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# Official Journal

of the European Communities

ISSN 0378-6986

C 57

Volume 40

24 February 1997

## Information and Notices

English edition

Notice No

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(Information)

## COURT OF AUDITORS

### SPECIAL REPORT No 4/96

on the accounts of the European Electoral unit set up by the Joint Common Foreign and Security Policy Action concerning the observation of the Palestinian elections, accompanied by the replies of the Commission

(97/C 57/01)

*(Observations pursuant to Article 188c (4) second paragraph of the EC Treaty)*

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## INTRODUCTION

## The EU Joint Action for the observation of the Palestinian elections

1. Under the terms of Article J.3 of the Treaty on European Union, concerning the Common Foreign and Security Policy (CFSP) of the Union, Council Decision of 19 April 1994 (94/276/CFSP)<sup>(1)</sup> provided for a joint action in support of the Middle East peace process. Article 5 of this Decision stated that at the request of the parties — the Palestinians and the Israelis — the European Union would implement a coordinated programme of assistance in preparing for and observing the elections in the Occupied Territories.

2. Precise arrangements for the observation programme were the subject of two separate Council Decisions:

(a) Decision 95/205/CFSP of 1 June 1995<sup>(2)</sup>, which, on the basis of Article J.11 (2) of the Treaty on European Union, provided for a maximum amount of ECU 10 million to be charged to the general budget of the European Communities;

(b) Decision 95/403/CFSP of 25 September 1995<sup>(3)</sup>, which established a European Union Electoral Unit (EUEU) in the Occupied Territories and set up detailed administrative and financial procedures, concerning the observation of the elections and the coordination of the international operation for observing the elections.

3. In accordance with the requirements of Article J.5 of the Treaty on European Union, and as set out in the Council Decision of 25 September 1995, the Council Presidency, assisted by an advisory coordination group of Member States representatives, and in association with the Commission, were responsible for carrying out the action. In practice, it was the *ad hoc* group on the Middle East Peace Process which acted as the advisory group, defining the guidelines and taking the measures required for the implementation of the observation programme.

4. The role of the Commission mainly consisted of dealing directly with the financing and logistic components of the programme. For this purpose, a special task force was set up.

5. On 28 September 1995, Israel and the Palestinian Liberation Organization (PLO) signed in Washington the Interim Agreement and designated the European Union to act as the coordinator for the activity of observer delegations<sup>(4)</sup>.

6. The date of the elections was subject to continuous political uncertainty and negotiations. On 13 December 1995, after several postponements, it was formally announced that the elections would take place on 20 January 1996. Uncertainty over the timing of the elections was a major constraint on the preparation and implementation of the observation programme.

7. Council Decision 95/403/CFSP sets out the objectives, composition, operation and organisation of the European Electoral Unit (see Annex 1). The Unit was staffed by a total of 20 people in the Central Office and 12 people in the four Regional Offices — headed by a Regional Coordinator. The Unit was responsible for the organization of the European observation mission comprising 285 observers, and for coordinating the international observation operations, which comprised 390 non-EU observers from 18 countries, international organizations and NGO's delegations.

## The logistic support

8. It was initially envisaged by the Commission that the task force referred to in paragraph 4 would be set up with experts in logistics in order to provide the EUEU with logistic support. This solution, however, proved to be too expensive. The Action Plan examined by the MED-Committee<sup>(5)</sup> in June 1995 proposed that the European Agency for Cooperation (commonly known as AEC<sup>(6)</sup>) be contracted by the Commission to manage the budget of the Unit as it did for the South African elections. AEC, however, declined the invitation because it did not have the capacity to carry out the task, given the short time available and its other commitments, and because the funds were not available immediately for the preparatory work (see paragraph 19). The Commission decided, therefore, to contract the administrative and logistic support with an external organization.

9. In July 1995 the Commission launched a procedure to select an organization for this purpose and on 28 September 1995 a services contract was signed between the Commission and the lowest tenderer for the fees (i.e. Crown Agents) for a total amount of ECU 10 million (ECU 505 684 for the fees and ECU 9 494 316 for the project costs).

10. The contractor was responsible — under the overall supervision of the Head and of the Administration and Finance Adviser of the EUEU — for

<sup>(1)</sup> OJ No L 119, 7. 5. 1994.

<sup>(2)</sup> OJ No L 130, 14. 6. 1995.

<sup>(3)</sup> OJ No L 238, 6. 10. 1995.

<sup>(4)</sup> Interim Agreement; Washington 28 September 1995; Article V, Annex II.

<sup>(5)</sup> The Committee provided for in Article 6 of Council Regulation 1762/92 of 29 June 1992 (OJ No L 181, 1. 7. 1992).

<sup>(6)</sup> AEC is a non-profit making organization (asbl) established under Belgian law by the Commission to provide services to the Commission, notably the recruitment of experts and technical assistants for Commission programmes.

providing logistic and administrative support and for reporting and drawing up the accounts of the EUEU. It established a Logistic Support Group (LSG) in the Occupied Territories which concluded contracts and carried out payments on behalf of the EUEU. The LSG was responsible in particular for procurement of goods and equipment, rental of office accommodation and vehicles, arranging hotel accommodation and international travel, deployment and recovery of observers, hiring local staff, and banking arrangements and management of funds.

11. From 15 October to 3 November 1995, the contractor carried out an inception mission to the Occupied Territories in order to put in place the basic infrastructure for the EUEU and to revise the budget. By 1 December 1995, EUEU Central and Regional Offices were operational. The 285 EU observers arrived on the spot in three waves: 60 long-term by 9 November 1995, 130 mid-term by 2 January 1996, and 95 short-term by 15 January 1996. By 15 February 1996, EUEU personnel and observers returned to their countries of origin and the Central and Regional Offices were closed down. The final project report and accounts were submitted by the contractor to the Commission on 25 November 1996.

#### Budget and expenditure

12. The EUEU's operations were financed with appropriations from budget line B8-103<sup>(1)</sup>. These appropriations were to cover all the expenditure incurred by the participation of the EU observers, excluding the cost of their journeys to and from the Occupied Territories and their insurance costs, which were to be borne by the Member States<sup>(2)</sup>.

13. *Annex 2* sets out a breakdown of the EUEU's actual expenditure as compared with the original budget. Expenditure amounted to ECU 4 628 918; ECU 5 371 081 less than the initial forecast. This large difference stems, on the one hand, from the reduction in the period for the elections (from four months to three) and, on the other hand, from overestimated budget requirements which were, to a large extent, the consequence of inaccurate preliminary field research (see paragraphs 22-23).

14. The main expenditure items were the payment of daily allowances to the observers, followed by fees and daily allowances to the EUEU personnel and the staff of the LSG. Apart from these personnel costs, vehicle hire

and running costs, and the cost of communication were the largest components of logistic support costs.

#### THE COURT'S AUDIT

15. Pursuant to the Treaty<sup>(3)</sup> and in response to the invitation of the Council contained in Article 3 of the Council Decision 95/403/CFSP, the Court of Auditors carried out an audit of the accounts of the EUEU and of the financial management of the operation by the Commission. This included an on-the-spot mission to the EUEU in December 1995 to examine the financial and management procedures that had been established.

16. The Court examined whether the expenditure had been administered in accordance with the Community's budgetary rules and whether the accounts of the EUEU were fairly and regularly drawn up.

17. The EUEU accounts only concern the expenditure charged to the general budget of the European Union and does not include expenses paid by the Member States for the deployment of the observers (see paragraph 12). Those expenses (which were provided bilaterally by the Member States) were not examined by the Court.

#### OBSERVATIONS ON THE ARRANGEMENTS FOR FUNDING THE PROGRAMME

18. When the joint action was set up, the budgetary authorities introduced a number of conditions on its funding linked to the decisions on the elections:

- (a) Council Decision 95/205/CFSP provided that the contribution and the practical arrangements would be the subject of a later separate Council Decision, once the agreement on elections had been reached between Israel and the PLO;
- (b) when the Budget Committee of the Parliament approved<sup>(4)</sup> the transfer of appropriations from line B0-4041<sup>(5)</sup> to line B8-103, it included the condition that an agreement be reached on the actual date of elections before the funds were to be transferred. This date was one of the major unknown factors of the peace process and was only revealed less than six weeks before the elections took place. In the event, the conditions of the Budget Committee were not followed and the transfer was entered in the accounts on 28 July 1995.

<sup>(3)</sup> Article 188 C of the Treaty establishing the European Community.

<sup>(4)</sup> European Parliament, Budget Committee; meeting of 18 July 1995. PE/III/PV/95-14. See also letter of the President of the Parliament addressed to the President of the Commission dated 8 September 1995 (reference 027075).

<sup>(5)</sup> B0-40 Provisions; Article 41. Other joint actions of the European Union for the CFSP.

<sup>(1)</sup> Other joint actions of the European Union for the CFSP.

<sup>(2)</sup> Article 3 of Council Decision 95/403/CFSP.

19. While it was understandable that, in light of the uncertainties concerning the timing of the elections, conditions should be placed on the funding, those adopted meant that the ECU 10 million allocated to the operation were not available for preparatory activities. Indeed, the Council itself became concerned that delays in concluding the Interim Agreement were blocking the adoption of its Decision on the practical arrangements, which had been under discussion since April 1995, and that this was having adverse consequences for the EU's preparations for the observation mission. It finally decided on 25 September 1995 to proceed in advance of the Interim Agreement by adopting Council Decision 95/403/CFSP setting up practical arrangements, but as this was only three days before the Agreement was signed in Washington on 28 September 1995 it did not help to expedite practical preparations.

20. The Commission considered that the conditions placed by the Council and Parliament on the use of the appropriations meant that it could not commit any part of the ECU 10 million until the Interim Agreement had been signed. This affected adversely the Commission's preparations and the financial management of the programme (see paragraphs 26-27).

21. An illustrative example of these adverse consequences is the fact that the Commission was unable to cover the expenditure incurred by the Head of the EUEU on the execution of his duties, from his appointment by the Council in July 1995 to the signature of the services contract in September 1995. The expenditure, which amounted to ECU 14 386, was pre-financed directly by the Swedish Government and finally reimbursed from the project funds in May 1996. In this context it should be noted that similar problems arose in the joint action for the EU Administration of Mostar<sup>(1)</sup>.

#### OBSERVATIONS CONCERNING COMMISSION MANAGEMENT

##### Preparation for the logistic support

22. The first actions taken by the Commission for the observation programme go back to December 1994, when project 94/312 'Preparation for EU Electoral Observation of the Middle East Peace Process' was launched (see paragraph 26(a)). One of the objectives of the project was to carry out initial preparation for the logistic support of an eventual EUEU: estimating costs, identifying local availability of suppliers, equipment and materials, and so on.

<sup>(1)</sup> See paragraph (41), Special Report of the Court of Auditors No 2/96 concerning the Accounts of the Administrator and the EU Administration, Mostar (EUAM) (OJ No C 287, 30. 9. 1996).

23. However, in the event, this project did not allow the Commission to identify quickly and in sufficient detail the needs of the logistic support to the observation programme. This adversely affected the procedure followed for awarding the services contract.

##### Procedure followed for awarding the logistic support services contract

24. The services contract for providing the logistic support to the EUEU was irregularly awarded; the procedure applied did not comply with any of the basic requirements specified by the Financial Regulation (Title IV)<sup>(2)</sup> and by the implementing rules (Title XV)<sup>(3)</sup>, and did not follow the normal procedures used to ensure objective and transparent contract award.

25. Although, as is shown in paragraphs 39 and 42, the successful organization performed well, under these circumstances it is not possible to guarantee that fair and open competition was ensured and that the Community obtained the best possible technical and financial offer.

##### Financial and budgetary management

26. In accordance with the Council Decisions of 19 April 1994 and 1 June 1995, all expenditure concerning the observation of the Palestinian elections should have been financed from the CFSP section of the budget (Subsection B8). However, inherent parts of the observation programme were committed under different budget lines:

(a) in December 1994, project 94/312 (see paragraph 22) 'Preparation for EU Electoral Observation of the Middle East Peace Process' (ECU 190 000) was approved and financed from budget line B7—52, European initiative for democracy and the protection of human rights;

(b) on 28 September 1995, the same date as the contract for the logistic support to the EUEU was signed, the services contract concerning project OT/93E/02 'Palestinian elections. Seminar of the European Union Electoral Unit in Madrid' (ECU 73 880) was also signed. Although the seminar was an integral part of the establishment of the EUEU, at the time it was being prepared the Commission was still not sure when funds from the ECU 10 million would be

<sup>(2)</sup> Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities; provisional combined text, European Commission OJ No C 80, 25. 3. 1991.

<sup>(3)</sup> Commission Regulation (Euratom, ECSC, EC) No 3418/93 of 9 December 1993 laying down detailed rules for the implementation of certain provisions of the Financial Regulation of 21 December 1977 (OJ No L 315, 16. 12. 1993).

available. The seminar was, therefore, financed separately from B 7—7 1.1, Community operations connected with the Israel/PLO peace agreement.

27. This situation illustrates the complex and non-transparent budgetary arrangements for the financing of the programmes in the Middle East. It was a direct consequence of the conditions placed by the Council and the Parliament on the use of CFSP funds<sup>(1)</sup> which meant that funds were not available on the CFSP line (B8—103) when they were needed for these operations.

28. Amounts advanced to the contractor for fees and project costs (ECU 6 200 000) were recorded in the Commission's accounting system as definitive expenditure rather than as 'advance/payment on account' type expenditure. The Community's accounts therefore incorrectly present the total amount of advance payments on account made during the year and outstanding at the end of the year. More importantly, the lack of correct management information may well lead to weaknesses in the control and clearance of such advances/payments on account. The Court has made similar observations on several occasions in the past, most recently reiterated in the Special Report in support of the Statement of Assurance concerning the financial year 1994<sup>(2)</sup>.

29. The scheme for payments of fees to the contractor involving an advance and stage payments was unnecessarily complicated and ill-suited to a short-term operation of this kind. In the event, it was not actually applied: after the initial advance, the contractor did not claim for subsequent payments but charged the fees directly to the project costs.

30. The Commission did not request from the contractor a security as a way of guarantee of the performance of the contract. This is a contravention of Article 64 (a) of the Financial Regulation and of Article 108 of the implementing rules, which fix ECU 300 000 as the threshold for the obligatory requirement of security; no exception is provided for the application of this rule. To ensure that Community funds were exposed to no risks, the provision of such security was necessary.

31. The Financial Controller of the Commission did not react to these weaknesses in financial management. It

<sup>(1)</sup> This point is further developed in the Court of Auditors *Annual Report concerning the financial year 1995*; (OJ No C 340, 12. 11. 96, paragraphs 11.15 to 11.18).

<sup>(2)</sup> Special report in support of the Statement of Assurance concerning activities financed from the general budget for the financial year 1994 (OJ No C 352, 30. 12. 1995; paragraphs 3.5 to 3.14).

should, however, be pointed out that by the time the file was passed to his service by the Authorizing Officer, the matter was urgent. The Financial Controller, therefore, was given very little time to verify the details of the operation: the processing of the commitment proposal and the payment order for the first advance, involving checking the services contract and the invoice, was completed within one day.

#### Monitoring the logistic support services contract

32. The Commission paid insufficient attention to the monitoring of the implementation of the logistic support services contract: it did not provide adequate feedback to the contractor's queries and there is no evidence that progress reports were analysed. Furthermore, the clauses in the contract specifying that the Commission's prior approval was needed for certain changes were not properly applied<sup>(3)</sup>. Thus:

- (a) out of five requests submitted by the contractor for modifications to the personnel of the LSG, only three were authorized in writing, as required by Article 15 of the contract;
- (b) there is no evidence that modifications of the EUEU budget's headings over ECU 150 000 were assessed and formally approved by the Commission, as required by Article 6 of the contract. These modifications were introduced by the contractor in the reports submitted, with no response from the Commission. For example, in the inception report of November 1995, the EUEU's budget was substantially revised: total project cost was reduced by ECU 2 800 000 and seven headings of the budget were modified by amounts exceeding the ceiling imposed by the contract. Also in the second progress report, submitted in February 1996, the communications heading dropped by ECU 416 130. There is no evidence of the formal approval of these modifications by the Commission.

33. In January 1996, following its examination on the spot of the EUEU's accounting procedures, the Court drew the attention of the Commission to inadequacies in the provisions of the services contract for exchange rate conversions and the supporting documentation required for air travel. In both cases the requirements of the contract were impractical and inappropriate. The Commission however only made a partial modification to the exchange rate provisions. No change was made to the requirements for supporting documents for air travel. As a result, although the procedures followed by the

<sup>(3)</sup> Article 18 of the services contract disallows any kind of oral understanding.

contractor were reasonable, the formal provisions of the contract were not followed.

#### Organization of the internal services

34. The shortcomings in the management by the Commission of the operation were partly a result of the situation described in paragraphs 18 to 20, but were to a great extent a consequence of inadequate organization and staff allocated to the operation.

35. The task force for the Palestinian elections was not properly established: its composition, responsibilities, basic organization and reporting were not adequately defined<sup>(1)</sup>; it was dissolved *de facto* before the project was completed.

36. Major functions within the task force were carried out by an external expert engaged on a services contract to provide technical assistance to the Desk Officer for the Occupied Territories. He played a core role in the implementation of the programme, and participated in the award and in the conclusion and monitoring of the logistic support services contract. The expert signed on behalf of the Commission authorizations for specific actions provided in the services contract. In so doing, he exercised functions which should have remained the responsibility of statutory Commission personnel.

37. In addition to problems related to the degree of responsibility that can regularly be exercised by contract personnel, the Court has already pointed out elsewhere<sup>(2)</sup> that the extensive recruitment of external experts to work in the Commission services has a series of drawbacks, in particular loss of continuity and inadequate knowledge of Community rules and procedures. The weaknesses and irregularities in procedures identified by the Court in this case reflect this situation.

38. Further to the above, a person previously involved (as an external consultant) to the project 'Preparation for EU Electoral Observation of the Middle East Peace Process' (see paragraph 22) participated during two months without a contract in the work carried out by the Commission's task force. The same person was also involved in the organization of the Madrid Seminar (see paragraph 26(b)) again without a contract.

<sup>(1)</sup> The only document concerning the setting up of the task force was a draft proposal linked to a project that was never approved. Although the project was cancelled, the task force proposal was not redefined.

<sup>(2)</sup> Paragraph 15.60 of the Annual Report concerning the financial year 1991 (OJ No C 330, 15. 12. 1992) and paragraph 10.70 of the Annual Report concerning the financial year 1994 (OJ No C 303, 14. 11. 1995).

#### OBSERVATIONS ON THE ORGANIZATION OF THE LOGISTIC SUPPORT

39. The Commission's decision to engage an external organization to provide the logistic support to the EUEU permitted the efficient deployment of a group of logistical experts. The contractor ensured sound financial management of the programme and supplied the required services effectively.

40. There are, however, a number of lessons to be learnt for future operations. In setting these out, the Court endorses the opinion of the Deputy Head of the EUEU and the LSG management<sup>(3)</sup>:

- (a) the EUEU structure and job description for Advisers<sup>(4)</sup> did not take into account that logistic support was to be provided by a contractor. The technical support branch included an Adviser on Administration and Finance, (responsible for budget administration, procurement, contracting, and accounting) and an Adviser on Logistics and Communication (involved in the deployment of observers and in the procurement of communication equipment and observers supplies). Most of their tasks overlapped with those carried out by the LSG; as a result, the role of these Advisers — particularly that of the Administrative and Finance Adviser — was weak and ill-defined;
- (b) regional coordinators played a relevant role in finance and administration (management of petty cash, petrol accounts, attendance control and determination of daily allowances and salaries, etc.). To ensure more efficient carrying out of these tasks, coordinators should be given appropriate instruction in advance and should be directly linked to the LSG.

#### CONCLUSIONS

41. The Court is of the opinion that the accounts and financial statements of the EUEU (attached in *Annexes 2 and 3*) are fairly and regularly presented and have been drawn up in accordance with the accounting principles provided for in the services contract for the logistic support and with generally accepted accounting practice. They give a true and fair view of the financial results of the EUEU activities.

<sup>(3)</sup> Reference final report of contractor and letter of Deputy Head of the EUEU (13 March 1996).

<sup>(4)</sup> MED-Committee; doc. meeting 120/95 of 14 June 1995.



42. Logistic support provided to the EUEU was satisfactory and contributed to the achievement of the aims of the CFSP Joint Action.

43. Although the global result of the operation was a success, there were serious irregularities in the procedure followed by the Commission for awarding the logistic support services contract. Time or other pressures do not justify non-compliance with principles and procedures of the Financial Regulation necessary for sound financial management. Procedures should always be documented and, when they diverge from normal practice, full justification should be provided in advance and approved at adequate levels.

44. To overcome general shortcomings identified in the management of the programme, the Commission should:

(a) reflect in its contracts the particular situation of each operation. It should seek to avoid introducing standard rules when they are inappropriate or not feasible. This refers especially to supporting

documentation, conversion rules and payment methods;

(b) ensure that staff in charge is experienced and well trained on financial and administrative procedures;

(c) not recruit external experts for administrative posts where they are called upon to exercise responsibility which should be the preserve of statutory employees.

45. When a joint action is launched, the budgetary authorities should ensure that the decisions taken allow for the need to have enough financial resources available in time to permit efficient implementation. This should include preliminary work that is required before a joint action is decided upon, and the subsequent preparations that are needed to set up the operation itself.

46. Structures for the implementation of joint actions should take into consideration how and who is going to provide the logistic support. The role and responsibilities of the logistic support group within the unit in charge of carrying out the action should be set out clearly.

This report was adopted by the Court of Auditors in Luxembourg at its meeting of 5 December 1996.

*For the Court of Auditors*  
Bernhard FRIEDMANN  
*President*

## ANNEX 1

## Organizational chart

## EUROPEAN UNION ELECTORAL UNIT

Head of Electoral Unit

Deputy

## CENTRAL OFFICE

Operational branch	Technical support branch	International observation coordination
— Legal adviser	— Logistics and communication adviser	— Coordinators
— Election organization adviser	— Personnel, training and liaison adviser	
— Media adviser	— Security advisers and Spokesman	
— Voter education adviser	— Press Officer	
— Survey and analysis adviser	— Administration and finance adviser	
— Computer adviser		

## REGIONAL OFFICES

Gaza	Jericho	Bethlehem	Nablus
— Regional coordinator	— Regional coordinator	— Regional coordinator	— Regional coordinator
— Deputy	— Deputy	— Deputy	— Deputy
— Security adviser	— Security adviser	— Security adviser	— Security adviser

Source: The Palestinian elections in the West Bank, East Jerusalem and the Gaza Strip, 20 January 1996 — Final Report EUEU, 10 February 1996.

## ANNEX 2

## EUROPEAN UNION ELECTORAL UNIT — FINAL ACCOUNTS

*(in ecus)*

	Actual Expenditure	Total Budget	Budget Remaining
01 Logistics Support Group	515 067,00	505 684,00	-9 383,00
02 European Union Electoral Unit	1 377 610,96	2 919 500,00	1 541 889,04
03 International Observers	1 556 241,92	3 158 800,00	1 602 558,08
04 Head Office — Ramallah	273 471,71	487 428,00	213 956,29
05 Regional office — Gaza	49 924,20	133 704,00	83 779,80
06 Regional office — Bethlehem	17 542,66	133 704,00	116 161,34
07 Regional office — Nablus	26 061,82	133 704,00	107 642,18
08 Regional office — Jericho	11 576,83	133 704,00	122 127,17
09 Transport	417 589,07	964 222,00	546 632,93
10 Locally Engaged Staff	210 768,29	428 660,00	217 891,71
11 Other	173 064,04	0,00	-173 064,04
	4 628 918,50	8 999 110,00	4 370 191,50
Contingency	0,00	1 000 890,00	1 000 890,00
Total	4 628 918,50	10 000 000,00	5 371 081,50

Source: Project Final Accounts; 25 November 1996.

## ANNEX 3

## EUROPEAN UNION ELECTORAL UNIT — BALANCE SHEET AS AT 25 NOVEMBER 1996

ASSETS		<i>(in ecus)</i>	
A./B.	Cash at bank		
A1	CAFSL current account 32477401 — Project Balance	1 569 321,70	
	CAFSL current account 32477401 — Bank Interest	67 525,29	
		<u>1 636 846,99</u>	
A2	CAFSL current account 32477402	0,00	
B1	Palestine subsistence account 608187—8/510	0,00	
B2	Palestine project account 608188—6/510	0,00	
		<u>1 636 846,99</u>	
C.	Petty cash	0,00	
D.	Debtors	0,00	
LIABILITIES			
E.	Creditors		
E2	Advance received from Crown Agents (LSG)	0,00	
E3	Bank interest — refundable to European Commission	- 67 525,29	
		<u>- 67 525,29</u>	
		<u>1 569 321,70</u>	
Represented by:			
E1	Funding European Commission	6 198 240,20	
	Project expenditure	- 4 628 918,50	
		<u>1 569 321,70</u>	

Source: Project Accounts; 25 November 1996

## REPLIES OF THE COMMISSION

### INTRODUCTION

1—14. The Commission accepts in large part the comments of the Court. However, the Commission would emphasize the importance of the constraints referred to in the Court's report, in particular the failure of the Budgetary Authority to allow for sufficient financial resources to be made available in time to permit efficient implementation.

The Council Decision governing the operation contained formal conditions which created considerable difficulties for effective and timely preparation for such a complex operation, particularly given that the late announcement of the final date for the elections meant that the operation had to be conducted in an especially short timespan. Such time constraints necessitated very swift decisions on how to implement the operation, including the choice of organization to assist with logistics. It is against this background that the Court's comments should be taken into account.

### OBSERVATIONS ON THE ARRANGEMENTS FOR FUNDING THE PROGRAMME

18 (b) Despite the condition fixed by the President of Parliament, the ECU 10 million were in fact transferred from the reserve to Article B8—103 on 28 July 1996. Nevertheless, the Commission felt obliged to choose between two options: follow those instructions and jeopardize the implementation and smooth operation of the project; or go for sound financial management and efficient preparation of the project by making the transfer as soon as it was approved to ensure that the Community contribution was made available as soon as possible and a sensitive matter dealt with as best it could. The Court's favourable conclusions on the satisfactory implementation of the project would seem to prove that the Commission was justified in its decision.

21. The Commission accepts that the procedure followed by the Swedish Government advancing payment to the Head of the EUEU, an advance to be eventually reimbursed out of project funds, was not ideal. This was an unfortunate consequence of the condition laid down by Council Decision 95/205/CFSP; it was imperative to employ the Head of the Electoral Unit well in advance of an agreement on elections, to allow proper preparation to get under way.

### OBSERVATIONS CONCERNING COMMISSION MANAGEMENT

#### Preparation for the logistic support

22—23. Although the Court is right to say that, in the event, the survey could not be used as a basis for drafting the terms of reference for the logistical support operation, the fact-finding carried out by the project was instrumental in the successful global result of the operation (see 43).

#### Procedure followed for awarding the logistic support services contract

24—25. The Commission fully accepts that it did not follow satisfactory procedures.

#### Financial and budgetary management

26. The size and significance of the Commission electoral observation mission meant that preliminary fact-finding work was crucial to the success of the mission. The conditions placed by the Council and Parliament on the use of appropriations meant that none of the ECU 10 million set aside (on CFSP line B8—103) for the elections could be used prior to the signing of the Interim Agreement. It was therefore necessary to finance the initial stages of the election programme, before the Interim Agreement had been signed, from other budget lines.

28. The Commission has taken note of the situation. The necessary instructions to authorizing officers to ensure that there is no repetition of this state of affairs will be reiterated.

30—31. The Commission did not request a security from the contractor in the form of a bank guarantee because it was felt that as the Crown Agents are wholly owned by the British Government, there was no need for such a guarantee. However, the Commission accepts that this was a breach of the regulation.

#### Monitoring the logistic support services contract

32. It is true that a lack of human resources at the Commission prevented a greater level of operational analysis than was possible within the time constraints of the operation. Under extremely difficult operational circumstances, the Commission did its utmost to monitor the Crown Agents' activities, answer their queries and offer feedback, although pressure of time prevented the

Commission from pursuing often lengthy procedures to secure the necessary endorsements to riders covering budgetary changes.

33. The Commission decided that as it was the Crown Agents who, as contractor, carried out the task of ordering tickets, they should be permitted to do so according to their own procedures, which the Commission recognized as, and as the Court agrees were, 'reasonable'. This change was, however, not formalized in a revised contract. However, as the Court also acknowledges at paragraph 40, the contractor did ensure 'sound financial management of the programme and supplied the required services effectively'.

#### Organization of the internal services

34—37. The very nature of the task force was to be flexible and, within the context of a fluid political situation, to meet circumstances as they arose. Nevertheless, the task force did work within the confines of a firm internal decision-making hierarchy which included the 'external expert'.

38. The difficulties referred to were a consequence of the non-availability of funds in good time.

#### OBSERVATIONS ON THE ORGANIZATION OF THE LOGISTIC SUPPORT

39—40. The Commission will take into account the comments of the Court of Auditors in its on-going policy planning work for electoral observation operations.

#### CONCLUSIONS

41—46. As a concluding remark, the Commission would agree that in large part the Court's criticisms are correct. Nevertheless the Commission wishes to emphasize the flexibility of approach that it found itself obliged to adopt in order to keep the operation on track and on time.

In the event against significant procedural, time and staff resource constraints — the Commission managed to mount an internationally-recognized electoral observation operation which helped legitimize the first national Palestinian elections in history. The company selected by the Commission to manage the support operation drew up proper accounts and financial statements and as the Court was able to conclude 'Logistic support provided to the EUEU was satisfactory and contributed to the achievement of the aims of the CFSP Joint Action'.

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