

Power of audit of the European Court of Auditors

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Power of audit of the European Court of Auditors

The basic Treaties entrusted to the Court of Auditors the general remit of auditing. ‘The Court of Auditors shall carry out the audit (Article 246 of the EC Treaty and Article 160a of the EAEC Treaty; see also Article 45a of the ECSC Treaty, which expired on 23 July 2002).

Nature and scope of the audit

The Court of Auditors carries out an external audit of the correct implementation of the budget. It should be noted that ‘external’ audits – as opposed to ‘internal’ audits – are carried out by institutions different from those responsible for the implementation of the budget. Therefore, while the Commission is the institution primarily responsible for implementation of the budget, and internal audits are carried out by its ‘financial controllers’, external audits are carried out by the European Parliament and the Court of Auditors.

The Court of Auditors examines the accounts of all revenue and expenditure of the Community and of all bodies set up by the Community insofar as the relevant constituent instrument does not preclude such examination (Article 248(1) of the EC Treaty and Article 160c of the EAEC Treaty; see also Article 45c of the ECSC Treaty). The audit is therefore an *ex post* audit of financial transactions involving expenditure and revenue already undertaken.

Under the treaties, the Court of Auditors both examines whether revenue has been received and expenditure incurred in a lawful and regular manner and whether the financial management has been sound.

With regard to the examination for legality and regularity, it should be noted that the Court of Auditors does not enjoy any jurisdictional power nor the power to impose sanctions. The Court undertakes the task of financial auditing by ensuring that transactions comply with budgetary and accounting rules. Since the entry into force of the Treaty of Amsterdam, the Court must report any irregularity uncovered during its audits (Article 248(2) of the EC Treaty and Article 160c(2) of the EAEC Treaty; see also Article 45c(2) of the ECSC Treaty).

In addition to its main task of auditing, the Court also guarantees sound financial management, by ensuring that transaction objectives match the resources allocated to attain them. In order to do this, the Court examines whether the principles of budgetary law, such as economy, effectiveness and efficiency, have been respected.

The EC Treaty provides for the Court of Auditors to assist the European Parliament and the Council in exercising their powers of control over the implementation of the budget. The Court’s role of assistance is provided mainly as part of the procedure for giving discharge in respect of the implementation of the budget. Every year, the Court of Auditors presents its annual report relating to the preceding financial year to the discharge authority. The European Parliament, on a recommendation from the Council, then gives discharge in respect of the implementation of the budget.

Audit methods

The audit is based on records, and where necessary, may be performed on the spot in the other European Institutions and in the Member States. After their amendment by the Treaty of Amsterdam, the treaties provide that on-the-spot audits may take place on the premises of any body which manages revenue and expenditure on behalf of the Community and of any natural or legal person in receipt of payments from the Community budget. Community and national institutions, audit bodies or departments and natural or legal persons must, upon request, forward to the Court any document or information necessary to carry out its task.

Accordingly, audits in Member States are carried out in collaboration with national audit institutions (NAIs) or competent national departments. To that end, ‘cooperation in a spirit of trust and respect for independence’ is envisaged between the European Court of Auditors and the national audit institutions of

the Member States. Given that the powers of the national authorities to manage Community policies are always more extensive, such close cooperation is essential to ensure the effectiveness of the audit. Cooperation is particularly vital in combating fraud. The Contact Committee of the Heads of the Supreme Audit Institutions (SAIs) of Member States meets annually, alternating between Luxembourg and the capital city of one of the Member States. Furthermore, since 1993, an annual meeting with the heads of the SAIs of the Countries of Central and Eastern Europe (CEECs), Cyprus and Malta has been held as part of the preparations for their accession to the European Union.

Audit results: drawing up reports

The Court's observations are recorded in annual and special reports.

After the close of the financial year, the Court draws up its **annual report**, which is forwarded to the other Community institutions and published in the Official Journal of the European Communities, together with the replies of the institutions to the Court's observations. The report focuses on activities relating to the general budget and to the European Development Fund (EDF).

In addition, the Court draws up **specific annual reports**:

- the report on the annual accounts of the Euratom Supply Agency;
- the report on the accounts of the Joint Undertaking: JET;
- the report on the accounts of the European Schools;
- the report on the annual accounts of satellite bodies of the European Union in respect of which the Court carries out the external audit;
- the report on the review of the management efficiency of the European Monetary Institute and of the European Central Bank since its establishment (Article 27 of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank);
- the specific annual report on the annual accounts relating to the management, by the Secretary-General/High Representative of the Council, of contracts concluded by him as a representative of certain Member States, concerning the installation and functioning of the Help Desk Server of the Management Unit and of the Sirene Phase II network ('Schengen Contracts').

In addition, the Court may, at any time, submit observations on specific issues in the form of **special reports**.

The annual report and the relevant special reports are considered by the European Parliament, acting on a recommendation from the Council, with a view to giving a discharge to the Commission in respect of the implementation of the budget (Article 276 of the EC Treaty and Article 180b of the EAEC Treaty; see also Article 78g of the ECSC Treaty).

Since the entry into force of the Maastricht Treaty, the Court of Auditors must also provide the European Parliament and the Council with a **Statement of Assurance** as to the reliability of the accounts and the legality and regularity of the underlying transactions. This procedure, which requires the Court of Auditors to endorse the entire budget, was used for the first time in 1994. Since the Treaty of Amsterdam, the Statement of Assurance, together with a special report enlarging on each of the points in the Statement of Assurance, have been published in the Official Journal of the European Communities (which became the Official Journal of the European Union in 2003).