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# *The European Court of Auditors and the cooperation with the Supreme Audit Institutions in the European Union*

*Building a network based on accountability, transparency and confidence*

**I**ndependent auditors, both in the private and public sectors, attach great importance to promoting accountability and transparency. These are fundamental democratic values that are essential to ensuring trust and confidence not only in markets but also in government. In the public sector, they are essential to ensuring that public funds are soundly managed on behalf of citizens and taxpayers.

Accountability and transparency are particularly important in the context of an EU of 27 Member States and in the face of global challenges, such as dealing with the current financial and economical crisis, creating jobs and growth, combating climate change and achieving sustainability. These challenges are putting pressure on public finances everywhere, and EU citizens and taxpayers expect and trust that EU funds will be spend wisely.

The cooperation between the European Court of Auditors (ECA) and the Supreme Audit Institutions (SAIs) in the European Union (EU) is becoming increasingly important in the context of the external audit of the EU funds. This article outlines the role of the ECA within this context, the impact of its audit work and opin-

ions, and the reinforcement of the cooperation between the Court and the SAIs towards the building of a network based on accountability, transparency and confidence.

## THE ROLE OF THE EUROPEAN COURT OF AUDITORS IN THE EU

The European Court of Auditors performs its audits within a legal framework laid down mainly by the EC Treaty<sup>1</sup>, Articles 268 to 280 of which contain financial provisions governing the Community's income and expenditure, and the Financial Regulation<sup>2</sup> applicable to the general budget of the European Communities (EU budget).

The Court is the EU Institution established by the EC Treaty to carry out the audit of EU finances. As the EU's external auditor, its mission is to contribute to improving EU financial management and acts as the independent guardian of the financial interests of the citizens of the Union, promoting accountability and transparency.

Under the constitutional systems of modern

States the external audit function is generally considered to be one of the main elements for ensuring accountability, alongside Parliamentary scrutiny. Appropriate arrangements for ensuring external auditing are an essential part of public-sector financial management, required for Member States' accession to the EU<sup>3</sup>.

The setting-up of the European Court of Auditors followed this same reasoning and coincided with two particularly important events, firstly, the extension of the European Parliament's powers in the area of EU budgetary control and, secondly, the full financing of the EU budget by own resources.

In view of these changes and the increase in the European Parliament's powers in the area of the implementation of the budget, it was essential for the European Communities to make a qualitative change in the external auditing of the budget.

Thus, the European Court of Auditors was established by the Treaty of Brussels (1975), and started operating in 1977, with its headquarters in Luxembourg.

The Court was promoted to the rank of an institution with the entry into force of the Maastricht Treaty (1993), thus enhancing its independence and authority as one among equals. Since then the Court has been required to publish a Statement of Assurance (DAS – from the French term “Déclaration d'assurance”) as to the reliability of the EU accounts and the legality and reliability of the transactions underlying those accounts.

ECA's role was confirmed and strengthened by the Treaty of Amsterdam (1999), which empowered the Court to carry out sound financial management audits, emphasised its intervention in the fight against fraud and allowed it to have recourse to the Court of Justice in order to protect its prerogatives with regard to the other EU institutions.

The Treaty of Nice (2003), which is still in

force, confirmed the principle that there should be one Member from each Member State and that the Court should continue to take decisions as collectively, as a College. However, the Treaty allowed the Court the option of being organised in chambers. It also highlighted the importance of the Court's cooperation with the Supreme Audit Institutions in a joint declaration to the Treaty:

*“The Conference invites the Court of Auditors and the national audit institutions to improve the framework and conditions for cooperation between them, while maintaining the autonomy of each (...)”<sup>4</sup>.*

The Court does not have judicial powers and thus neither its audit reports nor its opinions are legally binding. However, the Court's work is used to improve financial management by those responsible for legislation, managing and controlling EU programmes and finances.

Indeed, the Court promotes accountability and transparency not only by auditing EU funds, but also by providing independent advice to other EU institutions/bodies to help them shape and scrutinise legislative and budgetary proposals as well as subjects with financial impact.

The Court's current institutional status, its composition, powers and mandate are confirmed in the Lisbon Treaty<sup>5</sup>, which is yet to be ratified.

## EU BUDGET: INCOME AND EXPENDITURE

The Decision on the System of Own Resources establishes a ceiling for the annual appropriations between 1.24% (for payment appropriations) and 1.31% (for commitment appropriations) of the sum of all the EU Member States' gross national income (GNIs).<sup>6</sup>

For instance, the 2009 EU budget is approximately 130 billion euro, less than 1% of the

GNI of its 27 Member States<sup>7</sup>. Compared to national budgets this is a small share although for some Member States funds from the EU play an important role in financing public activities.

The Own Resources are transferred from Member States based mostly on national gross national income as well as customs duties and value-added tax (VAT) based resource. According to the principle of subsidiarity established by the EC Treaty<sup>8</sup>, the EU budget cannot replace the national budgets, partly due to differences in their respective functions. For example, the Union is not responsible for social security systems, usually a large part of national spending.

The expenditure side of the EU Budget has evolved over time, agriculture and cohesion policies now being its major components representing around 80%.

Since the 1960's agricultural spending, typically through payments to farmers across the Union, has been the largest part of the budget although its share is now decreasing. In 2009 45.3% of the budget is aimed at preservation and management of natural resources, mainly agriculture and rural development.

Ever since the 1980's a major part of spending has been directed towards cohesion – i.e. regional and social development – co-financing a wide range of projects related, for example, to infrastructure construction and professional training. In 2009 spending on sustainable growth, of which the lion's share is for cohesion, is planned at 39.6% of the budget. This heading also includes a significant part of the EU funds directed to research.

In addition, the EU spends significant amounts on development and humanitarian aid as well as support to countries close to the Union or candidates to join it (7.2%). Lastly, 6.7% of the budget is needed for financing the administration of the Community institutions.

## LIFE CYCLE OF EU BUDGET

The life cycle of EU budget comprises the following stages: the establishment, the implementation, the audit and the discharge of the EU budget.

It is decided annually (within the context of seven-year financial frameworks) by the directly elected European Parliament and the Council, following a proposal of the European Commission. As set out by the EC Treaty, the Commission is responsible for the EU Budget implementation on its own responsibility, and the Member States shall cooperate with it to ensure that the appropriations are used in accordance with the principles of sound financial management<sup>9</sup>.

Depending on the spending schemes, national administrations may be responsible for setting spending strategies, selecting projects and making payments to beneficiaries. A specific feature of Community expenditure is the high percentage of payments based on claims submitted by the beneficiaries themselves, be they farmers or project managers throughout the Union.

The external audit of the EU Budget is the exclusive prerogative of the European Court of Auditors. In the areas of the budget where management is shared, Member States cooperate with the Commission in setting up supervisory and control systems – internal control – to ensure that funds are spent properly and in accordance with the rules. Internal control thus has a European as well as a National dimension. In addition to the work done by the Court, many Member States' SAIs audit EU funds that are spent, managed and controlled by national administrations.

The SAIs provides a picture from an independent national viewpoint of the use of the part of the EU funds spent in that Member State by the national authorities. The Court, on the other hand, audits EU policies not Member

States and it does so from the EU level all the way down to the final beneficiary of EU funds within the Member State.

Finally, the European Parliament, based on a recommendation from the Council, is responsible for giving discharge to the Commission for the execution of EU budget. To this end, the European Parliament and the Council examine the Annual Report, the Statement of Assurance (DAS) and the relevant Special reports of the Court of Auditors<sup>10</sup>.

## ECA'S AUDIT WORK ON EU BUDGET

The starting point of the Court's audit work is the EU Budget that is presented by policy area<sup>11</sup>. The Court does not have the capacity to audit each area in detail every year. It therefore selects its audit tasks in order to make the most effective use of its resources. A number of factors are taken into consideration when selecting tasks, including the risks to performance or compliance for the expenditure, the level of spending involved, the time since any previous audit, forthcoming developments in the regulatory or operational frameworks, and political or public interest.

The Court carries out its work, in accordance with the international auditing standards, through different types of audits: financial, compliance and performance audit. These address the three following questions.

- ▶ Do the accounts present fairly, in all material respects, the financial position, results and cash flow for the year, in accordance with the applicable financial reporting framework? (Financial audits)

- ▶ Are activities, financial transactions and information, in all material respects, in compliance with the legal and regulatory frameworks which govern them? (Compliance audits)

- ▶ Is the financial management sound? i.e. are the funds used kept to a minimum (economy),

are the results achieved with the least possible resources (efficiency) and have objectives been met (effectiveness)? (Performance audits)

In order to provide assurance as to whether the payments comply with legal and regulatory frameworks, the Court draws on the results both of its examination of supervisory and control systems, intended to prevent or detect and correct errors of legality and regularity, and of a sample of the transactions (payments) themselves. When systems are tested and found to be reliable, then fewer transactions can be audited by the Court in order to come to a valid conclusion on their legality and regularity. Other sources, such as the work of other auditors, are also used to support the Court's conclusions.

In performance audit, the Court uses a variety of audit methodologies to assess management and monitoring systems and information on performance against criteria derived from legislation and the principles of sound financial management. When selecting which performance audits to carry out, the Court aims to identify audit subjects which are likely to yield high impact in terms of identifying potential improvements in the economy, efficiency and effectiveness of EU spending.

The Court publishes the results of its audit work in three main types of report.

- Firstly, the Court produces an Annual Report containing its observations on the execution of the EU Budget for each financial year, including a Statement of Assurance (DAS) on the reliability of the EU accounts for that year, and the legality and regularity of the underlying transactions. The primary aim of the DAS is to provide stakeholders – notably the European Parliament and the Council, but also all EU citizens – with an audit opinion as to whether EU income and expenditure are completely and accurately recorded in the accounts, and have been raised or spent in accordance with the applicable legislation and contractual provisions.

■ Secondly, the Court produces an Annual Specific Report on the results of its financial audits for each of the Communities agencies and bodies established in the different Member States to accomplish specific technical, scientific and managerial tasks.

■ The third type of reports the Court produces are known as Special Reports – 12 were published in 2008 – that present the results of selected performance and compliance audits, covering a wide range of areas: from the cross-compliance policy under the new Common Agricultural Policy (CAP)<sup>12</sup>; the Intelligent Energy for Europe Programme 2003–2006<sup>13</sup>; to the European Commission Rehabilitation Aid following the Tsunami and Hurricane Hitch<sup>14</sup>.

The ECA's audit reports provide an important basis for the annual discharge procedure mentioned above.

## CURRENT STATE OF THE EU FINANCIAL MANAGEMENT FROM ECA'S PERSPECTIVE

In its most recent Annual Report<sup>15</sup>, the Court gave, for the first time, a clean opinion on the reliability of the EU accounts. This comes three years after the introduction of accruals accounting by the Commission and represents significant progress towards improving transparency and accountability.

However, as regards the legality and regularity of underlying transactions the Court concluded that the situation was similar to previous years as areas making up the majority of expenditure continue to be affected by material levels of errors of legality and regularity although to different degrees.

The areas under shared management were among the areas found to be materially affected by error. These areas are mostly made up of spending on agriculture and cohesion which is spent through national budgets.

Material levels of errors of legality and regular-

ity persist because there is a high level of inherent risk associated with many areas of EU spending and weaknesses related to supervision and control.

Much of the EU budget, including in the areas under shared management, is disbursed to millions of beneficiaries across the Union, often under complex rules and regulations based on the self-declarations of those who receive the funds. These inherently risky circumstances lead to errors in all Member States by final beneficiaries and by those paying out the funds.

As most errors occur at the level of the final beneficiary they can often only be detected reliably by detailed controls carried out on-the-spot. Such checking is costly and so usually only a small proportion of individual claims are checked.

## IMPACT OF EUROPEAN COURT OF AUDITORS' WORK

Through its professional, relevant and timing audit reports and opinions on legislative/budgetary proposals as well as financial management issues,<sup>16</sup> the Court contributes to improving EU financial management and acts as the independent guardian of the financial interests of the citizens of the Union.

### Short and medium term impact

Public auditing is a key component in ensuring accountability, and a useful contribution to public debate. It also plays a key role in helping modern democracies run efficiently. Through audit activities the ultimate stakeholders, in this case citizens of Europe, are being informed about whether their money is being spent in a correct and useful way.

The Court's audits provide information directly to decision-makers in the institutions concerned – in the EU context, primarily the Commission, the Parliament, the Council and

the Member States. They can take action on this information in order to improve the management of the EU Budget.

One example of immediate impact is given by the ECA's report on cross compliance already mentioned, which publication (November 2008) coincided with the adoption of the health check of the PAC. Due to the importance of cross compliance and its central role in the CAP and due to the timing publication, the report was intensively discussed in the Parliament, which has included almost all of the Court's recommendations in its 2007 Discharge Report recently adopted<sup>17</sup>: simplification, clarification and a hierarchy of applicable rules.

Other observations and recommendations of the Court were taken seriously by the Parliament in its 2007 Discharge Report. For instance, it is noted that, owing to disparities in presentation and to a lack of added value, the ECA considers that the annual summaries do not yet constitute a reliable appraisal of the operation and effectiveness of the control system and, consequently, calls on the Commission to analyse the summaries received in 2009 with the aim of optimising their added value in terms of the assurance they provide regarding the operation of the internal control systems employed by the Member States.

This was clearly inspired by the Court's opinion on the "Annual summaries of Member States, national declarations of Member States, and audit work on EU funds of national audit bodies"<sup>18</sup> according to which the annual summaries can in time stimulate improved management and control of EU funds. However, the Court emphasized that these elements could only give added value and be used by the ECA if they are of adequate and comparable scope, approach and timing, following the requirements of international auditing standards. According to 2007 Annual Report they did not provide a complete assessment of the functioning and effectiveness of the systems.

Furthermore, the measures taken by the Commission in 2008 following the 2006 Parliament's discharge report – based mainly on Court's recommendations<sup>19</sup> – also testify the influence of the Court's reports. In Agriculture, new guidelines were issued for certification bodies. In Cohesion, there has been simplification of the rules and eligibility criteria for the 2007–2013 period. In the area of Internal Policies, there is now better information for beneficiaries, improved audit arrangements, and simplification of cost eligibility. In external actions joint EC-UN visibility guidelines were issued, the information systems for projects have been improved, and the framework governing the verification of expenditure at the level of project implementing organisations has been strengthened.

### Long-term impact

But there has also been a positive response to Court's recommendations of a more long term nature, which is the case of the Court's opinion that proposed a "Community internal control framework" for EU funds<sup>20</sup>.

The Court acknowledged in its audit reports the significant efforts made by the Commission and Member States over the past few years, to address weaknesses in supervision and control and, consequently, to reinforce accountability and transparency.

However, the Court identified scope for improving existing management and control procedures, notably in the areas of the EU Budget under shared management. As the Court has repeatedly stated in its annual reports, the key to improvement is through sufficient, appropriate internal control systems operated at European and National level.

Furthermore, both the European Parliament and the Council expressed on several occasions concerns about a lack of coordination of the

various controls and checks at the different administrative levels. It is generally recognised that the resources applied to the control and audit of EU finances should be organised more coherently and cost effectively.

The Court considers in its opinion that the success of a “Community internal control framework” would depend on three important elements: first, the simplification of the legislation in force; second, the definition of a tolerable risk of error, having regard to the inherent risk per policy area and the costs of controlling and, finally, the establishment within the Commission and the Member States of a coherent and effective chain of internal controls based on common standards.

The Commission's “Action Plan towards an integrated internal control framework”<sup>21</sup> is an example of a positive way forward which was inspired by the Court's opinions. The last report on the Action Plan's impact was recently presented by the Commission<sup>22</sup>.

Since the publication of the above mentioned opinion, both the Council and the European Parliament have followed-up this subject, in particular in what concerned the trade-off between the costs and benefits of controls. In its 2007 Annual report, the Court encouraged the Commission to proceed with “its analysis on the cost of controls and on the different levels of risk inherent in the spending areas”. The Commission's communication “Towards a common understanding of the concept of tolerable risk of error”<sup>23</sup> – which also provides a useful focus on the effectiveness of controls and their costs – was, therefore, welcomed by the Court, although it considers that there are a number of aspects which need to be reflected upon in the future<sup>24</sup>.

The Commission has noted in the communication that any decision on a tolerable risk of error should be based, among other things, on the potential for further simplification. The Court similarly underlines the importance and benefits

of further simplification and its potential impact on the reduction of errors/irregularities.

The Court is of the view that analysis of the costs and benefits of expenditure programmes could inform not just discussions about tolerable risk but also a review of the regulatory regime and management structure for the programmes concerned. In this context, the pertinent question might not be whether there is a tolerable risk of error but whether the risk of error is so great that the particular scheme or programme in question should be discontinued or substantially changed. Indeed, the concept of tolerable risk should also be given specific consideration when designing expenditure (and income) schemes or programmes.

Furthermore, it would be useful if expenditure programmes, at the time of adoption, also gave sufficient information on the risks associated with such programmes and the costs of the intended controls designed to reduce these risks to a tolerable level. In this way, political decisions would be taken in a more informed manner, explicitly considering the risks, the costs as well as benefits involved.

The EU budget review exercise might provide an opportunity to reflect further on this topic, as suggested by the Court in its response to the Commission's communication “Reforming the Budget, Changing Europe”<sup>25</sup>.

## FURTHER DEVELOPMENTS TO IMPROVE EU PUBLIC FINANCES

Further developments to improve the management and control of EU public finances will depend largely on the success of the budget review exercise, launched by the European Commission in 2007<sup>26</sup>. The public discussion closed in June 2008, and its results were presented later in November 2008 in a Conference on the Future of the EU budget, organised by the Commission<sup>27</sup>.

Another instrument that might influence the future of the EU finances is the forthcoming review of the Financial Regulation applicable to the EU Budget that will take place during this year to enter into force in 2010<sup>28</sup>.

The Court's contribution to the ongoing exercise of reforming the EU budget focused on one of the main questions put by the Commission in its Communication: "How could the effectiveness and efficiency of budget delivery be improved?"

It is important to recall first that, with the exception of payments under the Agriculture Schemes, the EU budget part finances the activities of private and public agents rather than providing goods and services to EU citizens directly. And secondly, implementing the budget requires multi-level governance arrangements involving EU institutions and governments (national and regional) of Member States and, in some cases, third countries and international organisations.

From the Court's point of view, to answer the mentioned question it is needed to begin by acknowledging that efficient and effective use of EU funds is unlikely to have been achieved unless the benefits for EU citizens are clear and visible and there is good reason to suppose that the best way to have achieved those benefits was by action at the EU level. In other words "EU value added" is probably the appropriate basis on which to judge the efficiency and effectiveness of the use of EU funds.

At the level of expenditure programmes, the Court suggests that the key to achieving efficiency and effectiveness lies in the design of expenditure programmes. Close attention needs to be paid, in particular, to: first, the terms on which EU spending is made available to budgetary recipients (the eligibility criteria); secondly, the responsibility for managing the budget (accountability and governance); and, thirdly, the cost-effectiveness of management arrangements.

In devising the eligibility, governance, and management arrangements for expenditure programmes the Court recommends decision makers follow a number of "principles".

► *Clarity of objectives* – "Be clear about what is to be achieved": maxime, in Rural Development and Cohesion.

► *Simplification* – "Don't make things any more complicated than they need to be": complex rules on eligibility conditions lead to errors and can increase the cost of controls.

► *Realism* – "Don't set conditions that can't be checked": difficult legality conditions in Agriculture and Research cannot be checked efficiently.

► *Transparency and Accountability* – "Make sure responsibilities are clear": for decision-makers to be accountable there needs to be clear and transparent information and reporting as well as clear responsibilities for managing and controlling funds.

Beyond these "principles", the Court also suggests giving consideration, for instance, to recasting expenditure programmes in terms of acceptable outputs rather than eligible inputs ("payment by results") and defining control systems in terms of their outputs rather than their inputs, i.e. setting a "tolerable" level of risk to be achieved rather a level of checks to be carried out.

In this context, budget delivery could be improved by political authorities in three main ways: first, by clarifying the principle of European added value in EU legislation and applying it while choosing expenditure priorities. Second, when it comes to designing the expenditure programmes to meet those priorities by giving due attention to ensuring eligibility, governance and management arrangements are as clear, simple, realistic and transparent as possible. And finally, by considering whether expenditure programmes and control systems could be more "output" rather than "input" focussed, with payments made on a more sim-



ple basis and with, perhaps, more discretion below EU level in managing some expenditure.

## BUILDING A NETWORK BETWEEN ECA AND SAIs

### Different forms of cooperation

As mentioned above, most EU expenditure is in areas under shared management, which means that it passes through the national budgets of Member States and is executed by Member State authorities at either national, regional or local level. This also means that most EU expenditure falls within the audit mandates of both the ECA and the SAIs of the Member States.

This brings us to the importance of cooperation between ECA and the SAIs of the Member States of the EU that has been continually reinforced for more than 30 years.

The EC Treaty foresees that the European Court of Auditors and Supreme Audit Institutions shall “cooperate in a spirit of trust whilst maintaining their independence”<sup>29</sup>. Maintaining the independence of each is essential to their abilities to carry out their distinct but complementary roles with respect to the audit of EU funds.

The SAIs have a national perspective and provide recommendations to improve financial management within Member States; the European Court of Auditors, as explained above, provides an EU level perspective by policy area. This EU level perspective enables the Court to contribute to improving financial management at EU level and to the sharing of best practice between Member States.

This cooperation takes a number of forms. First, there is a direct role played by SAIs to facilitate the audit missions of the Court in their Member State. Work programmes and reports are exchanged and the Court sends copies of all

correspondence with national authorities to the Member State's SAI. Furthermore, the Court is willing to rely on the work of other auditors and it is open to the possibility of carrying out joint audits with interested SAIs which will provide audit evidence that is not only relevant to the opinions of national audit bodies on national accounts but also to the Court's audit work, notably the DAS<sup>30</sup>.

Secondly, there is the work done together in the Contact Committee of the President of the ECA and the Heads of the Supreme Audit Institutions of the EU, which provides a forum for multilateral and bilateral cooperation, such as sharing experiences, developing common approaches as regards the audit of EU funds and using each others work, carrying out joint or parallel audits. Day to day contacts are maintained through Liaison Officers appointed by each SAI.

The Contact Committee has also established over the years various Working Groups to help develop common positions and practices. One example is the working group on Common Auditing Standards, chaired by the Court, which aims to develop common auditing standards and comparable audit criteria based on internationally recognised auditing standards tailored for the EU areas. With effect from December 2008, the Court took over the (rotating) chair of the working group in the field of VAT, and the Agricultural Experts Network was re-launched under the chairmanship of a Member of the ECA.

The third form of cooperation is developed through INTOSAI and its regional organisations like EUROSAI, which bring together audit institutions from the European Union and beyond, to address common audit challenges according to the motto “*Experientia Mutua Omnibus Prodest*” (Mutual Experience benefits all).

As a full member of INTOSAI, the Court has actively contributed to the work of the Performance Standards Committee through its participation in the Subcommittees on

Financial Audit, Compliance Audit, and Performance Audit Guidelines.

Since 2008 the Court has been chairing the working group on accountability for and audit of disaster-related aid (which succeeded the INTOSAI Tsunami task force). The main objective is to develop guidance for accountability and audit in this area, addressing all parties involved through their respective standard setting bodies. Chairmanship of this working group also implies that the Court is represented in Governing Board meetings of INTOSAI.

At the VII EUROSAI Congress in Krakow in 2008, the Court contributed with a paper on “The role of leadership” within the working group which reported on the theme “Establishing an Audit Quality Management System in a Supreme Audit Institution”, chaired by the State Audit Office (SAO) of Hungary.

In the context of the EUROSAI, the Court has been also actively involved in the IT Working Group that aims to share expertise and implement joint activities in the field of information technology, and in the Environmental Working Group whose main strategic goals are to facilitate concurrent or coordinated environmental audits, to encourage audits within the area of climate change, and to develop methodology and governance practices concerning environmental auditing.

The Court has been appointed by the VII EUROSAI Congress, together with the National Audit Office of the Republic of Slovakia, as EUROSAI auditors for the 2009–2011 period.

### Reinforced cooperation due to the crisis context

The Contact Committee has a crucial role to play in the crisis context. At its meeting held in December 2008, in Luxembourg, under the

Court's chairmanship, the EU budget reform and the revised 2008–2011 Lisbon Strategy were discussed and, last February, a workshop was held at the Court on the Role of the EU SAIs in the current economic and financial crisis.

The workshop's participants agreed on the need for swift and timely action, for transparency and trust, and for international cooperation. In fact, transparency is an absolute value, and the proper functioning of the financial system relies on confidence and trust, which can only be achieved through transparency.

In order to prepare this workshop, the German Federal Court of Auditors, in cooperation with the SAI of the Netherlands and the ECA, developed a questionnaire designed to provide key information concerning the role of the SAIs in the context of the global crisis. The results of the questionnaire show that all Member States have taken action to respond to the crisis. In spite of the wide variety of measures adopted, in a majority of cases, the measures take the form of State Guarantees and refinancing. The questionnaire also showed that all SAIs have a mandate to audit government financial management, and that they are authorised, in principle, to look into government action taken in response to the financial crisis. However, only 70% of the SAI's have a specific mandate for auditing the rescue packages. Central questions were the audit of the beneficiary institutions, especially the banks, the adviser role of the SAIs and the presentation of the audit observations.

It was agreed to establish voluntary networks with the aim of providing a platform for the exchange of experiences and audit information concerning the implementation of the revised Lisbon Strategy and EU crisis management that are closely connected. A kick-off meeting for such voluntary networks took place in May 2009.

The influence of the current crisis in the cooperation's reinforcement was also dis-

cussed at the second conference EUROSAI-ARABOSAI held in Paris (April 2009), on the subject of “The role of the SAIs in the Development of the Performance of the State Institutions”. According to its conclusions, the role of the SAIs should assume three different perspectives: firstly, a reinforced warning role in the context of the financial, economical and social crisis; secondly, a proposal making role which implies an adaptation of the SAIs methodologies, notably through a more strategic planning, a focus on the management's risks and opportunities, and a more proactive relationship with the managers and; finally, a role of assistance and support vis-a-vis the national Parliaments and Governments, without prejudice to their respective independence.

Strengthening cooperation as outlined above reflects the values of accountability, transparency and confidence. Those responsible need to be accountable and SAIs have a role to play to ensure transparency, which in turn will contribute to provide confidence to EU citizens and taxpayers. This subject will be developed further in the next Contact Committee meeting to be held in Budapest in December 2009 under the chairmanship of *Dr. Kovacs, Árpád* President of the SAO of Hungary.

### Court's Peer Review

The mutual participation in peer review processes aimed at assessing one another best practice also clearly demonstrates auditors' commitment to transparency and accountability.

The International Peer Review Report on the European Court of Auditors, published in December 2008<sup>31</sup>, represents a major milestone in the Court's reform process. The peer review was undertaken by a team of experienced financial and performance auditors from the SAIs of Canada, Norway, Austria and Portugal.

The peer review team concluded that the “audit framework established by the Court is suitably designed in accordance with the international auditing standards and good practices of Supreme Audit Institutions”. The team also observed that “the Court conducts its work with independence and objectivity”; and that “the stakeholders have a high level of confidence in the Court's reports and generally considered them to be fair, factual and objective”.

The Court welcomed the observations and constructive recommendations of the peer review team, which identified the main challenges and opportunities that will allow its own improvement as a single audit institution.

### CONCLUSIONS

The role of the European Court of Auditors – as the EU external audit institution – is to contribute to a better management and control of EU public finances. Through its audit reports and opinions, recognised for their quality and impact, the Court influences in a proactive way the changes that are likely to improve the supervisory and control systems over EU funds and, consequently, to have a positive impact on their ability to limit the risk of irregular expenditure. Aiming to be at the forefront of developments in public audit, the ECA's work must bring added value to the EU management, playing a major role within the construction of the European Union and being closer to the European citizens.

However, further developments are needed. In the context of an integrated internal control framework, proposed by the Court in its Opinion No 2/2004, the publication in December 2008 of the Commission's communication “Towards a common understanding of the concept of tolerable risk of error” is an important step forward. This is an idea with the potential to radically change the way EU funds are

managed and audited. The Court has been quick to react and will closely monitor developments.

The Court is well aware of the external developments and changing audit environment that imply, in particular, *the reinforcement of its international cooperation activities*, maxime with the SAIs of the European Union.

The financial, economical and social crisis, and other global challenges such as climate change, jobs and growth, sustainability, are putting pressure on public finances everywhere and crisis management measures have led to increasing State intervention in the economy which has had consequences for accountability and regulation and the role of public sector auditors. It is against this background that the Court hosted the annual Contact Committee meeting in December 2008, mainly focused on the reform of the EU budget and the revised 2008–2011 Lisbon Strategy. The following workshop held in 2009 on the role of the EU

SAIs in the context of the crisis resulted in a network being set up to promote cooperation on audits related to the Lisbon Strategy and EU crisis management measures.

In order to better meet its Treaty obligations and fulfil its mission, in a professional manner that stands comparison with other Supreme Audit Institutions around the world, the Court has recognised that it should adapt to a changing audit environment and reform itself. After the peer review process, it is ready to face new challenges in the forthcoming years, not only by doing more, but also by doing it better. At the same time, the Court will cooperate actively with fellow SAIs aiming to contribute to improve the management of EU public finances by sharing our experiences and developing common approaches. There is a unique momentum for them to contribute to building a network based on accountability, transparency and confidence.

## NOTES

<sup>1</sup> Treaty establishing the European Community as amended by the Treaty of Nice (EC Treaty), OJ C 325 of 24.12.2002

<sup>2</sup> Regulation (CE, Euratom) No 1605/2002 of 25.6.2002. OJ L 248 of 16.9.2002

<sup>3</sup> Article 6, no 1, and Article 49, of EC Treaty

<sup>4</sup> Joint Declaration to the Treaty of Nice No 18 concerning the European Court of Auditors. OJ C 80 of 10.3.2001

<sup>5</sup> Treaty of Lisbon signed in 13.12.2007. OJ C 306 of 17.12.2007

<sup>6</sup> Council decision 2007/436/EC, Euratom of 7.6.2007 on the system of the European Communities' own resources. OJ L 163 of 23.6.2007

<sup>7</sup> General Budget of the European Union for the financial year 2009. OJ L 69 of 13.3.2009

<sup>8</sup> Article 5 of EC Treaty

<sup>9</sup> Article 274 of EC Treaty

<sup>10</sup> Article 276 of EC Treaty

<sup>11</sup> The EU Budget is Activity Based (ABB), which means that it presents information on what policies are pursued and, within them, what activities make up the policies and what financial and human resources are spent on each activity.

<sup>12</sup> Special Report 8/2008 available at ECA's website: <http://eca.europa.eu/portal/pls/portal/docs/1/2246310.pdf>

<sup>13</sup> Special Report 7/2008 available at ECA's website: <http://eca.europa.eu/portal/pls/portal/docs/1/1555539.pdf>

<sup>14</sup> Special Report 6/2008 available at ECA's website: <http://eca.europa.eu/portal/pls/portal/docs/1/1357526.pdf>

<sup>15</sup> Annual Report of the Court of Auditors concerning the financial year 2007. OJ C 286 of 10.11.2008.

<sup>16</sup> Article 248 of EC Treaty; Articles 143–144 of Financial Regulation

- <sup>17</sup> Report on 2007 Discharge – Section III Commission, adopted by the European Parliament's Plenary on 23.4.2009
- <sup>18</sup> Opinion 6/2007 on the Annual summaries of Member States, national declarations of Member States, and audit work on EU funds of national audit bodies. OJ C 216 of 14.9.2007
- <sup>19</sup> Annual Report of the Court of Auditors concerning the financial year 2006. OJ C 273 of 15.11.2007
- <sup>20</sup> Opinion 2/2004 on the “Single audit” model (and a proposal for a Community internal control framework). OJ C 107 of 30.4.2004
- <sup>21</sup> Action Plan towards an Integrated Internal Control Framework. COM (2006) 9 final of 17.1.2006
- <sup>22</sup> Impact Report on the Commission's Action Plan towards an Integrated Internal Control Framework. COM (2009) 43 of 4.2.2009
- <sup>23</sup> Commission's communication towards a common understanding of the concept of tolerable risk of error. COM (2008) 866 of 16.12.2008
- <sup>24</sup> Reflections by the ECA on the Commission's communication “Towards a common understanding of the concept of tolerable risk of error” are available at its website: <http://eca.europa.eu/portal/pls/portal/docs/1/2410290.pdf>
- <sup>25</sup> Response by the European Court of Auditors to the Commission's communication “Reforming the Budget, Changing Europe”, available at ECA's website: <http://eca.europa.eu/portal/pls/portal/docs/1/1481518.pdf>
- <sup>26</sup> Commission's communication “Reforming the Budget, Changing Europe, a public consultation paper in view of the 2008/2009 budget review”. SEC (2007) 1188 final of 12.9.2007
- <sup>27</sup> The contributions and the results of the Conference are available at: <http://ec.europa.eu/budget/reform>
- <sup>28</sup> The last review of the Financial Regulation was made in December 2006, applicable with effect from 1.5.2007: Council Regulation (EC; Euratom) 1995/2006 OJ L 390 of 30.12.2006. Article 279 of EC Treaty and Article 184 of Financial Regulation provide for the review of the Financial Regulation every 3 years.
- <sup>29</sup> Article 248 of EC Treaty
- <sup>30</sup> Opinion 6/2007, points XIV to XVII
- <sup>31</sup> Available at ECA's website: <http://eca.europa.eu/portal/pls/portal/docs/1/1843517.pdf>