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“NOW, MAYBE MORE THAN EVER, THE EUROPEAN PEOPLE NEED A FINANCIAL WATCHDOG PREPARED TO SHOW ITS TEETH”

Farewell interview with Mr Eoin O’SHEA, Member of the Court from Ireland

By Rosmarie Carotti



Mr Eoin O’Shea,
Member of the Court

R. C.: Sir, you were appointed to Chamber IV which assesses the collection and spending of EU funds, and provides its opinion on financial management issues, in diverse range of areas. Which were the hottest issues you had to deal with?

Mr Eoin O’Shea: Firstly, let me say it was an honour to be appointed to Chamber IV. In that Chamber, each Member has responsibility for a specific and distinct spending and policy area. It was a particular delight to be in charge of the Court’s work on 36 EU Agencies. In that portfolio, there is a good mix of technical audit and policy work which suited my background.

In relation to some Agencies, the people of Europe place a particular degree of trust. These are the Agencies who regulate medicines, food, chemicals and the airline industries. It is very important that these Agencies’ decisions, for example to license a new medicine in the world’s most important market of 500 million people, are taken with regard to due process and an absence of conflicts of interest. Working with the European Parliament, the Court has designed a special audit which is ongoing. The fieldwork is done, the preliminary findings have been issued and a draft report is in its final stages.

The great inter-institutional debate on Agencies is an operational or organisational one. What’s their future? How are they governed? How operationally efficient are they? Our annual reports on each Agency, focussing as they do on finances, procurement and recruitment are not designed to cover these broader areas. This year,

the Court has provided additional information to the Parliament and Council in respect of these important horizontal matters.

In relation to the financial crisis, I arrived at the Court in April 2010. It was in the teeth of the Greek crisis. In the following two months, there was a € 110 billion Greek package and two mechanisms, the EFSM and the EFSF – in total, an € 860 billion response when one includes IMF involvement. I recall the discussions at Chamber IV and Court level about the necessity to have a separate Banking unit at Chamber IV. It seems ridiculous now, but there was a view then, in some quarters, that the Court did not need a Banking unit. My own focus on the financial crisis was in relation to the country I know best. Ireland agreed to accept a bailout in November 2010. The terms of the deal, at that time, included a € 22.5 billion borrowing from the EU where the EU would borrow at 3% and lend to Ireland at 6%, producing a projected € 5 billion profit for the EU over the 7.5 years of the programme. This profit would, under the normal EU financing rules, be distributed among the Member States. Thus, there would have been the situation where a country in trouble would be adding to the EU budget and enriching its colleagues. To me, it made no economic, legal, financial or moral sense. Furthermore, it was at odds with the EU’s admirable 40-year borrowing and lending history with Member States beginning with the 1970s oil crisis and, more lately, with the Balance of Payments support to three of our current non-eurozone Member States. I was partly responsible, through giving some formal answers to well-written questions from a well-informed Irish broadcast journalist, for starting a media and political debate on the issue in Ireland in December 2010. The debate played an important role in the 2011 Irish General Election. Thankfully, this situation was fixed in July 2011 and, in future, the EU will not be in a position to profit from the temporary financial difficulties of any of its Member States.

The Court produces many excellent Special Reports. To be up-to-date, I would instance the recent reports on Nuclear Decommissioning and Fisheries Fleet Consolidation which are both incisive, well written and will contribute enormously to future debate. For Ireland, during my mandate, the most significant Court output was that issued in November 2010 on the Reform of the EU Sugar Market. The Report linked the closure of the Irish sugar industry, in 2006, with the mis-implementation of EU policy. The results, in terms of impact, have been

significant. Following initial media coverage on 11 November, the Irish parliament was suspended on 12 November when over 20 deputies called for the suspension of parliamentary standing orders to discuss the Court’s report. The Irish Farmers’ Association called for the restarting of the sugar industry. 2,000 farmers met in public meetings to discuss the issue. The Government of Ireland subsequently supported two independent studies on the viability of Irish sugar, both of which were positive. The current Irish Minister for Agriculture is on record that he will support an industry restart, subject to the economics.

An enduring debate over the last decade, according to those Members with the requisite institutional memory, as been the debate about outsourcing the Audits of EU Agencies. A long time ago, the debate may have been more academic because the number of Agencies was small. Now, taking Agencies, Executive Agencies and Joint Undertakings, the number is over 45. The Commission had, in 2010, made a proposal for complete outsourcing, where the Court would essentially have no role at all. I was against this and the Court Members agreed to an Opinion which kept the Court’s responsibility for Agency financial audits but which allowed the Agencies to employ external assistance which, working with the Court, would result in an Agency audit opinion which was owned by the Court and which the Court would then present to Parliament and Council. The debates at the CEAD, Chamber IV and Court on the Court’s Opinion and the debate at the Rome Seminar were important. Subsequent to the Court’s Opinion, I was privileged to be part in the “selling” of the Court’s opinion at Council and Parliament level. I recall learning off a German poem I had heard in school called “Das ist teuer” in an attempt impress the Parliament’s Rapporteur on the matter. The Court is undertaking a pilot audit involving a private auditor in the Eurofound Agency, Dublin, in March 2012 in order to be ready for the new Financial Regulation. In the context of the proposed 5% cut in staff by 2018, involving other auditors in Agency work is an imperative in order to maintain the Court’s ability to respond to its stakeholders and to maximise the possibility of the Court conducting special audits in respect of EU Agencies.

R. C.: You are both a chartered accountant and a barrister. Do these two apparently different qualifications complement each other for audit work or can they cause conflict?

Mr Eoin O’Shea: My background has been very useful. The Court issues two opinions on EU finances – reliability of the accounts and the legality and regularity of the underlying transactions. One side deals with accountancy and the other covers law. There has not been a day, during my responsibility for the audit of EU Agencies, where knowledge of accountancy and law have both been important.

I believe the Court needs Members with a mix of backgrounds, because of its wide responsibilities, however there needs to be some more professionally qualified accountants. We are a Court of Auditors. I believe the public expect us to have sufficient numbers of people who know about balance sheets and economic outturn accounts. Auditing involves a large element of pure technical competence, particularly on the reliability side.

R. C.: How would you strengthen institutionally the ECA’s role in order to reassure the European taxpayer that his or her money is being audited properly?

Mr Eoin O’Shea: The great debate, and it is a red herring, is about the number of Members in the Court. I believe strongly that an Institution of the EU needs a Member from every Member State. The Court is greatly enriched by being able to harness the national concerns of all colleagues. Every Member State has individual experiences and needs in our great EU project. If one loses sight of this, the Union itself will suffer.

A matter which is important for the Court is the job which falls naturally to a national member. During my mandate, I kept in touch with the Irish media, the national delegation of MEPs, the Irish parliament and the Irish Government. Wherever I travelled, a visit to the Irish embassy was a must. Ordinary Irish people and organisations felt comfortable contacting me with their observations and recommendations. This is normal, important, representational work which adds significantly to the closeness of the Court to the people of Europe. This type of interaction would all be lost if the Court make-up were to be changed.

A good example of the benefit of the current make-up is the Court’s insistence that the European Stability Mechanism, with a borrowing capacity of € 500 billion, four times the annual EU Budget, should have a strong public audit involvement. I was very proud of the Court’s

position paper and the leadership President Caldeira gave when dealing with the EU Parliament, Council, European Council and SAI's on the issue. On this very significant point, the national membership of the Court and its position as an EU Institution was very positive for the benefit of the people of Europe.

The real issue for the Court is the usefulness of its outputs. The Court's challenge is to identify the issues of most concern to the people of Europe and to report on them. We have an issue in that our outputs take a considerable time to reach the marketplace. Our marketplace is a political one. There is a saying in Ireland that a week is a long time in politics. As they say in America, go figure!. The Court needs an audit product – I have called it guerrilla auditing – where current issues can be dealt with quickly and comprehensively, leading to a very useful and timely output. One example of this, in the Agency sphere, was a report on the European Police College's Multi Annual Plan. We performed the audit in May 2011 and published the results in June 2011. (Yes, one month, it will not be a typo!). Another example is the Court's position statement on the Financial crisis which took a very short time indeed. My point is - it is possible.

In my opinion, the most useful interventions a Court Member makes is when an EU Parliamentarian asks the Member an oral question. In those circumstances, the Court is very, immediately, useful to Parliamentarians. There has not been a week, with Agencies, where this has not happened with me. While we are naturally careful in our answers, the fact that direct involvement between Parliament and Court can be pursued like this strengthens inter-institutional arrangements and furthers the mission of the Court.

R. C.: How does Ireland stand today in the light of the financial crisis?

Mr Eoin O'Shea: Ireland accepted a bailout in November 2010. It led to much national anguish. A national newspaper's editorial was titled "Was it for this", meaning "was it for this" that our great patriots struggled so valiantly in the generations gone by to achieve national sovereignty.

Ireland's problems were mainly our banks. Over a decade, incompetent financial management and insufficient regulation and oversight led to, in September 2008, the Government of Ireland guaranteeing € 440 billion of Irish banks' assets and liabilities – representing 3 times' Ireland's GDP and 10 times' its tax revenue.

Construction and the property market in Ireland were allowed to overheat – led by uncontrolled lending. Property prices have fallen more than 60% from their peak in 2007. Pro-cyclical policies have led to the need for a radical overhaul in Ireland's personal insolvency regime which is now being implemented. It is ironic that in Moscow, the cradle of communism 100 years ago, there are more billionaires than anywhere else in the world while, at the other side of Europe there is Ireland, a country which had a recent fetish for unbridled capitalism, where the State now owns most of the banks.

Budgetary management in Ireland was very weak. In 2008, Ireland was budgeted to receive € 49 billion in tax revenue. The actual out-turn was € 41 billion. The surplus on current account of € 7 billion in 2007 moved to a current deficit of € 3 billion in 2008. 2010 tax revenue was € 31 billion, producing a current account deficit of € 12 billion.

But, Ireland is recovering. The success of its general economy is, thankfully, divorced from the previous incompetence of some of its national institutions.

We have a young, talented and educated workforce. Competitiveness is here in the economy now. GDP is growing. The country had, in 2011, its best ever trade and foreign direct investment figures. In the words of Bill Clinton, speaking at an investment conference this month, "The payoff [in Ireland] over the next decade will be big. So go to it."

There is no doubt that budgetary austerity is here to stay in Ireland and generations of our people will rue the stupidity of Ireland's financial regulators and the adoption by the State of the banks' gambling debts. But the people of Ireland are resilient. We live in a vibrant, open, European economy and we shall overcome.

R. C.: Will you continue to follow the work of the ECA once back in Ireland?

Mr Eoin O'Shea: Yes indeed. Very few people have had the privilege of serving at this level in the European Union and I am very proud to have served at the Court and with all of my 900-plus colleagues.

The Court has great potential. Now, maybe more than ever, the European people need a financial watchdog prepared to show its teeth. They do not want a friendly pet which snoozes contentedly in its basket beside the

fire. They need an ever-vigilant friend who growls and bites when the situation calls for it.

R. C.: You gave an interview to the Journal when you took up your mandate on 31 March 2010. Now, that you leave, what do you intend to do with the acquired experience?

Mr Eoin O’Shea: I am receiving back my law licence this month and will be practising at the Irish bar again. Irish barristers are advocates – we speak in Court on behalf of our clients. Here in Europe, I believe most of my time was spent speaking and advocating and reasoning in order to achieve the Court’s aims. From that perspective, my advocacy skills have been maintained in their same, intact condition – and probably improved. The debate on involving external auditors in EU agency audits, steering 60 audit reports through Chamber IV and speaking 16 times in Parliament would probably improve anyone’s advocacy skills.

It is a good time to invest in Ireland and I am also looking forward to being involved in businesses again. There is something very exciting in creating new companies and searching for opportunities. Since my first company, aged 22, this excitement has never left me. It is also a good time to invest in Europe. Even though always a pro-European person, I have to acknowledge my former lack of real knowledge of the EU and its countries. With Agencies, I have visited most EU member states and learned of their unique histories and politics. With the Institutions, Agencies has brought me in contact with most Commissioners and DGs. I have had personal contact with over 100 MEPs. The knowledge of how things work in Europe is something which might be useful in the future. When travelling and attending meetings, for example, in eight EU countries inside seven days, you realise that the EU is a smaller place than might be imagined.

R. C.: Have your views of Europe changed?

Mr Eoin O’Shea: Yes. I had the privilege of visiting Vilnius, the capital city of Lithuania, to attend an Agency meeting there. While there, I spent some time at the KGB museum and learned about the hardship the people of Lithuania endured during their period of enforced subjugation. It reminded me of Ireland’s background and its own struggles. After checking, I realised that we in Europe are the largest group of people in the world who can be confident our governments will never put us to death. It is a profound statement but it is very true. In

our international endeavours, we in the EU are bringing this most pertinent message to the world. In Europe, we have much hope for the future. Our project is strong and united. We will never have to fear the future so long as we remember the past.

In November 2011, the Foreign Minister of Poland, M. Radek Sikorski, made a profound statement about the future of the European Union. I thought so much of his speech that I wrote to the Polish Ambassador in Luxembourg to ask him for a signed copy of it. I would like to agree with M. Sikorski’s following statement:

“We are standing on the edge of a precipice. This is the scariest moment of my ministerial life but therefore also the most sublime. Future generations will judge us by what we do, or fail to do. Whether we lay the foundations for decades of greatness, or shirk our responsibility and acquiesce in decline.”

To conclude, let me say goodbye and good luck. As we say in Ireland, may the road rise to meet you, may the wind be always at your back and may you be half-an-hour in Heaven before the Devil knows you’re dead!

Nothing further occurs.

(As Irish Barristers say at the end of their legal Opinions.)

LA COUR DES COMPTES EUROPÉENNE : VICTIME DU TRAITÉ DE MAASTRICHT ?

Par François COLLING, ancien Membre de la Cour des comptes européenne



M. François COLLING,
ancien Membre de la Cour

Lorsqu'en 1999, la Commission Santer fut contrainte de démissionner, c'était une onde de choc à travers l'Europe. La démission du collège est intervenue suite à la découverte d'irrégularités dans l'octroi de contrats à des sociétés externes et à l'absence de réaction rapide et adéquate de la Commission face à ces constatations. Contestée au Parlement européen qui menaçait de la censurer, suite à des allégations de mauvaise gestion visant certains de ses membres dont Edith Cresson, la Commission Santer a été amenée à démissionner le 15 mars 1999. Mais quel était le rôle de la Cour des comptes européenne dans ce jeu interinstitutionnel entre le Parlement et la Commission qui menait à la démission de la Commission Santer?

Le contexte politique et le rôle de la Cour dans la décharge donné par le Parlement européen

Les dispositions applicables du Traité confient à la Commission la responsabilité finale de l'exécution du budget. Chaque année, le Parlement européen doit évaluer la façon dont la Commission a géré le budget de l'Union européenne. Et chaque année, le Parlement vote une résolution statuant sur le quitus à donner pour le budget: c'est ce qu'on appelle "octroyer la décharge". La décharge se définit donc comme la décision politique par laquelle le Parlement européen, sur recommandation du Conseil, "libère" la Commission pour sa gestion, clôturant ainsi le budget.

Pour fonder sa décision, le Parlement examine, outre les comptes et le bilan financier mentionnés à l'article 275 du Traité, les rapports de la Cour (auxquels sont jointes les réponses correspondantes de la Commission et des

autres institutions visées), ainsi que la recommandation sur la décharge que le Conseil transmet au Parlement.

Après avoir procédé à leur examen, le Parlement adopte une résolution par laquelle il accorde, refuse ou ajourne la décharge. Le Parlement n'a refusé que deux fois d'octroyer la décharge, en 1984 (quelques mois avant la fin de la Commission Thorn) et en 1998, ce qui a conduit à la démission de la Commission Santer¹.

La déclaration d'assurance de la Cour - nouvel instrument introduit par le Traité de Maastricht

La Cour des comptes européenne a pour mission de contrôler de manière indépendante la perception et l'utilisation des fonds de l'Union européenne et, ce faisant, d'apprécier la façon dont les institutions européennes s'acquittent de ces fonctions. En ce qui concerne les rapports de la Cour utilisés dans le contexte de la décharge, il faut mentionner principalement le rapport annuel qui contient la déclaration d'assurance (DAS) relative à la fiabilité des comptes et à la régularité des opérations sous-jacentes.

Cet instrument a été introduit par le Traité de Maastricht en 1992 demandant à la Cour des comptes européenne de fournir une telle déclaration: dès lors la Cour examine non seulement si les opérations financières ont été correctement enregistrées et exécutées de manière légale et régulière par la Commission, mais également si les opérations sous-jacentes (c'est-à-dire les activités menées par les États membres ou des bénéficiaires finals) le sont aussi. La Cour est la seule Institution Supérieure de Contrôle de l'Union européenne à être soumise à pareille obligation en ce qui concerne les opérations sous-jacentes.

En effet depuis la première année d'exécution relative à l'année budgétaire 1994, la Cour a pu certifier, avec quelques réserves, la fiabilité des comptes, mais elle n'a

¹ En 1998, après que la plénière du Parlement européen ait refusé cette décharge, un groupe d'experts indépendants fut chargé d'enquêter et ils confirmèrent les soupçons de fraude et de mauvaise gestion. C'est suite à leurs conclusions que la Commission décida de démissionner.

pu donner une déclaration d'assurance sur la légalité et la régularité d'une partie significative des dépenses du budget communautaire. A noter que les irrégularités identifiées par la Cour sont le plus souvent des erreurs résultant des faiblesses de la gestion, plutôt que des fraudes qui ne représentent qu'un aspect mineur.

En 1999, cinq ans après la mise en oeuvre de ce nouveau instrument qu'est la DAS, en s'appuyant notamment sur le verdict de la Cour, le Parlement a donc saisi l'occasion de sanctionner la Commission.

La DAS - une impasse?

Dans l'opinion publique, le débat autour de la déclaration d'assurance se résume souvent à un mauvais fonctionnement de l'Union européenne, ce qui met à mal l'autorité de la Commission, met le Parlement en position difficile, monopolise presque les travaux de la Cour (à peu près la moitié des effectifs d'audit sont utilisés pour la DAS) et finalement nuit à l'idée européenne (qui mérite un meilleur traitement par les temps qui courent).

La matière étant passablement complexe, il en résulte que maints journalistes non aguerris ne réussissent pas à reproduire de façon correcte les résultats d'audit et le déroulement des débats parlementaires, qui s'étendent chaque année sur plusieurs mois. D'autres, en recherche de sensations, font entrer en scène les fraudes, (absentes de la DAS parce que traitées par OLAF, l'Organisation de la Lutte Anti-Fraude de la Commission) qu'ils confondent volontairement ou non avec les erreurs.

La situation a-t-elle changé depuis?

Depuis 1999, le législateur a adopté un nombre de changements du dispositif juridique, notamment la révision du Règlement Financier en 2002. Les systèmes de contrôle interne ont été renforcés (y compris la mise en opération d'un système comptable qui se veut à la pointe de la modernité) et la Commission s'est engagée à une "tolérance zéro" à l'égard de toutes sortes de corruption.

Mais malgré cela, les constats d'audit de la Cour lors de ses contrôles n'ont pas changé d'une manière significative, à l'exception près du domaine agricole. Pire, en 2003, la Commission a bien été contrainte de reconnaître que des irrégularités graves avaient été commises à Eurostat, l'office statistique de la Commission, et à prendre des mesures drastiques pour redresser la barre.

En tout cas l'importance du débat public ne fait que s'amplifier d'année en année surtout depuis que le Vice-président Kallas de la Commission Barroso a déclaré en 2006 l'obtention d'une DAS "positive" comme son but principal. Les initiatives de la Commission s'appellent l'audit unique ("single audit"), la feuille de route ("roadmap") et les plans d'actions. Ceci vaut à réduire la gestion financière de l'Union au seul problème de la DAS. Au risque que l'essentiel des efforts soit mis sur la "*légalité et régularité des opérations sous-jacentes*", et non pas sur l'objectif prioritaire qui est d'assurer en toutes circonstances la bonne gestion des fonds communautaires.

Pourquoi la situation ne semble pas s'améliorer sur le terrain? Et quels conséquences politiques à en tirer?

Premièrement, il me semble utile de rappeler que la Commission elle-même ne peut être tenue pour directement responsable que dans une mesure très limitée puisque quelque 80 à 85% des crédits communautaires sont en réalité gérés et contrôlés par les administrations locales et nationales des États membres². D'autre part, la lourdeur des systèmes administratifs, notamment au niveau des États membres, fait que nombre de changements seront mis en oeuvre dans les années à venir seulement. C'est seulement avec l'actuelle période de programmation (2007 à 2013) que le nouveau dispositif est réellement en vigueur. Encore faut-il que ces changements soient de substance et non pas seulement de forme. Mais le Conseil et le Parlement, qui donnent la "décharge", ont-ils veillé à ce que toutes les simplifications possibles aient été retenues afin de pouvoir espérer que les problèmes de gestion soient moindres? Certains observateurs vont même jusqu'à penser que la Cour, dans un contexte de gestion budgétaire inchangé, ne sera jamais en mesure de délivrer une DAS "positive".

Alors, est-ce la Cour elle-même qui peut être considérée à l'origine du problème? Dispose-t-elle d'une méthodologie d'audit appropriée? Face aux attaques de la Commission, mon Institution a toujours pu convaincre le Parlement que la méthodologie mise en oeuvre par la Cour des

.....
2 La Commission ne gère directement que ses propres recettes et dépenses administratives, les dépenses dans le domaine des politiques internes (dont la recherche) et certaines actions extérieures. Le reste des crédits (ressources propres, agriculture et cohésion économique et sociale) est soit exécuté en "gestion partagée" avec les États membres soit en "gestion décentralisée" avec des pays tiers (aides à la pré-adhésion) soit conjointement avec des organisations internationales (aide humanitaire).

comptes européenne est efficace et professionnellement inattaquable³.

Mais à quoi servent des méthodes professionnelles, perfectionnées à outrance, dont les résultats aboutissent systématiquement à des conclusions analogues au fil des années?

En quête d'instruments et d'une méthode de sanction politique plus appropriés

Depuis la chute de la Commission Santer, alors que les problèmes sont restés largement inchangés, le Parlement européen n'a pas persisté dans sa volonté de censurer la Commission. Ceci vaut pour la Commission Prodi, notamment en 2003, ainsi que la Commission Barroso depuis 2004. En réalité, Jacques Santer a été victime d'une situation politique tout à fait particulière.

En fait le contrôle de la légalité et régularité des programmes communautaires n'a pas de réelle conséquence politique et financière. Dans la procédure de décharge, le Parlement a systématiquement donné la décharge depuis 1999 et s'est contenté de recommander dans maintes résolutions à la Commission de remédier aux faiblesses récurrentes constatées par la Cour.

La raison en est que le seul instrument de taille dont dispose le Parlement pour sanctionner une politique budgétaire "défectueuse" de la Commission est la motion de censure, ce qui entraîne la démission en bloc de la Commission européenne, conséquence qui paraît disproportionnée à la majorité des acteurs politiques. Dans sa décision de décharge relative à 2003, le Parlement avait constaté : "*que la DAS ne contribuerait pas à informer le législateur et l'opinion sur la question de savoir si l'argent a été utilisé avec efficacité....elle ne contribue pas de manière à réduire la gabegie*". Il semblerait que le Parlement se plaigne que l'information fournie par la DAS est le résultat d'une autopsie au lieu d'être une aide pour améliorer la gestion des fonds communautaires.

Durant tant d'années d'expérience, le Conseil, le Parlement, la Commission et la Cour auraient du engager

un débat politique sur l'opportunité et l'efficacité de la déclaration d'assurance annuelle sous sa forme actuelle. Pourtant un effet d'apprentissage n'est point détectable.

Ne faudrait-il pas songer à une révision du Traité pour limiter la responsabilité de la Commission aux domaines où elle est seule compétente, et par conséquent de modifier le champ d'application de la déclaration d'assurance? Au lieu de faire chaque année une DAS sur l'ensemble du budget, ne serait-il pas souhaitable que la Cour fasse un examen de tous les domaines budgétaires sur un cycle de trois ou cinq ans, les conditions financières et d'exploitation ne changeant que lentement et progressivement ?

Sous une telle hypothèse, la Cour des comptes européenne, en renforçant ses capacités à examiner l'efficacité et l'efficacités de chacun des programmes communautaires, pourrait rendre ses conclusions et recommandations encore plus utiles, et ceci dans l'intérêt des contribuables de l'Union européenne.

3 Cette approche repose sur un modèle d'assurance dans lequel le risque inhérent d'erreur est d'abord évalué et la qualité des systèmes de contrôle interne appréciée et testée. Le degré de confiance ainsi obtenu permet ensuite de déterminer l'étendue des tests de validation à effectuer sur les opérations sous-jacentes, pour chacun des domaines audités.

THE COSTS AND BENEFITS OF CARRYING OUT CONTROLS CONNECTED WITH THE STRUCTURAL FUNDS

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Introduction

EU Member States have an interest in activities aimed at developing and implementing a methodology for costing controls carried out in connection with the implementation of the Structural Funds¹. A Working Group on Structural Funds² carried out a parallel audit³ to evaluate the costs and benefits of carrying out controls as part of the system for the management and control of the Structural Funds. This audit was carried out between 2009 and 2011 on the basis of an audit programme⁴ jointly agreed upon by 12 EU Member States, which instructed the Working Group to draw up national reports on the related results. The Working Group's summary report on the results of this parallel audit, which contained the findings of the audits carried out by the EU Member States' Supreme Audit Institutions (SAIs), was adopted at the Contact Committee meeting held in October 2011 in Luxembourg.⁵

On the basis of the parallel-audit programme adopted, the Polish Supreme Audit Office (NIK) collated numerical data compiled following a fact-finding survey carried out in two institutions and information obtained from questionnaires that had been sent to 61 assorted bodies responsible for performing the tasks of managing authority, intermediate managing body, certifying authority and intermediate certifying body, including the audit authority and tax inspection authorities, in the management and control system of 16 Regional Operational Programmes (ROPs). The results of this audit are set out in the national report addressed to the Working Group⁶ and also in *Sprawozdanie z badania kosztów i korzyści wynikających z wykonywania działań kontrolnych w ramach systemu zarządzania i kontroli dla Regionalnych*

- 1 This article follows on from B. Błasiak-Nowak and M. Rajczewska's article entitled *Estimating the costs and benefits of controls carried out within the framework of the management and control system of the EU structural funds*, which was published in the European Court of Auditors Journal No 7/2011 (pages 37 to 44) (translated from the article in Polish entitled *Szacowanie kosztów i korzyści działań kontrolnych*, which was published in *Kontrola Państwowa* No 4/2011 (pages 25 to 34)).
- 2 The Working Group on Structural Funds was set up by the Contact Committee of the Heads of the SAIs of the Member States of the EU and the European Court of Auditors. For more details concerning the Working Group's activities see B. Błasiak-Nowak and M. Rajczewska's article entitled *Udział Najwyższej Izby Kontroli w pracach Grupy Roboczej Komitetu Kontaktowego ds. Funduszy Strukturalnych* in *Kontrola Państwowa* No 2/2009 (pages 119-137).
- 3 Parallel audits are carried out by the Supreme Audit Institutions (SAIs) of a series of Member States at the same time. They apply their own audit procedures but do so under a single, jointly agreed audit programme. After such an audit has been carried out, the SAIs present their findings in national reports, which form the basis of the summary report on the parallel audit. Once the Contact Committee has approved the related summary report, it is posted on its internet site and on the websites of the SAIs that took part in the audit.
- 4 The Contact Committee's Working Group on Structural Funds IV, *Parallel Audit of the Costs of Controls*, June 2009. Not published.
- 5 *Report to the Contact Committee of the Heads of the Supreme Audit Institutions of the Member States of the European Union and the European Court of Auditors on the Parallel Audit on the Costs of Controls of Structural Funds by the Working Group on Structural Funds*. Working Group, October 2011. Both the original document and the version translated into Polish by the Department of Public Administration may be found at www.nik.gov.pl. It will also be posted on the Contact Committee's website at <http://eca.europa.eu/portal/page/portal/contactcommittee>.
- 6 *Country Report to the Working Group IV on Structural Funds of the Contact Committee of the Heads of the Supreme Audit Institutions of the EU Member States and of the European Court of Auditors on the parallel audit of the costs of controls in Poland*. NIK, December 2010. Not published.

*Programów Operacyjnych w okresie programowania 2007-2013*⁷. The results of the audit carried out by the NIK are set out in the Working Group's overall report.

This article presents the results of the audit involving the application of two methods for assessing the costs incurred in carrying out controls in Poland and compares the costs incurred by bodies involved in the management and control system with those incurred in other European countries. Member States set up management and control systems for Operational Programmes (OPs) to ensure that they are implemented properly and efficiently. Those systems comprise, among other elements, official written procedures with built-in preventive or detecting control mechanisms that serve to ensure that the implemented expenditure declared for an OP is regular.

Scope and results of the audit carried out by the NIK

The audit focused on the costs and benefits of controls carried out between 2007 and 2009 in respect of 16 ROPs included in the 2007-2013 programming period and co-financed by the European Regional Development Fund (ERDF).

The NIK examined the costs and benefits arising from the following:

- carrying out *ex ante* evaluations,
- setting up the management and control system,
- selecting projects for financing,
- verifying payment claims and carrying out on-the-spot checks on projects,
- monitoring the progress made in implementing OPs,
- certifying expenditure,
- carrying out audit tasks.

The parallel audit programme acknowledges that the main financial benefit of carrying out controls⁸ is the amount of ERDF funding for the implementation of ROPs (broken down on an annual basis) that is subject to these controls, including funds that have been:

- committed (signed contracts),
- transferred to beneficiaries,
- declared to the European Commission (EC).

The other advantages derived from carrying out controls were the amounts withdrawn following cancellation of all or part of a contribution for a project, the amounts being recovered and the amounts resulting from errors relating to eligible expenditure.

The performance of controls also resulted in further benefits that did not have any financial impact (i.e. non-financial benefits) but instead had a preventive control effect with regard to the following aspects, amongst others:

- performance of tasks in compliance with the legal requirements,
- improved implementation of a programme during its operation,
- effective dissemination of information and less time-consuming checking of documentation,
- clear division of competences and responsibilities within bodies, precise delimitation of the powers and responsibilities of staff and greater accountability with regard to the tasks they perform,
- ensuring that tasks are carried out on time,
- savings in terms of time and human resources resulting from efficient use of an institution's resources,
- introduction of mechanisms for the detection and correction of irregularities and continual improvement with regard to the tasks carried out.

7 Report on the audit of the costs and benefits of carrying out controls under the system of the management and control of ROPs during the 2007-2009 programming period. NIK, November 2011. Only in Polish. Not published.

8 Controls in this case comprise selecting and evaluating projects to be implemented (verifying them), monitoring progress in OPs implementation, reporting and certification of expenditure, and carrying out audit work.

THE COSTS AND BENEFITS OF CARRYING OUT CONTROLS CONNECTED WITH THE STRUCTURAL FUNDS

The costs of controls were evaluated using the two methods⁹ adopted by the Working Group, i.e. cost-centre accounting and cost-unit accounting:

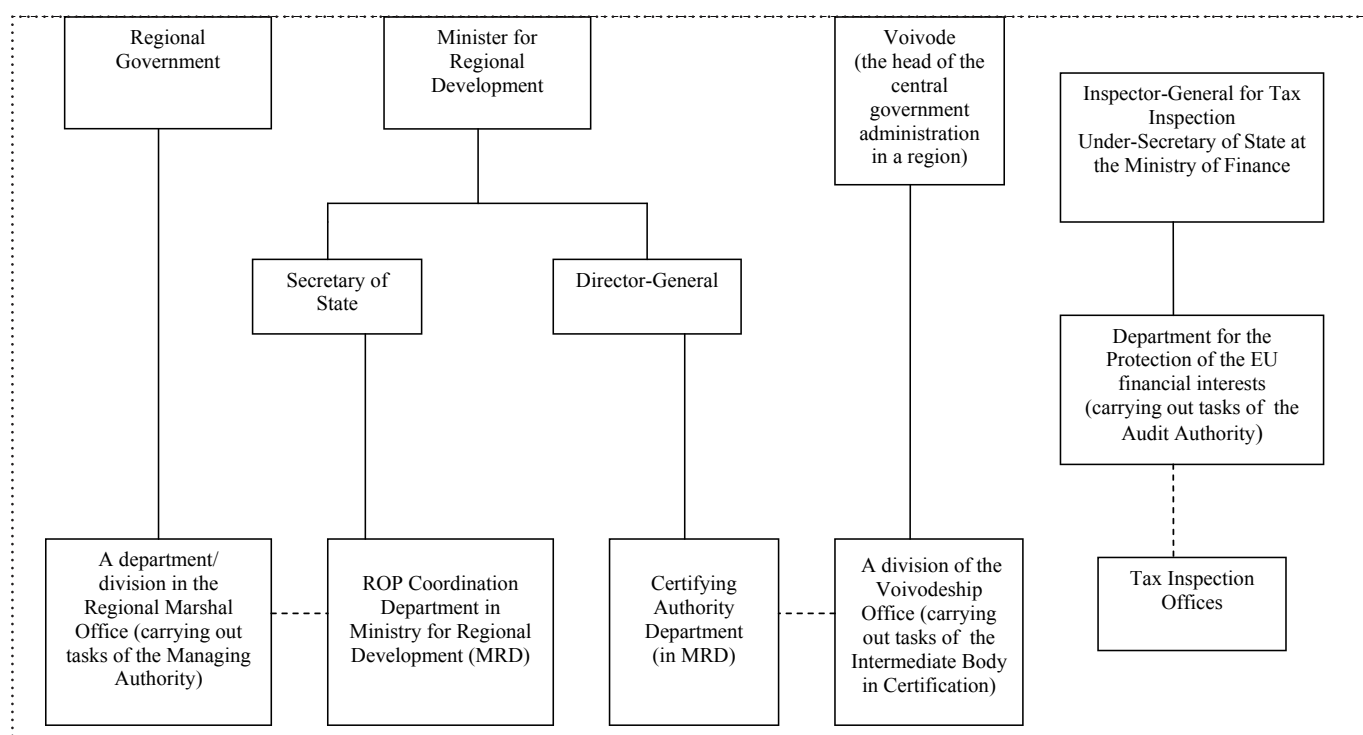
- under the cost-centre accounting method, costs are calculated on the basis of the budget of the department at an institution which carries out tasks connected with the system for the management and control of ROPs, and the number of staff responsible for carrying out a particular control in relation to the total number of staff employed in the department (the method used by the European Commission),
- under the cost-unit accounting method, the cost of every control is calculated by multiplying the average cost of performing it by the number of times it is carried out in a year (method used in, *inter alia*, the Netherlands to measure the administrative burden in business and public administration).

The audit estimated the amount of the financial benefit and established the non-financial benefits of controls.

The organisational system for the European Funds comprises three levels, i.e. monitoring and coordination, management, and implementation, at which different authorities operate. These bodies are the Coordinating and Monitoring Authorities, Managing Authorities and the Intermediate Bodies, which operate at the above-mentioned levels respectively. The Certifying Authority and the Audit Authority are also involved at the later stages of ROP implementation. Figure 1 shows the organisation chart of the authorities provided for in the ROP management and control system.

Figure 1.

Organisation chart relating to ROPs – set-up of the Managing Authority, Coordinating Institution, Certifying Authority and Audit Authority, including those responsible for the implementation of tasks and departments carrying out tasks (controls) arising under the management and control system



Source: own compilation.

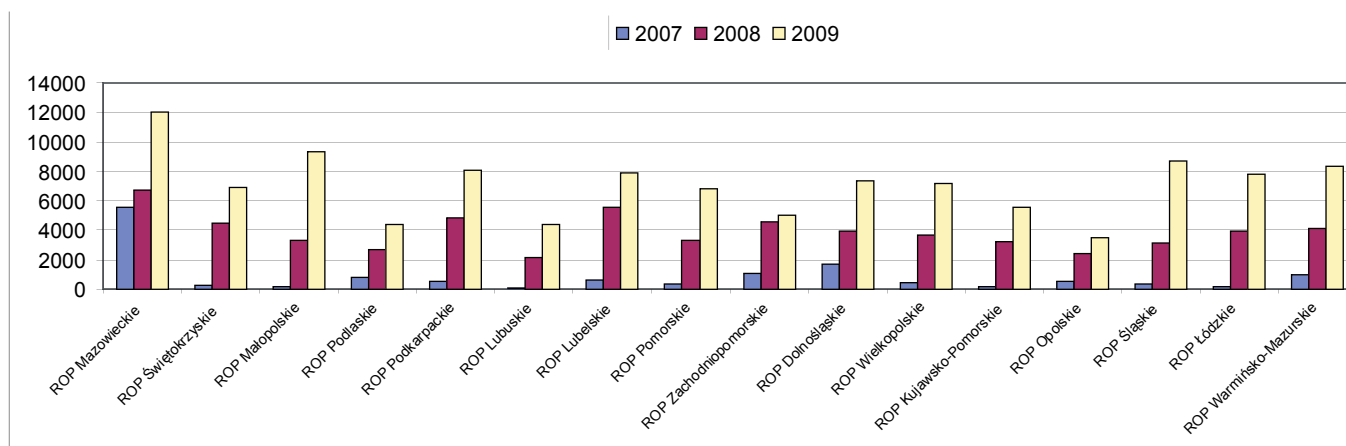
⁹ For more details concerning the methods the Working Group adopted to evaluate the costs and benefits of controls carried out under the management and control systems set up by Member States for the Structural Funds, see B. Błasiak-Nowak and M. Rajczewska's *Szacowanie kosztów i korzyści działań kontrolnych*, op. cit., and *Estimating the costs and benefits of controls carried out within the framework of the management and control system of the EU structural funds*, op. cit., by the same authors.

THE COSTS AND BENEFITS OF CARRYING OUT CONTROLS CONNECTED WITH THE STRUCTURAL FUNDS

The total costs involved in setting up the management and control system, the selection and evaluation of the implementation of projects, monitoring OPs, the certification of expenditure and carrying out audits in each of the 16 ROPs at the level of the organisational units in all the institutions involved in implementing the individual ROPs are set out in Figures 2a and 2b.

Figure 2a

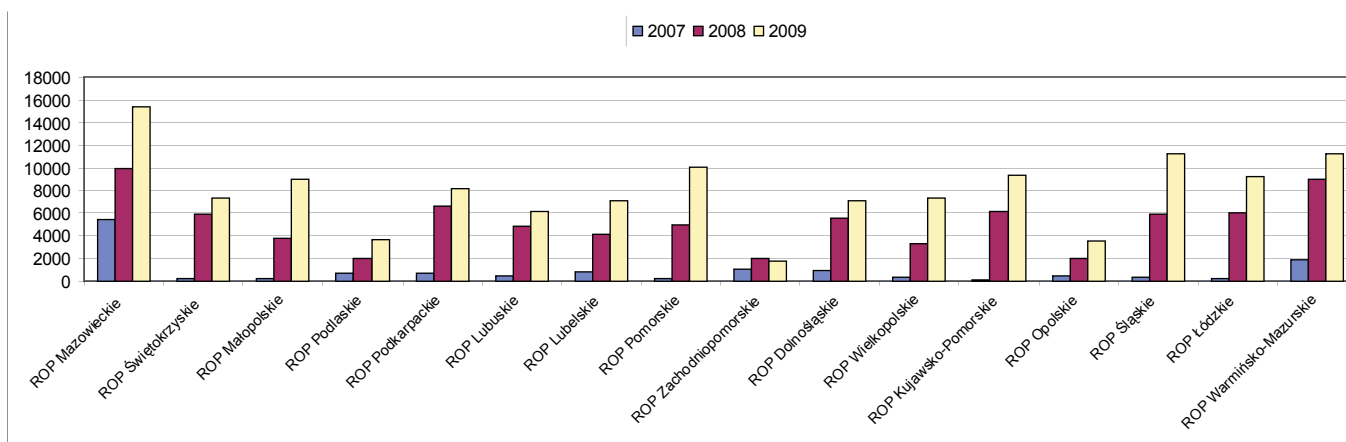
Costs of controls calculated using the cost-unit accounting method based on calculated direct costs and a 30 % indirect-cost rate in respect of the 2007-2009 period by region (in PLN thousands)



Source: own compilation based on data presented in *Sprawozdanie z badania kosztów i korzyści wynikających z wykonywania działań kontrolnych w ramach systemu zarządzania i kontroli dla Regionalnych Programów Operacyjnych w okresie programowania 2007-2013* (Report on the audit of the costs and benefits of carrying out controls under the system for the management and control of ROPs), NIK, November 2011, and *Country Report to Working Group IV on Structural Funds of the Contact Committee of the Heads of the Supreme Audit Institutions of the EU Member States and of the European Court of Auditors on the parallel audit of the costs of controls in Poland*. NIK, December 2010. Not published.

Figure 2b

Costs of controls calculated using the cost-centre accounting method in respect of the 2007-2009 period by region (in PLN thousands)



Source: own compilation based on data presented in *Sprawozdanie z badania kosztów i korzyści wynikających z wykonywania działań kontrolnych w ramach systemu zarządzania i kontroli dla Regionalnych Programów Operacyjnych w okresie programowania 2007-2013* (Report on the audit of the costs and benefits of carrying out controls under the system for the management and control of ROPs), NIK, November 2011, and *Country Report to Working Group IV on Structural Funds of the Contact Committee of the Heads of the Supreme Audit Institutions of the EU Member States and of the European Court of Auditors on the parallel audit of the costs of controls in Poland*. NIK, December 2010. Not published.

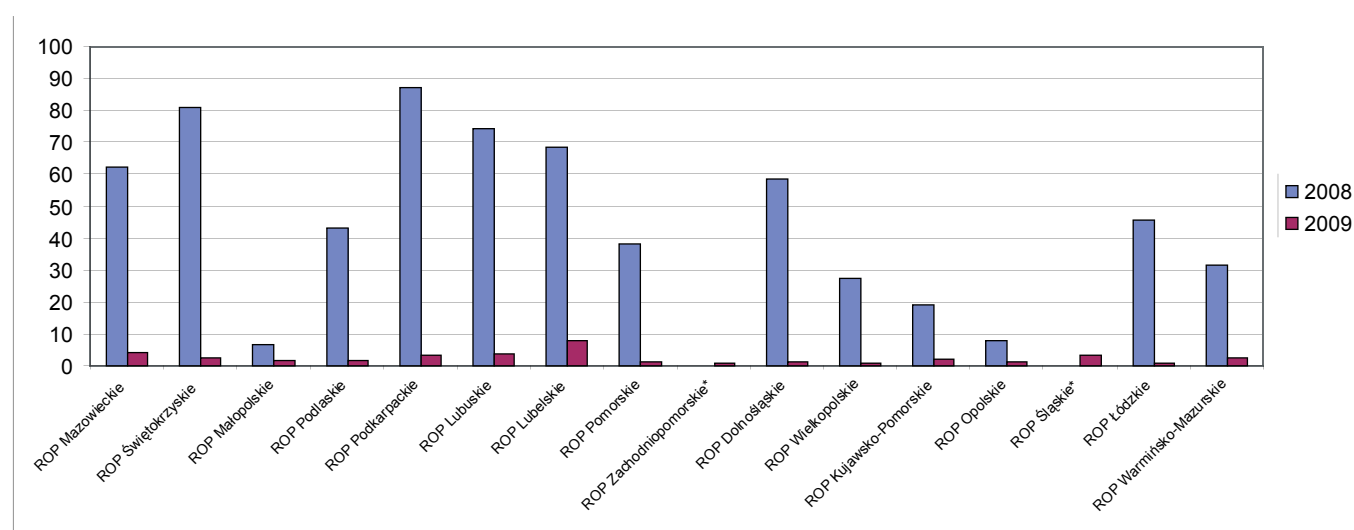
THE COSTS AND BENEFITS OF CARRYING OUT CONTROLS CONNECTED WITH THE STRUCTURAL FUNDS

In 2007, most of the costs connected with the 16 ROPs were incurred mainly for setting up the programmes management and control systems. In 2008, the costs involved in selecting and assessing projects for financing approached or began to exceed the costs incurred in setting up the management and control system for the programmes. In 2009, the authorities incurred costs mainly for selecting and assessing projects and for administrative and on-the-spot checks on projects.

Figure 3 shows, by region, the percentage cost of controls in relation to the amounts paid to beneficiaries between 2008 and 2009.

Figure 3

Ratio of total costs of controls (calculated using the cost-unit accounting method) to the amounts paid to beneficiaries between 2008 and 2009 by region (in %)



* No payments were made to beneficiaries under ROP Zachodniopomorskie and ROP Śląskie in 2008.

Source: own compilation based on data presented in the *Country Report to Working Group IV on Structural Funds of the Contact Committee of the Heads of the Supreme Audit Institutions of the EU Member States and of the European Court of Auditors on the parallel audit of the costs of controls in Poland*. NIK, December 2010. Not published.

As can be seen from the graph in Figure 3, in 2008 the ratio in percentage terms of all the control costs examined to the resources transferred to beneficiaries for some ROPs was close to or over 50% because the controls carried out in that year related mainly to the selection of projects for financing and their assessment and to the conclusion of contracts with beneficiaries. In 2009, the ratio of the total costs of controls examined to the resources transferred to beneficiaries ranged from 1 % to 7 %. The considerable fall in this ratio in all regions resulted from the progress made in implementing OPs, including more payments to beneficiaries. In 2009, financing contracts had already been concluded for a larger number of projects, hence the controls carried out related mostly to the verification and certification of expenditure, on-the-spot checks on projects and payments to beneficiaries.

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The non-financial benefits of carrying out controls relating to the Structural Funds were, *inter alia*, as follows: contacts with potential beneficiaries increased awareness of the EU Funds; the staff of managing authorities and intermediate bodies in management increased their expertise and know-how in assessing projects for financing and gained more experience. The inspections of project implementation on the spot allowed to verify the results achieved so far and made it easier to detect irregular expenditure and take steps to recover unduly paid amounts. The observations and conclusions following the on-the-spot project inspections helped to bring about improved implementation procedures. Direct contact with beneficiaries enabled a better understanding to be gained of problems that arose in the course of a project's implementation.

Costs of controls in EU Member States

Member States organised their systems for implementing the Structural Funds in different ways. These differences may have been determined by the size of the Member State or the manner in which the system of public administration was organised (centralised or decentralised). Particularly distinct differences are connected with the types of institutions that are responsible for implementing OPs, the division of tasks between those institutions and the number of institutions involved in the management and control system.

As a rule, the larger and the decentralised Member States drew up regional operational programmes that were usually co-financed by the ERDF. For the most part, the managing authorities for such programmes were set up at regional level, whereas the role of coordinator in such cases was often exercised by central or federal ministries (responsible for regional development or economic affairs). The certifying and audit authorities were normally established at central level, however, a number of their tasks were sometimes carried out by intermediate certifying and audit bodies set up at regional level.

The individual programmes were also marked by differences with regard to the type of institutions responsible for exercising key functions in the management and control system concerned. In some cases these institutions were made responsible for the content of individual OPs (e.g. a ministry responsible for labour and employment affairs carrying out the tasks of managing, certifying and audit authority for programmes co-financed by the European Social Fund). On the other hand, a larger number of tasks was sometimes assigned to bodies with more general responsibilities. This was more widespread in the Member States that joined the EU on 1 May 2004, many of which had the Ministry of Finance and its offices or regional branches exercising the functions of managing authority, certifying authority and audit authority.

Pursuant to Articles 2(6) and 59(2) of Regulation No 1083/2006¹, managing and certifying authorities were allowed to delegate certain tasks to intermediate bodies. The extent of the intermediate bodies involvement in implementing the Structural Funds varied according to the Member State concerned and the OP. While in some cases no intermediate bodies have been established within the management and control system, the highest number of intermediate bodies for an OP stood at 61. Intermediate bodies were involved at various levels of management and control. In some Member States the audit authorities' tasks were entrusted to the internal audit services of the institutions involved in implementing the Structural Funds (in accordance with Article 62(3) of Regulation No 1083/2006). In addition to the established authorities, other bodies may carry out various tasks in the process of implementing the Structural Funds, such as, for example, "cooperation bodies", "coordinating bodies" or "agents".

Where the management and control system for the Structural Funds comprised several levels of implementation, this led to a greater number of controls, i.e. where some tasks were entrusted to intermediate or other bodies, the delegating authority retained responsibility for implementation and was therefore entitled to carry out controls to ensure that the intermediate body had carried out its allocated tasks properly. All the above considerations point to the fact that the level of control costs was largely determined by the management and control system in place.

1 Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999 (OJEU L 210, 31.7.2006, p. 25).

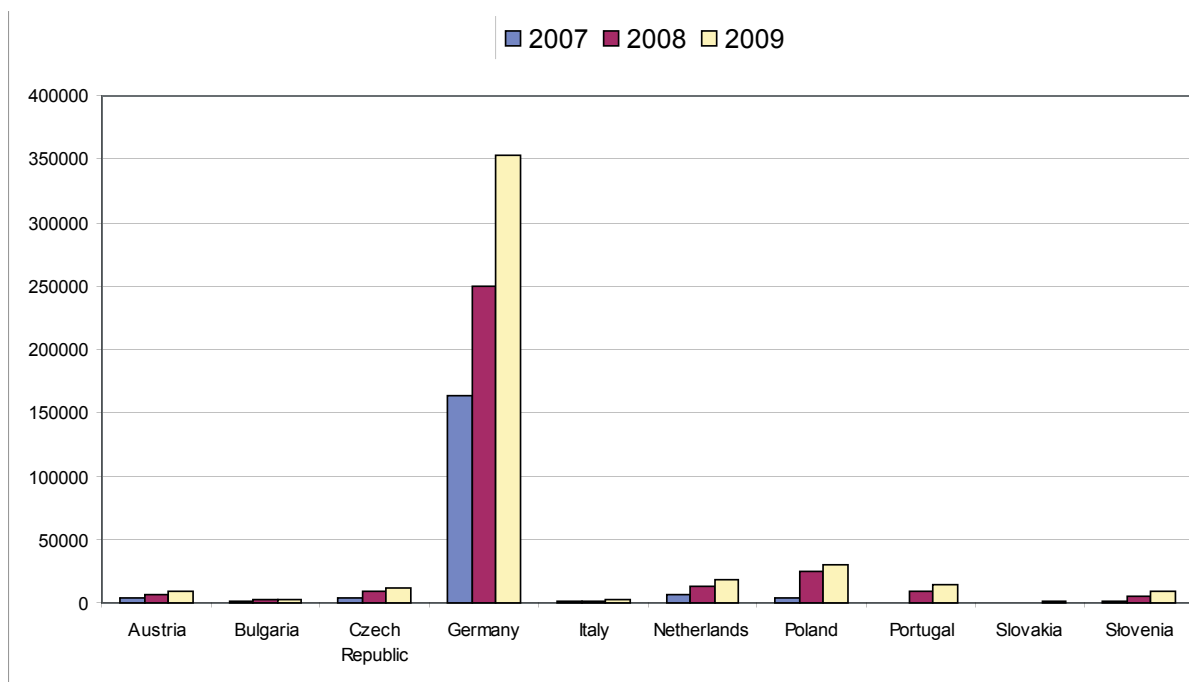
THE COSTS AND BENEFITS OF CARRYING OUT CONTROLS CONNECTED WITH THE STRUCTURAL FUNDS

The Working Group sought to examine and compare the costs of controls estimated using both the cost-centre accounting and cost-unit accounting methods. The results of the parallel audit established that the cost-centre accounting method generally resulted in higher control costs than the cost-unit accounting method.

Figures 4a and 4b present the total costs of controls broken down by year and calculated using both the cost-centre accounting and cost-unit accounting methods in each Member State for OPs covered by the parallel audit (between 2007 and 2009, costs incurred prior to 2007 included in the costs incurred in 2007).

Figure 4a

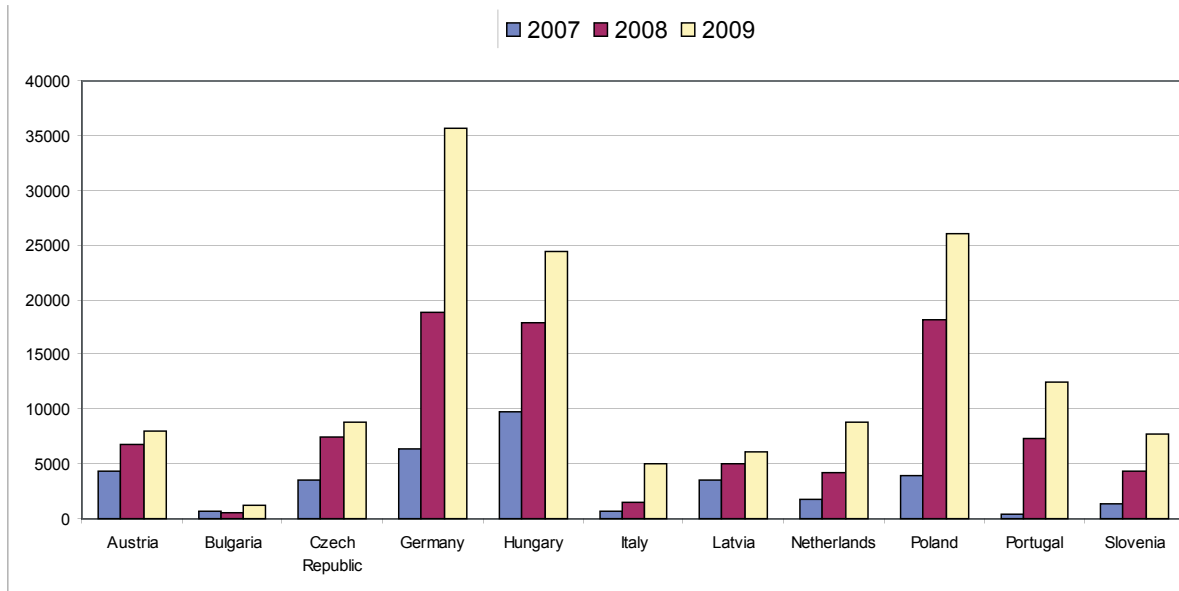
Costs of controls in EU Member States estimated using the cost-centre accounting method for the years 2007 to 2009 (in EUR thousands)



Source: own compilation based on data presented in the *Report to the Contact Committee of the Heads of the Supreme Audit Institutions of the Member States of the European Union and the European Court of Auditors on the Parallel Audit on the Costs of Controls of Structural Funds* by the Working Group on Structural Funds. Working Group, October 2011, www.contactcommittee.eu, www.nik.gov.pl.

Figure 4b

Costs of controls in EU Member States estimated using the cost-unit accounting method for the years 2007 to 2009 (in EUR thousands)



Source: own compilation based on data presented in the *Report to the Contact Committee of the Heads of the Supreme Audit Institutions of the Member States of the European Union and the European Court of Auditors on the Parallel Audit on the Costs of Controls of Structural Funds by the Working Group on Structural Funds*. Working Group, October 2011, www.contactcommittee.eu, www.nik.gov.pl.

The significant differences in the level of the estimated costs of controls in individual Member States could stem not only from differences in the management and control systems set up but also from under- or overestimation of the costs. The parallel audit showed that, in most cases, the units audited could not provide specific information on the number of staff carrying out controls (in full-time equivalents) or the time spent or costs incurred on them. In some cases such data were not available at all. The units audited frequently had to estimate the necessary data because no systems had been set up to record their staff's labour input. Hence, most institutions were unable to state precisely the amount of the costs incurred or resources expended. The difference between data produced by the two accounting methods was not the same for all Member States. In Austria the difference concerned amounted to less than 5 %, whilst in Germany the costs of controls estimated using the cost-centre accounting method were significantly higher than those resulting from applying the cost-unit accounting method.

Table 1 shows the costs of controls estimated using both methods for each Member State (between 2007 and 2009) in relation to three-sevenths of the budget for the OPs¹ (separately for the European Social Fund and the European Regional Development Fund).

1 As a point of reference for comparison of the estimated costs of controls, the Working Group applied a coefficient equal to three of the seven annual allocations of the EU resources together with the corresponding national contribution, adopted in the financing plan for the OPs covered by the parallel audit.

THE COSTS AND BENEFITS OF CARRYING OUT CONTROLS CONNECTED WITH THE STRUCTURAL FUNDS

Table 1

Ratio of costs of controls to OPs budgets in the Member States as per the cost-centre accounting and cost-unit accounting methods (in EUR thousands)

Member State	Number of OPs covered by the parallel audit	Total budget of OPs audited*	Three-sevenths of the annual appropriations, with national contribution, for the OPs audited*	Total costs of controls according to the cost-centre accounting method	Total costs of controls according to the cost-unit accounting method**	Total costs of controls as a % according to the cost-centre accounting method	Total costs of controls as a % according to the cost-unit accounting method
a	b	c	d=c * 3/7	e	f	g=e/d*100	h=f/d*100
Austria	1 ESF	1 114 814	477 777	20 038	19 184	4.19	4.02
Bulgaria	1 ERDF	1 601 275	636 261	5 176	2 463	0.75	0.36
Czech Republic	7 ERDF	5 481 214	2 349 092	25 356	19 895	1.08	0.85
Germany	1 ERDF	5 344 316	2 290 421	765 529	60 952	33.42	2.66
Hungary	2 ERDF	3 548 306	1 520 701	/	17 362	/	1.15
Italy**	3 ERDF	4 674 296	2 003 270	/	34 789	/	1.74
Italy***	1 ESF, 1 ERDF	1 529 646	655 563	/	7 047	/	1.07
Latvia****	1 ERDF + CF	5 746 275	2 462 689	/	14 768	/	0.60
Netherlands	1 ERDF	1 498 847	642 363	23 667	7 376	3.68	1.15
Netherlands	2 ERDF	749 625	321 268	13 519	7 536	4.21	2.35
Poland	16 ERDF	20 057 674	8 596 146	58 088	48 097	0.68	0.56
Portugal	1 ERDF	8 736 190	3 744 081	22 594	20 234	0.60	0.54
Slovakia	1 ERDF	905 035	387 872	1 666	/	0.43	0.7
Slovakia	1 ERDF	889 058	381 025	7 591	6 460	1.99	1.70
Slovenia	1 ERDF	2 011 470	862 059	8 549	6 984	0.99	0.81
Average		63 888 037	27 380 587	953 863	266 096	4.46	0.97

* EU and national co-financing. The amount of three-sevenths of the budget for the OPs covered by the parallel audit.

** A flat rate of 30 % of indirect costs was added in all Member States when the cost-unit accounting method was applied.

*** Costs not calculated using the cost-centre accounting method because not all of the intermediate bodies' direct and indirect costs were included in the examination.

**** The audit covered OPs co-financed by the ESF, the ERDF and the Cohesion Fund (CF).

Source: Report to the Contact Committee of the Heads of the Supreme Audit Institutions of the Member States of the European Union and the European Court of Auditors on the Parallel Audit on the Costs of Controls of Structural Funds by the Working Group on Structural Funds. Working Group, October 2011, www.contactcommittee.eu, www.nik.gov.pl.

As compared to the amount of three-sevenths of the budget for the OPs covered by the parallel audit, the highest costs of controls calculated using the cost-unit accounting method, expressed as a percentage, amounted to 4.02 % and the lowest to 0.36 %. The level of this indicator might have been affected by the rate of utilisation of the appropriations available in a given Member State. In total, the average control-cost percentage in relation to the three-sevenths of the budget for the OPs audited amounted to 0.97%.

Table 2 presents differences in progress in implementation of the Structural Funds in the Member States. Whereas in some Member States the number of signed contracts remained relatively low, in others the number of contracts concluded with beneficiaries almost exhausted the available appropriations. The cleared amounts in the payment claims transmitted to the European Commission up to the end of 2009 were relatively low in all the Member States.

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Table 2

Amounts committed for payments to beneficiaries (signed contracts), amounts transmitted to beneficiaries (payments to beneficiaries) and payment claims transmitted to the European Commission in relation to the total value of the OPs subject to the parallel audit, broken down by Member State

Member State	OPs covered by the parallel audit	Total value of OPs audited* (in EUR thousands)	Amounts of contracts signed between 2007 and 2009 (in EUR thousands)	Amounts of contracts signed between 2007 and 2009 (in %)	Amounts of payments to beneficiaries between 2007 and 2009 (in EUR thousands)	Amounts of payments to beneficiaries between 2007 and 2009 (in %)	Amounts in claims submitted to the EC between 2007 and 2009 (in EUR thousands)	Amounts in claims submitted to the EC between 2007 and 2009 (in %)
a	b	c	d	e=d/c*100	f	g=f/c*100	h	i=h/c*100
Austria	1 ESF	1 114 814	646 890	58,03	406 760	36,49	233 520	20,95
Bulgaria	1 ERDF	1 601 275	475 700	29,71	36 500	2,28	0	0,00
Czech Republic	7 ERDF	5 481 214	3 201 746	58,41	710 887	12,97	209 501	3,82
Germany	1 ESF	5 344 316	2 244 068	41,99	583 748	26,01	449 676	20,04
	1 ESF	3 548 302	751 608	21,18	65 963	1,86	9 265	0,26
Hungary	2 ERDF	4 674 296	2 604 421	55,72	729 563	15,61	343 010	7,34
Italy	2 ERDF	1 529 646	170 004	11,11	73 988	4,84	149 334	9,76
	3 (ESF, ERDF, ERDF + CF)	5 746 275	2 887 687	50,25	483 847	8,42	310 956	5,41
Latvia**	1 ESF	1 498 847	1 220 800	81,45	30 000	2,00	120 902	8,07
Netherlands	2 ERDF	749 625	683 968	91,24	41 267	5,51	51 264	6,84
Poland	16 ERDF	20 057 674	5 708 504	28,46	1 511 628	7,54	1 387 331	6,92
Portugal	1 ESF	8 736 190	4 823 333	55,21	1 069 760	12,25	802 097	9,18
Slovakia	1 ERDF	905 035	420 001	46,41	50 620	5,59	0	0,00
	1 ESF	889 058	405 728	45,64	90 486	10,18	3 243	0,36
Slovenia	1 ERDF	2 011 470	911 027	45,29	506 035	25,16	78 641	3,91

* EU and national co-financing.

** The audit covered OPs co-financed by the ESF, ERDF and CF.

Source: Report to the Contact Committee of the Heads of the Supreme Audit Institutions of the Member States of the European Union and the European Court of Auditors on the Parallel Audit on the Costs of Controls of Structural Funds by the Working Group on Structural Funds. Working Group, October 2011, www.contactcommittee.eu, www.nik.gov.pl.

The audit revealed that a relatively high number of controls for which managing authorities were responsible were outsourced. The high proportion of controls outsourced to external bodies gave rise to a number of risks. In particular, when certain controls are carried out annually by government institutions, they acquire considerable knowledge of the various projects and final beneficiaries. However, when such controls are carried out by private firms, which may change from year to year, such expertise cannot be developed. Secondly, the costs of controls carried out by private consultancy and accounting firms tend to be higher than the remuneration costs of staff in government institutions. It is therefore likely that the high percentage of costs connected with the outsourcing of controls gave rise to an increase in control costs compared with those that would have been incurred if such controls had been carried out by government institutions.

Summary

The results of the parallel audit should be perceived more as an attempt to identify whether it would be possible at all to calculate costs of controls carried out under the management and control system for implementing the Structural Funds by institutions involved in the Member States. The data presented provide a preliminary view on the level of costs incurred for the control activities and their relation to the benefits in both financial and non-financial terms. It should, however, be noted that the definitions and calculation methods used in this field usually differ across the Member States and further cooperation would be required to harmonise them. The data acquired in the audit may provide a basis for further work in the area of examining and assessing the reasonableness of the costs of implementing measures financed by the EU budget, and, eventually, by national budgets as well.

Lessons learned by the auditees:

- demonstration of costs generated at the consecutive stages of OPs implementation and emphasis on the need for the costs of controls to be rationalised in terms of the benefits, including non-financial ones,
- precision in estimating the budget of units carrying out tasks connected with the implementation of ROPs (in cost-centre accounting method) and the time spent carrying out a control activity by individual members of staff (in cost-unit accounting method) had a major impact on estimates of the level of costs and on convergence of the results produced by both methods,
- familiarisation with the methods for estimating costs applied by the European Commission and some other EU Member States – this could be a useful tool in the decision-making process,
- methods for calculating the costs of controls could be used in the management of public finances and not only in respect of EU budget resources.

Lessons learned by the auditors:

- questionnaires being drawn up on the basis of which the authorities involved in the ROP implementation system carry out an analysis in ongoing cooperation with the audit coordinator,
- calculation of costs and assessment of benefits of carrying out controls,
- active participation in the Working Group's tasks aimed at:
 - developing benchmarks for assessing the reasonableness of costs incurred in carrying out controls,
 - preparing documents that may boost economic thinking about the costs and benefits of controls,
 - examining the level of the costs incurred in EU Member States in a move towards, *inter alia*, establishing a ratio whereby the costs incurred on a control are reasonable in terms of the benefits.

The Working Group on Structural Funds carried out the parallel audit in response to the EU debate on the costs of controls. The audit conclusions may be used by the European Commission in its work to develop more efficient controls and to simplify and harmonise the implementing regulations applicable to funds from the EU budget.

MALTA: LESSONS FROM THE CRISIS

By Professor Josef Bonnici, Governor of the Central Bank of Malta

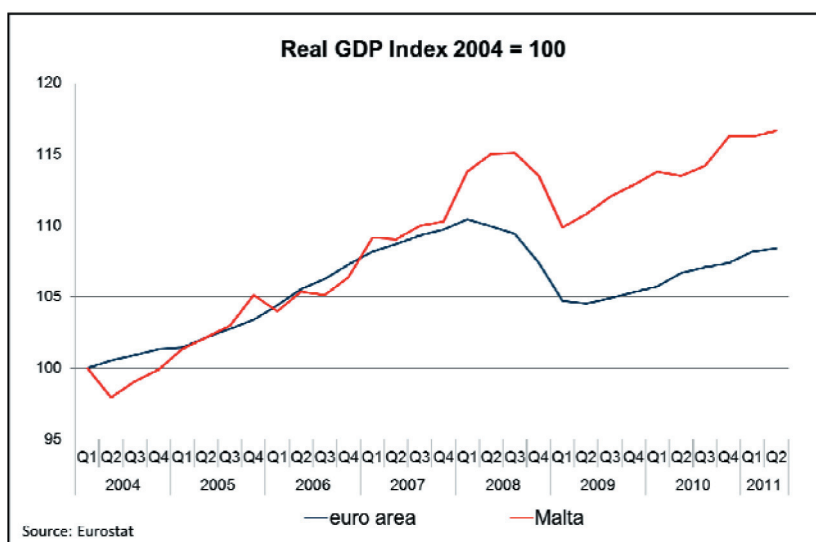


Extracts from the address by Professor Josef Bonnici, Governor of the Central Bank of Malta, at the annual dinner of the Institute of Financial Services, Saint Julian's, 25 November 2011.
Prof. Bonnici was a former Member of the ECA

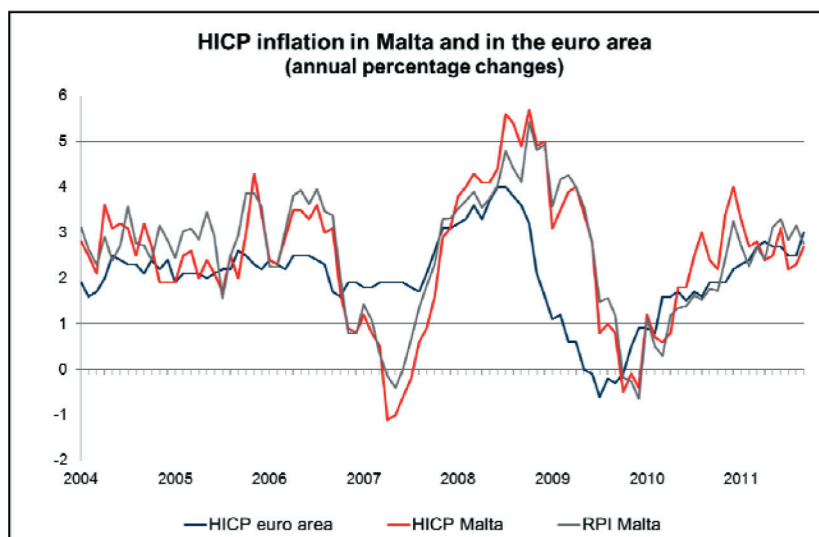
Prof. Bonnici as a former Member of the ECA

From a national perspective, at the policy making level, there are a number of lessons that can be learned from the sovereign debt crisis.

As I highlighted earlier, macroeconomic imbalances and unsustainable fiscal policies were the root cause of the sovereign debt crisis in Europe. The example of Ireland is a reminder that while strong GDP growth is a desirable goal, what ultimately matters is that such growth can be sustained. In turn, competitiveness is the key for a country's success in achieving sustainable growth and improvements in living standards.



In Malta GDP per capita grew by 11.6% over the last decade while the increase in the euro area amounted to 5%, and the recession in 2009 was shorter and relatively less deep than that experienced by Malta's trading partners. The Maltese economy, nevertheless, still faces a number of challenges.



One area of relevance is the inflation rate, which at an average rate of 2.5% since 2004, has tended to stay slightly above the 2.1% average rate in the euro area as a whole, although the latest data show an annual inflation rate below that for the euro area. In this context, greater attention should be given to the identification of any structural shortcomings that may be contributing to the slightly higher inflation, and the excessive volatility apparent in Malta's inflation rate as compared to the euro zone. Although imported inflation is inevitable, we have to be particularly mindful of locally generated price pressures or inflexibilities in structures which may not be responding sufficiently to competitive pressures.

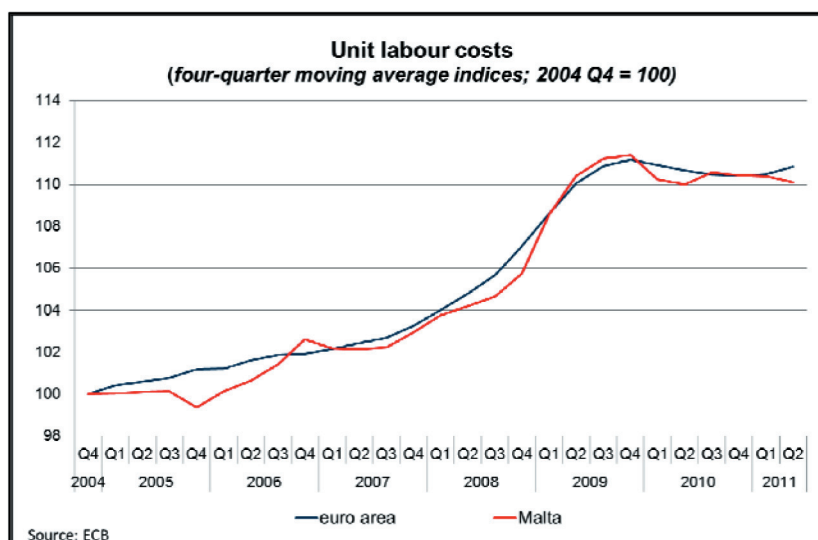
Productivity growth is essential not only for enhanced competitiveness but also to justify wages that permit a sustainable increase in living standards. Productivity growth in Malta since EU accession was broadly in line with that experienced by the euro area as a whole. Still, catching up with the rising living standards of the more affluent EU countries requires even faster growth in productivity. To overcome this challenge, policy makers need to continue in their efforts to provide the necessary incentives for investment and to remove the impediments, such as needless bureaucracy, that may hinder its implementation.

On a positive note, however, Malta's efforts to diversify its economy into new sectors, especially in business services and more capital intensive manufacturing industry have helped to prevent the boom-bust cycles that were being experienced in other economies.

Productivity is also influenced by growth in human capital. In this regard, substantial public funding has been allocated to investment in education, training and retraining programmes which enable workers, to acquire new skills required by newly set up industries in Malta. Labour market flexibility also contributes to productivity growth by enabling a smoother transition from old to new sectors.

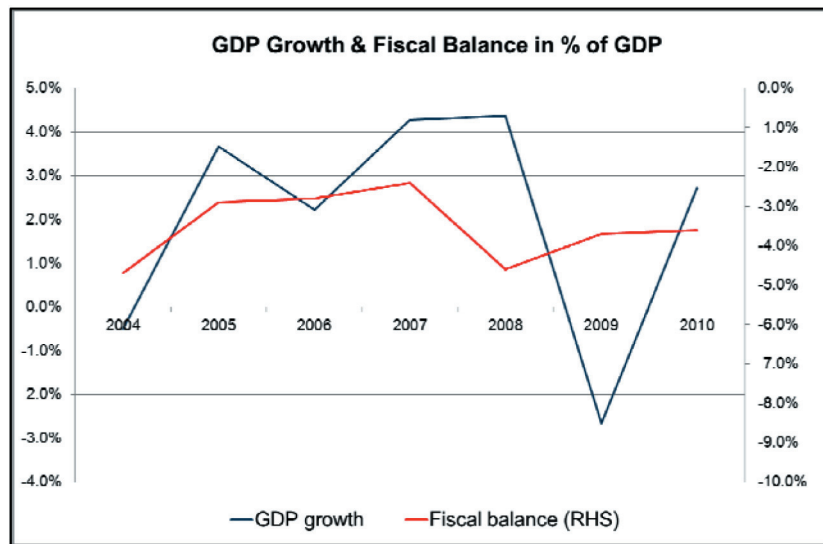
Over the past decade the proportion of the working-age population with a tertiary education level grew by two-and-a-half times to 12.4% of the labour force. Nevertheless, there is still further catching-up to be made as the euro area average is almost double that of Malta. Furthermore, not only must the number of graduates be increased, but the quality aspect is also of crucial importance for productivity improvements.

Apart from productivity aspects, competitiveness is also affected by cost developments. Labour costs are a crucial element particularly in open economies, where a significant share of output is exported.

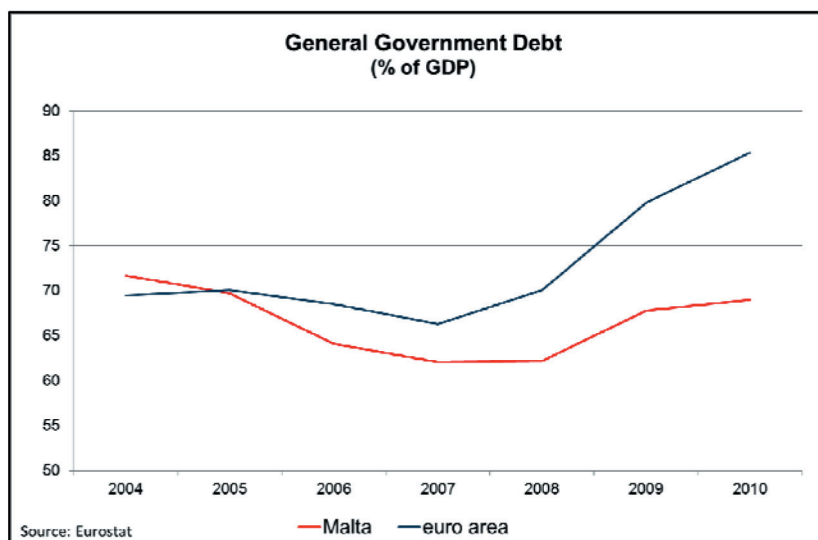


Since EU membership, growth in unit labour costs practically matched the euro area average. Thus, in terms of labour cost competitiveness, Malta has kept pace with the euro area average. However, to maintain competitiveness a further focus on the wage setting process may be appropriate. In particular the basic principle must be to emphasise that productivity improvements are at the basis of sustained wage increases, and that these are best negotiated at firm level, where improvements in productivity can be best gauged. Consequently, any cost of living adjustments should form part and parcel of the collective agreement and not be superimposed on collective agreements by legislation as happens today. Indeed, already a number of collective agreements incorporate the COLA increase, and I suggest that this should be the norm.

Another important message that has emerged from the sovereign debt crisis is the need for fiscal prudence, which provides the space for countercyclical fiscal policy during a downturn. In the euro area, fiscal policy is the major macroeconomic management tool at the national level. Thus, in periods when economic activity is relatively strong, policy needs to be sufficiently prudent to build the necessary fiscal buffers that would be utilized during periods of weaker growth.



In the aftermath of one-off expenditure during 2008, the deficit ratio in Malta declined in 2009 despite the recession of that year and narrowed slightly further in 2010. The debt ratio generally declined until 2008, but then picked up in 2009, partly in response to the contraction in the economy. Although the debt ratio has been considerably below that of the euro area as a whole, the government's determination to achieve its fiscal targets is welcome. Strong efforts need to be made in order to adhere to these targets, particularly during times of slow economic growth.



Recent experience has shown that with the adoption of targeted and limited spending measures, the economy has proved relatively resilient to external shocks. Still, at this juncture, the continuing slowdown in external demand is likely to impact the economic growth rate, adding further pressure on the fiscal balance at a time of heightened institutional and market scrutiny. This will introduce a delicate balance between two considerations. First, cutting the deficit is important in order to reduce macroeconomic imbalances that in the longer run hinder economic growth. Secondly the immediate effect is to reduce aggregate demand, whether via spending cuts or through higher taxation, which would slow the economy down.

Given the desirability of avoiding such dilemmas, this may be the time to follow the lead of other countries and consider the adoption of self-enforced regulations, such as expenditure rules. Spending decisions involve the reconciliation of various spending needs. While it is the cabinet of ministers that collectively sign off on the budget, the compilation of the budget document involves the reconciliation of diverse demands. If, as is likely, the sum of the separate demands exceeds the previous year's spending total, the end result is the observed and inefficient upward creep in total spending. A widening of the deficit is more likely when growth in tax revenues is constrained by the slow rate of economic growth.

Spending rules can be viewed as a remedy for the problem of coordination between competing interests. In addition the formulation of the rules requires the setting of spending priorities. For example, it would be reasonable for an expenditure rule to give priority to capital expenditures, while another rule prioritizes the various types of social spending.

The choice of the rules will involve the difficult task of setting of priorities, but once the rules are determined, there will be considerably less discretion on the overall fiscal outcome of the yearly budgetary exercise. For example, to remain within the rule, spending cuts may be necessary in some areas to allow a larger outlay in a higher priority area. This kind of trade-off is an essential feature of budgetary management.

Expenditure rules are also helpful for the purpose of assuring long-term budget sustainability. In this regard, the reform of the pensions system requires particular consideration.

As things stand, the gap between pension contributions and benefits is of concern. The Financial Estimates for 2012 include an amount paid by government to top up the contributions of employers and employees in the private sector. While such an arrangement was understandable in the early phase of Malta's economic development, it is less justified today.

Over 145 million euros are earmarked in 2012 for this so-called direct contribution by Government by way of a grant to the private sector in terms of the Social Security Act of 1987. The total top up for both public and private sector employees comes to just over 191 million euros. This amount is in addition to the national insurance contribution by the government in its capacity as an employer.

To put these numbers into perspective, one must keep in mind that the deficit in the consolidated fund for the same year is projected at roughly 145 million euros.

The size of these outlays should be of concern for two reasons. The shortfall is certainly not arising from pension benefits that are too generous. Secondly the amount of the welfare gap as identified in the Estimates is going to rise rapidly as people live longer and the population ages.

One suggestion for alternative financing would involve a multi-year programme that would reduce the government's matching contribution gradually over an extended period of time, ideally through a tripartite consensus at the MCESD. This programme would be financed from productivity growth. During times of economic growth, when the growth rate exceeds a particular threshold, the revenue from a marginal increase in income tax or national insurance rates would be earmarked to reduce the subvention. The increase in rates would automatically be suspended during times of

slower growth. Such a scheme would be justified as one which reallocates resources from current to future consumption, and the reallocation would occur only during a time of relative prosperity.

While this on its own would not ensure the sustainability of the pension system, it would be an important component in the process of pension reform, and, as I have already mentioned, I would suggest that it would be appropriate for deliberation at the MCESD.

The phenomenon of population ageing raises sustainability challenges also for the public provision of healthcare, which represents a significant share of government expenditure. It must be recognised that the extent of provision of free healthcare and other services by the State must ultimately be financed by the taxpayer. The earmarking of certain revenue measures or particular revenue streams for this purpose may also be an appropriate topic for consideration by the social partners.

The sustainability of funding the government's capital expenditure programme, particularly in relation to the infrastructure and the public utilities through fiscal resources may also have to be reviewed. One step in this direction is to harness the ample immovable property of the government which presently may not be rendering an adequate return. It appears that the setting up of special purpose vehicles may be addressing in part this issue. Perhaps, however, we should go a step further by considering the establishment of a development bank which would utilise various assets of government that are presently underutilised as well as other sources of funding, on similar lines that exist in many EU countries, particularly Germany, where development banks at the regional level undertake very successfully a role in promoting the economy and assisting the government in social and environmental projects.

Let me turn now to the domestic banking system. On taking on my responsibilities as Governor of the Central Bank of Malta, I actively involved myself in financial stability issues given my concern with financial markets overseas that were characterised by volatile trading conditions and the contagion effects of the sovereign debt crisis. There is no doubt that the impact of the sovereign debt crisis highlights the importance of ensuring a stable domestic financial system. In fact the case of Ireland shows us that imprudent bank policies can have devastating effects on the economy.

In contrast, the domestic banking system played a crucial role in preventing a more severe downturn in economic activity after 2008, and in averting a sharper deterioration in public finances, because of prudent behaviour on the part of the banks in both asset and liability management.

The reliance on retail deposits has been a major source of funding for the domestic banks. These remained stable during the period of financial turmoil. In other countries, banks that relied heavily on wholesale funding sources came under severe stress as interbank markets dried up and the cost of funding increased significantly.

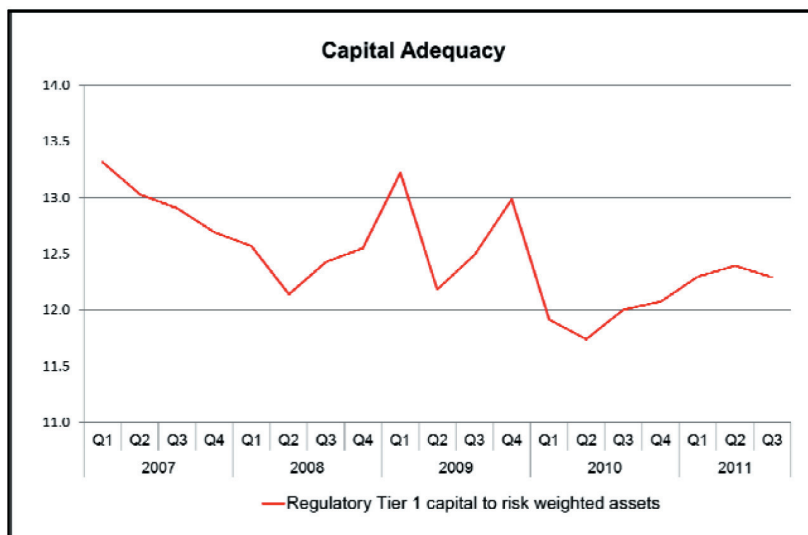
As I mentioned earlier the Eurosystem has stepped in with ample liquidity, and the Central Bank of Malta, as an active member of the system, stands ready to fulfil its intermediation role within the local banking system. Nevertheless, it is firmly my view that domestic banks should continue to operate along the lines of their traditional business model. This method of doing business has certainly protected them from the vagaries of the wholesale funding market.

In this context, I would like to emphasise once again that the Central Bank will not be supportive of banking institutions that operate in Malta and seek central bank liquidity as their primary source of funding their loan and investment activities.

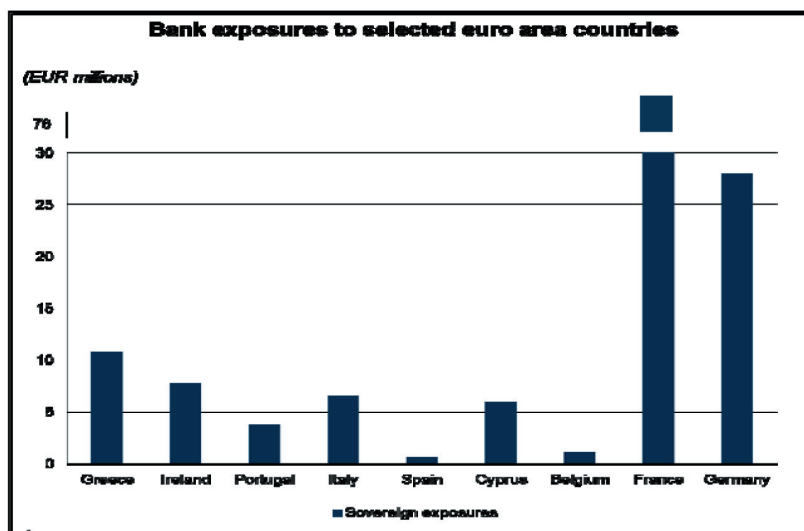
When a banking institution funds its purchase of high yielding assets from short term sources, it is not only exposing itself to losses on the asset side but also to adverse changes in its funding costs, particularly at a time when historically low interest rates are in effect. For this reason, the Central Bank expects such institutions to look primarily to the markets for their funding requirements.

I am pleased to note as well that the domestic banking system continues to be characterised by relatively high liquidity levels. Furthermore, a major strength of the domestic banking system is its prudent approach towards credit, where loans are fully covered by deposits, while loan-to-value ratios, which were already at relatively prudent levels at the time of the global financial crisis, declined further to around 70%.

Another major strength of the domestic banking sector is its strong capital base. Capital adequacy ratios improved further from already healthy levels, with the core capital adequacy ratio rising to 12.4%. This ratio is significantly higher than the present statutory requirement of 4%.



The debt crisis has highlighted the importance of risk diversification. Encouragingly, the investment portfolio of the domestic banks has limited exposure to securities issued by countries in financial distress.



It is equally important for the banks to diversify risk in their loan portfolio. Most of the troubles of banking systems overseas, particularly in Ireland and Spain, stemmed from their relatively large exposure to the construction sector, especially the housing market. While the latest update of the Central Bank of Malta's Financial Stability Report provides a generally favourable assessment of the situation in the domestic banking sector, it notes that credit and concentration risks remain elevated, mainly due to corporate borrowers in construction and real estate activities. However, on the positive side, the share of lending to these sectors has now eased slightly since before the crisis to around 10.5% of total assets as at September 2011, and domestic banks are encouraged to continue on this path to reduce concentration risk.

In the same vein, I would also like to stress that the sovereign debt crisis has also highlighted the importance of prudent credit standards and for banks to improve the institutional capacity to appraise risk, not only as it relates to the individual borrower but also from a sectoral and economy-wide perspective.

The Central Bank of Malta also continues to urge banks to expand loan loss provisioning levels, especially related to the construction sector, and also to strengthen further the capital buffers through the adoption of prudent dividend policies. Such measures are also needed for banks to eventually implement the stringent Basel III regulatory requirements.

I must stress that there is never room for complacency, especially at a time of uncertainty in the global financial system, and also because economic growth in our main trading partners is expected to slow down appreciably during 2012.

1. See F. Holme-Hadulla, S. Hauptmeier and P. Rother, "The impact of numerical expenditure rules on budgetary discipline over the cycle", ECB Working Paper Series No 1169, April 2010; see S. Hauptmeier, J. S. Fuentes and L. Schuknecht, "Towards expenditure rules and fiscal sanity in the euro area", ECB Working Paper Series No 1266, November 2010.

2. Central Bank of Malta, Financial Stability Report Update – June 2011, 17 October 2011

PRESENTATION OF THE 2010 ANNUAL REPORT IN CYPRUS

By Andreas Antoniadis, Private Office of Mr Lazarou

On 31 January and 1 February 2012, Mr Lazaros Lazarou, Member of the Court, presented the Court's Annual Report 2010 (Annual Report) in Cyprus



Mr Lazarou delivering the Annual Report to the Under-Secretary to the President of the Republic of Cyprus)

Mr Lazarou was due to meet with the President of the Republic of Cyprus on 30 January 2012. However, as the President was in Brussels attending the informal meeting of the European Council, Mr Lazarou met and delivered the Annual Report to the Under-Secretary of the President, on 31 January 2012. The Cypriot Member of the Court presented the main messages, as well as provided summary information of the Annual Report.



Mr Lazarou delivering the Annual Report to the President of the House of Representatives)

Mr Lazarou also visited the House of Representatives (Parliament) of the Republic of Cyprus and delivered the Annual Report to its President, Mr Yiannakis Omirou. In the meeting held in the office of Mr Omirou, Mr Lazarou referred to the provisions of Protocol 1 of the Lisbon Treaty on the European Union, which governs the role of National Parliaments in the EU and explained that the Court had forwarded the Annual Report to the National Parliaments, at the same time as to the European Parliament and the Council. Moreover, he presented to the President of the House of Representatives the contents and the main messages of the Annual Report.

The Cypriot Member of the Court presented the Annual Report in a joint meeting of the Parliamentary Committees on Development Plans and Public Expenditure Control (Public Accounts Audit Committee), on Financial and Budgetary Affairs and on Foreign and European Affairs. In his introduction, the Chairman of the Parliamentary Committee on Financial and Budgetary Affairs, who chaired the meeting, congratulated the Court for its work and the current and former Cypriot Members of the Court for their contribution in the work of the Court.

The presentation was attended by a considerable number of MPs, the Auditor General of the Republic, the Accountant General of the Republic (Head of the Treasury), the Commissioner of the Internal Audit and Head of the Audit Authority for the EU funds, the Head of the Cyprus Agricultural Payments Organisation and Commissioner

of Agricultural Payments, a representative of the Planning Bureau, other Government officials and press reporters.

Mr Lazarou presented an outline of the Court's work and its deliverables, an overview of the 2010 EU budget revenue and expenditure, the main messages of the Annual Report and made a particular reference to the audit mission of the Court in the Zygi fishing shelter, in Cyprus, and its results.

A press conference was given by Mr Lazarou at the Office of the European Parliament in Cyprus. The press conference was covered by the majority of the national TV channels. After the presentation of the Annual Report, Mr Lazarou answered a number of questions on the Annual Report, the role of the Court and the current developments in EU economic governance.



Mr Lazarou discussing the Annual Report with the Minister of Finance and former Member of the Court, Mr Kikis Kazamias)

Mr Lazarou also met with the Minister of Finance and former Cypriot Member of the Court, Mr Kikis Kazamias. Mr Kazamias showed particular interest to be informed about the changes of the Annual Report, as compared to the previous years. In addition, Mr Kazamias and Mr Lazarou discussed the progress made by Cyprus in the implementation of the austerity measures package aiming at fiscal consolidation.

The mission included a presentation given by Mr Lazarou on the Court's role and work and also on the Annual Report, to the Accountant General and the Treasury's staff.

The above event, which was very successful, was attended by some 80 senior officials and staff of the Treasury. The specialisation of the Treasury's staff in the management of EU funds was a good background for the exchange of knowledge and experience and the presentation was a good opportunity to learn more about the Court and its role in the audit of EU funds and on financial management issues.

Mr Lazarou also attended scheduled meetings with the Minister of Agriculture, Natural Resources and Environment, the Deputy Minister for European Affairs and Head of the Cyprus Presidency of the Council of the EU and Government officials, including the Auditor General of the Republic and the Permanent Secretary of the Planning Bureau (the main Managing Authority for EU funds).

PRESENTATION OF THE SPECIAL REPORT N° 14/2011 HAS EU ASSISTANCE IMPROVED CROATIA'S CAPACITY TO MANAGE POST- ACCESSION FUNDING?

By Pedro Manuel SEMEDO DA GRAÇA, Private Office of Mr Ramallo



From left to right: Mr Daniel Costa de Magalhães, Mr Juan Ramallo, Member of the Court, Mr Julian Chapman, Mr Francis Joret

On 1st February 2012, Mr Juan Ramallo, Member of the Court, together with Mr Julian Chapman, the Head of Unit PAN - Pre-accession and Neighbourhood Policies, Mr Francis Joret, Team Leader for the audit, and the Head of his Private Office, Mr Daniel Costa de Magalhães, presented to the press the Special Report N° 14/2011 in Brussels on whether European Union assistance has improved Croatia's capacity to manage post-accession funding.

During the press conference Mr Ramallo explained that the purpose of EU pre-accession assistance is to help the Candidate Countries on the adoption and implementation of the *acquis communautaire* and strengthen their administrative capacity in preparation for managing the larger amounts of EU funding available to them once they become Member States.

Since 2001 the Commission has provided pre-accession assistance to Croatia through a number of instruments. For the period 2001 to 2004 this was provided through the Community Assistance for Reconstruction, Development and Stabilisation, known as the CARDS programme. Then, for 2005 and 2006 there were three complementary instruments: PHARE, ISPA and SAPARD.

From 2007, these three instruments were replaced by IPA, the Instrument for Pre-Accession Assistance, and Croatia was provided funding of approximately € 150 million every year through five components thus covering transition assistance and capacity building, cross border cooperation, regional, human resources and rural development.

The ECA's Special Report No 14/2011 examined whether EU pre-accession assistance has been effective in supporting Croatia prepare for managing EU funds after accession. The audit focused on two key areas: has the

EU Commission planned EU assistance in a way which satisfactorily helps Croatia to prepare for managing EU funds after accession? Have the EU financed projects achieved the intended results in terms of strengthening Croatia's capacity for managing EU funds?

One important point underlined by Mr Ramallo was the fact that the Court was not auditing whether Croatia was ready for EU membership or whether the Croatia's adoption and implementation of the *acquis communautaire* was effective.

The audit findings were based on an analysis of the documents relating to the programming and implementation of the pre-accession assistance, audits of a sample of 16 projects financed by the different instruments, interviews with Commission staff, and interviews with the Croatian ministries, agencies and regional and local authorities involved in the management of EU funds.

The Court concluded that EU pre-accession assistance has significantly contributed to Croatia's progress in building up its capacity to manage increased EU funding after becoming a Member State. The assistance was soundly planned, taking into account lessons learned from previous enlargements. However, the objectives of the assistance have not yet been fully achieved and more capacity building work remains to be done.

Mr Ramallo finished his presentation recalling the Court's acknowledges on the progress made in the last few years, but he also said that further improvements are needed and both the Commission and Croatian authorities still have the time and opportunities to do this before accession.

As a result of the audit, the ECA issued a series of recommendations to help the Commission and Croatian authorities, which identified areas requiring particular attention and further progress, in order to make EU assistance more effective. These recommendations addressed the need to strengthen assistance in relation to procurement capacity, regional bodies, project preparation, rural development programmes and anti-corruption measures.

At the same time, the Commission should take into account the lessons learned from Croatia's accession in its assistance to other countries.

The presentation of this Special Report had a wide coverage in the media of several countries like Germany, Belgium, Italy, UK, Hungary, Austria, Spain, Bulgaria and, of course, Croatia.

Chamber I Unit NR3 – Performance Audit A presented in cooperation with the Professional Training Unit:

Special Report No 5/2011: Single Payment Scheme (SPS): issues to be addressed to improve its sound financial management

Mr Sven Koelling summarised the main elements of the 2003 CAP Reform when the EU farm aid shifted from product support to producer support (decoupling). One of the aims was to encourage farmers to become more market oriented, enhance the competitiveness of farms and thus improve the effectiveness of direct payments. Linking the payments to the respect of food safety, animal and plant health standards ('cross-compliance') was intended to promote a more environmentally friendly agriculture and so contribute to the provision of basic public goods.

The Single Payment Scheme was the central element of the reform, guaranteeing a basic income support to farmers. To apply for the scheme, farmers had to be actively farming and hold SPS entitlements.

The reason for the ECA to audit the SPS was that its proper implementation of SPS was a huge task for Member States and prone to problems and errors which were of relevance to the Court's declaration of assurance. Secondly, some central elements of the scheme such as the definition of the beneficiary had resulted in undesirable effects that reduced the effectiveness and efficiency of the payments.

Audit work built on the findings from the 2006 to 2008 compliance audits, from on-going DAS work on systems and from additional visits to the Commission and to three Member States (F, I and UK). These Member States were considered representative in terms of their specific implementation models, their management policies and risks identified.

The conclusions showed that overall SPS aid is important for the farm sector as a whole but that not all beneficiaries are necessarily farmers. There is also no direct link between the level of SPS and the value of the positive externalities ("public goods") that agricultural activities generate. The rules which governed the introduction of the scheme were and resulted in a patchwork of models, variants and implementing policies of Member States. Sometimes this resulted also in wrong incentives for beneficiaries of SPS aid, for example payments to persons who had no farming activity at all ("paying non-farmers for not producing").

The Commission considers the SPS an effective tool to support farm income but overall agreed with the problems observed by the ECA and promised to address them in a framework of its proposals for the future CAP after 2013. On 12 October 2011 the Commission published a legal proposal establishing rules for direct payments to farmers after 2013. The proposal contains a number of elements that follow the recommendations of the ECA report and by which the Commission hopes to better target the support in the future.

Chamber III Unit for European Development Funds presented in cooperation with the Professional Training Unit:

Special Report No 11/2010: The Commission's management of General Budget Support in ACP, Latin American and Asian countries

Mr. Werner Vlasselaer presented to colleagues of the Court of Auditors the approach, the results, the impact and the lessons learnt of the audit that resulted in Special report SR 11/2011 concerning the Commission's management of general budget support.

General budget support is an aid modality to support a national strategy of a partner country with the overall objective to reduce poverty and can be provided when eligibility conditions are met. It involves a financial transfer to the national treasury and technical cooperation to develop the capacity of national institutions. The financial volumes are more important than with traditional aid and so are the potential benefits associated with budget support. Therefore, it has become the Commission's preferred aid modality.

General budget support is accompanied by a policy dialogue between the donors who coordinate their efforts and the partner country. The release of funds depends on the commitment and performance of the country. The disbursements consist of fixed tranches and variable tranches of which the amount depends on the extent that defined targets have been reached by the partner country.

The Court's audit started with an extensive preliminary study that included documentary reviews, interviews and missions to Washington, Maastricht and the United Kingdom. The study also involved joining DAS missions to Malawi, Mozambique and Tunisia. Conducting the audit was relevant in view of the increasing financial importance of general budget support, the limited audit coverage so far and the growing interest and concerns shown by the Parliament and stakeholders.

The audit examined the Commission's management by focusing on the design and implementation of general budget support programmes as well as on the reporting of their results. Missions were undertaken to Benin, Uganda, Laos, Paraguay and desk-reviews were carried out for Nicaragua, Vietnam.

The Court concluded that general budget support has various potential benefits but the ultimate impact depends on the specific circumstances in each country. The Commission has made considerable efforts to improve the implementation of its programmes but weaknesses exist in the methodology and the management of GBS programmes which are thus less likely to reach their full potential effectiveness. The Special Report contains detailed observations as well as recommendations that aim to improve the Commission's approach and management of general budget support.

The Commission was aware of the need to improve its management of general budget support and launched a revision of its internal guidelines to address the issues raised by the Court. It also issued on 19 October 2010 a Green Paper on the future of EU budget support to third countries and on 13 October 2011, it issued a Communication on the future approach to EU budget support to third countries. This document announces a new policy for general budget support and introduces new eligibility criteria as well as strengthened risk management, design, implementation and control procedures, much in line with the recommendations made by the Court's Special Report.

To conclude, the presenter shared with the colleagues of the Court a number of lessons learnt relating to the audit methodology and the audit process as part of the continuous exchange of experience among staff.

SPECIAL REPORT N°15/2012



DO THE COMMISSION'S PROCEDURES ENSURE EFFECTIVE MANAGEMENT OF STATE AID CONTROL?

The Commission has overall responsibility for State aid control (Articles 107-108 TFEU). EU Member States are required to notify all planned State aid measures to the Commission and to obtain the Commission's approval before implementing them.

This special report examines whether the Commission's procedures ensure effective management of State aid control.

The Court found that the Commission has insufficient assurance that it deals with all relevant State aid cases. There is no legal basis for a systematic review of Member States' procedures and control systems other than the principle of cooperation. State aid procedures take a long time. Complaints in particular lack transparency. In the field of State aid control the Commission reacted promptly to the financial crisis. It has not yet assessed the ex post impact of its activities in a comprehensive way.

The Court makes recommendations with an aim to improving the Commission's procedures and management effectiveness.



IN MARCH 2012 THE COURT SAYS :

HELLO TO

BIANCO	Eugenia
DIPLAS	Cristian-Costin
MESSELOT	Elodie
MOORE	Richard
GAUTIER	François

GOODBYE TO

BACKES	Claire-Lise
PAPADOPOULOS	Dimitrios
SPEED	Agneta
TABOROVA	Jana
TANGUY	Bertrand

A BRIEF LIST OF MISUSED ENGLISH TERMINOLOGY IN EU PUBLICATIONS - PART 2

By Jeremy Gardner, English translation



Control (to control, a control)

Explanation: The default meaning of 'to control' is: 'to exercise authoritative or dominating influence over; direct'. Thus, if we say that 'the Commission controlled project X in the Member States', we do not mean that the Commission audited it, but that the Commission ran it. In

combination with a few other terms contained in this list, this misuse can end up sounding quite sinister (e.g. 'the Commission's agents went on a mission to the United Kingdom to control research expenditure'). Used as a noun, we do not 'carry out' or 'perform' controls. Controls are more likely to be systems that are in place. Hence, we can say that the Court checked to see if the key controls were working, but not that it carried out controls.

Example: 'Administrative checks must be undertaken on all applications for support and payment claims, and cover all elements that are possible and appropriate to **control** by administrative means'⁴⁸. 'Apart from the annual review of the reference amount, customs authorities are not obliged to carry out **controls** after authorisation'⁴⁹.

Alternative: Audit, check, verify/verification, inspect/inspection.

Deepen

Explanation: The word 'deepen' is used with an extraordinary variety of meanings, perhaps under the influence of languages where there is only one word for 'deep' and 'profound' - 'The EESC wishes to **deepen** Euro-American relations' (expand? bring us closer? Improve?), 'further work is therefore needed to deepen understanding of these developments' (increase?), 'in order to **deepen** the European Union' (make it more pervasive?), 'We do not think it would be worthwhile to further deepen this issue here' (go into in greater detail?), 'it is in the Union's interests to further deepen its relations with the developing countries concerned' (improve? take them further?) etc.

Alternative: If you are not talking about making something physically deeper (a well for example), you would be advised to avoid this word and reformulate your sentence.

Define/Definition

Explanation: This is actually one of the terms that are most often misused. In English, 'define' means 'to state the precise meaning of' (for example 'we have already defined the meaning of control'). It does not mean 'establish', 'set out', 'lay down' or 'illustrate'.

Example: 'The main tasks and activities of the IMI Joint Undertaking shall be:(a)to ensure the establishment and sustainable management of the Joint Technology Initiative on "Innovative Medicines";(b)to **define** and carry out the annual implementation plan referred to in Article 18 via calls for project'⁵². 'a high level of human health protection shall be ensured in the **definition** and implementation of all Union policies and activities'⁵³.

Alternative: establish /lay down/set out/draft/establishment/drafting/design.

Delay

Explanation: 'Delay' is often used to mean 'deadline' or time limit. In fact, it should be used when something is late. You cannot, therefore comply with ('respect') a delay.

'In order to respect the **delay** for transmission, the Commission can make small changes to the notification provided that they are agreed with the notifying member prior to transmission'⁵⁵.

Alternatives: Time limit/deadline/period of time allowed.

Detached/detachment

Explanation:

'Detached' means 'separated', 'disconnected' or standing apart from others (as in detached house) or, in the case of a person 'marked by an absence of (emotional) involvement'. A 'detached official' would therefore be one who worked in an objective manner (no doubt a laudable quality, but not what is usually meant here).

Example: 'The table below shows staffing levels in ACP Delegations before and after devolution. External staff comprise Local Agents, Contract Agents, **Detached National Experts** and Young Experts'⁵⁷.

Alternatives: Seconded/secondment.

Do

Explanation: 'to do' is rather weak word and 'to perform' or 'to carry out' are often better. Among other things, this would help avoid the confusion that some people make between 'to do' and 'to make'. A peculiar use of 'do' is also found in '**done at Luxembourg/Brussels**'; this is probably a legal requirement, but it would be better as just "Brussels".

Example: 'A third source of revision is the statistical adjustments **done** at national level and at European level to take account of the seasonality and the calendar effects affecting time series'⁵⁹.

Alternatives: perform/carry out/undertake.

Elaborate

Explanation: To elaborate means: 'to work out carefully or minutely' or 'to develop to perfection'. It does not just mean to write something up. It is possible, though rather unusual, to elaborate a strategy but not usually document.

Example: 'Additional background information on less commonly used species, and habitats is available in the background information document **elaborated** by the Group of Experts'⁶¹.

Alternative: draft/draw up/prepare.

Ensure (to)

Explanation: 'To ensure' means 'to make sure or certain'. However, it is often used in the EU to mean 'provide'. In any case 'ensure' is never followed by 'to'.

Example: 'Establish national plans for rare diseases in order to **ensure** to patients with rare diseases universal access to high quality care, including diagnostics, treatments and orphan drugs throughout their national territory on the basis of equity and solidarity throughout the EU'⁶³.

Alternatives: provide (with)/guarantee.

Establish

Explanation: 'Establish' is also often used in the EU to mean to 'draw up' or 'draft'. In English, it actually means to 'set up', 'found' or 'secure'. You can establish a company or criteria, but not a report.

Example: 'During the reporting phase the Agency shall **establish** a final inspection report containing details of the conduct of the inspection'⁶⁵.

Alternative: draw up/ draft/ produce/prepare.

Eventual/eventually

Explanation: Eventual means 'occurring at some unspecified time in the future', eventually means 'in the end'. In our texts, these words are often used with a meaning akin to 'possible' and 'possibly'. Thus, the sentence 'eventually, the beneficiary provided documentary evidence', which the author intended to mean something like 'if any documentary evidence were necessary/available, the beneficiary provided it', in English actually means that it took the beneficiary a long time to do so. In the example below, 'eventual' is used to mean 'possible', whereas it actually means 'in the long term'.

Example: 'They both opposed an eventual imposition of anti-dumping measures as they considered that it could lead to a cessation of imports of the product concerned from the PRC'⁶⁷; 'The results thus obtained will be taken into consideration by the Commission with regard to an **eventual** new request for derogation'⁶⁸.

Alternative: Possible/any; sometimes a write-around may be better (e.g. eventual claims should be sent to the paying office = if you wish to make a claim, please write to the paying office).

Evolution

Explanation:

The word 'evolution' is both heavily overused and misused in our texts. On the one hand, it should only be used to describe a positive trend, so 'negative evolution' is something of an oxymoron. On the other hand, there are a number of more common words that should be preferred.

Example: 'The increase in transport costs leads to a **negative evolution** of exports and consumption (households have to face increased costs of transport) '.

Alternatives: development/trend/change/downturn/upturn etc.

Exercise

Explanation: 'Exercise' is often used to indicate a procedure or process of some sort or a period in which something is done.

Example: 'The **promotion exercise** is different in each institution. At the Commission and Parliament, the system involves the accumulation of points: officials are promoted when they reach the threshold for promotion' '.

Alternative: Procedure.

Externalise (Externalisation)

Explanation: This word is often used (e.g. in Artemis) to express the idea that something is contracted out. It does not have this meaning in English.

Example: 'Furthermore, the White Paper required that the decision to **externalise** should be taken on a consistent basis across the European Commission, so that similar instruments are used in similar cases' .

Alternative: Outsource (outsourcing)/contract out/send out.

Fiche

Explanation: Fiche is a useful word, but it is French. Its only use in English is to indicate the (somewhat outdated) microfiche.

Example: 'Where other information contained in the product information **fiche** is also provided, it shall be in the form and order specified in Annex III' .

Alternative: Sheet/document .

Foresee

Explanation: Foresee is one of the most frequently misused words in this list. In English it means 'predict' or 'expect' (e.g. 'bad weather was foreseen for the weekend'). In EU texts, however, it is used with a plethora of meanings that correspond more or less to those of the French word *prévoir* or the German *vorsehen* (both literally for-see). We are told that 'X is foreseen in the Regulation' (= set out in/ provided), that 'on-the-spot checks are foreseen' (= intended/planned), that 'our procedures foresee (= include/provide for) documentary checks'. In the example below, the document intends to say that the fleet adjustment schemes provide for the scrapping of 367 vessels. What it actually says is that they predict it.

Example: 'In total, Member States adopted 13 Fleet Adjustment Schemes (FAS), which **foresee** the scrapping of 367 vessels accounting for 32 448 GT and 50 934 kW' .

Alternatives: According to the exact meaning intended: envisage/plan/lay down in/set out in/provide (for)/contemplate.

Formulate:

Explanation: Formulate means 'to put into or express in systematic terms', 'to express in (or as if in) a formula' or 'to devise'. In our work, it is often overused with a meaning akin to draw up' or 'prepare'.

Example: 'This is estimated at €646,832 on a yearly basis, covering 4.0 FTEs to manage the documents and the website (including dealing with confidentiality issues and one 'communication manager' to **formulate** urgent safety communications)' .

Alternatives: Draft/draw up/produce/prepare.

Heavy

Explanation: 'Heavy' has a number of meanings, mostly to do with weight and thickness (heavy load, heavy fog). It cannot, however, be used to render the idea that a procedure or administration is excessively complicated, slow or difficult. Eur-lex proposes a number of ways of rendering this concept (cumbersome, burdensome and even ponderous), as well as 'heavy' itself, but they rarely sound quite right.

Example: 'The usual reason appears to be over-**heavy** administration' .

Alternatives: complicated/excessively or unnecessarily complex/slow etc, often 'unwieldy'. Often, we say that there is 'too much red tape'.

Hierarchical superior

Explanation: In English, this term is used almost exclusively in the ecclesiastical context, and even the word 'hierarchical' is relatively specialized.

Example: 'Error in the application of the case-law regarding the unlawful exercise of activities by the applicant's **hierarchical superior**' .

Alternative: Manager/line manager/boss/head of unit/director etc.

Homogenize/homogeneous/homogeneously

Homogenize is a rather unusual word in English (only two hits in the British National Corpus) and is most commonly used with reference to milk. 'Homogeneous' and 'homogeneously' are more common, but they are more often found in the sciences and social sciences and are over-used in our texts.

Example: 'This new approach commits Member States to work together towards shared goals without seeking to **homogenize** their inherited policy regimes and institutional arrangements' .

Alternative: standardize/ make uniform/standardized/uniform.

Important

Explanation: 'Important' is often wrongly used to mean 'big' ('the most important power station in France); it actually means: 'strongly affecting the course of events or the nature of things' or 'having or suggesting a consciousness of high position or authority'.

Example: 'The annual accounts give detailed information on the financial corrections confirmed, implemented and to be implemented and explain the reasons for which an **important** amount is still to be implemented' .

Alternative: Large/significant.

Informatics/Telematics

Explanation: These terms are almost unknown in English and not widely understood.

Example: 'Professional experience in **informatics** related to data base management and accountancy applications' .

Alternative: IT/ICT, or sometimes computer/computerized.

Inside

Explanation: 'Inside' is often used instead of 'within' or 'in' or even 'at' or 'by'.

Example: 'The Commission's impact assessment system aims at ensuring evidence-based policy making **inside** the Commission through an integrated and balanced assessment of problems and alternative courses of action' .

Alternatives: Within, or the appropriate preposition at/by/in.

Introduce

Explanation: Introduce normally means to 'present someone' or 'bring something in', whereas it is often used in our work to mean simply to 'submit' (as in submit an application or a report).

Examples: '...importer should nonetheless (if he so wishes) **introduce** an application for a refund of anti-dumping duties within the six-month time limit' . 'If your children did not get the first instalment (file **introduced** late ...)' .

Alternatives: Submit/put (an application) in; in cases like the first use in the example above, just 'apply' would be even better.

Jury

Explanation: A 'jury' is normally 'a group of, usually twelve, people sworn to deliver a true verdict according to the evidence upon a case presented in a court of law'. The term is also sometimes used in talent shows. In English, it is never used in the context of recruitment.

Example: 'The audit of recruitment procedures showed that the selection of applicants invited for an interview about 80 % of applicants are rejected at this stage \ was made by only one member of the **jury**' .

Alternatives Selection board/selection panel.

Justify/justification

Explanation: In English, to justify means 'to demonstrate or prove to be just, right, or valid' or 'to show to be reasonable' and 'justification' is 'the act of justifying' or 'something that justifies'. At the Court, we often find it used to mean 'to explain' or 'provide evidence for'. By extension, especially in working papers, we also find 'justification(s)' used to mean 'supporting document(s)'. In the example below, 'justification' is actually being used to mean 'evidence', whereas, in fact, from the actual wording, we would understand something like: 'the French government was unable to provide an explanation (or even an excuse)'.

Example: 'Whereas the French Government was unable to provide any **justification**, and the Commission could find none, showing that the aid in question fulfilled the conditions required for grant of one of the exceptions set out in Article 92 (3) of the EEC Treaty' .

Alternative: substantiate/provide evidence for/explain/evidence/supporting document/proof/explanation.

Mission

Explanation: 'Mission' has a large number of meanings, none of which corresponds to the way it is used at the Court. Generally speaking, missions in English are performed by secret agents, astronauts or diplomats. Otherwise they can be the places where priests, nuns, diplomats etc work abroad (often in third world countries). It never means a business or official trip and we would not say 'on mission' in any case. Unfortunately, however, it is a very useful word: we 'do our mission planning', 'go on mission', fill in a 'mission order', spend our 'mission allowance' , declare our 'mission expenses' and do everything via the 'missions office'. On the one

hand, it would be exceedingly difficult to do without the word internally, but on the other, we should bear in mind that it is likely to be misconstrued by outsiders.

Example: *'With regard to the management of travel orders, the **missions** office ... has systematically coordinated the reservation of plane tickets and hotel rooms and has been able to obtain very reasonable group rates'*.

Alternative: Often, 'audit/visit' ('I wasn't here last week because I was in Rome for an audit (=on mission)), sometimes 'official trip/official business' or just 'business' ('I was in Rome on business'). Nato, the UN and Canada often talk of 'duty travel'.

Modality

Explanation: 'Modality' is one of those words which people (a) swear is correct and (b) say they have to use because the Commission does so (the example below is a case in point). The trouble is that it is not English – at least not in the meaning applied in our texts. Eurlex contains over 2000 cases in which it is used to mean 'procedure', but this does not make it mean procedure. In actual fact, it is a rare and quite specialized word (only 50 or so hits in the British National Corpus) whose main meanings relate to grammar, philosophy, medicine and physiology.

Example: *'Evaluating such a unique scheme is a particular challenge for all actors involved. Evaluation **modalities** have gone through significant changes over recent years'*.

Alternative: Procedure/method/mode.

Modify/modification

Explanation: If we are talking about making changes to legislation, 'amend/amendment' are better words than 'modify/modification'. In other contexts, the word 'change' is a more common alternative.

Example: *'The Commission ... undertook to make proposals to **modify** the regulation before issuing the next annual report, which is to be drawn up in mid-2009'*.

Alternatives: Amend/change.

Normally

Explanation: Normally means 'as a rule', 'usually', 'ordinarily' or 'in a normal manner' (e.g. 'act normally!'). At the Court, we often find it to express something that should happen.

Example: 'Normally, she will come at 8 o'clock' (= she should be here at 8 o'clock); 'Are you free this weekend' 'yes, normally' ('I should be').

Alternative: Supposed to/ should.

Note

Explanation: In our administration, the word 'note' ('a brief letter, usually of an informal nature') seems to have invaded the semantic field of both 'memo' ('a written communication, as in a business office') and 'letter' (a lot of our 'notes' are anything but brief).

Example: *'An **information note** from Vice-President Kallas and the President, addressed to the College under the title, 'Review of security policy, implementation and control within the Commission, which covered physical security as well as security of information, was adopted in 2008'*.

Alternative: Memo, letter.

Of

Explanation: Many of our authors seem uncertain as to the rules governing English prepositions, possessive constructions and noun-noun compounds. They therefore tend to use 'of' as a sort of all-purpose preposition in the place of from, by, in, on, at etc, giving us 'previous reports of the Court' instead of 'previous reports by the Court', 'communication of the Commission', instead of 'communication (letter?) from the Commission', 'EC reports of the projects' instead of 'Commission reports on the projects' etc. Moreover, phrases with 'of' are often used instead of possessive 's' constructions or noun-noun compounds (the reports of the Court/the Court's reports, Commission communications/communications of the Commission). This type of error can lead to ambiguity even where it is not grammatically wrong; for example, in the phrase "the system of control of the Commission", is the Commission being controlled or is it doing the controlling?

Operator/economic operator

Explanation: Eurlex has 1057 hits for 'economic operator'. As the term is not used in English in this way, I take it that these are simply companies or businesses. Similarly, on its own, the term 'operator' is confusingly used to cover a multitude of sins according to the exact circumstances – in customs, it can mean 'importer' or 'exporter' or possibly 'shipping company', depending on the customs scheme being examined, in agriculture it can refer to farmers or people who commercialize the products etc.

Example: *'An alert mechanism that allows competent authorities to warn other Member States of a serious risk caused by an **economic operator** to the proper and secure functioning of the Single Market'*.

Alternatives: It would be clearer to call things by their own name – company if you mean company, farmer if you mean farmer, importer if you mean importer etc.

Opportunity

Explanation: 'Opportunity' does not mean 'the character of that which is opportune' (I am translating literally from a French dictionary). The dictionary definitions of opportunity are 'a favourable or advantageous circumstance or occasion or time'.

Example: *'The Court questioned the **opportunity** of introducing these measures in such an uncertain economic climate'*

Alternative: Advisability/whether it was advisable to/whether it would be opportune to.

Perspective

Explanation: The word 'perspective' is often used correctly to mean 'point of view (e.g. 'from a research perspective')'. However, it is also used to mean 'expectation for the future (as in financial perspectives)'.

Example: *'The Foundation enjoys a more stable **perspective** in 2010. It has already put in place tighter monitoring and control of budget transfers to limit the number of transfers and prepares measures to further enhance budget planning and forecasting for the 2011 financial year'* .

Alternatives: Outlook, prospect (especially plural).

Planification

Explanation: 'Planification' does not exist in English, but it comes up quite regularly. The example below comes from a published Court report.

Example: *'Simplified procedures and better **planification** should make it possible to even out the caseload under FP6, improving internal control and speeding up processes'* .

Alternative: planning.

Prescription

Explanation: Although the legal term 'prescription', meaning 'the limitation of time beyond which an action, debt, or crime is no longer valid or enforceable' is commonly used in the Scottish law, the State of Louisiana and possibly Quebec, it is little known with this meaning in the rest of the English speaking world. It is a convenient term, but unfortunately not one that most English speakers would understand.

Example: *'During the period of the stay, the party who has seised (sic) the court in the Member State shall not lose the benefit of interruption of **prescription** or limitation periods provided for under the law of that Member State' .'* Thus, *inter alia*, a uniform method for calculating the prescription is used, the starting point being the date on which the

continuing infringement ceased, and the penalty to be imposed on each participant is only in respect of the whole of its unlawful conduct' .

Alternatives: Generally speaking, 'limitation'. A 'statute of limitations' is said to apply: we can say, for example that there is a 'three year statute of limitations', 'three year limitation of action', 'three year time-bar' or three-year limitation period; if it is too late to pursue an action, we can say that 'the statute of limitations has run out'; if a debt can no longer be collected, we can talk of a 'time-barred' claim or offence. The terms 'stale claim' and 'stale offence' may also be used, but they are less well-known.

Project

Explanation: We sometimes find 'project (of)' used with the meaning of 'draft'. This happens more at SPF level than in published reports but some cases may filter through into the official journal.

Example: *'A number of technical and editorial amendments were also introduced to define the scope of some provisions, to make the wording of the Directive more explicit and more consistent with the wording of the **project** of Regulation on placing on the market'* .

Alternative: Draft.

Punctual

Explanation: Punctual means 'acting or arriving exactly at the time appointed'. In the example below, the word 'punctual' implies that the experts' meetings were held on time. A good thing, no doubt, but not what is meant here, which is probably 'periodic'.

Example: *'The management of the above mentioned feed sectors is subject to close co-operation with the Member States through regular (generally monthly) meetings of the Standing Committee on the Food Chain and Animal Health, section on Animal Nutrition, and **punctual** expert groups meetings where appropriate'* .

Alternatives: One-off, occasional, individual, ad hoc, periodic, regular.

Reasonability

Explanation: 'Reasonability' may occur in some dictionaries, but like a number of other words in -ability and -ableness (**u navailability** is another common example much loved by IT), it is very marginal and stylistically awkward. Words of this sort should be avoided.

Example: 'Even if, as FNK maintains, it should be left to the crane-hire companies to interpret the concept 'reasonable', which incidentally is nowhere apparent, it is still established that the **reasonability** of rates was discussed between the crane-hire companies and FNK' .

Alternative: Rework your sentence to use the word 'reasonable', 'available' etc instead.

Reflection/ Reflection group/reflection forum

Explanation: In English, reflection is an internal process that takes place within the individual (e.g. 'I have reflected long and hard on this problem') which does not necessarily involve any discussion. As for the curiously named '**reflection group**', the dictionary definition is 'a discrete group which is generated by a set of reflections of a finite-dimensional Euclidean space' (!?!).

Example: 'The Commission's **Reflection** Forum on Multilingualism and Interpreter Training[16] produced a report with recommendations on the quality of interpretation and translation' .

Alternatives: Reflection=discussion/reflection group=think tank/reflection forum=forum

Reinforce

Explanation: The verb 'reinforce' is most commonly used in the engineering or military contexts, but it is often applied in the EU just to mean 'improve' or 'increase'. On some occasions, authors who detect it as a Gallicism, are tempted to replace it with '**s strengthen**' (e.g. 'When strengthening the administrative capacity of a country, twinning is recognized as an important instrument'), but often, all that is meant is 'increase' or 'improve'.

Example: 'Furthermore the Commission initiative on health security planned for 2011 will seek to **reinforce** the coordination of the EU risk management and will strengthen the existing structures and mechanisms in the public health area' .

Alternatives: Improve/bolster/consolidate/increase.

Request to

Explanation: 'Request to' sounds like it ought to be a more elegant way of saying 'ask'. However, it is a difficult verb to use transitively and this use should therefore be avoided. There are no problems with using 'request' as a noun.

Example: 'In its resolution on the discharge of the EU general budget for 2004, the European Parliament **requested** the Commission **to** clarify the Court's right of access to projects managed by UN agencies' .

Alternative: Ask.

Respect (to respect/respect)

Explanation: The most common meaning of the verb 'respect' is 'to show deferential regard for'. In some cases, it can also mean 'avoid violation of' (rules, for example), but it is over-used at the EU in this meaning and often in a grammatically awkward manner. The example below should read: 'ensure respect for property rights'.

Example: 'The existence and implementation of a coherent, effective and transparent set of laws which ensure the **respect** of property rights and the operation of a functioning bankruptcy regime' .

Alternatives: Comply with/compliance with/adhere to/meet (a deadline).

Retain

Explanation : Retain means 'keep', unless you are talking about lawyers, in which case it means 'hire'. At the Court, it is often used to mean 'adopt' or 'choose'.

Example: 'As this hypothesis was not **retained** by the social partners, the conclusion will differ' .

Alternative: Select/choose/adopt/accept.

Semester

Explanation: The term 'semester' is used to refer to a division of the academic year. It is not very common in the UK or Ireland even in this context.

Example: '... will submit a proposal for a European Parliament and Council Regulation to create a general legal basis for IMI during the first **semester** of 2011' .

Alternatives: Half (e.g. 'during the first half of 2011')/six months/six month period .

Service

Explanation: At the Commission (but not usually at the Court), the term 'service' is freely employed with a meaning akin to 'department'. 'Service' is not the generic term in English although it is used in the names of a few government departments, especially when they offer a service (e.g. the 'Advisory Conciliation and Arbitration Service', or the 'passport service'). As in the first example below, in the EU, it is also used to mean 'the staff of'. In the second example, the word seems quite superfluous ('In agreement with the Commission'), though some might argue that it serves to emphasize a distinction between the institution itself and its staff. We often prefer to leave this distinction implicit in English.

Examples: 'For the financial year 2007, the **services** of the Commission's Accounting Officer carried out a follow-

up of the previous year's findings⁶⁹, 'In agreement with the **services** of the Commission, the group may set up subgroups to examine specific questions on the basis of the terms of reference defined by the group. Such subgroups shall be disbanded as soon as their mandate is fulfilled⁷⁰'.

Alternatives: We would normally render 'the services of the Commission/Court etc' with just 'the Commission/Court etc'. If we really need to avoid ambiguity (was it the staff or the Commission itself?), we can say 'the Commission's staff' or 'the Commission's XYZ department'.

Sickness insurance

Explanation: As the correct term is **health** insurance, presumably one would take out 'sickness insurance' if one wanted to stay in bad health. I am afraid we are stuck with the paradoxical 'joint sickness insurance scheme', but the term should be avoided in other contexts.

Example: 'A national authority may refuse authorisation to receive treatment in another Member State only if treatment which is the same or equally effective for the patient can be obtained without undue delay from an establishment with which the insured person's **sickness insurance** fund has an agreement⁷¹'.

Alternative: Health insurance.

So-called

Explanation: This is a risky term to use; although some dictionaries allow the meaning 'commonly known as', others, like the Collins dictionary, emphasize the fact that its use casts doubt on the veracity of the term it introduces = 'called (in the speaker's opinion, wrongly) by that name'. In the example below, it implies that the author wishes to cast doubt on the fact that the system is really transitional. Furthermore, to cite the American heritage dictionary, 'quotation marks are not used to set off descriptions that follow expressions such as so-called and self-styled, which themselves relieve the writer of responsibility for the attribution'. This use of 'so-called' followed by quotation marks is very common in Community texts (second example) and should be avoided.

Examples: 'The EESC notes that the **so-called** transitional system for the application of the minimum standard rate of VAT, set at 15 %, which was adopted back in 1992 and is due to expire on 31 December 2010, needs to be extended⁷⁵. 'with dimensions of approximately 8,5 × 30 × 23 cm, designed for monitoring the respiratory and anaesthetic gases of a patient under medical treatment (**so-called** 'Gas Analyser Module')⁷⁶'.

Alternatives: Often, as in the two examples above, 'so-called' is superfluous and the other term can stand on its own. In other cases we can say 'known as' or 'this is called'. Occasionally we may use inverted commas, though here too there is a risk that they will be interpreted negatively.

Third country

Explanation: The USA is one country, Canada is another and Britain is a third country. The USA could sign an agreement with Canada to exclude third countries from their territorial waters (for fishing, for example). In the EU the term is almost universally used in the EU to mean 'countries outside the European Union', but it sometimes means 'countries outside whatever grouping of countries we are talking about'. This is incorrect and largely incomprehensible to outsiders. It is also objectively unclear. This is evident if we look at the (invented) example: 'he has a Schengen visa and it does not allow him to work in third countries'. Do we mean here: 'non-Schengen countries or non-EU countries? Finally, there is a risk that the unaccustomed reader might mistake it for 'third-world countries'.

Example: 'Regulation (EC) No 1580/2007 lays down, pursuant to the outcome of the Uruguay Round multilateral trade negotiations, the criteria whereby the Commission fixes the standard values for imports from **third countries**⁷⁸'.

Alternatives: Non-member state/non Schengen state/countries outside the EU/EEA etc.

Training (a)

Explanation: This is one of a series of gerunds used incorrectly as countable nouns (a training, a screening, a prefinancing, a planning), which is not generally possible in English. Training in English is a process (the process of being trained) and it cannot be used as a synonym for a 'course'. Curiously (second example), it is often used quite redundantly in combination with 'course', as if the word 'course' on its own were somehow not good enough.

Examples: 'Workers posted by a TC company (its principal place of business is outside the EU/EEA):-contract services suppliers;-ICT (including for the purpose of a **training**);⁸⁰ 'The development of a vocational training programme for internal auditors in the Commission was completed, including a **training course** on fraud prevention, developed by OLAF⁸¹'.

Alternatives: Course (language course/I am on a course/I am doing a course).

Transmit

Explanation: 'Transmit' normally refers to radio or television and possibly podcasts. If we are sending something by letter/email or fax, we would normally just say 'send'. If we are sending something on that has been sent to us, we can say 'forward' or 'send on'.

Example: *'The Court would thus be required to **transmit** its draft report on the same day that the Commission is required to transmit its synthesis report on the operation of the internal control system'*⁸³.

Alternatives: Send/forward.

Transpose/transposition

Explanation: Transpose means 'to put in a different order' and it is commonly used in mathematics and music. It is not a legal term and does not (even places that have civil law systems, like Scotland, Louisiana and Quebec) have the meaning attributed to it in EU jargon (= to transfer the provisions of a Directive into national legislation). It is a useful word internally, but will not be understood in the real world, even by lawyers, except those who speak French or are used to EU terminology.

Example: *'The Commission shall, on the basis of the information provided by the Member States, publish on its website the details of the provisions approved by each Member State which **transpose** Chapter 3 of Title XI of Directive 2006/112/EC'.*

Alternatives: Implement or transfer/convert (into national law).

Valoriz(s)e

Explanation: valorize means 'to fix and maintain an artificial price for (a commodity) by governmental action'. At the EU, however, it is often used to mean 'to assign a value to' or to 'make the most of'.

Example: *'How could the results of the work of the Agency be best **valorised** for both the public and the private sectors thus enhancing the visibility of the Agency?' or 'Whereas Article 4 (a) of Commission Regulation (EEC) No 1164/89 (3), as last amended by Regulation (EEC) No 2095/93 (4), lays down, inter alia, that the aid is to be granted only in respect of areas harvested, on condition that normal cultivation work has been carried out; whereas, if the aid scheme is to operate properly, a definition should be given of what is meant by harvest, on the one hand, and on the other only those cultivation practices which seek to **valorize** almost the whole of the product cultivated should be accepted'.*

Alternatives: Increase the value of /give a value to/enhance/make the most of/accentuate/upgrade.

Visa

Explanation: Visa is used to render not only 'approval' (example 1), but also the act of giving approval (example 2). In English, a visa is generally 'an official authorization appended to a passport, permitting entry into and travel within a particular country or region'. It is also the name of a credit card. Some dictionaries also give a meaning akin to the one used here (approve/approval). However, this meaning is not generally understood or used, to the extent that none of the 407 occurrences of 'visa' in the British National Corpus correspond to this meaning.

Example: *Delegated Authorising Officers are responsible for financial management in their services, including functions that had previously been fulfilled at central level, such as, for instance, the centralised ex-ante **visa** performed by the Financial Controller, which was abolished in the context of Reform' . 'An important part of the system is the role played by the Control and Finance Section which has to **visa** all transactions before they can be authorised. , 'the Commission at any moment and for any given transaction can refuse to give its **visa** and thereby refuse that the transaction in question be financed from EC funds'*

Alternative: Approval/endorsement/approve/endorse (to).

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