

PERSPEKTIVEN DER  
FINANZKONTROLLE IN DER  
EUROPÄISCHEN UNION  
-NOTWENDIGKEIT DER ZUSAMMEN-  
ARBEIT DER EUROPÄISCHEN FINANZ-  
KONTROLLE MIT DEN REGIONALEN  
FINANZKONTROLLORGANEN

PROSPECTS OF THE  
FINANCIAL CONTROL IN THE  
EUROPEAN UNION  
-NECESSITY OF COOPERATION  
BETWEEN THE EUROPEAN  
FINANCIAL CONTROL AND  
REGIONAL AND LOCAL PUBLIC  
FINANCE AUDIT INSTITUTIONS

***Prof Dr. Bernhard Friedmann***  
*Mitglied des Europäischen Rechnungshofs*

# **PROSPECTS OF THE FINANCIAL CONTROL IN THE EUROPEAN UNION - NECESSITY OF COOPERATION BETWEEN THE EUROPEAN FINANCIAL CONTROL AND REGIONAL AND LOCAL PUBLIC FINANCE AUDIT INSTITUTIONS**

## **1) Susceptibility of the EU budget to fraud and irregularities**

Almost daily come into public view news on fraudulent operations in the charge of the EU budget which alarm the public opinion. Through these news the acceptance of Europe on the part of citizens diminishes. These news provide Europe's sceptics more material for disagreement. European successes occupy a second position. However, there is a positive aspect which follows from this: an increasing wish to attain a more efficient financial control in the European Union.

EU budget for 1995 exceeds 75 000 million ECU's. More than 90 per cent of this amount is set aside for subsidies. Whenever public authorities grant a subsidy, people's wits increases. As an example, only last year the situations of fraud which were brought into light in the EU made a hole in the EU fund of approximately 1 500 million ECU's. The estimated amount of undetected cases is supposed to be much larger. When referring to irregularities in a wider sense, it could be a question of more than ten per cent of the EU budget.

Increasingly organised crime develops more subtle ways of criminality. For this reason it should be verified, for instance, whether firms which receive EU funds have planned beforehand bankruptcy in order to avoid any possible reimbursement on their part or with the idea of avoiding making the simulated investments. Is feigned or misused, for instance, the creation of small and medium size firms with the aim of receiving EU funds? Are high bank charges and considerable differences in interest rates, as frequently happens in certain countries, related with payments of protection on the part of banks to criminal associations? Was the free award of public contracts in detriment of public tender chosen because this way corrupt public employees can give preference to firms which belong to criminal associations? Are beneficiaries involved in "firm nets" which especially make easy the obtaining of subsidies by false statements?

In view of this situation audit institutions -apart from carrying out value-for-money audits- should intensify their efforts to bring into light cases of fraudulent and irregular action. An evolution of these characteristics can be observed in the European Court of Auditors. From now on this institution will look after -within the framework of a Statement of Assurance (SOA) on the general budget for a financial year- the legality and regularity of the entries corresponding to the underlying transactions. This means that the European Court of Auditors must control if, for instance, cereals-for which storage expenses are reimbursed- have been actually stored in a silo, or if the industrial area -which receives standstill bonuses- has really been closed.

## **2) The particular situation of the European Union and the role played by the European Court of Auditors**

Not only high subsidies from the EU budget, but also the geographical dimension of the European Union lure fraud and irregularities. On the one hand, it is the European Commission the one responsible for the execution of the budget in its entirety. On the other hand, however, it is unreal to believe that just a few employees can control each project located between Lappland in the North and Crete in the South. Moreover, within the framework of structural funds the Commission normally does not know which projects in particular have been carried out. The Commission only authorizes global amounts. Member states are the ones responsible for the use of most of these funds. For this reason, member states play a significant role in the prevention of fraud and irregularities.

In political terms the European Parliament plays a very important role in the supervision of the correct use of funds. It discharges the Commission. The European Parliament can accomplish this task only if informed by the European Court of Auditors about the budget management of the Commission. Not only plays the Court of Auditors the role of supervisor with regard to the Commission but also a coordinating role. Last year Essen's summit conference made this clear. The conference wanted to emphasize that priority should be given to the fight against fraud and corruption and this way made clear that the new competences given to the European Court of Auditors should be applied on a large scale. Thus, an appeal to carry out coordinated activities with the member states has been made.

The Treaty of the European Union compels the European Court of Auditors to audit the totality of income and expenditure of the EU and guarantee that the budget is executed under criteria of economy, efficiency and effectiveness.

At present the European Court of Auditors has a staff of more than 400 people, half of them auditors. It is obvious that the Court, for personnel and cost reasons, cannot control thoroughly the totality of income and expenditure. For this reason this control is effected through sampling.

With the Maastricht Treaty, the European Court of Auditors was considered together with the European Parliament, the Council, the Commission and the Court of Justice as a sole institution and this way the Court must submit from now on to the Parliament and the Council the so-called Statement of Assurance concerning the reliability of the accounts and the legality and regularity of the underlying transactions.

For 1994 the European Court of Auditors has relied on a statistical method. The reliability is taken for granted, when after extrapolation of the errors detected in the sampling, an amount of 1 per cent of the EU budget, approximately 750 million ECU's, is not exceeded. It becomes apparent that a higher error rate will be confirmed.

### **3) The need for a cooperation with regional audit institutions**

It is obvious that the European Court of Auditors would be interested in cooperating with the audit institutions of the member states. Regional audit institutions gather more and more a greater meaning. Aids and subsidies set aside for regions have reached a considerable dimension, with a tendency to increase. Regional funds are a good example of this. The European Union will set aside for the period 1994-1999 almost 30 000 million ECU's per year for structural funds. Together with the public and private participation, an amount of approximately 60 000 million ECU's per year must be controlled. Most of these funds are destined for regions and not for the Treasury of each member state. Cofinancings are covered to a great extent by regional/local authorities and private firms. Through the agrarian reform and the partly transition to direct income aids for farmers the regional or local connection has increased within the sphere of agriculture.

As might be expected this requires a more intense control at regional level. The evolution is on the right track. With the entry of Austria in the European Union, 9 new *Land* Courts of Audit have been "incorporated". In Germany, the creation of courts of audit in the five new *Länder* has almost concluded. In France there are 26 regional accounting chambers ("*chambres régionales des comptes*"). Spain has eight regional audit institutions and others are in their stage of creation (Spain is made up of 17 autonomous communities). Great Britain, England, Wales, Scotland and Northern Ireland have their own regional audit bodies. In the same way Ireland has the so-called "audit districts". In Italy about a year ago regional delegations of the Italian National Court of Audit were established (apart from the already existing "*Comitati regionali di controllo*"). All these control bodies have something in common -for their condition of being external audit institutions - to act from a position of independence with regard to the audited body. Regional administrations, local authorities as well as private sector firms are audited. Most regional audit institutions are competent as long as "regional funds" run.

#### 4) Ways of cooperation

Generally it is a matter of improving the scope and degree of efficiency of external control as well as avoiding duplication of actions. Even though audit methodologies used by audit bodies are different, I can say from my own experience that the experiences with regional audit institutions up till now have been particularly positive. These institutions are very interested in cooperating with the European Court of Auditors.

How can a cooperation between the European Court of Auditors and regional audit institutions be effected? For the present it should be mentioned that the legal possibilities for a cooperation exist. Thus, article 188 C paragraph 3 of the Treaty of the EU provides that the audit in member states shall be carried out "in liaison with the national audit bodies". In other words, even if the EU-Treaty does not compile regional audit institutions to audit EU funds, it emphasizes on cooperation during the auditing activity. For instance, the implementing regulation of structural funds prescribe that member states when performing their actions shall take the necessary steps both to avoid any possible irregularity and to impose sanctions. Likewise member states shall claim those amounts which got lost. Here the action of regional audit institutions is also required. In operational programmes of structural funds for particular regions it is also specified that particularly regional audit institutions are responsible for the control of the correct use of budgetary funds.

Moreover, the exchange of information is a relevant aid for the European Court of Auditors. This exchange starts with the exchange of experiences which takes place in conferences. For instance, I am periodically invited to participate in meetings of German *Land* Courts of Audit. As German member of the European Court of Auditors I receive most of the annual reports prepared by German regional audit institutions. These reports are evaluated by us. Many times we also find indications that funds were coming from the EU. Recently I have consulted for our work a value-for-money audit carried out by a German *Land* Court of Audit regarding structural funds destined for promoting industrial areas in the new *Länder*. This way this audit will help to strengthen our arguments before European institutions. Some time ago I was also informed by the president of an audit institution of one of the new *Länder* about certain incidents. By agreement with this audit institution an audit observation concerning this will be included in our report corresponding to the current year and which has not been published yet. We have also received from other regional audit institutions similar indications. These can be of great help in our work since regional audit institutions are the ones closest to facts. Moreover, regional audit institutions are the ones which have an easier access to information, such as comments in the press. As a consequence of this we were also informed by regional audit institutions about comments on fraud and irregularities published in the press.

On the other hand regional audit institutions usually receive the audit reports which we have prepared and which we call "record of sector". Within this field difficulties have arisen in practice in the past because our auditors occasionally did not know the distribution of competences between a national court of audit and regional audit institutions. For this reason, at present we request national courts of audit to refer the mentioned reports to regional audit institutions provided that their competence is given.

As far as joint audits are concerned, our experiences are different. At the present time, the European Court of Auditors is mainly raising practical questions to national courts of audit in relation to this. Even if internal audit bodies control the classical areas of legality/regularity and economy, efficiency and effectiveness, there are still differences in the ways of conceiving the audits. The European Court of Auditors will take this into account.

Regional audit institutions frequently accept the invitations of the European Court of Auditors to attend its auditors when performing their audit tasks. However, the "central coordination" lies in the European Court of Auditors. The "attended" audits are of great value since regional audit bodies are in a good position to pursue further on the audit observations or even call in the public prosecutor in the case of badge of fraud. Even

though to date only in Germany, Italy and Portugal obtaining subsidies by false statements is liable to prosecution, the recently adopted directives for the protection of the financial interests of the Union, in particular, imposing administrative sanctions and criminal prosecution for fraud help to carry on.

Joint audits in which auditors share audit tasks are also conceivable. However, this requires a higher expense in personnel and costs on the part of regional audit institutions. Furthermore, there are some practical questions which should be clarified, such as the elaboration of a joint audit programme with the subsequent writing of a joint report and the follow-up of audit observations. In this it would be of great help if audit institutions in member states paid as much attention to the auditing of measures financed or cofinanced through EU funds as to the audit of their own resources. In the same way we see this phenomenon in our own auditors. In overall allocation of funds our auditors often pay more attention to their "own" EU funds, whereas national funds are not controlled in so much detail.

## **5) Further rights for the European Court of Auditors?**

Next I would like to comment on which other rights should in my opinion have the European Court of Auditors. To a certain extent this question also affects audit institutions of member states. The rights which the Court has in order to carry out audits are rather wide.

It is not necessary to furnish this institution with police rights and public prosecutor's rights as this has been discussed on several occasions in the past. What the European Court of Auditors would need is a right to proceed legally ( a right to sue) in order to protect the financial rights of the Union. Since its constitution this Court has witnessed that the Commission and also the member states often hesitate to comply with the audit observations. Sometimes they even do not comply with them at all. To achieve a reaction on the part of the Commission or the member states, a right to sue should be recognized to the Court in those cases in which the Commission or the member states do not take the necessary steps foreseen by civil and/or penal law with regard to the irregularities which have been detected and which have financial impact on the Union. n