But we have been far beyond that in many decision making bodies. Negative aspects then take over: responsibility goes down, coherence gets lost etc.

The steps taken to move resources from various supporting activities to audit have also been good. However, a lot more can and should be done. We should aim for having 60-65 per cent of our staff (excluding translation) directly engaged full time in audit work. This is what reasonable benchmarks say. We are still far from that.

R. C.: In your view, what are the main challenges facing the Court today?

Lars Heikensten: There are many:

I would put what we just discussed – improved *efficiency and productivity* – high on the agenda. We claim that we are the guardians of the interest of the taxpayers of Europe. Are we facing up to that in our own organization?

Another area (related to efficiency of course) is *human resources or personnel policy*. We need to do much more to have a flexible and modern structure. This is needed because I believe we have difficulty in recruiting, motivating and keeping the staff we need. A system based primarily on the idea of life time employment is hardly in tune with where the world is going. When choosing where to work, young and competent people put focus on content of the work tasks, possibility to influence things, career prospects etc. Young people also change jobs more frequently today. The EU is well placed to get high scores on some of these criteria. But they are certainly not well in line with our staff regulation. Rather the opposite.

R. C.: You have criticised the ECA for being too conservative, focusing mainly on compliance. How do you rate the Court's performance audits over the past few years?

Lars Heikensten: We are making some progress. But relevance is an issue. In my opinion we should be both quicker and bolder when we choose areas/subjects to look at.

What I mean with quicker should be fairly obvious. One thing is speeding up our own processes once work has begun. But we also decide very far in advance on what to look at and we do not enough think through how it relates to the political agendas. Channelling resources in a flexible manner is not our strong side!

When I talk about "bolder", I think in particular about the choice of audits. We tend to stay very far away from anything that is close to politics. But that is not necessary. Many SAIs are bolder. Political decisions lend themselves to serious analysis. This is badly needed within the EU. We can point out that policy goals are in conflict with each other etc.

Competence is of course an issue. But I think that the main problem is our decision making structure very much based on consensus. With 27 Members coming from different cultures, with different backgrounds and sometimes also interests we are not likely to be bold and innovative.

R. C.: You took interest in the Courts work on the new long term budget for the EU. What are your views on the EU budget? How can it be improved?

Lars Heikensten: Yes, I involved myself in that work. And I am very happy that we in the end produced an opinion where we among other things stressed the need for a European added value when spending EU money. Also, we pushed for simplification and criticized the issue I just touched on, the habit of setting to many goals, making it difficult to trace results and audit.

Let me add some personal reflections on the broader issues. In a sense the EU budget is not very large, only one per cent or so of GDP in the EU, while public spending in many countries is some 40 per cent. However, for me this is not an argument for an increased budget. First we need to consider seriously if we spend the money we have in a way which is really efficient, giving a European added value.

Focus should be on areas where we need to act together. It is not hard to find areas of that kind; actions to cope with climate change, common defence activities and other external actions, research policy, common transport and communication systems etc. But this is *not* where the EU spends the bulk of its money. I would also support generous spending to *countries* with lower income levels. A cohesion policy of this kind could easily be motivated. But I see no viable reason why a Swedish taxpayer should pay regional aid to southern Italy when it is known that the average income level of Northern Italy is as high, if not higher, than in Sweden.

R. C.: Has the experience of the last two years exposed weaknesses in the euro? What remedies would you suggest?

Lars Heikensten: The answer on your first question is obviously yes. But I might add that the problems we have seen are not surprising. Most of them were well analyzed and discussed even before the EMU took off in the late 90´s. They are a consequence of a common monetary policy not being matched by a coherent fiscal policy and by a lack of mobility of production factors, in particular labour. Also, the way the crisis has played out, via the financial markets, have clearly demonstrated a lack of common supervision, crisis management systems etc.

The Stability and Growth Pact was set up to avoid precisely what has happened lately for example in Greece. It was understood that the markets might not function well enough to "police" bad fiscal behaviours. Thus, a set of political rules were needed. But the ultimate judges in this court were the same as the potential sinners. And when the judge with most credibility – Germany – was the first to sin one should not really be surprised that the system did not work well.

Now, we are where we are. The countries in difficulties will need help. Personally, I would have preferred a tougher stance. Debts should have been written down. Bond holders should have been forced to pay etc. even if this short term

would have led to bank failures in some countries and to increased interest rates in countries such as Spain. The problem now is that the markets have been proven right; it was not risky to buy bonds in fiscally weak countries. Other countries are paying. So in the future, the markets will function even worse unless other actions are taken.

This is now the interesting discussion. I think it is right to have a tougher common fiscal framework. I also think that countries should be forced to improve their own fiscal frameworks. Both of course this is easier said than done. Thus I believe that we will need the market as a police in the future as well. This will require some restraint in putting up safety nets.

I also think that it is correct to give more focus on macroeconomic imbalances as the Council has been doing lately. This requires following things like competitiveness, relative unit labour costs, domestic savings and investment rates etc. But these are really difficult issues. When we talked about fiscal policies we knew fairly well what we meant, what was a good and a bad policy. Still we could not make that system work. When it comes to the macroeconomic and balance issues we do not even know what is right and wrong sometimes. So we are a long way from anything operational.

R. C.: Can the Court play any role in this context?

Lars Heikensten: Olavi Ala-Nissilä and I have written a paper for the Court on audit related issues in Europe in the wake of the financial crisis. It is not difficult to identify areas where more public auditing is needed on the EU level. One could argue for performance audits of the new supervisory structures set up, of the fiscal framework, of some of the activities of the European Central Bank etc.

If we compare with many national states - within and outside the EU - public audit mandates are limited within the EU. At the same time, there are good arguments for why it should be the opposite. In most nation states there is a functioning political arena with a lively debate, media and a political opposition. Independent audits might then be less important than in the EU where the political arena is not so well functioning.

We are not saying that the Court should take this role, but someone should. A first step is to identify the "holes" in the present structure. How to fill them in is the second step. It is my hope that the Court will build on our paper and produce an opinion.

R. C.: You have been elected as the new Executive Director on the Board of Directors of the Nobel Foundation and you will therefore leave the ECA. What exactly does that mean? Will you have a say on the award of the Nobel prizes?

Lars Heikensten: The Nobel Foundation was created early last century to "manage" the will of Alfred Nobel. Its board is set up primarily by the different institutions that were entrusted by Nobel with the responsibility to choose whom to reward with a price. They were the Swedish Academy of Sciences (physics, chemistry), Karolinska Institutet (medicine), the Swedish Academy of Literature (literature) and the Norwegian Parliament (peace).

An important task for me is to manage the funds of the Foundation. So, I will have some influence on the *size* of the prices, but not on who gets it. That is decided by the different price rewarding institutions just mentioned.

I will also be responsible for the management of the "Nobel system" including a media company, a museum etc. Most important - perhaps - in this respect is the trade mark. It is possibly one of the most well-known and prestigious in the world, probably worth much more than the funds the Foundation manages.

R. C.: Is everything on track or do you see room for new initiatives?

Lars Heikensten: It is a very well managed institution. But of course, there is room for improvements in all organizations and activities.

An issue to consider is how to use the trade mark in the future; can it be used more to the benefit of the values Nobel wanted to promote; scientific progress, rationality in general, human values, peace etc. In particular I see a great need for this in many of the now more and more important raising powers of the world; Brazil, South Africa, India, China etc.

Many concrete ideas have been on the table. For ten years there have been discussions about a new Nobel museum in Stockholm. At the same time, several other countries and cities have shown an interest in this. I think we should try to get it going in Stockholm first combined perhaps with moving exhibitions. Another idea is to use the Nobel prize winners more than today. They are of course a formidable network. Well, I could go on like this for a long time. There are a lot of good ideas. What we need to do is to choose some and develop them.

R. C.: Sir, I thank you very much for this interview and I wish you all the best for the future.

REFLECTIONS ON THE LEGISLATIVE PILLARS OF THE EUROPEAN COURT OF AUDITORS

Assoc.prof. JUDr. Ladislav Balko, PhD, Member of the European Court of Auditors

Dr. Ladislav Balko, Member of the European Court of Auditors

I should like to share with the readers of our Journal a number of reflections for which we often do not have time given the pressures of our daily work and which are not necessarily part of an auditor's usual remit. They are rather the personal reflections of one who, in his capacity as one of the 27 Members of the Court, has the opportunity to influence, the Institution's direction through his views. Some time ago (long before my mandate as a Member of the Court began), I began to reflect, as someone active both scientifically and pedagogically in the field of financial law, **on the substance of control and audit activities in general, and the area of public finances in particular**. Why the area of public finances? Because it concerns the management of the share of assets taken from citizens by the State. Thus, the public authorities, through tax and other laws, collect the funds they need to finance the public sector. And, as is generally known, the right to own property is a fundamental human right, which can be restricted only by law. Therefore, the whole process of collecting and spending public funds and subsequently evaluating their use must be rigorously controlled. In this context, I have also reflected on whether the statement Montesquieu made in the first half of the 18th century in his treatise *De l'esprit des lois* (Book 11, Chapter 6) concerning the division of power between the legislative, the executive and the judiciary is still relevant. Should this division not also be extended to control powers in general, including the respective institutional arrangements? Not only is there parliamentary control, a general control carried out by independent supreme control institutions established by constitutions, but there is also extensive specialised control. In any developed constitutional system, **the control function is usually regarded as one of the main guarantees of the democratic governance of public affairs**. This governance traditionally takes two separate but complementary forms known as internal control and external control, and this is not a legislative, executive or judiciary activity. It is clear that the legislative branch's function is to adopt laws, the executive's is to provide concrete public-sector services in areas such as security, education, culture and infrastructure, and the judiciary's is to resolve legal disputes and punish criminal offences. Where, then, does responsibility for control lie? In the legislative or judicial domains? In any case, not in the executive domain. Thus, **the control** of the management of public finances - and I would also include audit as providing a full and true picture of the financial situation (of particular significance as regards the management of funds the State collects from citizens) - is **autonomous and separate from the legislative, executive and judicial branches.**

Let us now consider **the legislative pillars of the European Court of Auditors.** The European Union is an entity which exercises public power in many forms throughout EU territory. In this connection, the Preamble to the Treaty on European Union (TEU) expresses

- the resolution to achieve the strengthening and the convergence of the Member States' economies and to establish an economic and monetary union including a single and stable currency;
- the determination to promote economic and social progress for the EU's peoples, taking into account the principle of sustainable development and within the context of the accomplishment of the internal market and of reinforced cohesion and environmental protection, and to implement policies ensuring that advances in economic integration are accompanied by parallel progress in other fields;
- the resolution to establish a citizenship common to all nationals of the Member States;
- the resolution to implement a common foreign and security policy including the progressive framing of a common defence policy, which might lead to a common defence, thereby reinforcing the European identity and its independence in order to promote peace, security and progress in Europe and in the world; and
- the resolution to facilitate the free movement of persons, while ensuring the safety and security of the EU's peoples by establishing an area of freedom, security and justice.

In a similar spirit, the **Treaty on the functioning of the European Union (TFEU) affirms as an essential objective of its efforts the constant improvement of the living and working conditions of the EU's peoples.**

It is thus possible to affirm that the aim is to secure a new, **high-quality "European civilisation" which also has certain financial costs.** This is reflected in the EU budget, in the way funds are collected and spent. In the light of the need to "safeguard" the use of finances, we may reflect on the role of control and audit. The TEU contains a brief article (47), according to which the Union shall have legal personality. This simple statement calls for further investigation. If an entity has legal personality, in most cases it also has the capacity for legal acts, which need to be effectively carried out by someone. In the case of the EU, that "someone" is defined in Article 13 TEU as the Institutions of the Union, of which there are seven in total, the seventh being the Court of Auditors. The Treaty stipulates in the same Article that each Institution shall act within the limits of the powers conferred on it in the Treaties, and stipulates that the Institutions shall practise mutual sincere cooperation.

If we continue to reflect on the division of public power, we shall see that the TEU confers legislative and budgetary powers on the European Parliament and the Council. Article 14 confers on the Parliament the function of political **control.** But here the question arises as to the nature of political control. Is it a control carried out in the sole interest of politics, and thus a control of legislative and executive power? Or is it a mix of all controls? If so, what is the substance of this control, given that the Parliament is an aggregate of different European political systems? Does such control not always reflect the political hue of the parliamentary majority, being focused on enforcing the respective political goals? Should controls of the management of other people's money (because the public authorities, also at EU level, manage other people's money, i.e. the money of EU citizens which, as we have already seen, is levied from economically active subjects, both citizens and corporations) also be purely political, or should they be different?

But enough question marks. **The financial management of public funds must be subject to appropriate financial control**. **This logic informed the establishment of the European Court of Auditors**, which coincided with two particularly important events, namely the extension of the European Parliament's powers in the area of budgetary control, and the financing of the European Union's budget from own resources alone. In view of these events and of the increase in the European Parliament's powers, a qualitative change in the external control of budgetary implementation proved necessary. Let us remind ourselves of the background:

- **the Court of Auditors was established by the Treaty of Brussels of 22 July 1975**, at the initiative of the Chairman of the European Parliament's Budgetary Control Committee, Heinrich Aigner, who from 1973 onwards strongly argued the case for an Community-level external audit body;
- the Court of Auditors **became operational in October 1977**;
- **the Court was promoted to the rank of an institution on 1 November 1993**, with the entry into force of the Maastricht Treaty, meaning that the independence and authority of the Court vis-à-vis the other Institutions was enhanced. This has been confirmed in all subsequent Treaties, including the Lisbon Treaty;
- since that year, the Court has had a duty to publish a statement of assurance (the "DAS") as to the reliability of the EU accounts and the legality and reliability of the transactions underlying the EU budget;
- its position was confirmed and strengthened with the entry into force of the Treaty of Amsterdam on 1 May 1999, which emphasised the Court's role in the fight against fraud, and extended the possibilities for it to have recourse to the Court of Justice in order to protect its prerogatives with regard to the other EU Institutions.

The EU therefore established a special, exclusively "control"-oriented Institution (one of seven main Institutions of the Union), its main task being to safeguard public funds. The current legislative framework is contained in the consolidated version of the TFEU, as amended by the Lisbon Treaty. The **European Court of Auditors**, according to Articles 285 to 287 TFEU, shall carry out the European Union's audit (see *Consolidated Versions of the Treaties, Charter of Fundamental Rights of the European Union*, European Union, Luxembourg, Office for Official Publications of the European Union, 2010, pp. 169-171). The establishment of the Court of Auditors was based on the requirement for a **"financial conscience".** This term was used for the first time by the then President of the European Court of Justice, Hans Kutscher, in October 1977 (http://eca.europa.eu/portal/pls/portal/docs/1/133869.PDF). He stated that "for the Members of the Court of Auditors, and for the Court of Auditors itself, as the 'financial conscience' of the Community, it is self-evident that they must be independent... there could be no doubt that…the Commission, which is to ensure compliance with the Treaties, can only perform its duties fully if its members maintain their independence of instructions from the Member States. Nevertheless, it is good that such provisions exist. They make clear something which has been in danger of being forgotten during various setbacks of recent years, namely, that the Community is supranational by nature and that above the Member States there exists a European Community, with its own sovereign powers, which is empowered and called upon to act independently in order to achieve the objectives set out in the Treaty and thereby lay the foundations of an ever closer union among the peoples of Europe. Accordingly, the Treaties speak of 'the general interest of the Community', which we are bound to serve in the performance of our duties. It may be added that because of its autonomy (its independence) the Community is no longer at the beck and call of the States that created it".

For these reasons, I take the view that the European Court of Auditors is founded on several **important legal pillars.** I consider the following to be fundamental:

a) **Independence** is required of the Court by Article 285 TFEU: "[i]ts Members shall be completely independent in the performance of their duties". In addition, Article 286(1) stipulates that "[t]heir independence must be beyond doubt". The independence of the Court's Members is further underlined by the fact that "[i]n the performance of these duties, the Members of the Court of Auditors shall neither seek nor take instructions from any government or from any other body" and that they "shall refrain from any action incompatible with their duties" (Article 286(3)). The independence of the Members of the Court of Auditors is further strengthened by the application of a number of provisions relating to the Judges of the Court of Justice, e.g. concerning immunity (see Article 286(8)), thus guaranteeing the independence of the Court's Members in the general interest of the Union by ensuring that they are not subject to external influence.

b) **Sincere cooperation with the other Institutions**, mainly with the European Parliament, the Council and the Commission, is generally based on Article 13(2) TEU, which requires the Institutions to practice mutual sincere cooperation. As regards the Court's special relationship with the Parliament and the Council, this is determined by Article 287(4), fourth sub-paragraph, TFEU, according to which the Court of Auditors shall assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget. This cooperation is based on the Institutions' historical relations, on the Treaty and principally on the good working relationship with the Parliament's Budgetary Control Committee, the aim being to improve the financial management of the EU and to foster responsibility and transparency in the way financial resources are used for the benefit of EU citizens. This also applies to the Court's relationship with the Commission as the main auditee. In this regard, I believe that the "no surprises" approach we apply to our performance audits is an exemplary expression of the principle of sincere cooperation with the Commission and other auditees.

c) **Integrity** is a significant legal principle for a Member of the European Court of Auditors and - as the Members form the governing body of the Institution - for the whole Court. According to Article 286(4) TFEU, the Members, "[w]hen entering upon their duties … 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". The principle of integrity is developed in greater detail in the Code of Conduct for the Members of the Court, particularly in the following areas:

- upon taking office, each Member is required to complete a form containing a declaration of his/her financial interests and assets and the activities of his/her spouse;
- Members shall not accept gifts of a value greater than 150 euro. If, by virtue of diplomatic custom, they receive gifts of a value greater than that amount, they are required to hand them to the Secretary-General to be duly registered;
- the Members of the Court are required to devote themselves unreservedly to the fulfilment of their mandate. They may not hold any political appointment. They shall not engage in any outside professional activity or any other outside activity that is incompatible with their obligation to be available for the performance of their duties;
- a special committee of three Members shall be instructed to examine Members' outside activities in this connection, in accordance with the criteria and procedures laid down in the Rules for Implementing the Rules of Procedure of the Court of Auditors.

This pillar is closely linked to the requirement that the Members should be independent.

d) **Collegiality – collective decision-making** is stipulated in several documents. Above all, Article 287(4) TFEU stipulates that the Court shall adopt its annual reports, special reports or opinions by a majority of its Members. This collective approach also applies to the Chambers which came into being last year. The Rules of Procedure, to which the provisions of the TFEU refer several times, define the collective approach in greater detail. Collegiality manifests itself most significantly in the Court's decision-making, meaning that all the Members of the Court may debate every draft report before it is adopted by the majority. This decision is then binding upon all Members. In addition to the Rules of Procedure and the related Implementing Rules covering the arrangements for Court meetings, the adoption procedure etc., I should like to draw attention to the "philosophy" of the collective approach expressed in the Members' Code of Conduct, as adopted and applied by the Court. This document is perhaps of less immediate concern to us in this regard. According to the Code of Conduct, the principle of collectiveness is also expressed by the requirement that the "Members shall under all circumstances respect the collegiate nature of the Court's organisation and adhere to decisions adopted by the Court. However, Members may have recourse to the judicial instruments provided for in Community law if they consider that those decisions have caused them personal prejudice. Without prejudice to the President's responsibility for external relations, Members shall have authority outside the Court to communicate and comment upon any reports, opinions or information which the Court has decided to make public. Members shall refrain from making any comment outside the Court that could damage the Court's reputation or be interpreted as a statement of the Court's position on matters that do not fall within its institutional remit. They shall refrain from making in public any comment that might involve the Court in any controversy".

e) **Professionalism – professional qualification** are already among the requirements for appointment as a Member of the Court. According to Article 286(1) TFEU, "[t]he Members of the Court of Auditors shall be chosen from among persons who belong or have belonged in their respective States to external audit bodies or who are especially qualified for this office". The approval procedure for the Members also includes the requirement that they should be truly professional. The Budgetary Control Committee rigorously scrutinises candidates' professionalism during the selection procedure, which takes several months. A prospective Member must submit written answers to the questions posed by the Members of the Committee, and must then pass a hearing before the Committee, during which he/she reacts to the MEPs' questions. The MEPs then vote twice on each candidate separately. The voting is even more stringent than for the creation of the European Commission, where the Parliament votes on the Commission *en bloc*. Thus, prospective Members of the Court of Auditors must demonstrate their professionalism several times. Over time, the Court has become a professional control institution which, through its audits, actively contributes to the development of the public sector. Indeed, it goes further than this through its membership of international organisations of Supreme Audit Institutions (SAIs), where it contributes to the development of international audit standards. In addition, there is the Contact Committee of the Heads of EU SAIs, with which the Court develops innovative and harmonised approaches to the audit of EU funds. It is very important that the Court should be able to adapt to the changing environment of the audit of EU finances, which is also evidenced by recent internal reforms, such as the establishment of the Chambers. By means of such changes, provision can be made for the challenges our Institution will face in the future. Furthermore, the "professional qualification" of the Court's auditors is of vital importance given the nature of their audit work. Lastly, the entire career and professional success of each of the several hundred auditors at the Court depend on their degree of professional qualification.

f) **Responsibility** is also covered by the Code of Conduct, according to which the Members of the Court shall be mindful of the importance of their duties and responsibilities, shall take into account the public character of their duties and shall conduct themselves in a way that

maintains and promotes the public's trust in the Court of Auditors. Accordingly, they shall use the resources placed at their disposal in full compliance with the general and specific rules laid down to that effect.

g) **Publicity** is based on the second subparagraph of Article 1 TEU, which introduces the concept of openness, stipulating that the Treaty marks a new stage in the process of creating an ever closer union among the peoples of Europe, where decisions are taken as openly as possible and as closely as possible to the citizen. Having regard to the Joint Declaration relating to Regulation (EC) No 1049/2001 of 30 May 2001 on public access to documents, the Court adopted Decision No 12-2005 concerning public access to Court documents which stipulates that "openness enhances the administration's legitimacy, effectiveness and accountability, thus strengthening the principles of democracy. To that end, good administrative practice on access to documents should be promoted; however, certain public and private interests should be protected by way of exceptions to the principle of public access to documents. In particular, international auditing standards concerning the confidential nature of audit information must be duly respected". The publicity pillar means that "any citizen of the Union and any other natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the Court, subject to the principles, conditions and limits defined in this Decision. The Court may, subject to the same principles, conditions and limits, grant access to documents to any natural or legal person not residing or not having its registered office in a Member State. This Decision shall be without prejudice to rights of public access to documents held by the Court which might follow from instruments of international law or Community acts implementing them". The strictly public procedure for appointing the Members, who must pass a public hearing in the European Parliament, also contributes to a policy of transparency at the European Court of Auditors.

h) **Planning** entails the gradual preparation of the Court's work with a view to achieving objectives effectively and economically. A thorough knowledge of the financing of all EU policies is necessary. The Court's activity is not accidental or spontaneous, but is systematic and based on the Annual Work Programme, including a detailed description of the audit plan, scope etc.

i) **Objectivity** is demonstrated mainly through the Court's reports. The Court's objectivity is recognised by the EU Institutions, but also by audit authorities. In this connection, in 2007 the Court requested an independent assessment of its work through the so-called Peer Review. The final report concluded that the Court carries out audit work which is in accordance with international auditing standards and best practices. The report confirmed that the Court's audit work is independent and objective. Our reports are based on sufficient and appropriate evidence, and, most importantly, EU stakeholders have confidence in those reports. This last conclusion was also recently confirmed through the Court's surveys of the parties concerned, including the European Parliament.

Conclusion

The above pillars, which I believe are fundamental to the Court, are firm and unquestionable. Of course, one could identify further principles that reinforce the organisation of our Institution. With the further development of civil society, which will be felt throughout the European Union, **audit and control will certainly continue to expand in order to protect the Union's citizens.** In this context, we will need not only effectively to implement our audits in greater depth - this being the primary task of the European Court of Auditors - but also to discuss and exchange views on the overall status of the Institution, with a view to further development and better audits. I hope the points raised in this article will contribute to that aim.

PRESENTATION OF THE COURT'S 2009 ANNUAL REPORT TO THE ITALIAN SENATE IN ROME ON 2 MARCH 2011

Massimo Vari, Member of the European Court of Auditors, presented the Court's 2009 Annual Report at the Italian Senate on 2 March 2011. The presentation took place for the first time in the form of a hearing held before the Senate Committee for European Policies. Mrs Rossana Boldi, President of the Committee, welcomed Mr Vari and pointed out that this new procedure was the direct consequence of the institutional changes brought about by the Treaty of Lisbon. Mr Vari's intervention was followed by an exchange of views with members of the Senate Committee.

Mr. Massimo Vari, Member of the Court

Here follows an extract of Mr Vari's speech.

First of all I would like to say that I am very pleased to present the Annual Report of the European Court of Auditors in the institutional context of a parliamentary hearing, rather than, as happened in the past, in a meeting that could be defined as merely cultural, even though, thanks to the kindness of President Schifani [*President of the Italian Senate*], it was held at the prestigious Palazzo Giustiniani.

As President Boldi said in her introduction to this hearing, this "innovation" is a reflection of the more significant role that the Lisbon Treaty attributes to the national parliaments in the overall architecture of Europe.

Article 12 of the Treaty on European Union calls on the national parliaments to contribute actively towards the "good functioning of the Union" (in particular, by "seeing to it that the principle of subsidiarity is respected). Protocol No 1 takes this up again by prefiguring the national parliaments' "right to be directly informed" by the European institutions so as to ensure their "greater involvement" in the activities of the Union (Articles 1, 2, 5 and 7).

This "right to be informed" includes the forwarding of the Annual Report of the European Court of Auditors, which Article 7 of this Protocol states must be communicated directly to the national parliaments at the same time as it is sent to the European Parliament and the Council.

Why was the need felt to keep the national parliaments directly informed of the management of the European budget?

Article 7 is very concise and says nothing with regard to how the communication of the report should be followed up. The explanation for this is probably to be found in the statement in the preamble to the protocol, which states that "the way in which national Parliaments scrutinize their governments in relation to the activities of the European Union is a matter for the particular constitutional organization and practice of each Member State".

The real reasons for this information requirement become clear if we look at Article 7 of the Protocol together with Article 317 TFUE, which confirms the Commission's ultimate political responsibility for the implementation of the European budget, but, at the same time, now explicitly requests the co-operation of the Member States towards ensuring "that the appropriations are used in accordance with the principles of sound financial management".

This provision takes up the European system's current trend towards the progressive decentralization of the implementation of expenditure towards national and local authorities, to the extent that nearly 80% of it is delegated to the Member States.

Because of this, the Member States are required to set up appropriate systems of management and control whose function is to enable the Commission to fulfil its obligations as the body ultimately responsible for sound financial management.

Against this background, the European Court of Auditors, the external auditor of the EU, is in a good position to be able to supply useful information, in the context not only of relations between the European Parliament and the European executive, but also, today, of those between the national parliaments and national

governments in consideration of the role that the latter now play in the management and control of European funds.
[…]

I would immediately like to clear the field of a possible misunderstanding: the Annual Report of the European Court of Auditors does not contain specific assurance assessments by country. So far, it has been felt that the Treaty provision whereby the Court delivers "a" (understood as meaning "one") Statement of Assurance stands against this. Therefore, there is no specific Statement of Assurance for Italy in the report, nor is it possible to establish a ranking of countries that are more or less "virtuous" on the basis of the information contained therein. Furthermore, it should be considered that, as the national administrations are not present today, we cannot hold that bilateral discussion which the Commission enjoys in the European Parliament's session dedicated to the Court's report. This is a question of method, which, perhaps, this Committee will have to face in the future.
[…]

I shall attempt to "distil" the content of the 2009 report down to **four main messages** concerning the 2009 Statement of Assurance, the legality and regularity of the underlying operations, information on the correction of errors in the context of the multiannual nature of expenditure and a comparison between the results of the 2009 financial year and those of previous financial years. I will then give some thoughts on the outlook for the future.

The **first message** regards the unqualified Court's Opinion on the reliability of the consolidated annual accounts, which fairly present, for 2009, the financial situation of the EU and the results of their operations and cash flows. This positive result is all the more important because of its continuity with the past - this is the **third consecutive year** that the Court has reached this conclusion since the introduction of accruals based accounting in 2005.

As for the legality and regularity of transactions underlying the accounts the Court has always found irregularities, albeit to a varying extent from one sector to the other.

Here we come to the **second message** in the 2009 Annual Report. On the revenue side, as in the past, it confirms its unqualified opinion concerning the legality and regularity of operations. On the expenditure side, however, although it observes that the commitments are legal and regular, there are broad areas of the budget in which it found **levels of irregular payments above the 2% threshold**.

As for the management of expenditure in the various sectors, I shall concentrate particularly on agriculture and cohesion policies, both because of their importance in terms of expenditure and because they are the sectors where the national authorities are most involved in management. I refer you to the actual text of the Report for the other sectors where the consumption of resources is more limited.
The **agriculture and natural resources sector** is the largest area of the budget in terms of payments (the final amount is €56.3 billion, which corresponds to 48% of the total budget).

Since the reform of the Common Agricultural Policy in 2003, this sector has benefited from new simplified direct revenue support instruments for farmers in the context of the "single payment regime", which are unrelated to volumes and types of production. It is important to note that this regime is important not only as a means of simplifying management activities and the related checks, but also, because it makes the payment of premiums conditional upon the observance of certain environmental and food safety standards. It therefore contributes towards one of the main objectives of the European Union, the sustainable management of resources.

The most likely error rate estimated by the Court for agriculture for 2009 ("guarantee" sector and "rural development" sector) lies between 2% and 5%, as compared with the previous financial year, where the error rate, for the first time, had fallen below the materiality threshold of 2%.

The Court's conclusions are the result of direct checks on a total of 241 transactions, 27% of which contained errors.

Most of the errors were due to the overstatement of land areas by the beneficiaries of the single payment regimes ("accuracy errors"). There are also cases of "eligibility errors" like, for example, payments carried out in favour of beneficiaries without any proof that they had actually performed any agricultural activities (a recurrent observation in the Court's Annual Reports) or payments made for woodland areas that were declared as "permanent pasture". It is also worth mentioning a case in which the required conditions for obtaining a premium were created artificially.

As for the control systems employed to guarantee the correctness of payments, these rest essentially on the integrated Administration and Control System (IACS), which includes a computerised database of holdings, aid applications, agricultural parcels (and in some cases animals) as well as aid entitlements.

The Court's audits looked at the completeness and reliability of the databases and the adequacy of the administrative cross-checks performed on the reimbursements declarations issued by the beneficiaries.

The Court's audit looked at various countries, including Italy (the Emilia-Romagna region), coming to the following conclusions:

- eligible pastureland areas had not been updated (the eligibility rate based on the "historical" data provided by farmers was higher than the one calculated on the basis of the most recent information obtainable from orthophotographs and on-the-spot checks) ;
- the "audit trail" was incomplete, making it impossible, in the event of the modification of the data, to verify the nature of the changes made and evaluate the correct application of any penalties resulting from cross-checks ;
- there had been an incomplete or incorrect *follow-up*, with payments made before the correction of the anomalies observed.

The Court also found shortcomings in the national rules concerning the maintenance of land in good agricultural and environmental condition ("conditionality") and shortcomings in the checks on their application.

In order to reduce the risk of error, the Court recommended an improvement in the quality of the information recorded in the databases and utilised for the verification of entitlements and the calculation of payments; it is also recommended that the requirements for compliance with conditionality should be clarified better in order to ensure their correct application. These are general recommendations, and therefore also refer to Italian systems.

The report pays particular attention to the correction mechanisms for irregularities in the agricultural sector.

Given that this is a field where management is delegated to the Member States, they bear the primary responsibility for detecting cases where expenditure does not comply with the relevant eligibility conditions and corrections must be carried out. They must also initiate the required procedures for recovering the amounts from the beneficiaries.

On the other hand, it is the Commission's responsibility, under its general supervisory function, to verify that these requirements are fulfilled and adopt, where applicable, a formal financial correction decision. This applies both where the Member State has not applied the necessary corrective measures (for example by diligently pursuing the recovery) and where the systems of management and control contain serious shortcomings liable to lead to systemic irregularities. This formal decision, which is adopted in the context of the "conformity clearance" procedure, definitively determines the amounts to be excluded from EU funding.

In 2009, the Commission's financial corrections for Italy as the result of its compliance decisions amounted to €167 million out of the total of €600 million collected for all the Member States. In order to provide a broader picture, I would note that, in the 1999-2009 period, the Commission revoked funding amounting to nearly €6 billion as the result of compliance checks in agriculture; € 1.351 billion of this regarded Italy.

As I have already stated, it is the responsibility of the Member States to recover debts from the final beneficiaries. Due to the difficulties found in performing timely recoveries, a rule has been introduced whereby 50% of the payments that Member States have failed to recover within four years (or eight years where a legal case is pending before a national court) are automatically charged to the national budget (known as the "50/50 rule").

According to the official date supplied by the Commission in March 2010, in the early years of the application of this rule (up to the end of 2009), nearly €260 million was lost to the Italian budget out of a total of €411 million that the Commission charged to the Member States for debts that had not yet been recovered at the end of the 2006 financial year.

Generally speaking, the Member States' capacity to recover unduly collected amounts from beneficiaries is limited, to the extent that the total percentage for amounts actually paid back into the European budget at the expense of beneficiaries in the 2007-2009 period was, for all Member states together, less than 10% of the total debts pending since the start of this system. In Italy, this percentage was only 1.6% of the total for amounts that should have been recovered.

The latter figure merits particular attention, because, although it is true to say that this system provides a justified protection for the financial interests of Europe, it *de facto* transfers part of the financial loss for irregular payments in the agricultural field to national taxpayers rather than charging it to those who illegally benefited from it.

I would now like to look at **cohesion** policy, which is the second field of intervention as regards its financial importance; in terms of expenditure it accounted for 32% of the European budget (amounting to a total of €35.5 billion). As you know, cohesion policies are designed to support, with structural measures, the development of the economically and socially less advanced regions in accordance with the Union's principle of solidarity.

This is the only sector in which the most likely error rate is still higher than 5% even though it has fallen compared with previous financial years.

Of the 180 projects audited, 36% contained errors mostly related to serious infringements of the rules on procurement and the declaration of ineligible expenditure.

With reference to the first category of errors (which represents around three quarters of the estimated rate) the 2009 Report notes, in particular, an unwarranted use of the negotiated procedure, the direct awarding of contracts in the place of public tender procedures and the utilisation of illegitimate award criteria.

Given the recurrent nature of many irregularities, in order to have a more complete idea of the types of errors that can derive from non eligible expenditure, we can look back to the findings of the previous Annual Reports.

There are many different types of irregularity. They vary from the declaration of costs belonging to non reimbursable categories (like, for example, the purchase of land or the purchase of equipment that is not related to the activities of the project funded) to projects which do not comply with the conditions and therefore do not achieve the goals of the funding (projects that are unusable because they fail to comply with environmental regulations or are clearly unsuitable for achieving the specific objectives of the project because of the lack of the necessary additional infrastructure).

The Court also noted a particular "proneness towards error" in projects that were submitted for Community co-financing in substitution for other projects that had been deemed ineligible by the Commission ("withdrawn projects"). This essentially derives from a failure to perform a careful ex-ante analysis to ascertain compliance with Community funding rules, thus exposing the European budget to new risks of irregularities.

In the report that I am presenting today, the Court also estimates that around a third of the errors found in the payments audited could have been identified and corrected by the Member States before they certified the expenditure to the Commission, as they already possessed the necessary information to intervene.

It goes without saying that, given the recurrent nature of the above observations, they can generally also be held to refer to our country, which has often been audited by the Court in the past even though it was not included in the sample of transactions selected for on-the-spot checks for the 2009 financial year.

As for the possible reasons for this, it should be mentioned that, for cohesion, the Court does not audit the advances paid out to the national management authorities at the beginning of the period, given that their risk profile is almost zero; rather, it concentrates its audit work on interim and final payments. The fact that none of the random sample of final and interim payments for 2009 referred to Italy may be linked to the delay in the implementation of the expenditure for the current 2007-2013 programming period.

This delay is partly due to the postponement of closures relating to the previous programming period because of the extension for payments until June 2009 granted to the majority of countries as an anti-crisis measure and partly to the current regulatory provisions in the cohesion field, which make the first interim payment request conditional upon the Commission's prior approval of the overall "architecture" of the national control systems (description of systems and audit strategies, compliance assessment by an independent body - for Italy, the General Inspectorate for Financial Relations with the EU - and subsequent acceptance by the Commission).

For most of 2009, our country was involved in the procedures for this prior "accreditation", which was only concluded in 2010 for both the European Social Fund and for the European Development Fund.

This probably contributed towards delaying the implementation of the expenditure programmes.
Although the procedure in question is onerous, it should reduce the risk of serious shortcomings likely to result in irregular expenditure being discovered at the last minute, that is to say, when the expenditure is declared. Furthermore, this approach is consistent with the general trend in the Regulations for the 2007-2013 period, whereby the Commission relies increasingly on national systems.

With regard to the systems aimed at ensuring the regularity of payments in the cohesion sector, the Court's audit highlighted the fact that, for two-thirds of the Operational Programmes audited (11 out of 16), the checks performed by the management authorities only partially complied with the Regulations.

The systems used for handling errors found by the national authorities, on the other hand, were considered to be effective (in particular with regard to the recording of the errors and the keeping of the accounts for the amounts to be recovered). The least satisfactory aspect regarded the communication of the relevant amounts to the Commission.

In the context of the 2009 Statement of Assurance, the Court did not carry out any systems audits in Italy either. However, I wish to remind you that, during the previous year, it analysed the systems for recoveries and financial corrections at the Calabria and Puglia payment authorities. The systems were considered to be partly satisfactory in the first case and unsatisfactory in the second.

This brings us to the Commission's supervisory function in the context of structural measures. In 2008, the Commission launched a specific action plan, which, among other things, led to a significant increase in financial corrections at the expense of the Member States. According to the data supplied by the Commission itself, in the years 2008 and 2009, amounts for financial corrections totalling € 3.801 billion were found in the cohesion sector with reference to expenditure for the periods 1994-1999 and 2000-2006. This compared with a total of € 3.567 billion found in the eight previous years (2000-2007).

For an overall total of €7.368 billion for corrections implemented between 2000 and 2009, an amount of € 1.3 billion regarded Italy.

For the sake of completeness, I would add that the Commission's control activities also led to recoveries from final beneficiaries corresponding to €102 million in 2009 and €31 million in 2008 .

The final accounts however do not contain figures concerning the activities performed by the Member States, either as regards recoveries, or in terms of amounts withdrawn and reallocated to other projects. This year too, the Court therefore found that the Commission had not received reliable information on the results of national checks.

The report's **third message** is therefore that, although there had been an increase in the quality and quantity of the information supplied by the Commission with regard to its own correction capacity, **there was still a need for improvement in the reliability and completeness of national data** in order to provide an overall picture of the results of action taken to safeguard the financial interests of Europe.

A topic that is currently under discussion is whether recoveries and corrections can be taken into account for the estimation of the error rate. For some time now, the Commission has claimed that the Court should take into consideration the reduction effect produced by the correction mechanisms so as to give an accurate picture of reality.

The Court has put forward a number of objections to this, among other things, because of the problem of establishing a direct link between the corrections and the recoveries performed in a given year and the financial years in which the related irregularities took place or were detected (the notes annexed to the final accounts do not contain any systematic information in this connection). This means that it is impossible to estimate the impact of these mechanisms on an annual basis, which is what the Treaty takes into account for its requirement that a Statement of Assurance should be delivered for each financial year.

Coming to the end of my presentation, I would like to observe that there has been a significant turn-around in the cohesion sector with regard to the irregularity rate found, as can be seen from a comparison between the results for 2009 and those for the previous financial years, among other things because of the greater attention given by the Commission to its own supervisory function in this field (see, in this connection, the aforementioned 2008 action plan).

In actual fact, although the most probable estimated error rate for cohesion is still higher than 5%, it is significantly lower than the one found for previous years.

I would add that the size of this reduction more than compensated for the increase in the error rate found in the agriculture and natural resources sector. This brings me to the **fourth message** of the Annual Report: **the 2009 error rate, as estimated for the budget as a whole, is lower than in 2008** and this confirms the falling trend already observed in the course of previous years. However, in the Court's view, this information must be taken with caution because of the continuing specific risks, in particular, in the cohesion sector, which may compromise the regularity of payments in the years to come.

Looking towards the future, what can be done to reduce the level of irregularities further? As is shown in various Court documents, including the Opinion delivered at the beginning of 2010 (No 1/2010) on the risks and challenges involved in improving financial management, the reduction of the irregularity rate mainly concerns two instruments: the simplification of the legislative framework governing expenditure regimes and the reconsideration of the management and control systems with a view to giving greater attention to the problem of administrative costs.

Actually, these two topics are somehow linked. On the one hand, excessively complex eligibility criteria and conditions that are unclear and difficult to verify not only increase the risk of non-compliance, but also produce greater administrative costs.

On the other hand, the existence of controls whose administrative costs are higher than the benefit that they are likely to bring in terms of a reduction in irregularities suggests that the expenditure regimes should be reformed and simplified as much as possible.

Obviously, in so doing, the necessary caution must be taken in view of the fact that the rules that govern the procedures for paying out funds also contribute towards the realisation of the specific objectives of the policies. It will therefore be necessary to find a balance to avoid excessively generic rules opening the way to expenditure that is not sufficiently "targeted".

The Court recommends that attention should be given to these profiles right from the moment when interventions are designed. It would also like the conception of expenditure to be inspired by criteria like clear objectives and intervention logic, realism, transparency and accountability. This is because it is convinced that the premise for sound financial management is the existence of rules that are likely to inspire virtuous behaviour.

The Court is convinced that, after the Lisbon Treaty, the Union is now facing a historical opportunity to implement radical reforms, including on the financial level. After the joint consultation launched a while ago by the Commission on the reform of the budget, the draft revision of the Financial Regulation is currently underway. At the same time, discussion has started on the future of the main expenditure policies, and, more generally, on the new financial framework for the period beyond 2013.

The Court's messages and recommendations should therefore be read in the perspective of the announced reforms, with one particular provision - that the attention given to procedural profiles and regularity should not lead us to forget aspects related to the effective utilisation of expenditure.

This is a subject that is also looked at in the Opinion of 2010 that I mentioned earlier. For reasons of time, I would like to mention just one fundamental passage of this document: the one in which the Court suggests that expenditure programmes should be redesigned in terms of specific and measurable results, rather than in terms of eligibility conditions (payment "on the basis of results"), so that we may have a more immediate and direct knowledge of the extra benefits that Community aid provides over and above the intervention efforts of other public and private bodies (known as "European added value"). On this point, I wish just to observe that proof of the capacity to generate added value is all the more essential in times of economic instability and in the presence of budget limitations like those that we currently face.

PRESENTATION OF THE COURT'S 2009 ANNUAL REPORT AND SEMINAR ON SOUND FINANCIAL MANAGEMENT OF EU FUNDS IN MALTA

By Mr Jacques Sciberras, Private office attaché

Dr. Louis Galea and ECA auditors visit to the National Audit Office

Dr Louis Galea presented the Court's Annual Report in Malta during his visit on 28 and 29 March. The visit consisted of a series of meetings, a presentation of the Court's Annual Report in Parliament on 28 March and a seminar organised in collaboration with the National Audit Office (NAO) and the Department of Internal Audit and Investigations (IAID) the following day.

The highlight of the visit was the presentation of the Court's 2009 Annual Report to the joint meeting of the Foreign and European Affairs Committee and the Public Accounts Committee of the Malta House of Representatives. The presentation was held on 28 March at the Palace in Valletta, and was co-chaired by the Hon. Francis Zammit Dimech and the Hon. Charles Mangion.

This was the first visit of Dr. Galea in his capacity as a member of the Court, and followed previous visits of Prof. Josef Bonnici in earlier years. It was also a first for the two Parliamentary Committees to act jointly in the discussion on the Court's Annual Report.

Dr. Galea gave a short introduction of the mission and functions of the Court, outlining the legal basis of its work as provided for in the Treaty. He also gave a brief summary of the work of the Court during 2009, presenting the Court's Annual Activity Report, and a brief outline of the Court's recent special reports and recent changes in the way the Court is organised into Chambers.

By way of introducing the Annual Report, Dr. Galea took some time to explain the role of national parliaments under the new Lisbon Treaty and how the Annual Report informs parliaments to be able to perform their function of scrutinising the co-management of EU funds by government and to contribute to better policy formulation in the long term.

He then gave an overview of the key findings and opinion of the Court as structured in the chapters of the Annual Report with an additional focus on findings specifically related to Malta.

As part of the 2009 DAS audit exercise, the Court assessed the supervisory and control systems of 8 paying agencies responsible for the disbursement of funds under the Europaen Agricultural Guarantee Fund (EAGF). Malta was one of the Member States covered within this exercise and, in its particular case, the audit also assessed the allocation of aid entitlements following the introduction of the Single Payment Scheme (SPS) system in 2007.

The Committee members raised questions in relation to the references on Malta as well as the frequent comments of the Court on errors resulting from complex regulations in different budget domains.

In the course of his visit he also met the Speaker of Parliament Dr. Michael Frendo, the Prime Minister Hon. Lawrence Gonzi and the Leader of the Opposition Hon. Joseph Muscat.

Dr. Louis Galea presenting a commemorative ECA medal to the Speaker of the House, Dr. Michael Frendo

Dr Louis Galea presenting the Court's Annual Report to the joint meeting of the Foreign and European Affairs Committee and the Public Accounts Committee of the Malta House of Representatives

Dr Galea's presentation to the Committees in Parliament was preceded by a visit to the National Audit Office in Floriana. Dr Galea met with the Deputy Auditor General, Mr Charles Deguara and other senior officials. This office is the supreme audit institution in Malta and collaborates with ECA through regular meetings of the Auditors General of the twenty seven EU Member States (Contact Committee).

Louis Galea thanked the Maltese General Auditor, Mr Anthony Mifsud, who was attending a EUROSAI-ARABOSAI conference abroad, and all NAO officers for effective collaboration between the two institutions. He said that the ECA has very good working relation with the NAO in Malta, and remarked that "The public audit system is an effective tool of control of public finances and assets of the country. It is through independent and impartial verification that the people can have adequate assurance and accountability of the work of politicians, public officials and government agencies. Audit and accountability are the foundation of good governance. Without verification there is no accountability and without accountability there can be no control of who is entrusted with the power at all levels of public administration".

On Tuesday 29 March, Dr. Galea attended a half-day seminar entitled "Sound Financial Management of EU Funds".

The seminar was organized by the ECA in collaboration with the NAO and the IAID. The seminar was attended mainly by government officials responsible for the management of EU funds in Malta. The seminar was held at the Corinthia Hotel, St. George's Bay, and attended by over 100 participants.

The Seminar was inaugurated by Dr. Godwin Grima, Principal Permanent Secretary and Cabinet Secretary. The Assistant Auditor General of NAO, Vanessa Tonna, spoke about the audit work performed by the National Audit Office in the field relating to the EU and Mrs. Rita Schembri, Head of Department of IAID spoke about the internal audits conducted by her Department with an emphasis on the implications of audits concerned with EU funds.

Two Auditors from the ECA then made presentations. Ms. Ildiko Preiss spoke about the kind of errors typically encountered in the Court's DAS audits, drawing from examples found in previous years, while Mr Johan Adriaan Lok highlighted the implications of recoveries.

In his concluding remarks Dr. Galea explained how the Commission urges Member States to recover misapplied funds from the beneficiaries rather than from government. He explained how 80% of the EU budget falls under co-management between the Commission and Member States, and how governments have a large responsibility to ensure that these funds are managed and controlled in an effective manner and to ensure the legality and regularity of expenditure.

Mr. Charles Deguara, the Deputy Auditor General, closed the event thanking the ECA for their participation and augured that similar activities are organized in the future.

PRESENTATION OF THE COURT'S 2009 ANNUAL REPORT IN LITHUANIA

By Mrs Rasa Budbergytė, Member of the European Court of Auditors

Mrs Rasa Budbergytė, Member of the European Court of Auditors, second from right

During the week of 21 to 25 March 2011, I presented the 2009 Annual Report to the relevant national authorities in Vilnius, Lithuania, including three Parliamentary Committees (the European Affairs, Rural Affairs and Audit Committees), as well as the Ministries of Finance and Agriculture and the National Audit Office.

In my presentations to the Parliamentary Committees, I focused on the main messages of the Annual Report, and on the observations and system assessments which concerned Lithuania.

I also spoke about the Court's opinions, especially Opinion No 1/2010 on improving the financial management of the EU budget: risks and challenges, and Opinion No 3 /2010 on the proposed amendments to the Financial Regulation. Concerning the Court's special reports, I particularly emphasised recent reports: "Implementation of the Leader approach for rural development" and "Impact assessments in the EU institutions: do they support decision making?".

My presentation to the Ministry of Agriculture focused on Chapter 3 (Agriculture and Natural Resources) of the Court's Annual Report, and was followed by extensive discussions with the Minister of Agriculture, as well as the Vice-Minister, Ministry staff and representatives of the main agriculture organisations/ associations, on the future of the Common Agricultural Policy. In presenting the Annual Report to the National Audit Office, I highlighted not only the main observations but also the methodological aspects of the Court's audit work.

I was delighted with the keen interest shown in the Court's activities by all participants, with many questions asked and comments raised.

In addition, I was honoured to be received by the Speaker of Parliament ,Mrs Irena Degutienė, to discuss the Court's activities and EU matters in general.

Finally, I also took part in a live radio transmission on Lithuanian national radio.

STATEMENT BY PRESIDENT MR CALDEIRA AT THE MEETING OF THE COMMITTEE ON BUDGETARY CONTROL, 22.03.2011

Mr Vítor Caldeira, President of the court

The European Court of Auditor's (ECA) **independence** has been maintained and strengthened over more than 30 years. The Treaty provides the Court with a number of safeguards: our status as an institution, a rigorous public procedure for appointing members, and collegial decision making. Collegiality means all Members may discuss a draft report before it is adopted by a majority decision which is binding on all Members.

The **impartiality and objectivity** of the ECA's reports is recognised by stakeholders and peers. The 2008 independent peer review report concluded positively. The ECA has a suitable audit framework which meets international standards and good practices. Our audit work is independent and objective. Our reports are based on sufficient and appropriate evidence. And stakeholders have confidence in those reports. This last conclusion was also confirmed more recently through ECA surveys of stakeholders (including the European Parliament).

The ECA is a **professional** audit institution that actively contributes to developing public sector audit. Through its involvement in international organisations of Supreme Audit Institutions (SAIs), the ECA has helped to develop international audit standards. In addition, the Contact Committee of the Heads of the Members States' SAIs and the ECA develops innovative and harmonised approaches to the audit of EU funds. The ECA is also leading a peer review of the SAI of Norway.

All Members have contributed positively to the ECA's output and its development over the years. The ECA has adapted to a changing EU audit environment, and its recent **internal reforms** help to make it better able to anticipate the future changes and challenges the institution will face. The Court has a strategy for maximising the impact of its work and making best use of its resources, and has recently revised its governance arrangements – introducing Chambers – to further improve its decision-making and efficiency.

Working effectively with our **stakeholders,** in particular the European Parliament (EP), is key to our future success. The ECA has a special relationship with the EP that is based on history, the Treaty, and a good working relationship with the Committee on Budgetary Control (CONT). The ECA looks forward to continuing to work together with the EP on common challenges (e.g. EU budget reform and the developments in EU economic governance) in order to improve EU financial management and promote accountability and transparency for the benefit of EU citizens.

THE EUROPEAN COURT OF AUDITORS SPECIAL REPORT N° 13/2010 "IS THE NEW EUROPEAN NEIGHBOURHOOD AND PARTNERSHIP INSTRUMENT ON THE RIGHT TRACK IN THE SOUTHERN CAUCASUS (ARMENIA, AZERBAIJAN AND GEORGIA?"

Exchange of views in the Committee on Budgetary Control on 12 April 2011 in the presence of the Member of the Court responsible, Gijs de Vries

By Rosmarie Carotti

The European Neighbourhood and Partnership Instrument was launched in 2007 as a new framework for planning and delivering assistance to 17 partner countries and territories. It became the main instrument for EU financial support to the three countries in the Southern Caucasus (Armenia, Azerbaijan, Georgia) which are of strong economic and strategic interest for the EU.

After the preparation of the report, there was the change in the Commission with the creation of the External Action Service, although the implementation of the Neighbourhood Policy remains under the responsibility of Commissioner Fühle.

The programmes concerned are normally small and often go for budgetary support. The priorities have been worked out together with the recipient countries but supporting the creation of renewable energy in a country like Azerbaijan, which is exporting massively oil and disposes of huge reserves of oil, is something which corresponds to the priorities of the EU while the interest of the country to develop alternatives is not as high as it could be. The selection of priorities should be better performed.

When the EU provides budgetary support, it relies practically on the budgetary procedure of the recipient country. There often is a discrepancy between the standards of the EU and the abilities of some of the recipient countries to deliver these standards, as pointed out in the report of the ECA in these three countries.

As a whole the results of the programme are positive and it has its political meaning, but a better balance is needed between budgetary support and direct financing of concrete projects to increase the visibility and efficiency of the EU funds.

After an introduction of the topic by the European Parliament's rapporteur, Mr Ivailo Kalfin, Mr Gijs de Vries presented the main points of the report: the complexity of the neighbourhood policy programming, anomalies seen between some of the instruments used and the practical results. He also referred to a recent dialogue with Commissioner Fühle, who had shown understanding for some of the points raised by the Court and committed himself to taking them on board during the revision of the neighbourhood policy currently being undertaken.

As the Court's report indicates, the Commission's implementation of the neighbourhood policy in the Southern Caucasus is characterised by three levels of complexity. For each partner country, no less than five instruments served to implement the policy. Each of these instruments has a different time-frame. The programmes are the responsibility of different directorates general of the Commission. This complexity comes at a price. There is an obvious need to streamline these instruments and procedures.

A second finding of the Court concerns anomalies between the different policy documents. Priorities were reformulated from one document to the next.

Third, simplification is important. Any action plan that contains over 300 commitments including 64 priority actions and 242 additional actions is not much use as a guide to policy.

The Court also recommends that the Commission should be more selective in providing sectoral budget support. The Commission spends 50 to 70% in the field of sectoral budget support even when recipient countries have flagged that the proposed actions might not be their priority. The more is spent through budget support, the less will be available for other ways of financing.

The Commission stressed that these are new instruments which need some time to perform better. At the same time it is looking critically at potential elements that could be deleted to streamline and improve the procedures and prioritisaton. The Commission is happy with the current ratio that 50 to 70% of the funds available goes to budget support but intends to be more selective on what issues would be suited for budget support. Reference was made to an upcoming Commission communication on budget support. In reaction to questions raised by Committee members where the programming process could be concretely streamlined, and in the absence of suggestions to that extent from the Commission side, Mr Gijs de Vries indicated that the national indicative programme could be looked at critically as one of the potential elements that could be reconsidered. However, Mr Gijs de Vries also underlined that this would not solve the main problem. The main question is whether it makes sense for the EU first to engage a fairly long discussion with recipient countries on issues of mutual interest, on strategy and joint objectives, only then to move to a second stage where the EU allocates money and gives that to things that the EU decides upon and which are not necessarily based on a shared appreciation.

CHAMBER I SEMINAR, 5 April 2011

By Rosmarie Carotti

The seminar was introduced by Mr Michel Cretin, Dean of Chamber 1, who welcomed all participants. He in particular extended his welcome to Mr Harald Wögerbauer, new Member of the Court assigned to Chamber 1. Mr Wögerbauer comes from Austria and replaces Mr Hubert Weber, former Member and President of the ECA.

The seminar was an occasion for all those working in Chamber 1 to review the goals and the way of achieving them. The starting point had been a discussion paper on "Improving the relevance and delivery of Chamber I selected audit tasks" presented on December 8, 2010, by Mrs. Rasa Budbergyté, Member of Chamber I.

There were three topics chosen for the seminar and each of them was introduced by a speaker. Mr Robert Markus, head of unit, proposed "Adapting the Audit Strategy of Chamber I". Mrs Maria Luisa Gomez-Valcarcel, senior auditor, discussed "The Portfolio of potential audit tasks: Gap Analysis" and Mr Edward Fennessy, director of Chamber I dealt with "Management Issues

The core issue is how Chamber I can adapt its audit strategy to the changing environment of the European agriculture. New priorities possibly need to be set as after 2013 there will be a complete redefinition of the European agricultural policy. Discussions have already started and the present transitional period might be a good occasion for using the acquired experience to contribute to the new development. The planning for the next strategy will in fact start in the second half of this year.

In the past the ECA's audit focused on budget lines or individual measures. Is it not better to concentrate instead on specific areas, and addressing financial, compliance and performance aspects?

It is true that direct support to farmers will remain the main area of expenditure of the common agricultural policy in 2013-2020. Social expenditure will take more importance but the balance will not be reversed. On the other hand, the audit of management and control systems only partially will meet societal expectations.

The ECA's independent judgement on the 2020 goals will be of major importance. That's why the seminar aimed at analysing how best to intervene in order to have impact on the Commission and the legislative process.

Follow-up audits will show how the Commission has included in its programming the results of the ECA's audits. As the ECA does not have the tools for making a global evaluation, it will have to see how to improve horizontal audits and delineate within the budget a number of expenditure areas for a horizontal approach.

Another key goal of the next strategy will of course be to increase productivity, improve the flexibility in the use of resources and achieve a better timeliness in the issue of reports.

Each presentation was followed by an extensive exchange of views during which all auditors were invited to give their viewpoint on the issues addressed. This feedback will provide valuable input to updating the Chamber's Audit Strategy post 2012 and to align it to the Court's overall strategy.

To close the seminar, Mr. Cretin gave an overview of the main issues raised.

«SHARED SECURITY PERCEPTIONS AND INTERESTS BETWEEN JAPAN AND THE EUROPEAN UNION» - In the age of the power shift and the power transition

By Rosmarie Carotti

The Embassy of Japan, the Pierre Werner Institute and the Chamber of Commerce of Luxembourg invited Prof Ken Jimbo from the Faculty of Policy Management of Keio University and expert on security in the Asia-Pacific region to discuss his model for the Asia-Pacific region

Luxembourg, 18th March 2011

Japan has become one of the prime commercial partners of Europe and discussions are going on about a partnership agreement between Japan and Europe.

The relationship with Japan and its closeness to the West need to be highlighted from different angles, from the perspective of diplomacy but also of defence and military alliances.

The existing world powers of the are heavily challenged by the emerging powers. Prof. Jimbo talks about the age of "power shift and power transition". Is this power shift in the world really taking place?

According to the theory of the rise and fall of great powers, when challengers are challenging the hegemony, a very unstable period of changing the international system ensues.

Are Russia and China challenging the very nature of democracy and the market mechanisms, replacing them with their own standards, or will they be absorbed by the existing order?

In economic terms, China will overtake the US in 2027, it already overtook Japan last year. India will overtake Japan in 2029-2030. Then, in 2035, likely come Brazil and Mexiko. Many economists share the perception that the emerging economies will actually overtake many of the G-7 countries. This is "the power transition".

But one can counter argue that, even if China's growth of 7% is going to continue, this does not really tell that the power will make a transition, because powers consist of a combination of elements. Especially, when it comes to the military standards, nobody can easily catch up with the level of the US.

Prof. Jimbo challenges this point of view. He questions that the US defence budget will stay at today's level, if the US succeeds to pull out of Afghanistan and Iraq. Japan has advanced equipment and was so far confident that it could overhaul the Chinese forces in the Sea of Japan. But Prof. Jimbo's model clearly shows that Japan's capability to deal with the Chinese military will be much more limited in 2020.

In 2006, in terms of defence technology, the Chinese have overtaken the quantity of the Taiwanese and in 2008 the size of the US in Japan. It is important that now China has the anti-access and area denial capability to make it more difficult for the US to act in this area. China now even has the denial power against military engagement in South/North Korea.

After World War II, under the San Francisco Treaty, Japan, Korea, Australia, Thailand, Singapore, Malaysia, The Philippines, all were part of a bilateral security mechanism with the US. Today, Japan has built more like a partnership relation with the regional members.

This is the picture today:
ASEAN is creating its own capacity to deal with their internal regional problems. China has become a very pro-active country for security collaboration with others and maintains its close cooperation with North Korea. Japan has to deal with the emerging dynamics of the security relations in Asia and build, next to the cooperation with the US, a track 2 coordination between Japan-Australia, Japan-Korea, Japan-India.

And there is the emerging of ad hoc functional mechanisms, especially after 9.11, against terrorism, as some of the plotters had had meetings in Kuala Lumpur and Singapore on how to network, procure arms and train their members. As of today, Singapore, Malaysia and the Philippines share information similarly to FBI and Europol.

The so-called non-traditional security operations are a new phenomenon: they range from public health to disaster relief and are a form of cooperation which is changing the security perception inside the region. Europe with its peace keeping efforts and humanitarian aid is an example for dealing with such non-traditional security layers.

Prof. Jimbo has an agenda for the Asia-Europe cooperation, as both share the same perception of the existing powers being challenged by the emerging powers. He proposes to talk about Russia, China, about practical cooperation against terrorism, Europe's experience of having a wider area regional cooperation in the Balkans and in Africa. Looking at the Japan-NATO dimension, Prof. Jimbo likes the idea of a notion of NATO outreaching to junior partners in a wider region. He wishes Japan to contribute more to world peace and world construction.

With his words: "Japan wishes to see a strong Europe, especially when it comes to dealing with the emerging powers and the priority should be given to maintaining our free and democratic market mechanisms to absorb the emerging powers inside".

SPECIAL REPORT N°1/2011

HAS THE DEVOLUTION OF THE COMMISSION'S MANAGEMENT OF EXTERNAL ASSISTANCE FROM ITS HEADQUARTERS TO ITS DELEGATIONS LED TO IMPROVED AID DELIVERY?

The Court concludes that the devolution of the Commission's management of external assistance from its headquarters to its delegations has contributed to an improvement in aid delivery. At the same time the Court identifies a number of areas where the Commission has not achieved the full benefits of devolution.

IN MAY 2011 THE COURT SAID :

HELLO TO

INDRILIUNAITE	Laura	Chambre II/ESD
BLANQUEFORT	Philippe	Chambre I/NR4
KAKOL	Danuta	Chambre CEAD
KAPETANAKI	Kallirroi	Cabinet de M. Sarmas
MORZYK	Agnieszka	DTR/PL
BUGGEA	Carmelina	DHR/ FPR
KRAINZ	Judith	Chambre IV/ RCH
PILLOY	Julie	DFS / LOG
PUTZ	Andy	DFS / LOG
SALVADOR	Lionnel	DFS / LOG
SONTOT	Frederic	DFS / LOG
SWOROWSKI	Joshua	DFS / LOG
CENEDELLA	Séverine	DFS / LOG

GOODBYE TO

MITROWSKI	Sebastian	Présidence/DOP	Détachement dans l'intérêt du service
NOEL	Melanie	DTR/FR	
CAPURSO	Valentino	Chambre IV/ADB	
SWIRPLIES	Claudia	Cabinet de M. Noack	
KESTLER	Vladimir	Chambre IV/RCH	
JAKOBS	Britta	Chambre III/DVC	
SZEMEREI	Zsofia	DTR/HU	
CAMPO	Aldo	DFS/LOG	

DÉCÈS

Nous avons le regret d'annoncer le décès de notre ancien collègue Ernest FRANKEN, survenu le 14 mars 2011.

Post graduate research grant programme 2011 : Supporting researchers interested in European public finances

The European Court of Auditors and the European University Institute (Historical Archives of the European Union) have created a programme of grants for researchers engaged in research on European public finances, in particular their impact on various areas of European society and culture, and on the historical development of the "external control" function in the EU context. The intention is to award two grants. It should be stressed that the programme is open to any type of researcher (e.g. lawyers, economists, historians or public-finance specialists) interested in the EU's public finances and the impact thereof.

Objectives

These grants are intended to enable researchers with an interest in EU public finances to broaden their research by studying the Historical Archives of the European Union to which the Court has entrusted its own historical archives, and the archives of the Audit Board (1958-1977). Through the programme, the Court wishes to make it easier for researchers to access and consult the collections available at the Institute in Florence.

Eligibility

The programme is open to all current postgraduate students (master and doctoral candidates) and to postdoctoral students or university professors who have completed their master's degree or doctorate within the past five years and who currently hold an academic post.

Selection Committee

The Grant Programme Selection Committee is composed of the Director of the Historical Archives of the EU and of senior (or former) officials of the European Court of Auditors.

Application procedure and deadline for 2011

3 June 2011
(E-mail or postal applications to be sent or postmarked 3 June 2011 at the latest)

Programme website:

http://www.eui.eu/Research PostgraduateResearchGrants.aspx

Programme de bourse de recherche pour chercheurs postgradués 2011: soutenir les chercheurs intéressés par les finances publiques européennes

La Cour des Comptes européenne et l'Institut universitaire européen (Archives historiques de l'Union européenne) proposent un programme de bourses destinées aux chercheurs qui effectuent des recherches sur les finances publiques européennes, et notamment sur leur impact par rapport aux différents domaines de la société et de la culture européennes, ainsi que sur l'évolution historique de la fonction de "contrôle externe" dans le contexte communautaire. Il est prévu d'attribuer 2 bourses. Il est opportun de souligner que le programme s'adresse à tout type de chercheurs intéressés aux finances publiques de l'UE et à leur impact (juristes, économistes, historiens, spécialistes en finances publiques etc).

Objectifs

Ces bourses ont pour objectif de permettre à des chercheurs ayant un intérêt pour l'étude des finances publiques communautaires d'approfondir leurs recherches en s'appuyant sur les Archives historiques de l'Union européenne auprès desquelles la Cour a déposé ses propres archives historiques, ainsi que les archives de la Commission de contrôle (1958-1977).

Par le biais de ce programme, la Cour désire faciliter aux chercheurs l'accès et la consultation des collections accessibles auprès de l'Institut à Florence.

Eligibilité

Ce programme est ouvert aux étudiants postgradués actuellement candidats à un doctorat ou Master's Degree, ainsi qu'aux postdoctorants ou professeurs d'université ayant acquis leur doctorat ou Master's durant les cinq dernières années et occupant actuellement une position académique.

Comité de sélection

Le Comité de sélection de ce programme est composé du Directeur des Archives historiques de l'UE et de hauts (ou anciens) fonctionnaires de la Cour des Comptes européenne.

Candidature et délais d'inscription pour le concours 2011

3 juin 2011

(Les candidatures, électronique ou postale, sont à envoyer le 3 juin 2011 au plus tard, le cachet de la poste faisant foi pour l'envoi postal)

Website du programme:

http://www.eui.eu/Research/Boursesrecherchesfinancespubliqueseuropeennes.aspx

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