



IMPROVING NATIONAL ACCOUNTABILITY OF EU FUNDS

SUMMARY REPORT OF THE INTERPARLIAMENTARY CONFERENCE
THE HAGUE, 29 JANUARY 2010

Background to the conference

Representatives of 20 national parliaments, the European Parliament (EP), the European Commission (EC), the European Court of Auditors (ECA), Organization for Economic Co-operation and Development (OECD) and the Netherlands and German Supreme Court of Audit met to discuss the control and accountability of European funding and the way that European taxpayers' money is spent in the Member States (MSs). The high attendance demonstrated the importance of the conference's topic.

All participants had received copies of the Room Document and the Draft Statement. The Room Document was based on the comments submitted in response to the Discussion Paper and was meant to serve as a basis for the discussions, together with the introductions and speeches. The Draft Conference Statement was also based on the response received and reflected the common ground of the information provided. The discussions of the day could give rise to additions or changes. All participants were invited to actively participate in the discussions following the introductions.

Introduction by Mr Luigi de Magistris,


Chair of the Budget Control Committee of the European Parliament (morning session)

Many irregularities and formal violations have been identified in relation to structural funds, cohesion funds and, in particular 'white collar maffia' is a problem in tenders. There is evidence of organised financial crime in respect to EU funding. The European Anti-Fraud Office (OLAF) should therefore expand its scope and operate more independently from the EU. The European Commission is tightening its control but will this actually reduce fraud? Europe needs effective, independent investigation structures. Member States should be obliged to cooperate more with OLAF, the EU, with Eurojust and Europol. Attention should also focus on the possible consequences for Member States that repeatedly violate the rules, and for Member States where there is evidence of serious fraud, corruption and infiltration of organized crime. The Budget Control Committee of the European Parliament pledges to improve transparency and legality and thus make a major contribution towards the correct use of EU funds.

Introduction by Professor Josef Bonnici, the European Court of Auditors (morning session)

The Treaty of Lisbon (and previous European Treaties) requires the European Court of Auditors to provide an annual Statement of Assurance (DAS). This DAS assesses the reliability of the European Commission accounts and provides an opinion according to expenditure area, not containing a breakdown per Member State. The ECA does not have the resources for that. The ECA also examines the legality and regularity of the underlying transactions, i.e. the extent to which EU expenditure is spent appropriately. Progress has been made in the last four years: in some policy areas unacceptably high error rates have fallen. In effect, however, one third of the budget still reflects high levels of illegality and irregularity. Of all expenditures 53% per cent has an error rate higher than 2%. The (political) question is whether this is acceptable.

Unlike national budgets, the largest part of the EU budget relates to subsidies granted on the basis of individual claims submitted by many and diverse final beneficiaries. Some people try to maximise individual benefit in legal ways and others in less legitimate ways, and high rates of error are considered unacceptable. The expenditure which is subject to shared management (by Member States) is governed by EU regulations. These regulations applied in the implementation of the many different policy programmes in the 27 Member States are complex. Failure to allocate the EU budget in accordance with EU rules could destabilize the entire system.



The summary of the 2008 DAS results revealed that much has yet to be done in Member States to improve the assessment of supervisory and control systems. Although this was considered only partially effective in most expenditure areas, the error rate in respect of agricultural and natural resources, 45-50% of the EU budget, was considered acceptable for the first time. The main problem area is the cohesion funds, which are implemented under shared management and for which the current rate of error is at least 11%. The European Court of Auditors considers it crucial that supervisory and control systems be improved at national, regional, and local levels. The National Audit Institutions have their own mandate and their own responsibilities in respect to their national funds. It is therefore important to establish a basis for closer cooperation between the European Court of Auditors and National Audit Institutions, respecting their mutual independence.

National parliaments can provide effective scrutiny. A comparable methodology between Member States is necessary if national statements are used as input for the ECA.

Introduction by Mr Frans de Nerée tot Babberich,
member of the Dutch Parliament


The EU has not received positive accountancy clearance for its annual accounts for a period of 15 years, without anyone taking true responsibility. While improvements have been made, primarily in the field of agricultural funds, the present situation is impossible to explain to EU citizens. The current organisation of EU funds leaves a lot to be desired in terms of efficiency, effectiveness and accountability. 80% of all EU funds are spent in and by the Member States under shared management. Political awareness of the problem is high and national accountability for EU funding must be improved. EU funds spent on a national level are best managed and controlled by national and regional authorities. National Courts of Auditors and MPs of Member States should scrutinize the national and regional governments. The Lisbon Treaty gives national parliaments a more important role in scrutinizing EU policies in their respective countries.

The so-called Annual Summary, an obligation for Member States under the EU Financial Regulation, lacks elements that would render it suitable to account for all EU expenditure politically. Not all Member States publish their Annual Summaries and not all Annual Summaries include the same elements. An alternative is issuing a 'National Declaration'. The aim of issuing a national declaration of assurance is to provide the European Commission and the European Court of Auditors with a truly reliable document and it functions as an instrument for national parliaments to hold the Member State ministers accountable. The national declaration of the Netherlands is a political document signed by all responsible ministers and covers all EU expenditure. The responsible ministers signed the document after thorough investigations of EU funding and projects. The Minister of Finance subsequently conducts a plausibility test of the statements and issues a general statement on the spending of EU funds in the Netherlands. The entire process is monitored closely by the Superior Audit Institution. The final document is a political document, not a technical summary of audit. These National Statements must include all the necessary elements to enable all the relevant actors to be held accountable. Transparency acts as a stimulus to improve the accountability of EU spending. National 'Annual Summaries' in all EU Member States should thus be made public.

Two aspects of EU legislation on the agenda in 2010 are the revision of the Financial Regulation and the Inter-Institutional Agreement. Simplification of the budget and budgetary procedures and rules is also essential. National Courts of Auditors must have all the resources and instruments they need at their disposal and should function absolutely independently. If best practices in Member States were identified in a structured manner, and subsequently rewarded, this would allow the European Court of Auditors and the European Commission to devote more attention and more of its resources to regions of Member States where larger problems exist.

Introduction by Mr Gijs de Vries,
Vice-President of the Netherlands Supreme Court of Audit (afternoon session)

Throughout the EU, citizens require governments to spend public finances prudently, effectively, and in accordance with the law. Allegations of corruption and financial mismanagement have undermined trust in government at both national and EU levels. As some 80% of EU funds is managed by EU Member States,



in cooperation with the EC, EU Member States share responsibility for improving the current situation. Holding national governments to account, parliaments can help improve the legality, regularity and effectiveness of EU spending in the Member States.

In recent years, the Commission has taken several helpful initiatives and the European Court of Auditors has also noted improvements in the implementation of the budget. In addition, some improvements have been made by national authorities. In 2008, four countries published a Member State Declaration, and other Member States are considering taking a similar initiative. All Member States issue Annual Summaries, only three of which were published. The National Supreme Audit Institutions are conducting more EU audits but, although progress is being made, significant challenges remain.

Parliaments must be properly informed and instruments such as Member State Declarations and Annual Summaries can be particularly useful for improving the necessary transparency and accountability to national parliaments. It is important, however, to note the differences between these instruments. They differ as to their status, content, and reliability.

Member State Declarations are public documents, available to national parliaments and to citizens. Only some governments have published their Annual Summary and submitted it to their national parliaments. National Declarations provide assurance about the legality and regularity of the underlying transactions of EU expenditure and remittances. Annual Summaries summarise the available accountability reporting and audits at national level. They do not provide the assurance a national declaration provides.

The European Parliament has repeatedly urged the European Commission to promote their use by Member States, although several Member States have been reluctant to do so. However, accountability to the public should be an obligation, not a matter of choice. The obligation to issue a Member State Declaration and to have it audited by the relevant Supreme Audit Institution should be included in the European Union's Financial Regulation. In the meantime, transparency and accountability could be enhanced should the Member States agree to publish their Annual Summaries.

Some have argued that the best way to enable the European Court of Auditors to provide a positive Declaration of Assurance is perhaps to increase the tolerable level of error in the budget. Indeed, there is a strong argument to say that the cost of control should not be disproportionate to the benefits of controls. A note of caution is nevertheless in order. The cost of control of the EU budget depends to a considerable degree on the nature of the underlying regulations. The greater the complexity of the rules is, the higher the cost of control is likely to be. Efforts should therefore be focused on simplifying the regulations at the European level and improving control systems at the national level, rather than on increasing the tolerable level of error.

Attention should also focus not only on the legality and regularity of EU spending, but also on the effectiveness of expenditure. Much time and effort is being invested in improving the conditions for the European Court of Auditors to issue a positive DAS, and rightly so. Improving the legality and regularity of the underlying transactions must remain a priority both for the institutions of the European Union and for national authorities. Public expenditure must also be effective, however. The European Court of Auditors is to be commended for the increasing attention it devotes to performance audits of the policies of the European Union and the role of the European Commission. National Supreme Audit Institutions, for their part, have audited the implementation of certain EU policies at the national level.

Many Superior Audit Institutions in Europe are finding that they can provide their parliaments and citizens with added value by carrying out joint or parallel audits in areas where national policies and EU policies intersect. Coordinated audits help Superior Audit Institutions to identify good practices and to learn from each other. One consequence of the process of European integration is that the legitimacy of our national states has become inextricably intertwined with the legitimacy of the European Union. Democratic accountability with respect to the European Union's budget must therefore be exercised both at European level and in each of our Member States. National institutions and European institutions must work together, respectful of each other's roles and responsibilities but with the common objective of safeguarding the public interest.



Key points which emerged from the participant discussion

After the introduction there was a debate between members of participating delegations. Based on the discussions the following conclusions, clustered by theme, are the following.

1. National Declarations and Annual Summaries

- The need to establish a common audit methodology and a common methodology for National Declarations;
- The distinction between the political and technical issues of accountability;
- If the issue of National Declarations has to pass through national parliaments, this could prove a problem for some MS;
- The Annual Summary as an instrument for control should be enhanced.

2. Simplification of regulation for the benefit of effectiveness, efficiency and accountability

- Transparency;
- The quality, efficiency and efficacy of EU expenditure;
- The correct functioning of national systems of control;
- The limited means the EC has to pressure national parliaments;
- The importance of MSs operating in accordance with EU regulations, with regard to the management of EU funds, and the need for MSs to be accountable to their national parliaments and obliged to provide information to the EU.
- This could entail negotiating simpler regulations, amending existing regulations, or applying existing rules in a more simplified or more operational manner;
- The complex nature of the multi-annual approach of EU funding;
- The possibility of rewarding good financial policy and best practices rather than imposing conditions for projects;
- Projects funded by EU cohesion funds and structural funds should provide added value for the EU, it should not be 'soft money' spent on projects with no clear added value;
- Cohesion and Structural funds represent 35-40% of the EU budget, with an error rate of at least 11% in 2009; would it be better to restrict European structural funds to projects with real European cross-border added value and instead give the same amount of money to poorer countries as occurs now, but by means of direct budget support through national and regional governments rather than through the EU budget?
- The need for the infrastructure to be stable and effective but less bureaucratic;
- The need to ensure that all EU funds are actually used, and used efficiently;

3. Strengthen the National audit institutions

- The importance of strengthening the Courts of Audit in all MSs;
- The need for the auditing institutions to be independent and autonomous;
- The distinction between the SAI, which controls legality and regularity and addresses best practices, and parliament which is responsible for political control
- The complex aspects of tendering control due to the diverse tendering systems in the MSs;

4. Combating fraud

- The insufficient willingness of some MSs to act upon the findings of OLAF;
- The possibility of imposing sanctions on MSs that do not guarantee sufficient control in respect of fraud;
- The need for collective action to combat fraud and the criminal systems surrounding EU funds;
- The possibility of changing from a low-trust system to a high-trust system with less ex-ante control, better ex-post control, and higher sanctions where irregularities are identified;
- Regardless of which system is chosen for cohesion funds, i.e. directly to public government agencies, or through them to end users, it is essential to verify that the funds are spent properly and effectively.
- The potential for fraud in relation to public procurement;
- The concept of 'tolerable risk of error' is no short-cut to heaven

The participants did not agree on the effectiveness and design of Member States' National Declarations.



The Conference Statement

The final Conference Statement reflects these discussions and views. It is not a detailed, legally binding statement; it simply reflects the common opinion that a political message needs to be sent and that the issue was taken seriously. The Conference Statement stresses the importance of national parliamentary scrutiny, and mentions the Annual Summary as an instrument for control that should be improved on a European level by means of amending the Financial Regulation.