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*Dña. Begoña Lopez Errasti  
Consejera del Tribunal Vasco de Cuentas Públicas*

**-The case of local authorities in England and Wales:**

*Mr. Michael Robinson  
District Auditor, Audit Commission of England and Wales*

**-Beispiel Sachsen-Anhalt/The case of Saxony-Anhalt:**

*Dr. Horst Schröder  
Präsident des Landesrechnungshofs Sachsen-Anhalt*

## **THE EXPERIENCE OF THE "*TRIBUNAL VASCO DE CUENTAS PÚBLICAS*" (REGIONAL AUDIT INSTITUTION OF THE BASQUE COUNTRY) ON THE AUDIT OF COMMUNITARIAN FUNDS**

Since the constitution of the regional audit institution of the Basque Country ("*Tribunal Vasco de Cuentas Públicas*") up to the present, those audits in relation to communitarian funds received by the Euskadi Autonomous Community, have come down specifically to the following actions:

1. As constitutive part of income and expenditure shown in the budgets of this Autonomous Community as well as in the budgets of the different provincial councils ("*Diputaciones Forales*") of the three Historical Territories the work which has been done has been included in the yearly audits carried out by this Institution as one more item to analyse, taking into account its materiality, but with no specific actions being effected in relation to these income and expenditure.

Essentially this has been so because of the fact that -even though for those income coming from EU funds there are budgetary items which identify them-, expenditure are included within those programmes typical of the Autonomous Community and, in so far as these programmes are analysed, the expenditure for which these funds are received are also audited.

Partially this situation is due to the fact that communitarian aid basically does not have an incentive character, but rather a financial one and, therefore the budgets of the Autonomous Community includes them in so far as they are of any use to finance the policies established in its field of action.

2. Up to the present no specific audits of this kind of aid have been implemented, since they have not been included in our yearly working plans.

For those cases in which the European Court of Auditors has carried out specific audits of particular aids on the part of the European Union in the Spanish State, our participation has consisted of:

- Communication referred by the Spanish National Court of Audit announcing the visit of the members of the European Court of Auditors along with a request asking for the availability of certain data and documentation for their relevant review in accordance with the duty of cooperation established by both the Treaty and the Regulation of the European Union.
- To attend the members of the mentioned Court during their visit.
- Reception of the conclusions arising from the work carried out by the members of the European Court of Auditors.

3. Finally, and up to the present this Institution does not have any record of the existence of any cooperation agreement made through the State Office of the Comptroller ("*Intervención General del Estado*") with the Office of the Comptroller Directorate ("*Dirección de Intervención*") of the Autonomous Community to carry out an internal audit of the aids coming from communitarian funds and, therefore, this Institution does not have any record of the existence of internal audit reports prepared to this end.

In spite of the fact that the experience of this Institution on the particular audit of communitarian funds has not been very wide, we are of the opinion that the audit of the mentioned funds should be implemented at three levels:

- a. by the same managing body which receives the aid by implementing an administrative and economic control to guarantee that the relevant regulation is fulfilled.
- b. the internal audit carried out at communitarian level by the European Commission and those institutions created to this end in each Administration. This audit should include a management/performance audit and an audit of the different systems or procedures established by the managing bodies. It also includes a legality and financial audit.
- c. the external audit effected through the relevant external audit institutions in each country of the European Union.

The first level of competence regarding this external audit lies in the European Court of Auditors. In order to facilitate an appropriate practice of its duties, both the Treaty and the Regulation establish the duty of cooperation on the part of the rest of institutions and Member States with the European Court of Auditors.

By analysing the three mentioned levels a superposition of control powers of national and regional European bodies can be observed. This leads to the need for coordination in order to respect the principle of appropriate financial management and with the aim of avoiding that duplicity in audits entails a duplicity in expenditure.

The European Court of Auditors is empowered to audit the entirety of income and expenditure of EU institutions.

Likewise, regional audit institutions are empowered to audit public funds handled by the institutions within their field of influence.

The Treaty of the EU, when referring to the audit activity to be implemented by the European Court of Auditors in the respective member states (Article 188, C,3), establishes that this audit "shall be carried out in liaison with the national audit bodies, or, if they do not have the necessary powers, with the competent national departments".

These same bodies or departments shall forward, in their turn, to the European Court of Auditors at the request of this latter, any documentation or information necessary for the fulfilment of its task. Therefore, a principle of cooperation is established.

The relations between the institutions of the EU with the Member States are channeled through state institutions, which also have the duty of guaranteeing the fulfilment of the communitarian provisions in force.

The task of channeliser and guarantor of the application of the communitarian estate relevant to state institutions should not entail any alteration in the distribution of internal competences in each member state.

A rational, operative and respectful solution which respects the role and competence of the different audit institutions involved would be the accomplishment of joint audits.

A joint audit comprises:

- the elaboration of a report on one subject by more than one audit institution. This report should be specified in the respective programmes of activities.
- the need for adapting teams and working methods.
- to determine a calendar which enables the accomplishment of simultaneous activities, or at least, to determine a calendar coordinated in terms of time.

- the follow up and acceptance of audit standards and procedures.
- reciprocal trust in the professionalism and independence of audit teams and decision-making bodies.

The difficulty in reaching agreements on these points will show the possibilities of carrying out joint audits. To this it should be added that there is a need for giving the appropriate role in terms of competence to each institutional level taking part.

This aspect involves some additional difficulty in itself, such as how to give an appropriate answer to the chain European Court of Auditors - National Court of Audit - Regional Audit Institution. To combine powers, operativeness and subsidiarity properly and to avoid as much as possible an over-incidence on the audited body is the correct approach to achieve a satisfactory solution.

In any event, the future of the cooperation between the different audit institutions is restricted by paragraph 2 article 188 C of the Treaty of the EU. This article includes the obligation on the part of the European Court of Auditors to present both European Parliament and Council a Statement of Assurance concerning the reliability of the accounts and the legality and regularity of the underlying transactions.

This Statement shall refer to the accounts of the entirety of income and expenditure of the EU and any other body created by it.

The fulfilment of this obligation shall compel the European Court of Auditors to rely on the different external audit bodies, both national and regional, in view of the lack of own means and the need for achieving efficiency in the audit of communitarian funds.

In this sense, it would be convenient to reach a bilateral and global agreement between the European Court of Auditors and EURORAI, on behalf of the regional audit bodies (in general, non national institutions), with the aim of settling the principles of a long-term mutual cooperation and participation complemented by particular agreements to be determined for each work with the different audit bodies involved. All of this without prejudice to the actions which may concern in terms of competence the state bodies, where appropriate.

It is obvious that this last alternative shall enable EURORAI to express in an outstanding fact the first of its objectives for which the Organisation was created: to foster and promote the cooperation between audit institutions in their different fields of activities. n