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THE RELIABILITY OF THE RESULTS OF
THE MEMBER STATES' CHECKS OF THE
AGRICULTURAL EXPENDITURE

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(pursuant to Article 287(4), second subparagraph, TFEU)

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REPLY OF THE COMMISSION

ABBREVIATIONS

AAR: annual activity report

CAP: common agricultural policy

CB: certification body

DAS: statement of assurance (déclaration d'assurance)

DG Agriculture and Rural Development: Directorate-General for Agriculture and Rural Development

EAGF: European Agricultural Guarantee Fund

EAFRD: European Agricultural Fund for Rural Development

GAEC: good agricultural and environmental condition

IACS: integrated administration and control system

LPIS: land parcel identification system

RER: residual error rate

SMR: statutory management requirement

SAPS: Single Area Payment Scheme

SPS: Single Payment Scheme

VAT: value added tax

GLOSSARY

Administrative checks: Formalised and automated checks carried out by the paying agencies on all applications in order to verify the eligibility of applications and detect all possible irregularities.

Conformity clearance audits: Compliance audits of selected aid measures carried out by the Commission's services on a multi-annual basis to verify whether paying agencies have implemented agricultural expenditure in conformity with EU rules. Non-compliance results, in most cases, in flat-rate financial corrections being imposed on Member States.

Court's annual report: Presenting the results of financial audits in the form of statements of assurance on the EU general budget and the European Development Fund (published each year in November).

DG Agriculture and Rural Development's annual activity report: DG Agriculture and Rural Development annual management assessment of the functioning of management and control systems in place (published in March). On the basis of the document the director-general prepares a declaration of assurance for the DG Agriculture and Rural Development expenditure and both documents are then used for the discharge procedure with the Council and Parliament.

EAGF IACS population: Measures financed from the European Agricultural Guarantee Fund that are managed under integrated administration and control system (e.g. SPS or SAPS).

EAFRD IACS population: Measures financed from the European Agricultural Fund for Rural Development that are managed under integrated administration and control system (e.g. area- or animal-related measures such as agri-environmental payments).

EAFRD non-IACS population: Measures financed from the European Agricultural Fund for Rural Development that are not managed under integrated administration and control system (e.g. all the non-area project-based measures such as the modernisation of agricultural holdings).

Error rates: Rates of error calculated in the statistical reports per aid measure and per checking mode (on-the-spot inspections vs. administrative checks). The rate is the amount of error detected expressed as a percentage of the amounts claimed in the relevant category.

IACS: An integrated system that consists of databases of holdings, applications, agricultural parcels and payment entitlements (in those Member States applying SPS). These databases are used for administrative cross-checks on all aid applications for most of the EAGF measures (e.g. SPS, SAPS or other direct payments).

LPIS: A database which contains a record of the entire agricultural area (reference parcels) of the Member State and the eligible areas. Its reliability is of crucial importance for the quality of the administrative cross-checks verifying that aid is only paid for eligible land.

Most likely error: The Court's annual best estimate of the error affecting a class of payments. It is calculated on the basis of the results of the tests carried out on a representative sample of transactions of that class. It is expressed as a percentage of the total amount of payments in that class. This percentage lies, with a 95 % probability, within a confidence interval determined by a lower and an upper limit.

On-the-spot check: Verification carried out by the paying agency's inspectors of the legality and regularity of transactions, involving a visit to the applicant's premises (e.g. on-farm inspections to measure and assess the eligibility of the parcels declared).

Residual error rate: It represents the Commission's estimate of the level of irregularities remaining in the transactions after all checks have been carried out. The Commission computes four residual error rates at the EU level (one per expenditure population) and publishes them in the DG Agriculture and Rural Development annual activity report.

Shared management: Method of implementation of the EU budget where implementation tasks are delegated to the Member States. To that end, Member States authorities designate bodies responsible for the management and control of Union funds. Such bodies report to the Commission. In the context of the present report, these bodies are the 'paying agencies' and the 'certification bodies'.

Statistical reports: Annual reports submitted by Member States to the Commission that contain the results of the paying agencies' administrative and on-the-spot checks.

X-table: Complete records of all the accounting information required for statistical and control purposes that Member States must annually submit to the Commission by 15 February the year following the one to which the data relate¹.

¹ The structure of the information is detailed in Commission Regulation (EU) No 825/2010 of 20 September 2010 laying down form and content of the accounting information to be submitted to the Commission for the purpose of the clearance of the accounts of the EAGF and EAFRD as well as for monitoring and forecasting purposes (OJ L 247, 21.9.2010, p. 1).

EXECUTIVE SUMMARY

I.

The Commission shares the responsibility for the implementation of the common agricultural policy with the Member States. The agricultural expenditure is thus administered and paid out by national or regional paying agencies. These paying agencies report to the Commission. Independent certification bodies appointed by the Member States certify to the Commission the annual accounts of paying agencies and the quality of the control systems these agencies have put in place.

II.

The paying agencies carry out administrative checks on aid applications in order to verify their eligibility. They also carry out on-the-spot checks of a sample of applicants. Errors detected through those checks give rise to reductions in the amount of aid claimed by the applicant. Member States annually report the results of these checks to the Commission (Statistical Reports).

III.

The Commission uses this information in the context of the discharge procedure before the European Parliament and the Council. Member States' statistical reports are the building blocks used for estimating a residual error rate which is deemed to represent the financial impact, expressed as a percentage of the amount of payments, of the irregularities in payments made after all checks have been carried out. A consolidation of statistical reports at the EU level and the residual error rate are published in the annual activity report of the DG Agriculture and Rural Development.

IV.

The Commission issues guidelines governing the establishment of control systems in the paying agencies and the compilation of the statistical reports. However, the audit showed that these guidelines are not always correctly implemented. Most paying agencies do not ensure the accuracy of the reports before they are submitted to the Commission. While the paying agencies audited carried out verification tests, the nature and extent of these tests were limited and they did not prevent errors which were detected, at a later stage, by the desk reviews performed by the Commission's services or by the Court's audits.

V.

Overall, the Court concludes that the results of the checks of agricultural expenditure carried out by Member States and reported by the Commission are not reliable.

VI.

The Court's audits as well as the Commission's own audits show that the systems in place for administrative and on-the-spot checks in paying agencies were only partially effective in detecting irregular expenditure, thus seriously undermining the reliability of the information the Member States provide the Commission with.

VII.

The Court also concluded that the work carried out at present by the certification bodies did not provide sufficient assurance either on the adequacy of the on-the-spot checks or on the reliability of the statistical reports.

EXECUTIVE SUMMARY

VIII.

The Court considers that the information system at present available to the Commission does not effectively serve the Commission's needs. Some of the information currently made available is not fully relevant or is incomplete and inaccurate for the purpose of being used as such in the annual activity report and in the discharge procedure. The limited review of Member States statistics by the Commission cannot ensure their reliability.

IX.

Because of the weaknesses detailed in the present report, the information available to the Commission does not provide it with a reliable basis to estimate a residual error rate. In addition, the Commission's adjustments of the error rates resulting from the statistical reports are not statistically valid. By way of consequence nor is the resultant residual error rate.

X.

The Court recommends that:

- the administrative and on-the-spot checks be more rigorously conducted by the paying agencies and the quality of the LPIS databases be improved;
- the guidelines issued by the Commission for implementing adequate control systems and compiling statistical reports be clarified and their implementation more strictly monitored;
- the guidelines issued by the Commission to the certification bodies be amended to increase the size of samples of on-the-spot checks tested, require re-performance of checks, and verify more closely the compilation of statistical reports;
- the Commission should re-examine the current reporting system that paying agencies are subjected to in order to ensure that it receives at the most appropriate time complete and relevant information that it could use in the discharge procedure. Additionally, the Commission should also increase the effectiveness of its desk and on-the-spot verifications of the Member States' statistical reports;
- the Commission take the necessary measures to arrive at a statistically valid estimate of irregularities in payments, based on the work of the paying agencies and the expanded role of the certification bodies provided that sufficient improvements take place in the work of those bodies.

INTRODUCTION

THE PURPOSE OF CHECKING TRANSACTIONS AT MEMBER STATE LEVEL IN THE IMPLEMENTATION OF THE COMMON AGRICULTURAL POLICY

1. The Commission shares responsibility for the implementation of the common agricultural policy (CAP) with Member States.
2. The EU budget finances CAP expenditure through two funds²: the European Agricultural Guarantee Fund (EAGF), which fully finances **EU direct aid** and **market measures**³, and the European Agricultural Fund for Rural Development (EAFRD), which co-finances **rural development programmes**.
3. For the most part, **direct aid** is distributed under the Single Payment Scheme⁴ (SPS) and, in 10 Member States⁵, under the transitory Single Area Payment Scheme⁶ (SAPS). In addition, over 30 other complementary direct aid schemes support specific agricultural sectors.
4. **Rural development support** is implemented through regional and national rural development programmes. It may take the form of area-related aid, such as agri-environment payments or compensatory payments to farmers in areas with natural handicaps or aid to specific projects such as the modernisation of agricultural holdings or the setting up of basic services for rural population.
5. As the Commission assumes overall responsibility for the implementation of the EU budget, it needs to obtain relevant information from the Member States on their implementation of the CAP. The annual statistical reports that disclose the results of the administrative and on-the-spot checks carried out by the national paying agencies⁷ represent an important source of information.

² Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy (OJ L 209, 11.8.2005, p. 1).

³ With the exception of certain measures such as promotion measures and the school fruit scheme, which are co-financed.

⁴ SPS is an income support scheme for farmers that hold payment entitlements and annually activate them with agricultural land at their disposal in order to receive the payment. The entitlements were allocated to farmers using models provided by the EU legislation.

⁵ Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Poland, Romania and Slovakia.

⁶ SAPS is a simplified income support scheme directed at farmers and paid annually on the basis of the area of eligible land at their disposal.

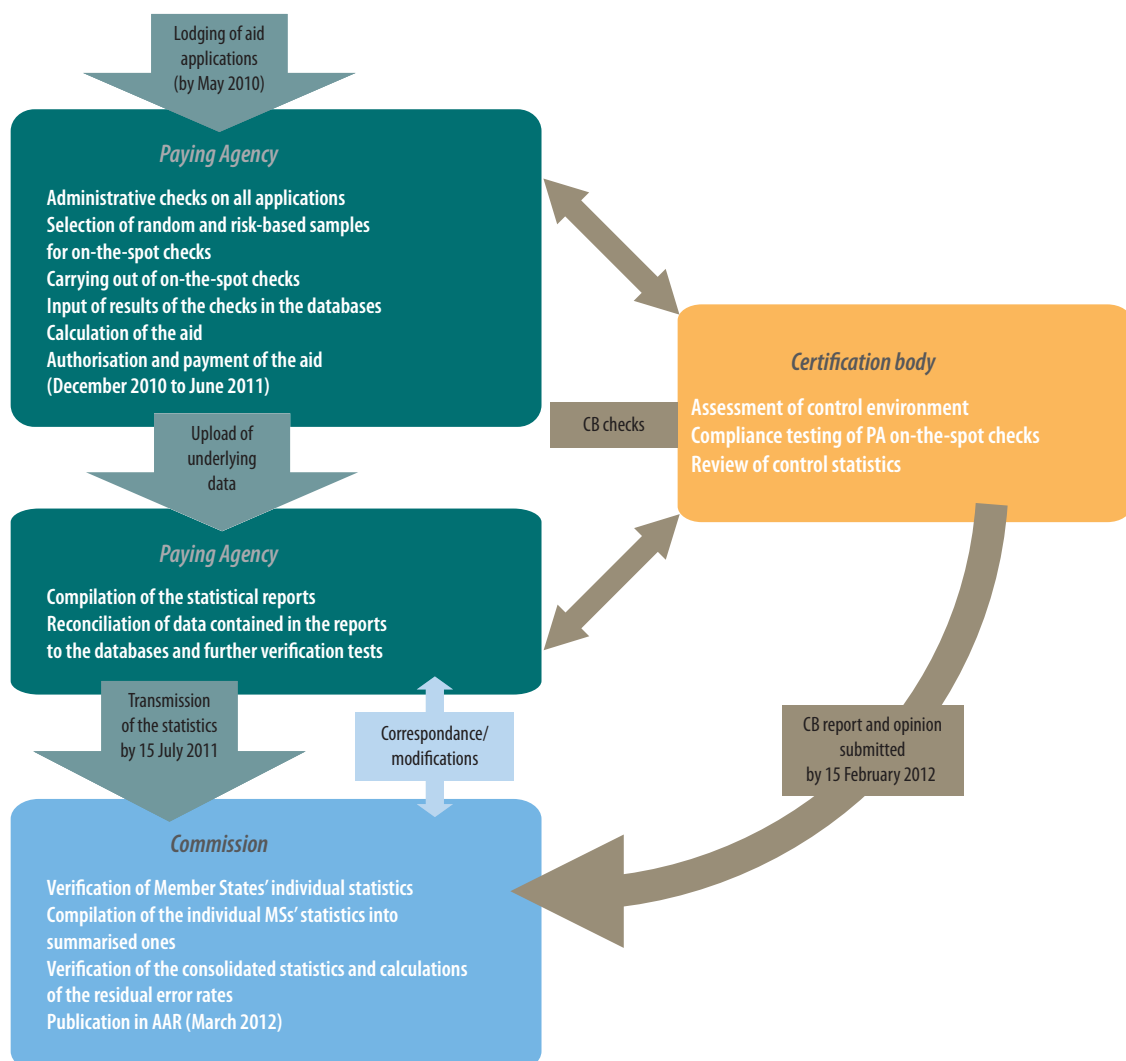
⁷ For reporting on EAGF direct aid measures, see Article 84(1) of Commission Regulation (EC) No 1122/2009 of 30 November 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 73/2009 as regards cross-compliance, modulation and the integrated administration and control system, under the direct support schemes for farmers provided for that regulation, as well as for the implementation of Council Regulation (EC) No 1234/2007 as regards cross-compliance under the support scheme provided for the wine sector (OJ L 316, 2.12.2009, p. 65). For reporting on EAFRD measures, see Article 31 of Commission Regulation (EU) No 65/2011 of 27 January 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ L 25, 28.1.2011, p. 8).

PREPARATION, COMPILATION AND VERIFICATION OF THE STATISTICAL REPORTS

6. **Figure 1** shows the key processes in the preparation, compilation and verification of the statistical reports covering EAGF area-based measures. The roles of the bodies involved are further explained below. Similar arrangements apply for reports presented in respect of other EAGF and EAFRD measures.

FIGURE 1

KEY PROCESSES FOR THE EAGF AREA-BASED STATISTICAL REPORTS COVERING THE 2010 AID APPLICATIONS



NATIONAL PAYING AGENCIES CARRY OUT THE REQUIRED CHECKS AND PREPARE THE STATISTICAL REPORTS

7. Across the EU, the CAP expenditure is administered and paid out by 81 national or regional paying agencies. These paying agencies must, either directly or through delegated bodies, check the eligibility of the aid applications they receive from farmers.
8. Checking is performed by way of administrative and on-the-spot checks. Whereas all applications are submitted to administrative checks, on-the-spot checks are carried out on samples of applications only.
9. EU regulations outline the common rules governing the performance of such checks, including what should be verified, how the samples should be selected and the minimum coverage for each type of support. While there has always been a legal requirement to draw a random sample of applicants to be checked on the spot for the EAGF and EAFRD schemes under the integrated administrative and control system (IACS)⁸, this was not the case for EAFRD non-area-based measures until 2011⁹.
10. The results of the administrative and on-the-spot checks are recorded in the paying agencies databases. Errors detected through those checks give rise to reductions in the amounts of aid claimed by the applicants.
11. The statistical reports setting out the results of these checks must comply with the format established by the Commission. This format is set out in electronic templates and guidelines and it varies according to the specific characteristics of individual CAP measures. Most statistical reports must disclose:
 - (a) the total number of applicants claiming the aid and the number of applicants checked on the spot;
 - (b) the total amount claimed by (or paid to) applicants and the total amount checked on the spot;
 - (c) the reductions in aid applied by paying agencies, splitting the overall amount between applicants who were inspected on the spot and those who were not.

⁸ According to Article 31 of Regulation (EC) No 1122/2009, on-the-spot checks should cover at least 5 % of all beneficiaries and Member States have to select randomly between 20 % and 25 % out of these 5 % of beneficiaries. The remainder should be selected on the basis of a risk analysis.

⁹ According to Article 25 of Regulation (EU) No 65/2011, the expenditure covered by on-the-spot checks should represent at least 4 % of the expenditure paid in the given year and in total at least 5 % of the expenditure for the whole programming period. This regulation also introduced a requirement to draw a random sample of beneficiaries to be checked on the spot (between 20 % and 25 % of the expenditure selected for on-the-spot checks).

- 12.** The results of these checks, per paying agency and per Member State, should be communicated annually to the Commission by 15 July of the year following that to which the data relate. For example, with respect to applications made in 2010 (year n), paying agencies must report on their checks of such claims by 15 July 2011 (year n+1).

CERTIFICATION BODIES REVIEW THE COMPILATION OF THE REPORTS AND TEST THE UNDERLYING DATA

- 13.** Certification bodies (CB) are independent audit bodies appointed by the Member States to examine the accounts and payment records of the paying agencies and to report to the Commission. These reports must be sent to the Commission, together with the annual accounts of the paying agencies, by 15 February of the year following that in which payments were made. For example, applications made in 2010 (n) are paid in 2011 (n+1) and the certification bodies report by 15 February 2012 (n+2).

- 14.** The Commission has issued guidelines on the work to be carried out by the certification bodies, as well as on the format of the reports that should be submitted to it. The certification bodies are required, *inter alia*, to issue an opinion on:

- (a) the quality of the control environment by re-performing at least 10 on-the-spot checks (per expenditure population¹⁰) carried out by the paying agency, and
- (b) whether or not the statistical reports setting out the results of the administrative and on-the-spot checks have been correctly compiled and reconciled to the database of the paying agency, with an adequate audit trail¹¹.

- 15.** Since 2010, the Commission has given Member States the option of paying agencies being subjected to an extended audit by certification bodies. Under such extended audits, a sample of between 110 and 180 on-the-spot checks per expenditure population¹² carried out by the paying agency would have to be fully re-performed by the certification bodies¹³. Such in-depth audit is referred to as the 'reinforcement of assurance on the legality and regularity of transactions at the level of the final beneficiaries through the work of the certification bodies'.

¹⁰ There are four expenditure populations: EAGF expenditure covered by IACS, EAGF not covered by IACS, EAFRD covered by IACS and EAFRD not covered by IACS.

¹¹ This assessment has been required by the Commission since the 2008 financial year.

¹² The size of the sample depends on the assurance which the certification body could take from the functioning of the paying agency's internal control system.

¹³ According to the Commission's guideline, the CB work should not be limited to the verification of the quality of the paying agency's on-the-spot checks but should cover the entire handling of the file, from the receipt of the aid application to the calculation and execution of the final payment, including the application of reductions and sanctions.

- 16.** Under this ‘reinforcement of assurance’ option, the amount of the financial corrections imposed by the Commission would be limited to the amount corresponding to the error rate derived from the checks certified by the certification bodies. To date, five Member States (Bulgaria, Greece, Luxembourg, Romania and the United Kingdom — Northern Ireland) have agreed to apply this option.
- 17.** The financial regulation¹⁴ adopted on 25 October 2012 requires the certification bodies to give an opinion on the legality and regularity of the underlying transactions. For that reason the ‘reinforcement of assurance’ will become compulsory in all Member States. The legislative proposals for the CAP 2014–20 also include provisions for that purpose and the Commission is preparing a new guideline on how to implement these provisions.

¹⁴ Article 59(5) of Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

THE COMMISSION REVIEWS THE INDIVIDUAL STATISTICAL REPORTS

- 18.** The Commission carries out desk reviews of the statistical reports. These reviews comprise a mix of automated checks that test the internal consistency of the data set out in the report and manual checks that compare the data in the report with information from previous year or other reports. When the Commission detects errors or inconsistencies in a report, the Member State is asked to remedy the situation, usually by providing corrected data.
- 19.** The Commission also carries out conformity audits on the functioning of the management and control systems of selected paying agencies. During these audits, the Commission usually tests the reliability of the paying agency’s on-the-spot checks by re-performing a sample of them.
- 20.** After all the individual paying agencies’ reports have been validated, the data are then used by the Commission for the calculation of a residual error rate which is reported in the annual activity report (see **Annex I** which illustrates the Commission’s residual error rate calculation method).

AUDIT SCOPE, OBJECTIVES AND APPROACH

- 21.** The audit addressed the following main question: 'are the results of the checks of agricultural expenditure carried out by Member States and reported by the Commission reliable?'
- 22.** This overall question was detailed into five sub-questions:
- (a) Are the administrative and on-the-spot checks carried out by the paying agencies effective?
 - (b) Are the statistical reports containing the results of the paying agencies' checks correctly compiled and verified before their submission to the Commission?
 - (c) Does the work of the certification bodies provide sufficient assurance regarding the quality of the on-the-spot checks and the reliability of the statistical reports?
 - (d) Does the Commission ensure that the statistical reports are reliable?
 - (e) Is the Commission's calculation of the residual error rate statistically valid?
- 23.** The audit concerned the statistical reports covering the 2010 results of administrative and on-the-spot checks for rural development and direct aid schemes which were included in DG Agriculture and Rural Development annual activity report for the 2011 financial year. The audit also reviewed the calculation of the residual error rates and its presentation in DG Agriculture and Rural Development annual activity report for the 2011 and 2012 financial years.
- 24.** The Court has included in the scope of the audit statistical reports that covered the financially most significant aid schemes, representing over 86 % of CAP expenditure. This is illustrated in **Table 1**.

- 25.** The assessment of the effectiveness of the systems implemented by paying agencies to carry out administrative and on-the-spot checks relies on the results of the 2010, 2011 and 2012 DAS audits of the Court.
- 26.** During the audit, the Court visited nine paying agencies in eight Member States¹⁵. These nine paying agencies managed 28 % of the EAGF direct aid and 41 % of the EAFRD expenditure in 2011. The Court's auditors also met with representatives of the relevant certification bodies and Commission staff dealing with the statistical reports.

¹⁵ The following Member States (paying agencies) were included in the scope of the audit: Bulgaria (SFA), the Czech Republic (SAIF), Greece (OPEKEPE), Spain (Castilla-La Mancha), Italy (AGEA), Poland (ARMA), Romania (PIAA and PARDF) and the United Kingdom (RPA).

TABLE 1

SUMMARY OVERVIEW OF KEY CAP AID SCHEMES AND THEIR 2011 EXPENDITURE

Heading	Expenditure incurred in the 2011 financial year		Included in the scope of the audit?
	(in million euro)	percentage	
Interventions in agricultural markets (<i>EAGF non-IACS population expenditure</i>)	3 533	6,3 %	No
Single Payment Scheme (<i>part of EAGF IACS population expenditure</i>)	31 082	55,4 %	Yes
Single Area Payment Scheme (<i>part of EAGF IACS population expenditure</i>)	5 084	9,1 %	Yes
Other direct aids (<i>part of EAGF IACS population expenditure</i>)	4 012	7,1 %	No
Rural development (<i>both EAFRD IACS and non-IACS population expenditure</i>)	12 394	22,1 %	Yes
TOTAL	56 105	100,0 %	86,6 %

Source: The Court's Annual Report on the implementation of the budget concerning the financial year 2011.

27. The audit focused on the effectiveness of the systems that are designed to ensure the reliability of the Member States' control statistics. More specifically:

- (a) at the level of the paying agencies, the Court reviewed the management systems in place for the compilation and validation of the administrative and on-the-spot checks both for EAGF and EAFRD measures. The Court carried out documentary reviews of 415 applications checked on the spot by the paying agencies' inspectors in order to determine whether these were accurately presented in the reports submitted to the Commission. Furthermore, the random selection of samples was reviewed in order to determine whether they were statistically representative;
- (b) at the level of the certification bodies, the Court examined the procedures for verifying and validating the reliability of the statistical reports as well as the assessment of the quality of the paying agency's on-the-spot checks;
- (c) at the Commission level, the Court reviewed procedures implemented to check the statistical reports, including its calculation of the residual error rate; particular attention was paid to the justification for major adjustments and corrections made to these reports.

The Court's annual report 2012, in the context of DG Agriculture and Rural Development's annual activity report, noted the Commission's change in approach concerning the establishment of the residual error rate for decoupled area aid (EAFG). In the current special report the Court further develops its past observations by including an in-depth assessment of the reliability of the checks of agricultural expenditure (both EAGF and EAFRD) carried out by Member States and the validity of the Commission's calculation of the residual error rate. The scope of the audit is thus extended compared to the 2012 annual report.

OBSERVATIONS

THE ADMINISTRATIVE AND ON-THE-SPOT CHECKS CARRIED OUT BY ALMOST ALL PAYING AGENCIES AUDITED ARE ONLY PARTIALLY EFFECTIVE

- 28.** Administrative checks include all formalised checks and automated cross-checks needed to verify the eligibility of applications and detect all possible irregularities. For example, applications for specific parcels should be checked against databases recording the eligibility of land.
- 29.** With respect to on-the-spot checks, paying agency inspectors have to verify that the characteristics of the parcel or the project they are visiting match the information in the application, for example by measuring the parcel, examining the specific features of a project or examining the documentation relating to a procurement procedure.

WEAKNESSES IN THE QUALITY OF THE ADMINISTRATIVE AND ON-THE-SPOT CHECKS OF THE EAGF AREA-RELATED MEASURES RESULT IN IRREGULARITIES NOT BEING DETECTED OR REPORTED

- 30.** Between 2010 and 2012, the Court visited 15 paying agencies in 10 Member States in order to assess the effectiveness of their supervisory and control systems for SPS/SAPS. Only one paying agency was assessed as having effective systems both for administrative and on-the-spot checks, while the remaining 14 paying agencies were assessed as being only partially effective or not effective in at least one area. A summary of the assessments can be found in **Annex II**.
- 31.** For 2011 and 2012, the Court's testing of 180 transactions for EAGF expenditure disclosed that 39 % and 41 %, respectively, of these transactions were affected by error. The most likely error estimated by the Court was 2,9 % and 3,8 %¹⁶, respectively. A significant part of such errors arose from ineffective administrative checks or incorrect aid calculations made by the paying agencies.

¹⁶ The Court calculates its estimate of error from a representative sample. The figure quoted is the best estimate. The Court has 95 % confidence that the rate of error in the population lies for 2011 between 1,1 % and 4,7 % and for 2012 between 1,7 % and 5,9 % (the lower and upper error limits respectively).

32. On the basis of the above audits¹⁷ as well as performance audits of SAPS and SPS¹⁸, the Court identified the following main weaknesses which affect the data in the paying agencies' reports and, consequently, the Commission's calculation of the residual error rate:

- Insufficient procedures in place to ensure that SAPS or SPS aid is paid only to beneficiaries that meet the regulatory definition of a 'farmer';
- Weaknesses regarding the reliability of the Land Parcel Identification System¹⁹ (LPIS), as ineligible areas were recorded as eligible for payment (see examples in **Box 1**);
- Replacement (by the paying agencies) of ineligible parcels declared by farmers by other parcels **after** the legal deadline²⁰;
- Incorrect calculations of the aid by the paying agencies (mainly relating to erroneous 'payment entitlements' that are also established by the paying agencies); and
- Inaccurate assessment of the eligible land in the declared parcels²¹ (see example in **Box 2**).

¹⁷ See the Court's annual reports on the implementation of the budget regarding the 2010–12 financial years.

¹⁸ Special Report No 5/2011 single payment scheme (SPS): issues to be addressed to improve its sound financial management, and Special Report No 16/2012. The effectiveness of the Single Area Payment Scheme as a transitional system for supporting farmers in the new Member States (<http://eca.europa.eu>).

¹⁹ The LPIS is a database which contains a record of the entire agricultural area (reference parcels) of the Member State and the eligible areas. Its reliability is of crucial importance for the quality of the administrative cross-checks verifying that aid is only paid for eligible land.

²⁰ See Example 3.3 of the Court's 2011 Annual Report (OJ C 344, 12.11.2012, p. 1).

²¹ During the 2010–12 DAS systems audits of SPS/SAPS, the Court re-performed 80 on-the-spot checks carried out by paying agencies' inspectors in 10 Member States. This involved re-measuring and determination of areas for 511 land parcels. The Court found 11 % of the parcels to be affected by error as the areas determined by the Court differed by more than the applicable tolerance margins from the areas established by the paying agencies.

BOX 1

EXAMPLE OF INCORRECT DATA IN THE LPIS

In two paying agencies (Lombardia in Italy and Galicia in Spain), the Court found some cases where parcels were recorded as fully eligible in the LPIS despite being covered with dense forest or presenting other features that made them ineligible. The Court also observed that the LPIS was not updated with the results of recent on-the-spot inspections performed by paying agencies (Spain (Galicia), Italy (Lombardia) and Hungary).

Source: Example 3.4 of the Court's 2011 annual report.

BOX 2

INELIGIBLE LAND ASSESSED DURING THE PAYING AGENCY'S INSPECTION AS ALMOST FULLY ELIGIBLE

In Poland, GAEC require a regular activity to be carried out on arable land. However, the Court found that SAPS aid was paid in relation to unutilised arable land (see example in **Picture 1**). Among the beneficiaries visited, the Court frequently came across similar situations. SAPS beneficiaries received in most cases full payment or were only subject to very small reductions, even where the authorities found that they had not used their land for several years.

Picture 1 — Former arable land which was not used for several years



Source: The Court's Special Report No 16/2012 (p. 23).

WEAKNESSES IN THE QUALITY OF THE ADMINISTRATIVE AND ON-THE-SPOT CHECKS OF THE EAFRD MEASURES RESULT IN IRREGULARITIES NOT BEING DETECTED NOR REPORTED

- 33.** Between 2010 and 2012, the Court during its compliance audits of systems in place to manage rural development measures visited 21 paying agencies in 16 Member States. Only one paying agency was assessed as having effective systems with regard to administrative checks and only six were assessed as being effective with regard to their systems for on-the-spot checks. This means that the vast majority of the audited paying agencies were assessed as only partially effective or even not effective in at least one area. A summary of the assessment can be found in **Annex III**.
- 34.** For 2011 and 2012, the Court found that 57 % and 63 %, respectively, of the 178²² transactions in its sample of EAFRD expenditure were affected by error. The most likely error estimated by the Court was 7,7 % and 7,9 %²³ respectively. Most of the errors found by the Court should have been detected by the paying agencies during their administrative checks.
- 35.** The Court identified the following main weaknesses which affect the data presented in the Member States' statistical reports and, consequently, the Commission's calculation of the residual error rate²⁴:
- Incorrect calculation and payment of the aid;
 - Systematic weaknesses in administrative checks resulting in the financing of ineligible expenditure (such as VAT, for example);
 - Failure to detect non-compliance during on-the-spot checks (see example in **Box 3**),
 - Non-compliance with public procurement procedures that should have been detected by the paying agencies (see example in **Box 4**); and
 - Deficiencies in sampling methodologies and non-compliance with the regulatory minimum number of on-the-spot checks.
- 36.** The foregoing examples in **Boxes 1 to 4** illustrate that reliance on the Member States' statistical reports is seriously undermined by the fact that paying agencies audited are failing to detect a significant number of errors which are thus not reflected in the reports provided to the Commission.

²² From 178 transactions in 2011 and 177 in 2012, only 160 transactions, related to rural development expenditure, the remaining 18 and 17, respectively, related to expenditure on environment and climate action, maritime affairs and fisheries, and health and consumer protection.

²³ The Court calculates its estimate of error from a representative sample. The figure quoted is the best estimate. The Court has 95 % confidence that the rate of error in the population lies for 2011 between 4,5 % and 10,9 % and for 2012 between 4,5 % and 11,3 % (the lower and upper error limits respectively).

²⁴ See the Court's annual reports on the implementation of the budget regarding the 2010–12 financial years.

BOX 3**EXAMPLE OF INSUFFICIENT QUALITY OF A MEMBER STATE'S ON-THE-SPOT CHECKS**

The Court re-performed the checks of a project in Lombardia (Italy), the purpose of which was to construct a two-storey building on a farm including a laboratory for the processing of fruit and other farm products, a storage area and a terrace for drying fruits.

The paying agency approved the full amount of the final payment claim of 221 205 euro following both administrative and on-the-spot checks.

However, the Court found that the building had predominantly the characteristics of a private residence and not of an agricultural building and that the related costs were thus not eligible. The fact that the national authorities accepted the full amount of expenditure declared indicates substantial weakness in both the administrative and on-the-spot checks.

Source: Example 4.5 of the Court's 2011 annual report.

BOX 4**EXAMPLE OF UNDETECTED BREACH OF PUBLIC PROCUREMENT RULES**

In Romania, the beneficiary (a rural municipality) applied for support for an investment project which included a water supply network, a sewage system, improvement of local roads and a community building. Seven tenderers submitted offers, of which the beneficiary rejected five as not fulfilling the requirements. The Court found that the winning tenderer did not respect two tender requirements, and, moreover, that other bids had been excluded for not respecting precisely those requirements. The paying agency should thus have found that the related expenditure was ineligible.

The Court also found similar cases of breach of public procurement rules in Spain (Andalucía), France, Lithuania, Poland and Slovenia.

Source: Example 4.3 of the Court's 2012 annual report.

INADEQUATE COMPILATION AND VERIFICATION OF THE STATISTICAL REPORTS BY PAYING AGENCIES FURTHER AFFECT THEIR RELIABILITY

- 37.** In order for the reported results of checks to be comparable across the Member States, these results must be compiled using the same methodology. The Commission has issued guidelines to paying agencies for this purpose.

IMPRECISIONS IN THE COMMISSION'S GUIDELINES AFFECT THE ACCURACY AND RELEVANCE OF THE INFORMATION COLLECTED

- 38.** While the guidelines governing the reporting of the results of the checks in many respects provide clear guidance to paying agencies, the Court's audit identified a number of weaknesses which impact on the comparability and consistency of the data reported.

- 39.** First, the guidelines do not require Member States to provide information on the cut-off dates used for the compilation of the statistical reports nor on the treatment of the applications which were not fully processed at the time when the report was compiled. Consequently, the Commission cannot fully assess the completeness and consistency of the data contained in the reports (see in **Box 5** different examples of incomplete or inaccurate data reported by some of the paying agencies audited).

BOX 5

EXAMPLES OF INCOMPLETE OR INACCURATE DATA REPORTED BY SOME OF THE PAYING AGENCIES AUDITED

In Bulgaria, the initial report covering EAFRD IACS measures was compiled in early June 2011 and contained only 75 % of the applications for agri-environmental measures. The Bulgarian authorities submitted an updated report in January 2012 which however still covered only 85 % of the applications.

In Romania, the Court's auditors noted that a significant number of payment decisions used for the compilation of the statistical reports were subsequently changed. As a result, the report submitted to the Commission for the EAFRD IACS and EAFRD non-IACS populations contained only 55,4 % and 73,4 % respectively of the total final reductions and sanctions applied.

Source: Evidence collected during the Court's audit.

- 40.** Second, Member States have to submit their reports in July each year and, six months later, these reports are used by the Commission to calculate the residual error rates. However, the guidelines do not specifically require the paying agencies to provide up-to-date statistics for this purpose.
- 41.** Third, the guidelines do not require paying agencies to maintain a clear audit trail to demonstrate that a minimum number of consistency and accuracy checks on the data contained in the statistical reports has been conducted before their submission to the Commission. This becomes particularly important in the context of the weak verification procedures found by the Court in most of the paying agencies visited (see paragraph 43 below).

THE AUDITED PAYING AGENCIES' SYSTEMS FOR THE COMPILATION AND VERIFICATION OF THE REPORTS ARE NOT EFFECTIVE

- 42.** The Court analysed the paying agencies' systems for the compilation and verification of the reports and attempted to reconcile the data presented in the statistics with underlying data contained in the paying agencies' databases (for 24 statistical reports). Additionally, the Court's auditors reviewed 414 files²⁵ to determine whether the results of the on-the-spot checks as well as other supporting information (applications, payment claims, etc.) were accurately recorded in the databases and included in the reports submitted to the Commission. The auditors also checked the calculations of the aid, including reductions and sanctions applied.
- 43.** The Court's auditors found that, in eight out of the nine paying agencies audited, the written procedures in place for the verification of the data and the compilation of the reports were insufficiently detailed. Although the representatives of the paying agencies claimed that such verifications were carried out, they were not properly supported by appropriate documentary evidence. These shortcomings may have contributed to incorrect data being included in the reports which were later detected by the Commission or during the Court's audit.

²⁵ The aim was to review in each paying agency at least 15 files for each of the three expenditure populations included in the scope of the audit. Due to the size of the samples and that they were mostly judgementally selected, it is not possible to extrapolate the results of these tests on the whole population.

44. Out of 414 files reviewed by the Court, the documentary evidence did not support the amounts included in the statistical reports in 118 cases (28,5 %). Most errors related either to the accuracy of the underlying data stored in the databases or to the incorrect application of the Commission's compilation rules. The most significant or frequent weaknesses impacting on the calculation of the error rates are described below (further details on the errors found are presented in **Annex IV**).

- The recording of the results of the on-the-spot checks in the databases was not always accurate (Italy, Romania and the United Kingdom).
- Applicants or amounts were recorded in the databases as having been checked on the spot although this was not the case or not all the requirements for the on-the-spot checks were fulfilled (EAFRD for Greece, Spain, Poland and Romania) — see examples in **Box 6**.
- Undocumented cut-off rules were used for the compilation of the reports, leading to inconsistent approaches applied by the paying agencies which affected the completeness and accuracy of the data reported (Greece, Italy and Romania). And
- Reductions in aid relating to previous years were incorrectly included in the reports and information relating to some measures was reported in the wrong tables of the reports²⁶ (the Czech Republic and United Kingdom).

²⁶ Some rural development measures have both an area-related and an investment component and they should have been reported separately in two different tables.

BOX 6

EXAMPLES OF INACCURATE PRESENTATION OF THE NUMBER OR VALUE OF THE ON-THE-SPOT CHECKS CARRIED OUT

In Poland, the paying agency treated some on-the-spot checks as in situ visits²⁷ (part of the administrative checks) and vice versa in the report covering EAFRD non-area-based measures. The correction of this error would have increased the error rate for applicants visited on the spot from 0,24 % to 0,71 %.

In Romania, advances made in respect of EAFRD non-area-based measures were incorrectly reported under 'Amount of payments covered in on-the-spot checks for year 2010' which resulted in an overstatement of this amount by 84 %. Together with other errors found it resulted in an overall understatement of the error rate by 16 % (the reported error rate was 2,44 % when it should have been 2,88 %).

²⁷ In situ visits are defined in Article 26(4) by Commission Regulation (EC) No 1975/2006 of 7 December 2006 laying down detailed rules for the implementation of Council Regulation (EC) No 1698/2005, as regards the implementation of control procedures as well as cross-compliance in respect of rural development support measures (OJ L 368, 23.12.2006, p. 74). Their purpose is to verify the physical realization of a project. They usually do not fulfil all the requirements of on-the-spot checks defined by Article 27 of the same regulation.

Source: Evidence collected during the Court's audit.

- 45.** Furthermore, the Court's auditors found some material unexplained discrepancies²⁸ between the data provided in the statistical reports and data retrieved from the paying agencies' databases in 16 (66,6 %) out of 24 reports audited.
- 46.** The errors and problems summarised above have different impacts on the error rates reported to the Commission. All Member States audited encountered difficulties in the compilation of the reports and, although checked by the national authorities and later during the Commission's desk review, still contained undetected errors (see examples in **Box 7**).

²⁸ The materiality level was set at 5 % of relevant total of the populations audited (EAGF IACS, EAFRD IACS and EAFRD non-IACS).

BOX 7

EXAMPLES OF ERRORS FOUND AND HAVING A SIGNIFICANT IMPACT ON THE ERROR RATES REPORTED TO THE COMMISSION

In Romania, the underlying data used for the compilation of the reports containing the results of the checks for EAFRD IACS and non-IACS populations were subsequently changed, thus resulting in lower reductions being reported to the Commission (see **Box 5**). Based on the information subsequently furnished to the Court by the Romanian authorities, the Court could only assess the impact of the compilation errors detected for the EAFRD non-IACS population for which the error rate increased from 2,44 % to 2,88 %.

In Bulgaria, the Court's auditors found in six out of 13 EAFRD non-IACS applications reviewed significant overstatements in the reductions included in the statistical report. These reductions were overstated for the whole sample by 84,2 %. This would have a significant impact on the error rate calculated for this sample (decrease from 6,96 % to 3,9 %).

Source: Evidence collected during the Court's audit.

THE WORK OF THE CERTIFICATION BODIES DOES NOT PROVIDE SUFFICIENT ASSURANCE ON THE QUALITY OF THE ON-THE-SPOT CHECKS AND THE RELIABILITY OF THE STATISTICAL REPORTS

THE CHECKS PERFORMED BY CERTIFICATION BODIES OF THE ON-THE-SPOT CHECKS CARRIED OUT BY PAYING AGENCIES ARE INSUFFICIENT IN NUMBER AND QUALITY

47. The certification bodies' compliance testing of on-the-spot checks carried out by the paying agencies included in the scope of this audit is summarised in the following **Table 2**.

TABLE 2

OVERVIEW OF THE CERTIFICATION BODIES' COMPLIANCE TESTS OF THE PAYING AGENCIES ON-THE-SPOT CHECKS FOR THE 2010 CLAIM YEAR¹

Member State (Paying Agency)	Size of the compliance (substantive) samples audited for each population			Are the inspections re-performed or accompanied?
	EAGF IACS	EAFRD IACS	EAFRD non-IACS	
Bulgaria (SFA) ¹	115	137	10	re-performed for EAGF and EAFRD IACS/accompanied for EAFRD non-IACS
Czech Republic (SAIF)	11	13	10	accompanied
Greece (OPEKEPE) ¹	111	111	25	re-performed for EAGF and EAFRD IACS/accompanied for EAFRD non-IACS
Spain (Castilla-La Mancha)	11	10	10	re-performed
Italy (AGEA)	10	10	10	re-performed/accompanied
Poland (ARMA)	10	17	10	re-performed
Romania (PIAA and PARDF) ¹	184	183	0	re-performed
United Kingdom (RPA)	10	10	10	accompanied

¹ In the case of Bulgaria, Greece and Romania, the reinforcement of assurance procedure as regards the legality and regularity of the underlying transactions was introduced in 2011 for the 2010 claim year and covered the EAGF IACS and EAFRD IACS populations. For these three Member States, the CBs carried out substantive tests and re-performed the on-the-spot inspections.

Source: European Court of Auditors.

- 48.** Although the Commission recommends a full re-performance of a number of on-the-spot checks carried out by paying agencies, two out of eight certification bodies audited only accompanied the paying agencies' inspectors during their initial inspections. The Court does not consider this approach to provide a true assessment of the paying agency's control environment as the inspectors are likely to carry out the checks more carefully in the presence of the certification body auditors.
- 49.** Furthermore, except for the certification bodies which have applied the optional 'reinforcement of assurance' procedure, the size of the compliance samples (10–17 transactions per expenditure population) is not large enough to allow for any valid conclusion to be drawn on the quality of on-the-spot checks.

BOX 8**EXAMPLES OF CERTIFICATION BODIES' WEAKNESSES IN NOT COVERING BY THEIR CHECKS ALL THE EU FUNDING REQUIREMENTS**

In the Czech Republic, Poland and the United Kingdom, the questionnaires used by the certification bodies for checking on-the-spot checks SPS or SAPS applicants did not refer to certain key SPS/SAPS eligibility conditions such as whether:

- the applicant was a 'farmer' in the sense of Article 2a of Council Regulation (EC) No 73/2009²⁹, i.e. carried out a farming activity;
- the applicant had the parcels claimed for at his disposal on the date set by the Member State (Article 124(2) of Regulation (EC) No 73/2009);
- the area was eligible for SPS/SAPS (Article 35(1) and Article 124 of Regulation (EC) No 73/2009); and
- the parcels were reliably identified so that they could be located and measured (Article 6 of Regulation (EC) No 1122/2009).

²⁹ Council Regulation (EC) No 73/2009 of 19 January 2009 establishing common rules for direct support schemes for farmers under the common agricultural policy and establishing certain support schemes for farmers, amending Regulations (EC) No 1290/2005, (EC) No 247/2006, (EC) No 378/2007 and repealing Regulation (EC) No 1782/2003 (OJ L 30, 31.1.2009, p. 16).

Source: Evidence collected during the Court's audit.

50. The Court's auditors randomly selected and reviewed the working papers of the certification bodies for one of the on-the-spot checks re-performed for each of the expenditure populations audited (EAGF IACS, EAFRD IACS and non-IACS). The review revealed that testing by four out of eight certification bodies did not cover all EU requirements and that their work was not sufficiently supported by documentary evidence (see examples in **Box 8**).
51. For the reasons mentioned above, the Court is of the opinion that the audited certification bodies' assessments do not provide sufficient assurance on the effectiveness of the paying agencies' on-the-spot checks and thus cannot significantly contribute to the assessment of the reliability of the statistical reports.

AS FOR THE CERTIFICATION BODIES WHICH HAVE APPLIED THE 'REINFORCEMENT OF ASSURANCE' OPTION, THEIR ASSESSMENTS OF THE RESULTS OF THE EXTENDED SAMPLES TESTED ARE HAMPERED BY SERIOUS DEFICIENCIES

52. In its 2011 annual report, the Court reported the conceptual inconsistencies³⁰ in the Commission guidelines applicable to the work of the certification bodies regarding the 'reinforcement of assurance procedure as to the legality and regularity of transactions at the level of final beneficiaries'. The Commission has not yet taken any action to address these inconsistencies.

³⁰ 'The Commission instructions, allow a 2 % tolerance margin between the aid amounts validated by the paying agency and the amounts determined by the certification body and a further 2 % tolerance margin for incorrect compilation of inspection statistics by the paying agency. The two tolerance margins allow the certification body to validate residual error rates which could be understated by up to 4 percentage points thereby undermining the materiality threshold set.' (Source: Paragraph 3.37 of the Court's 2011 annual report).

BOX 9

DEFICIENCIES IN THE WORK CARRIED OUT BY CERTIFICATION BODIES

In Bulgaria, the certification body outsourced re-performance of the on-the-spot checks to a service provider. In several cases, the Court found that the service provider had incorrectly assessed the eligibility of land. Furthermore, the certification body did not detect that, where the same area was claimed by two farmers (multiple claims), the paying agency, contrary to EU legislation, replaced the area claimed by one of the farmers by an equivalent unclaimed area in another part of the reference parcel.

In Romania, the paying agency withheld all payments selected by the certification body and provided it with payment simulations which excluded ineligible areas. This undermined the reliability of the certification body's work.

Source: Example 3.6 of the Court's 2011 annual report.

53. The Court's review of the certification bodies' audits of the EAGF IACS populations in Bulgaria and Romania for the 2010 claim year and in Luxembourg and the United Kingdom (Northern Ireland) for the 2011 claim year concluded that the quality of the certification bodies' work was insufficient (see **Box 9**).

54. As a result of the audit findings described above, the Court does not consider that the work of the certification bodies in implementing the 'reinforcement of assurance' guideline provides sufficient assurance as to the effectiveness of the paying agencies' on-the-spot checks and, consequently, on the reliability of the statistical reports.

THE REVIEW OF THE STATISTICAL REPORTS BY CERTIFICATION BODIES AUDITED IS LIMITED IN SCOPE AND DOES NOT PROVIDE REASONABLE ASSURANCE ON THE RELIABILITY OF THESE REPORTS

55. The Commission's guideline lays down the work certification bodies should carry out on the statistical reports submitted by the paying agencies in order to conclude whether these reports were correctly compiled and reconciled to their databases, with an adequate audit trail. In particular, certification bodies should check the accuracy of the information stored in the databases and used for the compilation of the reports against the underlying documents (applications and inspection reports) for a sample of at least 20 inspection reports.

56. The Court's auditors identified the following shortcomings in the implementation of this guideline:

- The certification body's conclusions that the reconciliation of the reports to the paying agency's databases was supported by an adequate audit trail were not confirmed by the Court's findings (Bulgaria, Greece, Poland and Romania);
- The sample of 20 files covered only the payments in respect of measures under the EAFRD IACS and did not include any payment under the EAFRD non-area-based measures (Bulgaria); and
- The examination of the samples of 20 files was inadequate in that it did not ensure that the data presented in the statistical reports had been checked against the underlying documentation, e.g. the applications (Greece and Italy).

- 57.** Furthermore, the Court considers the Commission's guideline to be insufficiently clear and some checks to be limited in their scope which reduces their effectiveness. In particular:
- the guideline does not require certification bodies to comment on the paying agency's procedures in place for the compilation and verification of the statistics;
 - the certification body is not required to carry out any consistency or completeness checks of the data in the statistical reports with information contained in other available reports (e.g. last year reports, quarterly EAFRD payment reports, lists of applicants selected for on-the-spot checks and those actually inspected);
 - the testing of a sample of 20 inspection reports per population is too narrowly focused on the correct entry of inspection results into the database and their inclusion in the statistical reports (rather than on the correctness of the underlying data). The Court considers the testing to be extended to an assessment of the adequacy of the work done by the paying agency from the receipt of the applications and thus include a review of administrative checks carried out on the applications; and
 - the size of the samples (20 transactions) for the testing is too small to allow the results of these checks to be extrapolated on the whole population, thus precluding the quantifications of the impact on the error rates.

SHORTCOMINGS IDENTIFIED IN THE COMMISSION'S REVIEW OF THE MEMBER STATES' STATISTICAL REPORTS

THE DESIGN OF THE COMMISSION'S INFORMATION SYSTEM IS NOT SUITED FOR THE DIFFERENT PURPOSES FOR WHICH THE INFORMATION IS USED

- 58.** The information requested from the Member States should be clearly defined and based on the Commission's needs, meaning that it should be available at the right time and of the appropriate quality in terms of accuracy and completeness.
- 59.** The Commission collects information on the results of administrative and on-the-spot checks for claim year n on 15 July of $n+1$ and uses it for monitoring the implementation of the various aid schemes by Member States, for audit planning purposes and for calculating the residual error rate published in the annual activity report at the end of March of year $n+2$ (see **Annex V**).
- 60.** While EAGF IACS aid applications for year n should be paid by 30 June of the following year³¹, no such time limit exists for EAFRD IACS aid schemes, so payments can be legally made after 15 July of the year $n+1$. The results of the Court's visits to Member States showed that a number of paying agencies had processed a significant number of EAFRD IACS applications for the 2010 claim year after 15 July 2011. Furthermore, due to the time required to compile the statistical reports, some paying agencies handling large numbers of applications could not even include in their reports the final data relating to applications processed after the end of May 2011. Such data was either reported on the basis of estimates or omitted completely.
- 61.** EAFRD non-IACS statistical reports included in the AAR for a given year contain the results of on-the-spot checks of applications which were paid in the preceding year. Hence, the statistics used in the AAR are not fully relevant for the reporting period concerned.

³¹ Article 29(2) of Regulation (EC) No 73/2009.

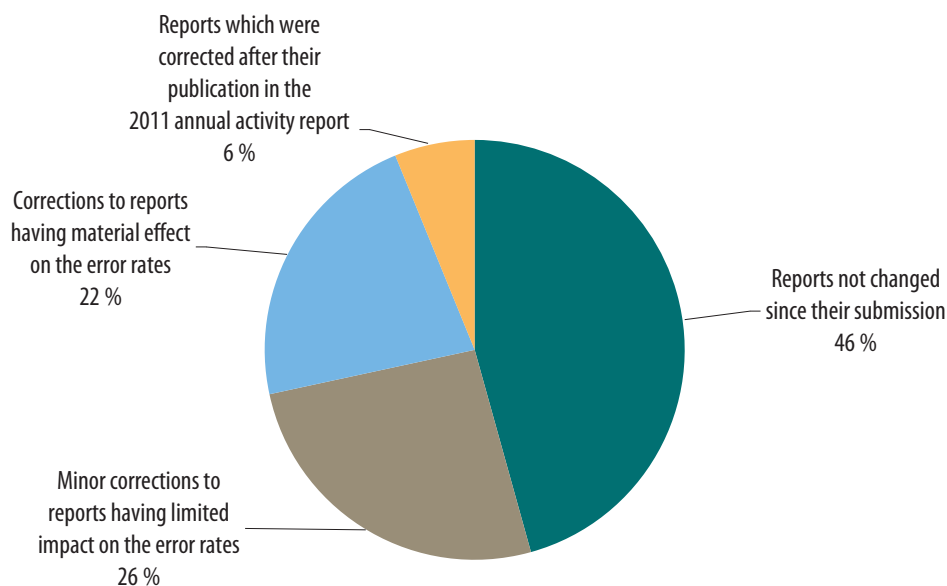
62. Overall, the Court considers that the Commission's information system provides data which is insufficiently accurate and complete as well as not fully relevant for the estimation of a residual error rate by the Commission.

DESPITE THE ABOVEMENTIONED SHORTCOMINGS, THE COMMISSION DETECTED ERRORS IN MORE THAN HALF OF THE MEMBER STATES' REPORTS

63. The detailed data supporting the statistical reports (X-tables) is not made available to the Commission in time for the desk review nor in a format suitable for such a review. As a result, the scope of the Commission's review is limited to checking the internal consistency of these reports. This limitation explains why certain errors identified during the Court's audit were not detected during the Commission's desk review.
64. The results of the desk review carried out by the Commission are summarised in *Figure 2*.

FIGURE 2

OVERVIEW OF THE CORRECTIONS TO THE STATISTICAL REPORTS AS A RESULT OF THE COMMISSION'S DESK REVIEW



- 65.** While the Court identified some shortcomings regarding the Commission's implementation of the verification procedures, the significant number of errors detected by the Commission for the three types of reports audited (EAGF-IACS, EAFRD-IACS and EAFRD non-IACS) shows that its desk review is nonetheless capable of detecting a number of mostly compilation errors that were not identified at the level of the Member States. This also highlights that most Member States are unable to supply complete and accurate statistics by the set deadline.

THE COMMISSION'S REVIEW OF THE STATISTICAL REPORTS DURING ITS CONFORMITY AUDITS IS NOT SUFFICIENT

- 66.** As explained above, the desk review of the reports has certain scope limitations but these can be mitigated during the conformity audit visits to selected Member States (which form part of the clearance of accounts procedure).
- 67.** However, the scope of the work was not sufficiently detailed in any of the Commission internal documents. This resulted in different approaches being taken by the Commission staff during their audit visits to paying agencies. Furthermore, the scope of the reconciliations and verification tests was limited and, in some cases, even excluded checks on the reductions reported, even though this information is critical for the calculation of the residual error rate.
- 68.** Most of the errors or anomalies found by the Commission during their conformity audits related to reports covering the EAFRD measures. The most significant ones were detected in three paying agencies audited between September and December 2011. Nevertheless, the Commission either did not ask the relevant paying agencies to submit corrected versions of the reports or received them too late to take them into account for the calculation of the residual error rate published in the annual activity report in March 2012.
- 69.** The Court considers that conformity clearance audits could better contribute to improving the quality of the Member States' statistical reports by paying increased attention to the verification of the reported statistics against the underlying records of the paying agencies.

THE COMMISSION'S ESTIMATE OF IRREGULAR PAYMENTS IS NOT STATISTICALLY VALID AND IMPACTS ON THE RELIABILITY OF THE ANNUAL STATEMENT OF ASSURANCE OF DG AGRICULTURE AND RURAL DEVELOPMENT

MEMBER STATES' APPROACHES IN DRAWING RANDOM SAMPLES ARE NOT ALWAYS STATISTICALLY VALID, THUS AFFECTING THE REPRESENTATIVITY OF SUCH SAMPLES

- 70.** The Court assessed first whether the Commission provided Member States with clear guidance on how to draw a random sample of applicants to be inspected on the spot and, second, whether the procedures implemented by the paying agencies ensured that applicants were selected randomly and were as representative as possible of the whole population. On the first point, the Court noted that the Commission does not provide sufficiently clear guidance on random sampling and also does not require paying agencies to verify *ex post* whether the random sample is representative of the whole population with regard to some key characteristics (e.g. farm size or type of agricultural area farmed).
- 71.** On the second point, the Court identified the following weaknesses regarding the random selections:
- Paying agencies did not document clearly enough the random selection steps to be followed to avoid different methods being applied from one year to another (Spain-Castilla La Mancha, Italy-AGEA, Poland and Romania);
 - Random samples were sometimes exclusively drawn from high-risk populations (Spain-Castilla La Mancha), resulting in a risk-based rather than a random sample;
 - The sampling method used prioritised applicants claiming for more than one area-based measure, which meant that the sample was not fully representative of the whole population — applicants for both SAPS and Less Favoured Area (LFA) aid had a higher chance of being selected than applicants for SAPS aid only (Bulgaria, the Czech Republic, Greece and Romania);
 - Some new applicants for EAFRD area-based measures had no possibility of being selected for on-the-spot check as the random sample was drawn before the deadline for the submission of the application (Greece); and

- There were significant unexplained differences between the population in the random sample and the whole population with respect to some key characteristics, such as the average surface of land declared (Italy-AGEA). This casts doubt on the random sampling methodology applied.

³² These assessments for 2011 consisted of desk reviews of information available to the Commission services (conformity audit results, Court's reports and certification bodies' reports) that mostly related to previous years.

- 72.** The abovementioned shortcomings in the random sampling of applicants for on-the-spot checks by the paying agencies affected the statistical representativeness of the samples and, consequently, the reliability of the error rates. While most of these shortcomings individually would have only a limited impact on the error rates, in the case of one paying agency (Spain-Castilla La Mancha) the potential impact could be important as the problems detected were more severe.

THE METHOD USED BY THE COMMISSION TO ESTIMATE A RESIDUAL ERROR RATE IS NOT STATISTICALLY VALID

- 73.** The Court assessed whether the Commission's calculations of a residual error rate had been carried out correctly from a mathematical point of view and whether it could provide statistically valid estimates of rates of error in payments after all checks had been carried out.
- 74.** Before its AAR 2012, DG Agriculture and Rural Development based its calculation of a residual error rate on the results of the on-the-spot checks reported in the Member States' statistical reports. However, to take into account the weaknesses in administrative and on-the-spot checks, the Commission increased the reported error rates by 25 %.
- 75.** In its AAR 2012, following an assessment of the reliability of the procedures applied, DG Agriculture and Rural Development revised its approach. The Commission has carried out assessments of every paying agency³² and has corrected the reported error rates on the basis of the results of these assessments (see also **Annex I**). In 2012, the reported error rates were thus adjusted by 2 to 5 percentage points in 37 out of 81 paying agencies.

- 76.** As a result, the residual error rate for EAGF IACS expenditure for 2012 calculated by the Commission is 2,4 %, i.e. 4,5 times the error rate of 0,54 %³³ calculated on the basis of the Member States' statistical reports.
- 77.** The results of the new approach confirm that only limited assurance can be gained from the statistical reports, the declarations of the directors of paying agencies and the work carried out by the certification bodies. Indeed, in the 37 paying agencies of which the Commission decided to correct the EAGF IACS error rate, the directors had issued an unqualified opinion and, for 32 of them, the certification bodies also had issued an unqualified opinion.
- 78.** The 2012 change of approach recognises the weaknesses reported by the Court in its annual reports and confirmed by the Commission's Internal Audit Service in 2013. While the Court considers the new approach to be a step in the right direction, it is only partially applied and it should be noted that the 2 to 5 percentage points increase in the reported error rates is not statistically valid and does not currently provide a reliable basis for the estimation of the residual error rate.

³³ EU-27 weighted average of error rates reported by the Member States in the statistical reports for the EAGF IACS expenditure population.

TABLE 3

EVOLUTION OF THE COURT'S MOST LIKELY ERRORS AND THE COMMISSION'S RESIDUAL ERROR RATES

Expenditure	The Court's results of its transaction testing			The Commission's calculation of the residual error rates
	Lower limit	Most likely error	Upper limit	
EAGF for the 2011 FY	1,1 %	2,9 %	4,7 %	0,55 %
EAGF for the 2012 FY	1,7 %	3,8 %	5,9 %	2,24 %
EAFRD for the 2011 FY ¹	4,5 %	7,7 %	10,9 %	1,89 %
EAFRD for the 2012 FY ¹	4,5 %	7,9 %	11,3 %	1,62 %

¹ From 178 transactions in 2011 and 177 in 2012, only 160 transactions, related to rural development expenditure, the remaining 18 and 17, respectively, related to expenditure on environment and climate action, maritime affairs and fisheries, and health and consumer protection.

Source: The Court's annual reports on the implementation of the budget concerning the 2011 and 2012 financial years and the 2012 Commission annual activity report of the Directorate-General for Agriculture and Rural Development.

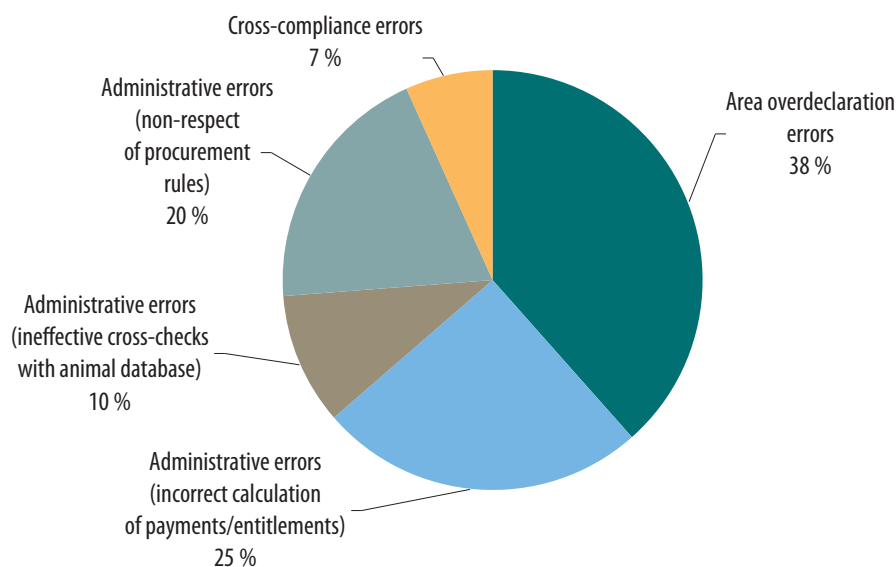
THE LEVEL OF ERROR REPORTED BY DG AGRICULTURE AND RURAL DEVELOPMENT CANNOT BE COMPARED WITH THE COURT'S MOST LIKELY ERROR

- 79.** The Court compared its own methodology for testing transactions and its estimation of the most likely error rate with the Commission's methodology for the calculation of a residual error rate.
- 80.** Over the past years, the Commission has consistently published lower residual error rates than the most likely error rate estimated by the Court, as shown in **Table 3**.
- 81.** The significant differences between the Court's and the Commission's estimates of error rates call for clarification. The findings of the Court suggest that the explanations can be found in the elements summarised in the following paragraphs.
- 82.** First, the methodologies used to calculate the error rates are different.
- 83.** Second, as regards the 'adjustments' made by the Commission (see paragraphs 74 to 78 above), the Court considers that they are not statistically valid to take into account the unreliable nature of the Member States' statistical reports which are the basic building blocks for its estimated residual error rate.

84. Third, while the samples of beneficiaries checked on-the-spot by the paying agencies are significantly larger than the Court's samples and should, in theory, allow for more precise estimates of the residual error rate, the shortcomings identified in the effectiveness of the checks and their compilation undermine the reliability of the reports submitted to the Commission. For its part, the Court carries out thorough documentary and on-site reviews of all the eligibility conditions for the payments selected in the samples and, in many cases, it found errors that should have been detected by the paying agencies either through administrative or on-the-spot checks.
85. This is further illustrated by the following two graphs analysing the errors found in the transactions tested by the Court for the 2011 financial year. **Figure 3** shows that, with respect to EAGF transactions, 55 % of the errors found by the Court should have been corrected at an earlier stage by the paying agencies.
86. **Figure 4** shows that, with respect to EAFRD transactions, 76 % of the errors found by the Court should have been corrected at an earlier stage by the paying agencies.

FIGURE 3

TYPES OF ERRORS FOUND IN THE FRAMEWORK OF THE REGULARITY OF TRANSACTIONS AUDIT RELATING TO AGRICULTURE: MARKET AND DIRECT SUPPORT (FY 2011)

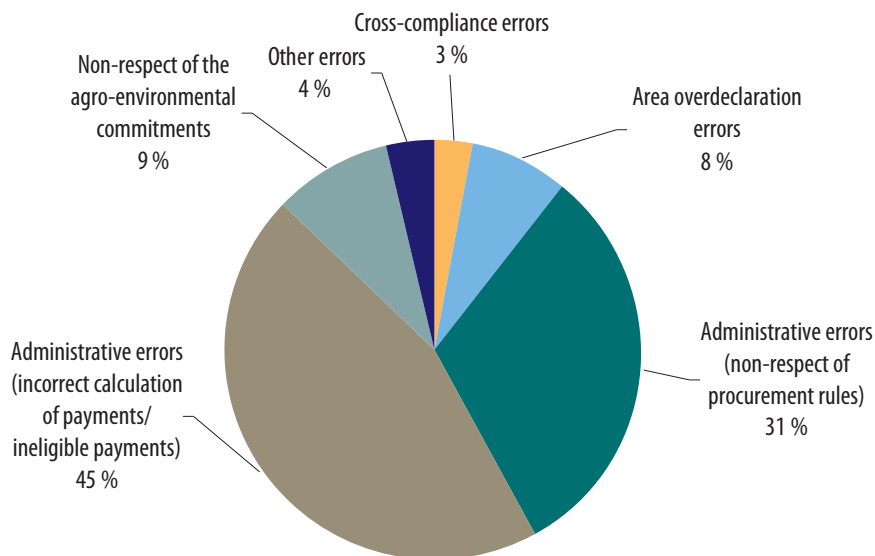


Source: Court's annual report on the implementation of the budget concerning the financial year 2011.

- 87.** Fourth, the quantitative impact of an error may be assessed by the Court differently from what is recommended in the Commission guidelines. For example, the Court classifies a material breach of public procurement rules as a 100 % error (since the transaction should not have been authorised in the first place) while the Commission guidelines call for an assessment of the 'seriousness' of the breach which may result in an error estimated at 20 % only of the full payment.
- 88.** Fifth, the breach of cross-compliance rules is included in the computation of the error rate estimated by the Court, while the Commission excludes such breaches from its calculation of residual error rates. For example, the cross-compliance infringements represented 0,2 percentage points of the most likely error calculated for the EAGF expenditure by the Court in 2011.
- 89.** Finally, paying agencies' checks are carried out *ex ante* (i.e. before the payment is made) while the Court audits payments made (i.e. *ex post*).

FIGURE 4

TYPES OF ERRORS FOUND IN THE FRAMEWORK OF THE REGULARITY OF TRANSACTIONS AUDIT RELATING TO RURAL DEVELOPMENT (FY 2011)



Source: Court's annual report on the implementation of the budget concerning the financial year 2011.

CONCLUSIONS AND RECOMMENDATIONS

90. The Court assessed whether the reports containing the results of paying agencies' administrative and on-the-spot checks covering the 2010 claim year were reliable. It also examined whether the Commission's use of these statistical reports and its calculation of a residual error rate provided a statistically valid estimate of irregularities in payments. Overall, the Court concludes that the results of the checks of agricultural expenditure carried out by Member States and reported by the Commission are not reliable.

THE EFFECTIVENESS OF THE ADMINISTRATIVE AS WELL AS THE ON-THE-SPOT CHECKS CARRIED OUT BY THE PAYING AGENCIES NEEDS TO BE GREATLY IMPROVED

91. The Court's previous audits as well as the Commission's own audits show that the systems in place for administrative and on-the-spot checks were only partially effective, thus seriously undermining the reliability of the information Member States provide the Commission with (paragraphs 30 to 36).

RECOMMENDATION 1

The Commission should ensure that the administrative and on-the-spot checks carried out by the paying agencies are effective. Hence, the Court reiterates the following specific recommendations included in its last two annual reports:

- Paying agencies should significantly improve their administrative checks (claim verification procedures, detection of ineligible expenditure) and use all relevant information available to them in order to detect and correct errors contained in the applications;
- The quality of LPIS databases should be significantly improved in order to clearly identify ineligible areas; and
- On-the-spot inspections need to be more rigorously conducted in order to correctly determine eligible areas and expenditure.

THE STATISTICAL REPORTS PRODUCED BY THE PAYING AGENCIES SHOULD BE MORE RIGOROUSLY VERIFIED AND COMPILED BEFORE THEY ARE SENT TO THE COMMISSION

- 92.** Although the Commission provides detailed guidelines for the compilation of the statistical reports, paying agencies do not always apply them correctly. Furthermore, the data included in the reports were often incomplete or based on estimates as the reports were finalised before all the applications had been processed (paragraphs 37 to 41).
- 93.** Most paying agencies audited did not have in place written procedures to establish the accuracy of the reports before their submission to the Commission. While they carried out some verification tests, the nature and extent of these tests were limited and were not capable of detecting errors later identified either by the Commission's desk review or the Court's audit. Furthermore, most checks carried out by the paying agencies were not properly documented (paragraphs 42 to 46).

RECOMMENDATION 2

The Commission should improve the clarity of its guidelines for the compilation of the statistical reports. The guidelines should in particular provide instructions on the cut-off dates to be used and the treatment of applications not yet processed as well as the nature and extent of tests to be carried out by paying agencies before reports are submitted to the Commission.

Member States' paying agencies should establish written procedures for the verification and compilation of the data included in the reports and should adequately document all checks carried out.

THE WORK OF THE CERTIFICATION BODIES DOES NOT PROVIDE THE COMMISSION WITH SUFFICIENT ASSURANCE AS TO THE RELIABILITY OF THE STATISTICAL REPORTS

- 94.** The certification bodies do not provide the Commission with sufficient assurance on the adequacy of the on-the-spot checks carried out by the paying agencies as well as on the reliability of the statistics (paragraphs 47 to 57).

RECOMMENDATION 3

The Commission should amend the guidelines issued to certification bodies and monitor their correct implementation. The amendments should be designed:

- to increase the minimum sample of paying agencies' on-the-spot checks to be tested by the certification bodies;
- to require re-performance of such checks as opposed to only accompanying the paying agencies' inspectors; and
- to further clarify the verification work to be carried out on the compilation of the statistical reports.

INAPPROPRIATE USE AND LIMITED REVIEW OF MEMBER STATES STATISTICS BY THE COMMISSION

- 95.** The Court does not consider that the Commission's information system on the results of the Member States' checks effectively serves the Commission's needs. Some of the information currently made available is not fully relevant or is incomplete and inaccurate for the purpose of being used as such in the annual activity report and in the discharge procedure (paragraphs 58 to 62).
- 96.** The limited review of Member States statistics by the Commission cannot ensure their reliability. The desk review of the statistical reports by the Commission is limited to checking the internal consistency of the information they contain but it does not allow for verifying their content against the underlying data (paragraphs 63 to 65).
- 97.** These limitations are not fully mitigated during the Commission's on-the-spot (conformity) audits in the selected Member States. Furthermore, when the Commission identified incorrect data in the statistical reports during such audits, it did not result in a correction of the data used in the annual activity report (paragraphs 66 to 69).

RECOMMENDATION 4

The Commission should ensure that it receives complete information on the checks carried out by paying agencies at the most appropriate time. In particular, the deadlines for the submission of statistical reports to the Commission should be re-examined with a view to better aligning them with the time of the year when they are actually verified and used by the Commission's services. This is particularly important for the Commission's calculation of the residual error rate.

The Commission should harmonise the systems for the verification of the statistical reports. The desk verifications should be as far as possible automated and include systematic reconciliation of the data contained in the reports with the underlying data.

The Commission's conformity audits should also cover the review of verifications carried out by the paying agencies and certification bodies.

THE COMMISSION'S ESTIMATE OF THE RESIDUAL ERROR RATE IS NOT STATISTICALLY VALID

- 98.** In the DG Agriculture and Rural Development annual activity report, the Director-General's declaration of assurance covering, amongst others, the legality and regularity of transactions at the level of the final beneficiaries, is supported by residual error rates which are estimated on the basis of Member States' statistical reports on the results of paying agencies' administrative and on-the-spot checks.
- 99.** Because of the weaknesses in the Member States' statistics as illustrated in the present report, those statistics in themselves do not provide a reliable basis for the Commission's estimations of the residual error rate. Furthermore, the Commission's adjustments of the error rates computed for each paying agency are not statistically valid nor is the residual error rate (paragraphs 73 to 78).

³⁴ See paragraph 27 of the Court's Opinion No 1/2012 on certain proposals for regulations relating to the common agricultural policy for the period 2014–20.

RECOMMENDATION 5

The Commission should, based on the work of the paying agencies and the expanded role of the certification bodies, take the necessary measures to arrive at a statistically valid estimate of the current impact of irregularities on payments after all checks have been carried out.

However, the reliability and statistical validity of the work carried out both by the paying agencies and the certification bodies would need to be substantially improved (along the lines set out in the present report) in order to enable the Commission³⁴ to derive from it a valid estimate of a residual rate of error.

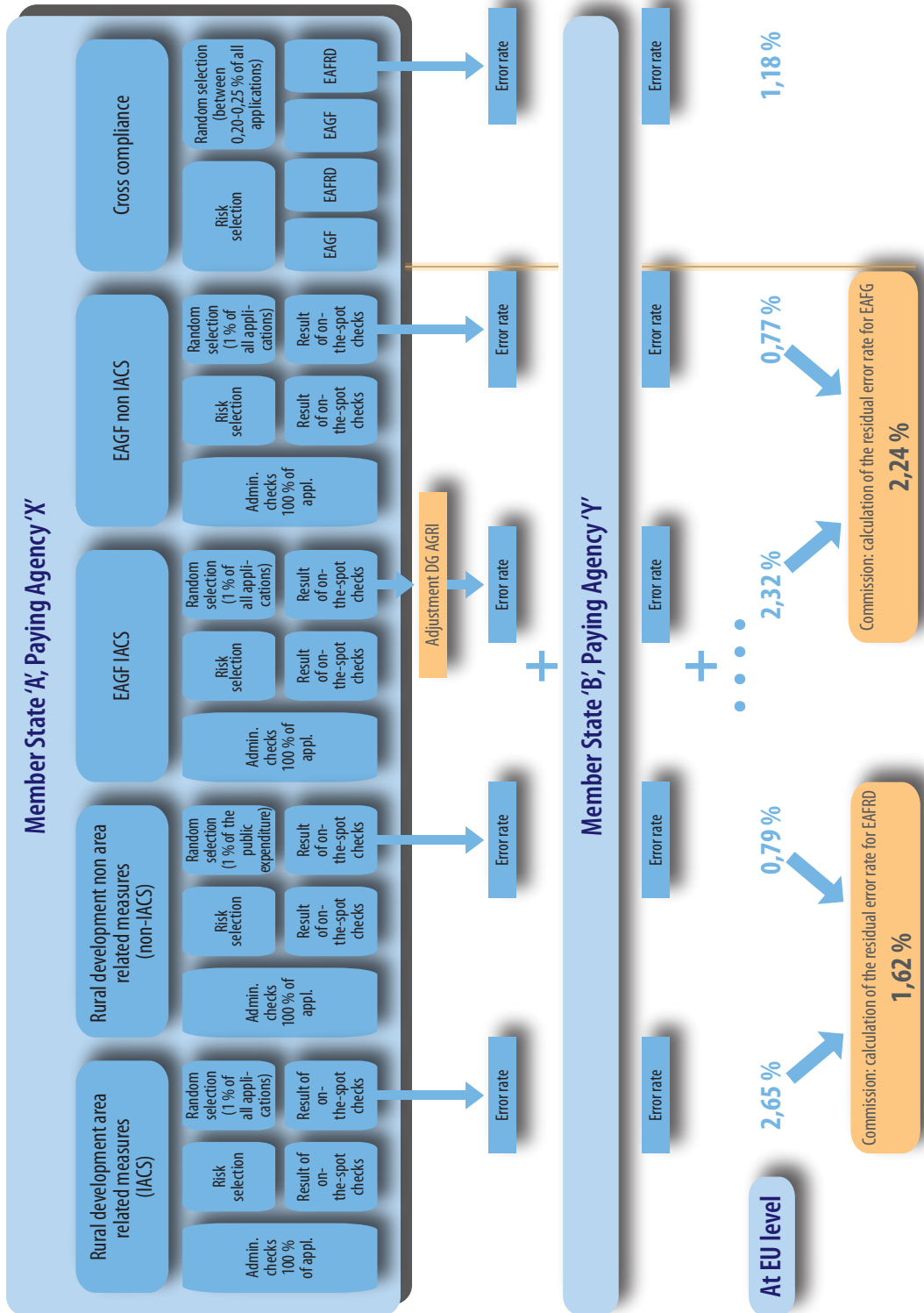
This report was adopted by Chamber I, headed by Mr Jan KINŠT, Member of the Court of Auditors, in Luxembourg at its meeting of 18 December 2013.

For the Court of Auditors



Vítor Manuel da SILVA CALDEIRA
President

ESTABLISHMENT OF THE RESIDUAL ERROR RATES BY THE COMMISSION FOR THE 2012 AAR



Note: Paying agencies transmit to the Commission the results of their administrative and on-the-spot checks for the four expenditure populations (two for EAFRD and two for EAGF). The Commission calculates the residual error rate for EAGF and EAFRD on the basis of the results of on-the-spot checks (of a random sample) performed by the paying agencies. For the calculation of the residual error rate, the Commission does not take account of the financial reductions applied by the Member States for cross-compliance infringements (the Court includes such reductions).

RESULTS OF ASSESSMENTS OF SELECTED SUPERVISORY AND CONTROL SYSTEMS — EAGF IACS

Year	Member State	Scheme	Administrative and control procedures to ensure correct payment including quality of data-bases	Types of weaknesses identified (impacting reliability of control statistics)	On-the-spot inspection methodology, selection, execution, quality control and reporting of individual results	Types of weaknesses identified (impacting reliability of control statistics)
2010	Germany (Niedersachsen)	SPS	Effective	-	Partially effective	The eligible area for a crop group is not determined correctly
	Germany (Sachsen)	SPS	Effective	-	Effective	-
	Spain (Castilla La Mancha)	SPS	Partially effective	Ineligible areas on permanent pasture covered with dense forest are not reliably identified Overdeclaration and underdeclaration penalties not correctly applied Incorrect treatment of claim modifications.	Partially effective	The allocation of the controlled population to risk based or random selection in the control statistics is made <i>ex post</i> Rapid field visits are treated as on-the-spot controls
	Spain (Extremadura)	SPS	Partially effective	Ineligible areas on permanent pasture covered with dense forest are not reliably identified Incorrect treatment of claim modifications LPIs not correctly updated after on-the-spot checks The obvious error concept is not correctly applied	Partially effective	The eligible area for a crop group is not determined correctly
	Netherlands	SPS	Effective	-	Partially effective	Insufficient quality of on-the-spot checks
	United Kingdom (Wales)	SPS	Effective	-	Partially effective	Rapid field visits are treated as on-the-spot controls Insufficient quality of on-the-spot checks

Year	Member State	Scheme	Administrative and control procedures to ensure correct payment including quality of databases	Types of weaknesses identified (impacting reliability of control statistics)	On-the-spot inspection methodology, selection, execution, quality control and reporting of individual results	Types of weaknesses identified (impacting reliability of control statistics)
2011	Denmark	SPS	Partially effective	Weaknesses regarding the LPIs Weaknesses in the claim registration procedure Obvious error corrections do not meet the obvious error concept	Partially effective	Insufficient quality in area measurement during OTS checks
	Spain (Galicia)	SPS	Partially effective	Weaknesses regarding the LPIs Failure to update LPIs after OTS checks Insufficient audit trail in IACS databases	Partially effective	Insufficient quality in area measurement during OTS checks Incorrect or incomplete information in the OTS inspection reports
	Italy (Lombardia)	SPS	Partially effective	Failure to update LPIs after OTS checks Claims do not contain information allowing the location of the agricultural parcels to be determined Obvious error corrections do not meet the obvious error concept	Effective	-
	Hungary	SAPS	Partially effective	Failure to update LPIs after OTS checks Only limited retroactive checks of potential over-declaration in previous years Incorrect basis of payment calculation	Partially effective	No off-setting of area over-declarations and area under-declaration found within one group Insufficient quality in area measurement during OTS checks
	Austria	SPS	Partially effective	Weaknesses regarding the LPIs Incorrect basis of payment calculation	Effective	-
	Finland	SPS	Partially effective	Insufficient audit trail in IACS databases Claims do not contain information allowing the location of the agricultural parcels to be determined Weaknesses in the claim registration procedure Obvious error corrections do not meet the obvious error concept	Partially effective	Insufficient quality in area measurement during OTS checks Incorrect or incomplete information in the OTS inspection reports

Year	Member State	Scheme	Administrative and control procedures to ensure correct payment including quality of databases	Types of weaknesses identified (impacting reliability of control statistics)	On-the-spot inspection methodology, selection, execution, quality control and reporting of individual results	Types of weaknesses identified (impacting reliability of control statistics)
2012	Luxembourg	SPS	Partially effective	Values of entitlements were increased contrary to EU legislation	Effective	-
	United Kingdom (England)	SPS	Not effective	Incomplete or incorrect information on size and eligibility of land in the LPS database Incorrect application of the EU definition of farmer Aid payments made for ineligible areas Inconsistencies in the entitlements database Non application of sanctions for areas claimed incorrectly on common land Inspection results not correctly processed in the IACS databases	Partially effective	Insufficient quality in area measurement during OTS checks
	United Kingdom (Northern Ireland)	SPS	Not effective	Incomplete or incorrect information on size and eligibility of land in the LPS database Errors in claims were corrected as obvious errors without application of penalties when those should have been applied Incorrect application of the EU definition of farmer Aid payments made for ineligible areas Inspection results not correctly processed in the IACS databases Deficiencies in administrative cross-checks and aid payments made before clearance of anomalies	Partially effective	Insufficient quality in area measurement during OTS checks

Source: The Court's Annual Reports for 2010-2012.

RESULTS OF ASSESSMENTS OF SELECTED SUPERVISORY AND CONTROL SYSTEMS — EAFRD

Year	Member State	Administrative and control procedures to ensure correct payment including quality of databases	Types of weaknesses identified (impacting reliability of control statistics)	On-the-spot inspection methodology, selection, execution, quality control and reporting of individual results	Types of weaknesses identified (impacting reliability of control statistics)
2010	Czech Republic	Partially effective	Incorrect rules, calculations and payments (overpayment, tolerance rules, non-eligible expenditure, reductions) Lack of evidence, deficiencies and ineffective checks related to eligibility conditions and commitments	Partially effective	Weaknesses related to the quality of the OTS controls carried out and of the <i>ex post</i> checks Sanctions rules not compliant with EU legislation Checks carried out with delays and not spread over the year
	Germany (Mecklenburg-Vorpommern)	Effective	-	Effective	-
	France	Not effective	Payments before finalisation of compulsory controls Incorrect rules, calculations and payments (overpayment, tolerance rules, non-eligible expenditure, reductions) Lack of evidence, deficiencies and ineffective checks related to eligibility conditions and commitments	Partially effective	No evaluation of the OTS control results Deficiencies in selection methodology and non-respect of the regulatory minimum rate for on-the-spot controls Weaknesses related to the quality of the OTS controls carried out and of the <i>ex post</i> checks
	Italy (Tuscany)	Partially effective	Incorrect rules, calculations and payments (overpayment, tolerance rules, non-eligible expenditure, reductions) Lack of evidence, deficiencies and ineffective checks related to eligibility conditions and commitments	Partially effective	No evaluation of the OTS control results Deficiencies in selection methodology and non-respect of the regulatory minimum rate for on-the-spot controls Weaknesses related to the quality of the OTS controls carried out and of the <i>ex post</i> checks
	Latvia	Not effective	Incorrect rules, calculations and payments (overpayment, tolerance rules, non-eligible expenditure, reductions) Lack of evidence, deficiencies and ineffective checks related to eligibility conditions and commitments	Effective	-

Year	Member State	Administrative and control procedures to ensure correct payment including quality of databases	Types of weaknesses identified (impacting reliability of control statistics)	On-the-spot inspection methodology, selection, execution, quality control and reporting of individual results	Types of weaknesses identified (impacting reliability of control statistics)
2010	Poland	Partially effective	Incorrect rules, calculations and payments (overpayment, tolerance rules, non-eligible expenditure, reductions) Lack of evidence, deficiencies and ineffective checks related to eligibility conditions and commitments	Effective	Deficiencies in selection methodology and non-respect of the regulatory minimum rate for OTS controls
	Portugal	Partially effective	Lack of evidence, deficiencies and ineffective checks related to eligibility conditions and commitments	Partially effective	Deficiencies in selection methodology and non-respect of the regulatory minimum rate for OTS controls Weaknesses related to the quality of the OTS controls carried out and of the <i>ex post</i> checks Delays and inconsistencies concerning the statistics and the checks results
	Romania	Partially effective	Incorrect rules, calculations and payments (overpayment, tolerance rules, non-eligible expenditure, reductions) Lack of evidence, deficiencies and ineffective checks related to eligibility conditions and commitments	Partially effective	Lack of evidence, deficiencies and ineffective checks related to eligibility conditions and commitments Weaknesses related to the quality of the OTS controls carried out and of the <i>ex post</i> checks
	United Kingdom (Scotland)	Partially effective	Payments before finalisation of compulsory controls	Partially effective	Payments before finalisation of compulsory controls Weaknesses related to the quality of the OTS controls carried out and of the <i>ex post</i> checks Delays and inconsistencies concerning the statistics and the checks results

Year	Member State	Administrative and control procedures to ensure correct payment including quality of databases	Types of weaknesses identified (impacting reliability of control statistics)	On-the-spot inspection methodology, selection, execution, quality control and reporting of individual results	Types of weaknesses identified (impacting reliability of control statistics)
2011	Denmark	Not effective	Ineffective checks related to eligibility conditions and commitments Shortcomings in the administrative organisation and internal control of the checks Incorrect calculations and payments Systematic weaknesses in Title II measures resulting in the acceptance of ineligible expenditure.	Partially effective	Insufficient details on the extent of the checks carried out Inconsistencies concerning the number of checks carried out Insufficient quality of the checks
	Spain (Galicia)	Partially effective	Shortcomings in the administrative organisation and internal control of the checks	Partially effective	Insufficient details on the extent of the checks carried out Insufficient quality of the checks Deficiencies in the planning and timing of the checks
	Italy (Lombardy)	Partially effective	Ineffective checks related to eligibility conditions and commitments Shortcomings in the administrative organisation and internal control of the checks Incorrect calculations and payments	Partially effective	Insufficient details on the extent of the checks carried out Insufficient quality of the checks Deficiencies in the planning and timing of the checks
	Hungary	Partially effective	Ineffective checks related to eligibility conditions and commitments	Partially effective	Inconsistencies concerning the number of checks carried out Insufficient quality of the checks Deficiencies in the planning and timing of the checks
	Austria	Partially effective	Ineffective checks related to eligibility conditions and commitments Shortcomings in the administrative organisation and internal control of the checks	Effective	Insufficient details on the extent of the checks carried out
	Finland	Partially effective	Ineffective checks related to eligibility conditions and commitments Shortcomings in the administrative organisation and internal control of the checks Incorrect calculations and payments	Partially effective	Shortcomings in the administrative organisation and internal control of the checks Insufficient quality of the checks Deficiencies in the planning and timing of the checks

Year	Member State	Administrative and control procedures to ensure correct payment including quality of databases	Types of weaknesses identified (impacting reliability of control statistics)	On-the-spot inspection methodology, selection, execution, quality control and reporting of individual results	Types of weaknesses identified (impacting reliability of control statistics)
2012	Bulgaria	Partially effective	Shortcomings in the administrative organisation and internal control of the checks. Incorrect calculations and payments (e.g. reduction not applied) or weaknesses in recoveries. Weaknesses in the verification of public procurement procedures.	Partially effective	Shortcomings in the administrative organisation and internal control of the checks. Incorrect calculations and payments (e.g. reduction not applied) or weaknesses in recoveries. Insufficient quality of the checks: non-compliances not detected and/or not all commitments and obligations covered deficiencies in the timing of the checks. Inconsistencies concerning the number of checks carried out (including random and risk selection), differences with data reported to the Commission.
	Germany (Brandenburg and Berlin)	Partially effective	Shortcomings in the administrative organisation and internal control of the checks. Absence of a suitable system to evaluate the reasonableness of the costs proposed in the application for support. Incorrect calculations and payments (e.g. reduction not applied) or weaknesses in recoveries. Weaknesses in the verification of public procurement procedures.	Partially effective	Shortcomings in the administrative organisation and internal control of the checks. Incorrect calculations and payments (e.g. reduction not applied) or weaknesses in recoveries. Insufficient quality of the checks: non-compliances not detected and/or not all commitments and obligations covered deficiencies in the timing of the checks. Inconsistencies concerning the number of checks carried out (including random and risk selection), differences with data reported to the Commission.
	France (only follow up of previous observations)	Partially effective	Ineffective checks related to eligibility conditions and commitments (e.g. ineligible VAT included, double financing). Shortcomings in the administrative organisation and internal control of the checks.	Partially effective	Shortcomings in the administrative organisation and internal control of the checks.

Year	Member State	Administrative and control procedures to ensure correct payment including quality of databases	Types of weaknesses identified (impacting reliability of control statistics)	On-the-spot inspection methodology, selection, execution, quality control and reporting of individual results	Types of weaknesses identified (impacting reliability of control statistics)
2012	Poland	Partially effective	Absence of a suitable system to evaluate the reasonableness of the costs proposed in the application for support Incorrect calculations and payments (e.g. reduction not applied) or weaknesses in recoveries. Weaknesses in the verification of public procurement procedures	Effective	Shortcomings in the administrative organisation and internal control of the checks. Insufficient quality of the checks: non-compliances not detected and/or not all commitments and obligations covered deficiencies in the timing of the checks.
	Romania (APIA and PARDF)	Not effective	Ineffective checks related to eligibility conditions and commitments (e.g. ineligible VAT included, double financing). Absence of a suitable system to evaluate the reasonableness of the costs proposed in the application for support Incorrect calculations and payments (e.g. reduction not applied) or weaknesses in recoveries. Weaknesses in the verification of public procurement procedures	Not effective	Shortcomings in the administrative organisation and internal control of the checks. Inconsistencies concerning the number of checks carried out (including random and risk selection), differences with data reported to the Commission Insufficient quality of the checks: non-compliances not detected and/or not all commitments and obligations covered deficiencies in the timing of the checks.
	Sweden	Partially effective	Ineffective checks related to eligibility conditions and commitments (e.g. ineligible VAT included, double financing). Absence of a suitable system to evaluate the reasonableness of the costs proposed in the application for support. Incorrect calculations and payments (e.g. reduction not applied) or weaknesses in recoveries. Weaknesses in the verification of public procurement procedures.	Effective	Insufficient quality of the checks: non-compliances not detected and/or not all commitments and obligations covered deficiencies in the timing of the checks.

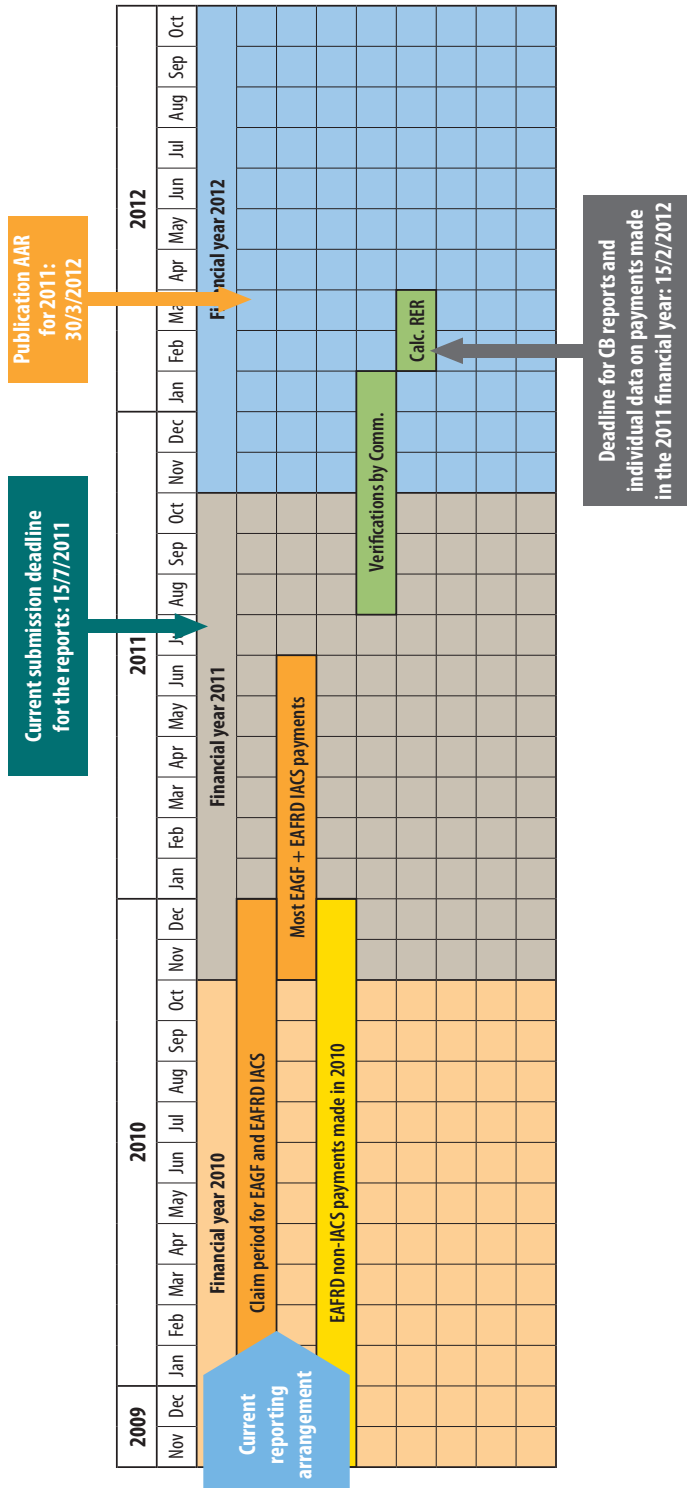
Source: The Court's annual reports for 2010–12.

AN OVERVIEW OF MATERIAL ERRORS FOUND DURING THE DOCUMENTARY REVIEWS OF THE 414 FILES

Member State (Paying Agency)	Total number of files reviewed			Error found on the file impacting the presentation in the control statistics			Types of errors found
	EAGF IACS	EAFRD IACS	EAFRD non-IACS	EAGF IACS	EAFRD IACS	EAFRD non-IACS	
Bulgaria (SFA)	18	16	13	7	9	6	Incorrect compilation of the statistics by significantly overstating the amount of sanctions applied (EAGF IACS). Systematic error in the calculation of the aid reductions for the Less Favoured Area payments (EAFRD IACS). Systematic overstatement of reductions and sanctions in the statistics (EAFRD non-IACS).
Czech Republic (SAIF)	30	17	27	0	1	0	Only insignificant finding of non-systematic origin (EAFRD IACS).
Greece (OPEKEPE)	15	6	15	9	6	5	Unjustified changes of the declared areas by paying agency, double claimed parcels were disallowed in full without any follow-up to establish the rightful claimant (EAGF IACS). Reductions incorrectly reported in the database and in the statistics — double reported, reductions reported as penalties, reductions not reported (EAFRD IACS and non-IACS).
Spain (Castilla-La Mancha)	15	15	15	2	7	0	Information contained in the paying agency's different databases was not always consistent — difference in value of the entitlements in the database and in payment files and no overdeclaration revealed in the statistics (EAGF IACS). Errors in reporting reductions in the database and statistics and in inputting data into database and statistics (EAFRD IACS). Errors in calculation of the payments and lack of reductions (EAFRD non-IACS).
Italy (AGEA)	15	14	14	8	8	2	Data, mainly area declared and reductions, recorded incorrectly in the database and the report (EAGF IACS). Data in the report submitted to the Commission not based on the available supporting documentation (EAFRD IACS). No additional reductions applied (EAFRD non-IACS).

Member State (Paying Agency)	Total number of files reviewed				Error found on the file impacting the presentation in the control statistics			Types of errors found
	EAGF IACS	EAFRD IACS	EAFRD non-IACS		EAGF IACS	EAFRD IACS	EAFRD non-IACS	
Poland (ARMA)	17	23	17		0	4	5	Incorrect presentation of the reductions which have impact on the calculation of the error rate (EAFRD non-IACS). Corrections to payment claims after administrative checks were allowed without application of reductions and a supplementary reductions (EFRD non-IACS). Administrative decisions were not taken into account for the calculations of the reductions in the statistics — cut-off date problem (EAFRD IACS).
Romania (PIAA and PARDF)	25	15	15		6	9	0	Misclassification of the beneficiaries in the database (over-declarations of over 20 % were treated as over-declarations of only between 3 and 20 %) and beneficiaries with overdeclarations of over 20 %, that should be excluded from payment, were recorded in the database as having received a payment (EAGF IACS). Amounts of reductions and sanctions incorrect in the database (EAFRD IACS).
United Kingdom (RPA)	28	15	14		2	14	8	Errors in data included in the statistics — amount claimed and checked on the spot, reductions and sanctions (EAFRD IACS). Unjustified differences between reductions and additional reductions reported in the statistics and in the database (EAFRD non-IACS).
Subtotal	163	121	130		34	58	26	
Total		414				118		
Occurrence of error in the populations					20,9 %	47,9 %	20,0 %	
Occurrence of error in all files tested						28,5 %		

OVERVIEW OF THE PERIOD COVERED BY THE STATISTICAL REPORTS AND THE ASSOCIATED REPORTING DEADLINES



REPLY OF THE COMMISSION

EXECUTIVE SUMMARY

Common reply to paragraphs I–IX

The ECA has, for a number of years, criticised the Commission's reliance on the Member States' statistics on the results of their controls as a source of information for calculating a residual error rate. In the first place, the Commission was aware that it could not place full reliance on the control statistics from the Member State as the only indicator of the level of error in agriculture spending. This is why, for many years and until the 2012 annual activity report (AAR) it had applied a 25 % 'safety margin' to the residual error rate calculated on the basis of the statistics. This was regularly contested by the Court. Secondly, in its 2012 AAR, DG Agriculture and Rural Development took on board the concerns about the control statistics and changed its approach after consulting with the central services of the Commission responsible for methodological issues. The Court, in its annual report for 2012, did not criticise this approach and rather, expressed itself positively thereon and recommended that a similar approach be applied for the EAFRD.

Moreover, the new horizontal regulation on the control, financing and monitoring of the CAP in force as from January 2014, provides for a significant increase in the responsibilities of the certification bodies in the Member States with regard to delivering an opinion on legality and regularity of the expenditure including validating the Member States' control results which are communicated to the Commission.

In consequence, the Court's report deals with a methodology which has changed and is still evolving. Rather, therefore, than concentrate on historic elements, the Commission would prefer to concentrate on the present and future and on the establishment, including with the constructive input of the Court, of a sound methodology.

III.

For its 2012 annual activity report DG Agriculture and Rural Development has developed a method for calculating the residual error rate that also takes into account its own audits and those of the Court. This method has been used for direct payments (around 70 % of the CAP expenditure) in respect to financial year 2012 and will be extended from 2013 financial year to other CAP expenditure and in particular, to rural development.

REPLY OF THE COMMISSION

IV.

The establishment of control systems is governed by precise EU rules, complemented by Commission guidelines as appropriate. For instance, paying agencies shall perform administrative checks on 100 % of the claims before payment, and at least 5 % of the claims shall be controlled on the spot. The conformity of the control systems with the rules is checked by DG Agriculture and Rural Development auditors and the risks for the EU budget that may derive from the identified weaknesses in the control systems are covered by financial corrections.

The paying agencies are also responsible for compiling the results of their controls into statistical control data to be sent annually to the Commission. The certification bodies must systematically test the accuracy of these compiled statistics, notably via reconciliation with individual transactions, and give an opinion on them.

Finally, for claim year 2012, DG Agriculture and Rural Development has tested, for area-related payments, the transmission of the individual control data via the IT system that is used for payments (so-called CATS). The test has been successful and this automatic transmission of control data will be extended to most of the CAP measures and expenditure from claim year 2014. This will prevent inaccuracies in the control statistics resulting from inadequate compilation of the individual data.

V.

The Commission's own audits indicate that in some Member States control systems are not in line with the rules and do not detect all errors that could be detected.

The Commission was therefore aware that it could not place full reliance on the control statistics from the Member State as the only indicator of the level of error in agriculture spending. This is why, for many years and until the 2012 AAR it had applied a 25 % 'safety margin' to the residual error rate calculated on the basis of the statistics. This was regularly contested by the Court without however their assessment on the extent to which it was insufficient.

Nevertheless, DG Agriculture and Rural Development took on board the concerns about the control statistics and changed its approach (see reply to paragraph III) after consulting the central services of the Commission responsible for methodological issues. The Court, in its annual report for 2012, did not criticise this approach and rather expressed itself positively thereon and proposed that it be extended to other expenditure areas within the CAP and in particular, to rural development.

VI.

The new method described in the reply to paragraph III provides for the Commission to adjust the error rate resulting from statistics from the Member States where Commission and/or the Court have identified deficiencies in the systems for detecting irregular expenditure.

VII.

The Commission was also aware that there were limitations to the scope of the work which the certification bodies were requested to carry out. This is why, as from claim year 2014 in application of the CAP reform, certification bodies will have to carry out much deeper work on the reliability of the controls by the paying agencies.

VIII.

In spite of certain shortcomings the information provided is considered useful for monitoring purposes and as an indication of the error detected by the Member States in the course of their administrative and on-the-spot checks. As already stated above, a new method is used by the Commission to arrive at a more informed estimate of the level of error than could be derived solely from the Member States' control statistics.

IX.

The Commission does not claim that the adjustment it makes to the Member States' control statistics is statistically valid but considers it to be the best estimate in the absence of any other more reliable data. This approach was the result of an intensive internal discussion not only within DG Agriculture and Rural Development but also with the central services of the Commission.

The Commission notes that, in its annual report for 2012, the Court recommends that:

'The Commission, in DG Agriculture and Rural Development's annual activity report, applies a similar approach for EAFRD as for decoupled area aid, where the Commission takes account of the results of its own conformity audits in assessing the error rate for each paying agency.'

REPLY OF THE COMMISSION

X.

The Commission shares the opinion of the Court regarding the necessary improvement of the administrative and on-the-spot checks. The adequacy of those checks is verified/assessed during the conformity audits and recommendations on the improvements are provided to the Member States. The Commission also regularly informs Member States of its most common audit findings with a view to encouraging best practices.

The Commission considers that it implements this recommendation on a permanent basis as set out below and it has strengthened certain tools in the framework of the CAP reform.

Where the Commission, and indeed the Court, detect weakness in the management and control systems in the Member States it uses all tools at its disposal in order to induce the Member States to remedy the situation. These include the conformity clearance procedure which results in financial corrections that not only protect the EU budget but also act as a powerful incentive to the MS, the requirement for Member States to implement action plans addressing the deficiencies. Interruption of payments has also been used for the EAFRD and the new horizontal regulation on the control, financing and monitoring of the CAP, which comes into force in January 2014, includes a reinforced mechanism for suspension of payments for Member States who fail to implement a remedial action plan.

Area-based aid schemes in general and the LPIS (Land Parcel Identification System) in particular are subject to a continuous rolling out of audits in order to detect deficiencies. An ineffective LPIS is taken very seriously by the Commission and Member States are required to implement urgent changes which are closely monitored by the Commission via follow-up audits. At the same time, any risk for the EU budget is covered by financial corrections.

X. First indent

The guidelines on controls to be performed will be updated in the framework of the CAP reform, in parallel to the establishment of delegated and implementing acts. They will be discussed and explained to both paying agencies, which will have to apply them and to certification bodies, which will have to check their application by the paying agencies.

The Commission will also review the guidelines provided to Member States for the compilation of the statistics and in particular endeavour to harmonise the best practices between the different sectors. Guidelines will, in particular, be reviewed in the context of the automation of the statistics as well as in the context of the implementing rules for the CAP reform.

The Commission will continue to request Member States to improve their internal procedures for verification of the control data sent.

X. Second indent

The new horizontal regulation on the control, financing and monitoring of the CAP, which comes into force in January 2014, will require the certification bodies to deliver an opinion on the legality and regularity of transactions. This will entail re-performance of a representative sample of transactions already controlled by the paying agency and the validation (or not) of the resulting control statistics. It is expected that this additional work will result in an improvement in the quality of the paying agencies control data and coupled with the certification body opinion will produce improvements in the degree of assurance which can be drawn.

X. Third indent

The Commission emphasises that the various deadlines for sending the statistics have been established for a number of operational reasons and not purely for AAR reporting purposes. The Commission notes that a balance has to be reached on the optimal time for receiving the data bearing in mind the heavy administrative burden its compilation places upon the Member States in order to avoid multiple updated transmissions.

In 2012 the Commission conducted a pilot exercise for the automatic transmission of the control data for area-related payments. That data was thus transmitted in July 2013 and the initial assessments of its completeness and quality are positive. Adjustments will be made in order that all relevant control data will be automated in this manner. This will limit the risk of wrongly compiling errors and ensure that a single methodology is used in all MS.

REPLY OF THE COMMISSION

OBSERVATIONS

Common reply to paragraphs 28–36

DG Agriculture and Rural Development has already in the AAR 2012 stated that ‘... Member States control statistics need to be considered with a degree of caution’. DG Agriculture and Rural Development has already undertaken to extend the integrated approach taken for decoupled direct aids in the 2012 AAR to other areas of CAP expenditure for the 2013 AAR — i.e. the Member States’ statistics will be adjusted by taking account of the results of DG Agriculture and Rural Development’s own audit findings, the Court’s and Certification Bodies’ findings.

In the new horizontal regulation for the control, financing and monitoring of the CAP, a provision was introduced which enables the Commission to suspend payments to Member States in respect of those control data which have not been sent within the specified deadlines.

Finally, with the new work of the certification bodies on legality and regularity the Commission will get a more robust opinion on the reliability of the controls themselves and a reinforced assurance on the error rates.

X. Fourth indent

The new horizontal regulation provides that the certification bodies will have to systematically test, on representative samples for EAGF and for EAFRD, the reliability of the administrative and on-the-spot controls performed by the paying agencies. The guidelines prepared by the Commission aim at ensuring that this work is conducted on a robust statistical methodology, that its results will reinforce assurance on the legality and regularity of the transactions and provide a valid estimate of the residual error rate per Member State and per fund. This would allow the Commission to progressively reduce the need for the individual adjustments it currently makes to the statistics provided by the Member States.

In the meantime, the Commission will apply the new approach referred to in the reply to paragraph III and will implement the recommendation in the Court’s annual report for 2012: ‘The Commission, in DG Agriculture and Rural Development’s annual activity report, applies a similar approach for EAFRD as for decoupled area aid, where the Commission takes account of the results of its own conformity audits in assessing the error rate for each paying agency.’

Regarding its own audit activities, the Commission will continue to focus on systemic audits of the paying agencies, on a risk basis and in the framework of the conformity clearance procedure, to ensure that risks resulting from identified weaknesses in the control systems are corrected. Audit activities will also cover the new tasks of the certification bodies on legality and regularity, to provide technical guidance and contribute to achieving the objective of a reinforced assurance.

30.

The Commission is following up the Court’s observation on the effectiveness of the supervisory and control systems in the PAs concerned in the context of its ongoing conformity procedures.

For 2011 the Commission notes that most of the errors referred to were relatively small in financial terms and mainly concerned small differences in the re-measurement of land parcels carried out by the Court (42 of the errors found by the Court concern very small differences in parcel re-measurement and 24 errors were below 2 %).

For 2012, similarly, most of the quantifiable errors were relatively small in financial terms and also concerned very small differences in the re-measurement of parcels by the Court (36 of the errors found by the Court were less than 5 % of which 23 were below 2 %).

32.

When calculating the residual error rate, the Commission takes account of the potential impact of the weaknesses affecting the data reported by the MS.

32. First indent

The Commission is bound to follow the definition of a farmer in Article 2 of Council Regulation (EC) No 73/2009.

REPLY OF THE COMMISSION

32. Second indent

While the Commission does not always share the appreciation of the Court's auditors as to the exact eligibility of areas, where it finds that a Member State fails to correctly record eligible area, the issue is followed up through its clearance of accounts procedure.

32. Third indent

In the specific case referred to by the Court, the paying agency concerned considered their replacement of parcels to be a correction of 'obvious errors' — a concept which is provided for in the EU legislation/guidelines. As stated in its previous replies, the Commission does not share the view of the Court concerning the application of the obvious error concept in case of misplacement of parcels.

32. Fourth indent

Paying agencies are not always responsible for how the payment entitlements should be calculated. In a number of cases the instructions on how to calculate entitlements are established by the competent authority in the Member State.

32. Fifth indent

While the Commission does not always share the appreciation of the Court's auditors as to the exact eligibility of areas, where it finds that a Member State fails to correctly record eligible area, the issue is followed up through its clearance of accounts procedure.

Box 1

According to the Italian authorities, the Lombardia issue has been rectified as from 2011. The Commission is pursuing this through the conformity clearance procedure of accounts.

The Commission is aware of the issues related to the eligibility of pasture areas in Spain. The Spanish authorities were requested to act on this matter and presented the LPIS Improvement Plan including, notably, measures to implement the application of an eligibility coefficient to pasture parcels and to ensure systematic update of LPIS with the results of on the spot checks. The Commission will continue to monitor the implementation of this plan by the national authorities.

The Commission has also found some cases in Hungary where LPIS was not updated with the results of the on-the-spot checks and has requested the Hungarian authorities in writing to take corrective action in this respect.

33.

The weaknesses referred to by the Court have already been reported in previous years. The corresponding recommendations are being implemented since 2010 in collaboration with the Member States and followed up where necessary in the context of conformity procedures.

34.

For 2011 the Commission notes that most of the errors referred to were relatively small in financial terms (half of the errors are less than 5 %).

35.

When calculating the residual error rate, the Commission takes account of the potential impact of the weaknesses affecting the data reported by the MS.

Box 3

This issue has been followed in an enquiry, the outcome of which is as follows:

- The Paying Agency decided — after having reassessed the case — to recover the support already paid for the specific project;
- The verification procedure/check lists were updated in order to exclude that an inspector could not notice that an agricultural construction has mostly the characteristics of a house;
- A re-performance of the checks (*ex post*) has been carried out over all projects checked and approved by the same inspector which approved the non-eligible one;
- A re-performance of the checks (*ex post*) has been carried out over all the projects having similar characteristics to the non-eligible project;
- Those *ex post* controls showed some minor irregularities which are now following the standard contradictory steps and will probably involve recoveries of part of the support already paid;

REPLY OF THE COMMISSION

— Nevertheless, as the last re-performance of the checks only concerned the projects involving new constructions and not also restructuring of existing buildings the Commission asked the Italian authorities to re-verify those projects. The results for these final *ex post* checks will be sent by 30 November 2013.

Box 4

As indicated in the reply to the annual report 2012, Commission services will follow the Court's findings up vis-à-vis the national authorities with a view to protecting the financial interest of the EU and recovering any undue payments.

Concerning Romania, the Commission has in its audits also found substantial weaknesses, and a clearance of account procedure is ongoing.

36.

The Commission has recognised this deficiency itself and therefore in its 2012 AAR has changed the way in which it draws assurance from Member States' control statistics. Therefore, it takes into account other audit opinions, including ECA audit evidence, so as to reflect the extent of errors which are not detected by Member States and thus not reported in their statistics.

38.

The Commission is in the process of automating the transmission of the control statistics (with a successful pilot exercise in July 2012) and is, in this context, preparing more detailed guidelines and procedures both internally and for the Member States. See also reply to paragraphs 39–41.

39.

DG Agriculture and Rural Development has not defined a precise cut-off date for compilation of the statistical reports as it prefers to receive updated statistics even the following year. However, Member States are in the Rural Development Committee constantly reminded of the importance of providing the statistics. Nevertheless an 'intermediary' cut-off date could possibly be introduced.

DG Agriculture and Rural Development verifies the completeness of statistics through the certification bodies' annual report which it scrutinises and which may result in follow-up conformity clearance procedures.

It is correct that the data is not complete and that the error rate is calculated only on the basis of the expenditure for which control statistics are available. However, the Commission calculates that only around 0.6 % of the amount of direct aid payments in respect of claim year 2010 were paid after the deadline of 30 June 2011 and therefore were possibly unreported via the control statistics. As a consequence, the impact of this 0.6 % on the precision of those control statistics as a basis of the error rate calculation is very limited.

Box 5

See reply to paragraph 92.

40.

As mentioned by the Court, the current guidelines do not highlight statistics re-submission. Nevertheless, during the period between the sending of the statistics by the Member State and their use by the Commission in the AAR, the latter carries out consistency and plausibility checks and takes contact with Member States were necessary in order to verify possible anomalies. Updates are also requested in the Rural Development Committee, as well as during audit missions and bilateral meetings, if deemed appropriate.

Moreover, requiring systematic updates of the statistics would create an additional administrative burden not only on the Member States but also on the Commission due to having to repeat its verification work and incorporate the amended data into the complex calculation base for the residual error rate. There is ultimately a very limited window of opportunity to receive, verify and process any revised data in order to be able to incorporate it into the annual activity report of the director-general. The Commission emphasises that the control statistics and the error rate that is derived from them are not the annual accounts of the Member State and their accuracy does not have to be established to the same extent. Rather, they are used to give an indication of where the error lies and, even before the Commission introduced its new method for adjusting the error rate, it applied a significant margin of appreciation to them in order to reflect the likelihood of their being understated.

REPLY OF THE COMMISSION

Finally, a pilot exercise was carried out with regard to the automation of statistics for area aids for claim year 2012. This work commenced already in 2011 with the necessary advance notification of the technical requirements to the Member States and the resulting data for claim year 2012 was transmitted and automatically processed into the Commission's database by 15 July 2013. The initial Commission assessments of the quality have been positive. When all necessary review has been completed, work will commence on the extension of the automation to the other main expenditure areas of the CAP and is expected to be in place for the claim year 2014. In this context, the Commission is preparing more detailed guidelines and procedures both internally and for the Member States.

41.

The Commission is attentive to not excessively increasing the administrative burden on the Member States. Nevertheless the automation of the transmission of the control statistics should improve the traceability of the checks made.

Common reply to paragraphs 42–46

The Commission is aware that progress has still to be made in some paying agencies in the compilation and verification of the control data. Indeed in most of its own audits the Commission tests the reconciliation of statistical reports with individual control data and frequently observes inconsistencies.

This is the reason why the Commission has initiated an automatic procedure that allows paying agencies to communicate their individual control data with the system used for the individual payments. A pilot exercise covering area related payments in all Member States for claim year 2012 (communication 15 July 2013) has been successful and the method will be extended to other CAP measures.

Such automation reduces the administrative burden and suppresses all compilation errors.

44. Fourth indent

The inclusion of additional information in relation to previous years could only lead to an overstatement of the level of error. Even if information is reported in the incorrect table, the residual error rate for Rural Development as a whole would not be affected. Thus it can be concluded that neither of the two errors cited resulted in the level of error being understated.

Box 6

In the Polish example the checks were carried out, the paying agency did identify and fully record the error but inadvertently misclassified part of it as an administrative rather than as an on-the-spot check.

Box 7 — Second paragraph

In the example with regard to Bulgaria, while the paying agency reported erroneously, it had in fact overstated the error rate.

Common reply to paragraphs 47–50

The number of checks carried out by the certification bodies is in line with the sample size requested by the Commission in its guidelines to those bodies. The Commission has, however, for a number of years, also considered that improvement was needed with regard to the quality of the Member States checks, how they reported on them and how better assurance could be given by the certification bodies. At the end of 2009, it provided for a voluntary reinforcement of assurance exercise by certification bodies which would require them to re-perform a representative sample of the paying agency on-the-spot checks. This possibility was only taken up by a small number of paying agencies with rather mixed results.

However, in the context of the CAP reform, political agreement has been reached on a provision in the new horizontal regulation for the financing, management and monitoring of the CAP, which requires the certification bodies to deliver an opinion on the legality and regularities of the transactions underlying the expenditure. This will entail a cradle to grave review and re-performance of a representative sample of transactions (a range of 60–170 transactions per fund depending on a number of factors including population size).

REPLY OF THE COMMISSION

The Commission therefore considers that the findings were addressed in the legislative initiatives it had already taken and which will be adopted at the beginning of 2014.

Box 8

ECA's findings will be taken into account in the certification team risk analysis.

51.

Whenever necessary, recommendations were made to the concerned certification bodies to enhance the quality of their work for the future. Findings and recommendations were also shared and made available to all certification bodies through an expert group meeting held in September 2012. Some certification bodies have a good understanding of the checks to be carried out and their purposes, whilst others do not sometimes go deep enough in their testing and stay at a rather formalistic level of assessment.

The Commission considers that most of the findings were minor and did not call into question the assurance that can be derived by the Commission in the AAR in this regard.

Common reply to paragraphs 52–54

As a rule, the Commission continues to review the work of the certification bodies via the analysis of the documents related to the financial clearance of accounts as well as audit missions to certification bodies. In the light of the lessons drawn from the voluntary application of the 'reinforcement of assurance procedure', the guidelines for the certification bodies are being reviewed to provide for the new responsibility of certification bodies to cover legality and regularity of expenditure.

Common reply to paragraphs 56–57

The Commission shares the Court's view that the sample currently checked by the certification bodies is too small. To this effect, the draft guidelines for the new certification bodies' tasks underpinning the opinion on legality and regularity set out a statistically valid model for performing the work and have been expanded as to the nature of the work to be carried out by the certification bodies to ensure a complete cradle to grave test of each transaction selected. Furthermore, it is intended that there will be closer supervision of the work of the certification bodies in the future.

58.

The Commission considers that its information system is suited for its intended purposes. In particular, the information from the Member States serves the needs of operational and audit services. The regulatory deadlines are those which will be maintained and observed.

59.

The Commission collects information on the results of the administrative and on-the-spot checks for claim year n which is paid to the farmers from December n until June $n+1$ and then reported to the Commission in July $n+1$. The AAR for financial year $n+1$ is drawn up in March of $n+2$.

The Commission notes that rather than use the statistics for monitoring Member States implementation, it uses them to check inter alia if the number of controls respects the regulatory requirements. A further purpose for the statistics is their use as a management tool for the Member States. They are a useful source of information on errors detected which in a given year should be corrected.

REPLY OF THE COMMISSION

60.

For direct payments, the payment period for claim year n is 15/10/ n to 30/06/ $n + 1$ (the payment period therefore falls within financial year $n+1$ which is the subject of the AAR for $n+1$ drawn up in March $n+2$.) The control statistics cannot therefore be sent until the claim year has been processed. While there are some payments made after this date, normally they are of a relatively low number and of a low financial impact. The draft legislation for the CAP reform proposes to align the payment period and deadline for the EAGF IACS to that of the EAFRD-IACS. One reason is to have a better link between claim year and financial execution. The 15 July deadline also enables the Member States to make any adjustments necessary before the following claim year.

61.

The deadlines for sending statistics on controls carried out are laid down by the relevant EU legislation. It is not always possible to obtain statistics updates in time to be included in the AAR.

62.

The Commission notes that the only statistics which can be considered to be 'not fully relevant' are those for EAFRD non-IACS for which the period in respect of which the statistics are reported does not fully correspond to the financial year of the AAR.

63.

The data referred to by the Court was sent electronically directly to the CATS data base in a pilot exercise in July 2013. All of the data for area direct aids was received in this manner and thus the Commission's scope for carrying out checks has been enhanced. However it is noted that the Member States formal financial declarations (including the 'x-tables' referred to by the Court) in respect of the transactions underpinning those statistics is sent in February $n+1$ — just 4 months after the end of the financial year in question. The timing of the annual declarations juxtaposed with the timing of the Director-General's annual activity report which has to be signed by end of March $n+1$, renders it impossible to carry out an in-depth reconciliation of the x-table data and that of the statistics sent the previous July.

Common reply to paragraphs 66–68

The Commission considers that it is not possible to systematically verify all the data presented in statistics during the conformity audits carried out in the Member States. DG Agriculture and Rural Development estimates that there are over 900 000 controls carried out by the Member States each year which underpin the control statistics and it would therefore be impossible to carry out the extent of verification demanded by the Court.

The audits are to cover the essential risks. While some work is done in this regard, it is not possible to pursue all issues found in the statistics. Checking of control statistics is not the core object of the conformity audits which focus, rather, on the functioning of the management and control systems. Furthermore, a large number of the audits for the year concerned are carried out after the AAR has been completed.

Depending on the delay given by the EU legislation and the audit procedure, it is not always possible to obtain statistics updates in time to be included in the AAR.

The wide range of elements which already have to be checked and audited by the Commission's auditors in DG Agriculture and Regional Development, renders it impossible, in the context of the available resources, to follow the Court's suggestion, without negatively affecting the core business. Nevertheless, reinforced attention to the statistical reports will underlie the work to be carried out by the certification bodies in the context of the opinion on legality and regularity.

69.

As already explained above, the purpose of the conformity clearance procedure is not primarily to check the Member States' control statistics. It is, rather, to check their management and control systems — and also, to follow up the Court's own DAS findings, and to correct risk for the EU budget.

70.

The Commission has always been aware that the Member States' estimate of irregular payment was not fully reliable. This is why other evidence is taken into consideration in order to support the annual statement of assurance of the Director-General of DG Agriculture and Rural Development.

71.

While the Commission agrees that the samples referred to by the Court were not sufficiently representative, the impact of the practices employed resulted in the residual error rate being overstated in most cases.

REPLY OF THE COMMISSION

72.

In the draft guideline for certification bodies for post-2013 a statistically valid model for building up the audit assurance has been put forward which paying agencies will also be advised to apply. The assurance is proposed to stem not only from the system verification results, but also from a more sound substantive approach (and where possible, a dual purpose test).

Common reply to paragraphs 73–78

The Court has criticised the Commission for using the data reported by Member States on the controls which they have carried out. As a consequence, the Commission has adapted its approach and then applied its own appreciation to this data in order to give an assessment of elements (e.g. wrong interpretation or application of the EU and/or national legislation, deficient controls) which may mean that the statistics do not present the full picture. This approach has been approved by the central services of the Commission and is considered to be an appropriate means of increasing the assurance which can be derived from the work carried out by the Member States under shared management.

According to the revised methodology, available information from ECA audits, certification body findings and Commission's own audits is integrated in an overall assessment of the situation at paying agency level and taken into account when aggregating at Member State and EU-27 level.

As indicated in the reply to the Court's Annual Report 2012, the new integrated approach, which was used for 2012 for decoupled direct aids only, will be further developed and extended as much as possible to the other CAP measures for the year 2013, and in particular to rural development. By doing so, the Commission will be in line with the Court's annual report for 2012 where it is recommended that: 'The Commission, in DG Agriculture and Rural Development's annual activity report, applies a similar approach for EAFRD as for decoupled area aid, where the Commission takes account of the results of its own conformity audits in assessing the error rate for each paying agency.'

78.

As already indicated in the reply to the annual report 2012, the new integrated approach which was used for 2012 for decoupled direct aids will be further developed and extended as much as possible to the other CAP measures for the year 2013.

By doing so, the Commission considers that it will apply the recommendation of the Court in its annual report for 2012 that: 'The Commission, in DG Agriculture and Rural Development's annual activity report, applies a similar approach for EAFRD as for decoupled area aid, where the Commission takes account of the results of its own conformity audits in assessing the error rate for each paying agency.'

Common reply to paragraphs 79–81

The Commission agrees that the level of error estimated by the two institutions cannot be compared.

It is noted that the residual error rate estimated by DG Agriculture and Rural Development in 2012 for EAGF, falls within the upper and lower error limits of the Court's estimate of error.

82.

The methodologies used by the two institutions to calculate the error rate are different. As the Commission needs information at the level of the individual paying agencies it has thus developed its own methodology for that purpose.

REPLY OF THE COMMISSION

83.

As the Court notes in paragraph 76, the adjustments made by the Commission for decoupled direct aids in its 2012 AAR resulted in a significant increase in the estimated residual error rate which the Commission considers as adequate to take account of the weaknesses in the Member States' control statistics.

The Commission notes that in its 2012 Court's annual report the Court recommended that this approach should be extended to all agriculture expenditure.

84.

In spite of reliability issues, the Commission considers that there is a value in the results of the more than 900 000 controls carried out by the Member States and that this work cannot simply be disregarded.

See also reply to paragraph 82.

87.

Since the Court may, as illustrated, apply a different assessment of the quantitative impact of errors to that determined by the Commission and notified to Member States, it will therefore always estimate a higher error rate. This does not mean that the Commission, which is the institution which is responsible for the implementation of the legislation, under the control of the European Court of Justice, should align its appreciation of the seriousness of an error to that of the Court.

In determining the amount of a correction, the Commission takes into account the principle of proportionality, the type and extent of irregularity and financial implications of the shortcomings found. Purely formalistic errors do not always endanger sound financial management.

88.

As indicated in its reply to the annual reports 2011 and 2012, the Commission is of the opinion that the respect of cross-compliance obligations does not constitute an eligibility criterion for CAP payments and, therefore, the controls of these requirements do not pertain to the legality and regularity of the underlying transactions. Cross-compliance is a mechanism by which farmers are penalised when they do not respect a series of rules which stem in general from other policies than the CAP and apply to all EU citizens independently of the CAP. Thus, the Commission considers that penalties imposed for violations of cross-compliance requirements should not be taken into account for the calculation of the error rates for the CAP.

REPLY OF THE COMMISSION

CONCLUSIONS AND RECOMMENDATIONS

90.

The Commission wishes to underline that its treatment of the Member States' statistics was significantly changed for the 2012 AAR. DG Agriculture and Rural Development had, up to 2011 used a 25 % safety margin in order to compensate for incompleteness of Member States' statistics but this approach had been criticised by the Court as being unreliable. Therefore, the Commission, in its 2012 AAR, undertook further evaluation of the statistics using information available to it from the certification bodies, the Commission's own audits and those of the Court. Where there was a divergence between the appreciation of those audit bodies and the level of error indicated from the Member States control statistics, an adjustment was applied to reflect what the Commission considered to be a more realistic level of error. Following the Court's recommendation in its 2012 annual report, this approach is being applied to other expenditure areas for 2013 AAR, and in particular, to rural development.

91.

When calculating the residual error rate, the Commission takes account of the potential impact of the weaknesses affecting the data reported by the Member States.

Recommendation 1

The Commission shares the opinion of the Court regarding the necessary improvement of the administrative and on the spot checks. The adequacy of those checks is verified/assessed during the conformity audits and recommendations on the improvements are provided to the Member States. The Commission also regularly informs Member States of its most common audit findings with a view to encouraging best practices.

The Commission implements this recommendation on a permanent basis as set out below and it has strengthened certain tools in the framework of the CAP reform.

Recommendation 1 — First indent

Where the Commission, and indeed the Court, detect weakness in the management and control systems in the Member States it uses all tools at its disposal in order to induce the Member States to remedy the situation. These include the conformity clearance procedure which results in financial corrections that not only protect the EU budget but also act as a powerful incentive to the Member States, the requirement for Member States to implement action plans addressing the deficiencies, interruption of payments used for the EAFRD. The new horizontal regulation on the control, financing and monitoring of the CAP, which comes into force in January 2014, includes a reinforced mechanism for suspension of payments for Member States who fail to implement a remedial action plan.

Recommendation 1 — Second and third indents

Area-based aid schemes in general and the LPIS in particular are subject to a continuous rolling out of audits in order to detect deficiencies. An ineffective LPIS is taken very seriously by the Commission and Member States are required to implement urgent changes which are closely monitored by the Commission via follow-up audits.

The Commission launched in 2012 an exercise with the Member States to identify the root causes of error for Rural Development. All Member States have been requested to set up action plans with a view to reducing the error rates. Improvement of the quality of Member States' controls is an integral part of the plan.

Common reply to paragraphs 92 and 93

The new horizontal regulation on the control, financing and monitoring of the CAP, which comes into force in January 2014, will require the certification bodies to deliver an opinion on the legality and regularity of transactions. This will entail re-performance of a representative sample of transactions already controlled by the paying agency and the validation (or not) of the resulting control statistics. It is expected that this additional work will result in an improvement in the quality of the paying agencies' statistics.

REPLY OF THE COMMISSION

Nevertheless, the Member States will be requested to carry out further verification of the data which is transmitted. An important step was taken in summer 2012 in respect of the control statistics for claim year 2012 for direct payments; the statistics were transmitted and input directly by the Member States into the Commission's CATS database and the initial assessments of the exercise were very positive. Following a full review, and any necessary adjustments the automatic transmission will be rolled out for other important CAP expenditure area.

Recommendation 2

The Commission will review the guidelines provided to Member States for the compilation of the statistics and in particular endeavour to harmonise the best practices between the different sectors. Guidelines will, in particular, be reviewed in the context of the automation of the statistics as well as in the context of the implementing rules for the CAP reform.

Recommendation 2 — Second paragraph

This part of the recommendation is addressed to the Member States. The Commission will continue to request Member States to improve their internal procedures for verification and compilation of the control data sent.

94.

The certification bodies carry out the verifications requested of them by the EU rules and this entails the checking of a rather limited number of transactions. The new horizontal regulation on the control, financing and monitoring of the CAP which will be adopted at the beginning of 2014 requires certification bodies to carry out significantly more checks to a greater depth in order to deliver an opinion on the legality and regularity of the expenditure.

Recommendation 3 — First paragraph

The COM considers the recommendation is addressed by the new horizontal regulation on the control, financing and monitoring of the CAP, in force from January 2014 and will require the certification bodies to deliver an opinion on the legality and regularity of transactions. This will entail re-performance of a representative sample of transactions already controlled by the paying agency and the validation (or not) of the resulting control statistics. Detailed guidelines are well advanced setting out how this work should be done.

Recommendation 3 — First indent

The guidelines propose the re-performance by the certification body of a representative sample of paying agencies checks.

Recommendation 3 — Second indent

Re-performance has already been proposed by the Commission for the claim year 2014.

Recommendation 3 — Third indent

It is expected that this additional work will result in an improvement in the quality of the paying agency statistics and coupled with the certification body opinion will produce improvements in the degree of assurance which can be drawn.

95.

See replies to paragraphs 58 to 62.

A balance has to be reached on the optimal time for receiving the data bearing in mind the heavy administrative burden its compilation places upon the Member States in order to avoid multiple updated transmissions.

96.

Desk reviews are limited in scope and are not intended to verify each individual data item. Such a work is not possible with proportionate effort (the statistics are made notably on the basis of some 900 000 on-the-spot checks carried out).

97.

See reply to paragraphs 66–69.

REPLY OF THE COMMISSION

Recommendation 4

The Commission emphasises that the various deadlines for sending the statistics have been established for a number of operational reasons and not purely for AAR reporting purposes. The Commission notes that a balance has to be reached on the optimal time for receiving the data bearing in mind the heavy administrative burden its compilation places upon the Member States in order to avoid multiple updated transmissions.

The timeliness of the reception of the statistics has been reviewed by the Commission. In 2012 it launched a pilot exercise for the automatic transmission of the control statistics for direct payments. That data was thus transmitted in July 2013 and the initial assessments of its completeness and quality are positive. The necessary adjustments will be made in order that all relevant statistics can be automated in this manner. This will limit the risk of reporting errors and ensure that a single methodology is used in all MS.

Furthermore, in the political agreement on the horizontal regulation for the control, financing and monitoring of the CAP, a new provision was introduced which enables the Commission to suspend payments to Member States in respect of those statistics which have not been sent within the specified deadlines.

The European legislator has made the clear choice to further improve the existing assurance building blocks in the context of the CAP reform and accordingly the Commission has no intention to carry out a full verification of the data underlying the control statistics which would also undermine the principle of shared management.

While some work is carried out on verifying control statistics this is not the primary purpose of the conformity clearance procedure. It is rather to check their management and control systems — and to follow up the Court's own DAS findings. The wide range of elements which have to already be checked and audited by the Commission's auditors in DG Agriculture and Rural Development within the resources available render it impossible to follow the Court's suggestion without negatively affecting its core business including impacting negatively on the level of financial corrections recovered in the protection of the EU's financial interests. Nevertheless, elements of the underlying data are checked during the Commission's audits in order to address doubts over certain elements and are also used to prepare the sample of transactions to be checked on the spot. Furthermore, reinforced attention to the statistical reports will underlie the work to be carried out by the certification bodies in the context of the opinion on legality and regularity.

Common reply to paragraphs 98–99

For the AAR 2012 for decoupled direct aids (representing 65 % of the CAP expenditure) the Commission adopted a new approach described in its reply to paragraph 69. The Commission's synthesis report states that DG Agriculture and Rural Development will extend the approach to other CAP expenditure areas for 2013 AAR. This extension is also recommended by the Court in its 2012 annual report.

The Commission does not claim that the adjustment it makes to the Member States' control statistics is statistically valid but considers it to be the best estimate in the absence of any other more reliable data.

The Commission's estimate of the residual error rate is not only based on the Member States' control statistics but also takes into account other relevant information based on professional judgement, notably the Commission's and the Court's own audit results and the findings of the certification bodies.

Recommendation 5 — Second paragraph

From claim year 2014 the certification bodies will have to systematically test, on representative samples for EAGF and for EAFRD, the reliability of the administrative and on-the-spot-controls performed by the paying agencies. The guidelines prepared by the Commission aim at ensuring that this work is conducted on a robust statistical methodology and that its results will reinforce assurance on the legality and regularity of the transactions and will provide a valid estimate of the residual error rate per Member State and per fund. DG Agriculture and Rural Development will increase its supervision of the certification bodies in order to get assurance on the reliability of their new work on legality and regularity. This would allow the Commission to progressively reduce the need for the individual adjustments it currently makes to the statistics provided by the Member States.

In the meantime and for the sake of a necessary stability, the Commission will apply the revised integrated approach used for decoupled direct payments in DG Agriculture and Rural Development 2012 AAR and extend it to other CAP measures, in particular, to rural development, as recommended by the Court in its 2012 annual report.

European Court of Auditors

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THE COURT AUDITED THE RELIABILITY OF MEMBER STATES' REPORTS ON THE RESULTS OF THEIR ADMINISTRATIVE AND ON-THE-SPOT CHECKS OF THE AGRICULTURAL EXPENDITURE AS WELL AS THE USE OF THIS INFORMATION BY THE COMMISSION. THE COURT CONCLUDES THAT THESE REPORTS ARE NOT RELIABLE DUE TO BOTH COMPILATION ERRORS AND THE SYSTEMS FOR ADMINISTRATIVE AND ON-THE-SPOT CHECKS BEING ONLY PARTIALLY EFFECTIVE IN DETECTING IRREGULAR EXPENDITURE. ADDITIONALLY, THE WORK OF THE CERTIFICATION BODIES DOES NOT PROVIDE SUFFICIENT ASSURANCE EITHER ON THE ADEQUACY OF THE ON-THE-SPOT CHECKS OR ON THE RELIABILITY OF THE STATISTICAL REPORTS. LASTLY, THE COURT DOES NOT CONSIDER THE COMMISSION'S ADJUSTMENTS OF THE ERROR RATES RESULTING FROM THE REPORTS TO BE STATISTICALLY VALID. THE REPORT CONTAINS RECOMMENDATIONS WHICH ARE AIMED AT IMPROVING THE RELIABILITY OF THE MEMBER STATES' REPORTS AS WELL AS THE STATISTICAL VALIDITY OF COMMISSION'S ESTIMATE OF IRREGULARITIES IN PAYMENTS AFTER ALL CHECKS HAVE BEEN CARRIED OUT.



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