

THE ROLE OF THE EUROPEAN COURT OF AUDITORS IN
IDENTIFYING ERRORS RELATED TO THE EXPENDITURES OF
THE EUROPEAN UNION

1. The mission of the European Court of Auditors
2. Errors found out by the Court
3. The recommendations of the Court concerning improvement of monitoring and auditing

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Abstract

The mission of the European Court of Auditors is to ensure the independent audit on the way of creating and using the European Union funds and of thusly evaluating the way in which the European institutions fulfil their duties, aiming both at improving the management of the financial resources and informing the European Union's citizens regarding the use of the public funds by the authorities bearing management responsibilities.

The Court of Audits does not hold jurisdictional prerogatives. In the case where the auditors find out irregularities, including frauds, the competent community bodies are motivationally notified, the European Anti-Fraud Office.

Key words: independent audit, management of financial resources, public funds, auditors.

JEL Classification: G28, G38.

1. The mission of the European Court of Audits

The European Court of Auditors is one of the five institutions of the European Union. Its mission is to independently audit the European Union's budget and evaluate the way in which the EU institutions meet their role.

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The Court was founded in 1975 by the Budgetary Treaty and is acknowledged as one of the European institutions by the Treaty of Maastricht (Balan, E., 2007).

It is known that the main role of the Court of Auditors is that of proving the EU budget justly implemented, thusly justifying the efficiency and transparency of the activities of the Union.

Due to the importance shown by the budget, the audit the Court performs is permanent, as it has the right of accessing any information necessary to accomplish its tasks. For this to happen, the Court is always in touch with other institutions, but independent of them, in order to ensure its objectivity.

The Court of Auditors annually draws up a financial report of the previous year, which is handed over to the budgetary authorities, respectively the Council and European Parliament. The Court's opinion is also important before adopting the financial regulations (Diaconu, N., 2001).

The European Court of Auditors does not have the legal power of making decisions and actine against other institutions, but in the case where it finds out fraud actions or irregularities, the Court has the obligation of notifying the institution competent on this matter.

The report of the Court concerning the EU budget and the one of the European Development Funds (EDF) contain the audit opinions issued annually and referred to as insurance declarations. The EC Treaty stipulates the responsibility of the Court of Auditors of thusly supplying statements regarding accounts and legality and regularity of the operations related to them. (Report, 2007). This insurance statement is generally known depending on the acronym in French, DAS ("Déclaration d'Assurance"). The main aim of DAS is to supply an audit opinion to the interested parties – especially to the Council and European Parliament, as well as to all EU's citizens – and an opinion establishing whether the incomes and expenditures of the EU are completely and justly recorded in accounts and also whether they have been gathered or spent according to all contractual and legal liabilities. The Court presents a global assessment of the legality and regularity of the budgetary expenditure operations as a whole, but also evaluations aiming at the various sections of the budget made up of the corresponding groups of policy domains.

2. Errors discovered by the Court (Report, 2007)

In the Court's opinion, an error represents a deviation from the obligations stipulated in the applicable regulations. This deviation is discovered by the auditor. Certain errors are quantifiable, meaning they have a direct and measurable financial impact over the amount paid from the EU's budget, such as over-declaring the lands or animal strength or requests of financial support from the EU budget for the types of expenditures which are not eligible. Other errors have a non-quantifiable impact over the payments, such as the lack of the performance bond.

In order to determine the nature of the opinion it will state, the Court compares the error estimated index to what is deemed to be a tolerable limit – or significance threshold. When lacking a political decision regarding what should create a tolerable level of error, more precisely on the level of illegality and/or irregularity which may be accepted. The Court applies a limit of 2% of the population subject to the audit. When the index is calculated, the Court includes only the quantifiable errors. Therefore, the estimated error index shows the percentage of funds which should not have been paid. The Court also presents the mixed frequency of the quantifiable errors and of the non-quantifiable ones discovered within the samples of tested operations.

The errors may be generated by incorrectly implementing or wrongly interpreting the often complex norms regulating the expenditure systems of the European Union. It is deemed it is a matter of fraud only in the cases where the request for EU funds is intentionally erroneous. In the case where there are reasons for the Court to suspect the performance of certain fraudulent activities, they shall be reported to the European Anti-Fraud Office (EAO), which has the liability of conducting investigations in such cases. During the past four years, the average number of cases the Court has reported after the performed audits was of 3.5

In the case of three domains, the administrative Expenditures and other expenses, economical and financial Businesses and Incomes, the results of the tests performed by the Court onto representative operation samples indicate a lower error estimated level.

In the domain where the most important expenditures of the Union are registered – Agriculture and natural resources – the global estimated error index continues to be significant. In respect to the complexity of the norms regulating this domain, the rural development determines an excessively large part of this error index. In the case of the expenditures within the European Agricultural Guarantee Fund (EAGF), the Court

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estimates the value of the error index to be at least below the significance threshold.

As in the previous years, the cohesion policies representing over a third of the budget, make up the domain mostly affected by errors. According to the estimation accomplished by the Court relying on the examined samples, at least 11% of the value of the reimbursed expenditures statements should not have been returned. The measures taken in order to reduce the error level in this domain have not yet had assigned the time necessary for becoming efficient.

For the 2007 exercise, the Court states opinions without reserves concerning the incomes, engagements and payments related to the domains, Economical and Financial Businesses and Administrative Expenditures and other expenses.

The conclusion of the Court is that the operations in these domains do not carry significant errors. The surveillance and control systems are implemented in such a way that they ensure an adequate management of the risks of illegality and/or irregularity.

The Court states contrary opinions for the domains below: Agriculture and natural resources, Cohesion, Research, energy and transport, External Support, development and enlargement and Education and citizenship. The conclusion of the Court is that in these domains, the payments are still significantly affected by errors, although to various degrees. The surveillance and control systems implemented in these domains are deemed to be only partially efficient. The Commission, the member-states and other beneficiary countries must keep on making efforts for improving the management of risks.

The opinions stated for the exercise 2007 concerning the legality and regularity of the operations subjacent to the accounts of the EU budget are similar to those stated for the previous exercises.

In compliance with the data of the 2007 Report, the Cohesion is the domain mostly affected by error.

The EU expenditures in the domain of the cohesion are planned within some multi-annual 'programming periods', the payments related to each programming period continuing to be made two years, at the least, after its end. The findings of the audit of the Court in 2007 aim the payments related to the period 2000-2006, as the payments related to the period 2007-2013 made in 2007 are only in the form of the advance payments. For the period 2000-2006, the two more important structural funds are: The European Regional Development Fund (ERDF) financing, for example, the investments in infrastructure and activities of the small

and medium-sized companies and the European Social Fund (ESF), the project of which generally aim the unemployment and integration onto the labour market. Furthermore, there is also a Cohesion Fund sustaining the improvement of the environmental infrastructure and that of the transportation to the less developed member-states.

The financing the EU assigned for the cohesion is in the form of co-financing, and part of the funds must be supplied by the member-states. The financing unit for the cohesion policies is the project which the reimbursement is done for based on a statement of expenditures drawn up by the promoter of the project. The member-states are bound to set-up control systems having the role of preventing or detecting and adjusting the incorrect reimbursements of the costs of projects and other irregularities.

The member-states found separate bodies responsible for various controlling tasks: management authorities, for verifying daily the operations performed within the project, payment authorities, for certifying the expenditures performed within the project, audit bodies, for verifying the efficient verification of the systems and bodies of authorizing the closure accounts, for validating the final statement concerning the expenditures performed within the projects.

Within the Common Agricultural Policy (CAP), the European Union provides financial support to farmers and intervenes onto the agricultural markets. Most of the expenditures performed within CAP are financed by the European Agricultural Guarantee Fund (EAGF), but a more and more important part of the expenditures is financed by the European Agricultural Fund for Rural Development (EAFRD), comprising measures such as the systems for agro-environment, the infrastructure in the rural areas and compensations assigned for developing agricultural activities in not so favoured areas.

The conclusion of the Court is that the payments made in 2007 within the group of Research policies, energy and transport are affected at a significant error level concerning the legality and/or regularity. The Court evaluates that the surveillance and control systems for this group of policies are partially efficient.

The expenditures assigned to the policy domains External relations and Development, representing approximately two thirds of the expenditures made within this group of policies, include support provided to other countries in general, as well as the cooperation with them, as well as specific programs, such as the one concerning the food security and European instrument for democracy and human rights. The rest of the

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expenditures are devoted to enlargement (27%), more precisely, to the support for transitions and institutional consolidation and humanitarian help.

Most of the expenditures are managed by one of the following three general departments of the Commission: General Humanitarian Aid Department (ECHO), EuropeAid (external relations and development projects) or the General Enlargement Department. Besides the expenditures covered by this section, the European Funds for development also make available an important quantum of funds used with these aims (refer to section Audit Opinion on the European Funds for Development for exercise 2007)

A large part of the expenditures are managed by the delegations of the Commission into the third-party countries where EU finances projects. The implementing organisations performing the projects may be international bodies and NGO's, both local and international ones, as well as governmental institutions. A ratio of the aid for development is assigned in the form of budgetary support, a case where the funds are absorbed by the budget of the partner country subject to complying with certain conditions.

The Research policy group, energy and transport cover a wide range of activities meant to increase the competitions and economy. The largest part of the expenditures is devoted to technological research and development.

The research funds are supplied by means of certain multi-annual frame-programs (FP), disposing of several financing systems, aiming at the support of various types of projects.

The research projects are not only performed by institutions and universities, but also by natural persons, companies or public administrations. Generally, these projects reunite more research partners from a number of member-states and associated countries.

Although each partner signs a subsidizing agreement with the Commission, one of them is designated as "project coordinator", having as functions the surveillance of the financial and administrative aspects, as well as ensuring the communication with the Commission. The funds allocated for the various projects vary between a few hundred Euros and tens of millions of Euros. The expenditures within the programme concerning the trans-European networks (TEN) of energy and transport are aimed for some major projects in the domains of energy and transport, the average quantum of a subsidy being of more than 2 millions Euros. The beneficiaries are generally authorities of the member-states.

3. The recommendations of the Court regarding the improvement of the surveillance and control (Report, 2007)

Along the years, the Audit of the Court has shown that a significant volume of EU funds making the object of the allocated management is spent not in a so legal way. In the domains making the object of this type of management, the EU funds are paid to millions of beneficiaries on the Union's territory even based on the beneficiaries' statements. In the Court's view, this represents a risky inherent practice (Report, 2008).

Most of the time, the errors are caused due to increasing the costs towards the final beneficiaries and to the agreement or the latter wrongly apply of complex norms and regulations aiming at the EU's funds. This level of complexity may also cause mistakes upon those make the payment of the funds. For the exercise 2007, the audits of the Court in the domains of Agriculture and natural resources, Cohesion, Research, energy and transport and Education and citizenship indicate that this level of complexity has a considerable impact over the legality and irregularities of the payments.

The high level of error found out in domains such as Cohesion is partly due to the risk implied by the fact that a great number of beneficiaries' requests for EU funds must be done in compliance with the complex norms and regulations. The existing deficiencies in conceiving and operating the systems also contribute to the identified issues.

Most of the programs with EU financing stipulate corrective measures allowing them to act once in a number of years, to recuperations after detecting some errors. Nevertheless, there is no sufficient information on the impact of such measures, meaning it can not be set whether they succeed to efficiently diminish the level of illegal expenditures and/or in compliant with the regulations.

In 2000, the Commission works on a reform meant to improve administration of the EU budget, among others and by means of an action plan, adopted in 2006, which pursues the same objective. By the end of 2007, the Commission had launched two thirds of the sub-actions within the action plan on the matter (Ionescu, R.V., 2008).

Improving the controls on a higher level - such as the Commission monitoring the controls performed by the member-states - cannot compensate for the insufficiency of the audits on a lower level, such as the verifications on site.

The benefits caused by the increase of the number of controls on the lower level must be however adjusted to costs. The Court recommends to

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the political authorities of the Union to state which would be the reasonable level of error risk.

In order to obtain a reduction on the level of error affecting the payments to the EU budget, the Court recommends the simplification of the norms and regulations, rationalizing the internal control mechanisms and improving the monitoring and reporting.

The Court recommends the Commission to continue the implementation of the measures and actions targeting the improvement of the monitoring and reporting it performs. The Commission should make sure the annual activity reports and statements represent a coherent evaluation of the systems, compatible with the stated reserves. It should also cooperate with the member-states for improving the quality of information supplied in annual compendious situations and to prove the way in which this information is used in the annual activity reports for achieving a high level of guarantee or for creating an added value. It is recommended to the Commission to also adequately monitor the relevant measures in the action plan, including those regarding the recuperation systems. The Court formulates a series of recommendations aiming at the improvement of the quality of information regarding these multi-annual correction mechanisms and their impact (Report 2008).

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