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COMMISSION OF THE EUROPEAN COMMUNITIES

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**COMMISSION STAFF WORKING DOCUMENT**

***Annex to the***

**REPORT FROM THE COMMISSION**

**Member States' replies to the Court of Auditors' 2007 Annual Report**

{COM(2009) 96}

The European Court of Auditors (ECA) published its *Annual Report on the implementation of the budget concerning the financial year 2007* (2007 Annual Report) on 10 November 2008<sup>1</sup>. In the report, the ECA presented its Statement of Assurance (DAS) and the supporting information, including observations concerning management in Member States.

As required by the Financial Regulation<sup>2</sup>, the Commission sent a letter to each Member State immediately, informing them of the ECA's observations as well as the errors attributed by the ECA to their country. The Commission also asked Member States to fill in a questionnaire which focused on Member States' follow-up of the ECA's findings.

This Commission Staff Working Document accompanies the summary report on Member States' replies to the Court of Auditors' 2007 Annual Report and presents Member States' replies to the questionnaire in more detail. Contributions from Member States have been shortened in some cases so that only main issues are presented.

The questionnaire contained 3 parts.

Part A included a question on the SPS (single payments system) in the Agriculture/Natural resources chapter. Member States were invited to state whether they had addressed improvements in this area. There were also, questions related to the Cohesion chapter, where the Court found weaknesses in the supervisory and control system, mainly related to the 1) Managing authorities 2) Paying authorities 3) Audit bodies. Member States were invited to reply focusing on the shortcomings in the supervisory and control systems, and action taken by them to address these shortcomings. Finally there were two general questions concerning the overall number of errors identified by the Court, the tripartite discussions with the Commission, the Court of Auditors and the Member States and finally the Commission's supervisory role in shared management.

Part B offered Member States the opportunity to make any general remarks on the 2007 Annual Report or general issues relating to the discharge procedure.

Part C contained a list of all observations in the 2007 Annual Report relating to the specific Member States as well as a list of DAS errors attributed by the ECA to the Member State. For each observation/error, the Member State was invited to indicate: 1) if action had been or would be taken, 2) the timing of any action taken, and 3) the content of action taken or (if no action) the reason for not taking action.

Member States were required to submit their replies by 15 December 2008.

The Commission received replies from almost all Member States, *cf. table 1*. The overall quality of replies was generally good and no Member State failed to submit a reply.

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<sup>1</sup> The report was published in the Official Journal C 286 of 10.11.2008. It is available on the ECA website: [www.eca.europa.eu](http://www.eca.europa.eu).

<sup>2</sup> Article 143(6) in The Financial Regulation applicable to the general budget of the European Communities, Council Regulation (EC, Euratom) No 1605/2002 of 25.6.2002.

Even if the approach of the Member States was generally cooperative, some of them did not reply to all parts of the questionnaire or only replied partially to part A and part C. Where appropriate, the Commission sent reminders to Member States.

**Table 1. Replies received by the Commission from Member States.**

	<b>Part A</b>	<b>Part B</b>	<b>Part C (Ref)</b>
Austria	Reply	Comment provided	Reply
Belgium	Reply	No comment	Reply
Bulgaria	Reply	Comment provided	Reply
Cyprus	Reply	No comment	Reply
Czech Republic	Reply	No comment	Reply
Denmark	Reply	Comment provided	Reply
Estonia	Reply	No comment	Reply
Finland	Reply	Comment provided	Reply
France	Reply	Comment provided	Partial reply
Germany	Reply	Comment provided	Reply
Greece	Reply	Comment provided	Partial reply
Hungary	Reply	Comment provided	Reply
Ireland	Reply	Comment provided	Reply
Italy	Partial reply	Comment provided	Partial reply
Latvia	Reply	No comment	Reply
Lithuania	Reply	No comment	Reply
Luxembourg	Reply	Comment provided	Reply
Malta	Reply	Comment provided	Reply
Netherlands	Partial reply	No comment	Partial reply
Poland	Reply	Comment provided	Reply
Portugal	No reply	No comment	Partial reply
Romania	Reply	No comment	Reply
Slovakia	Reply	No comment	Reply
Slovenia	Reply	Comment provided	Reply
Spain	Reply	No comment	Reply
Sweden	Reply	No comment	Reply
United Kingdom	Reply	Comment provided	Reply

A detailed overview of general comments made by Member States (part B) is provided in *table 2* whereas Member States' reactions to specific observations made by the ECA in the 2007 Annual Report (part C) is presented in *table 3*.

**TABLE 2. GENERAL REMARKS**

Member State	Reply
Bulgaria	<p>Bulgaria's institutions are paying close attention to the findings of the European Court of Auditors. Measures are being considered to remedy shortcomings, to improve management and control systems and to address the Report's other findings.</p> <p>We are pleased with the new structure of the Annual Report. It guarantees an appropriate degree of concordance between the Report and the object of the Report, namely the EU budget. It makes the EU institutions' examination and adoption of the Report's findings faster and clearer, and it makes it easy for the public to obtain information on the financial management of EU funds.</p> <p>The report is of crucial importance for the discharge procedure. The Court examines all accounting transactions in the course of the year and draws up a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions. It thereby enables the European Parliament to exercise one of its powers, namely that of approving or rejecting the manner in which the Commission manages and spends the EU budget.</p> <p>We would point out that the translation of the Annual Report is unclear in places, which is an obstacle to its being fully understood and to the adoption of optimal measures to remedy the shortcomings identified.</p>
Denmark	<p>Annual report for 2007</p> <p>Denmark is happy to see that every year since the statement of assurance was introduced, with effect from 1994, the Court of Auditors has, with some reservations, considered the EU's accounts to give a true and fair view of the Communities' revenue and expenditure and financial position. On the whole, therefore, this part of the statement of assurance has been positive every year and is again unblemished for the financial year 2007 (with no reservations at all).</p> <p>However, Denmark considers it clearly unsatisfactory that the Court of Auditors has, for the 14th year running, given a negative statement of assurance (with reservations) about the legality and regularity of underlying payments for most areas of expenditure in the EU budget (errors in over 2% of payments in 55% of EU spending sectors). There is no question of the situation being unchanging and thus static since, despite its repeated reservations in parts of the statement of assurance, the Court of Auditors again acknowledges the progress that has been made in recent years in the financial management and internal control of the EU</p>

**TABLE 2. GENERAL REMARKS**

Member State	Reply
	<p>budget. In the Court's annual report for 2007 this mainly concerned improvements in the control systems.</p> <p>Denmark welcomes the fact that the Court of Auditors puts forward a number of recommendations in its annual report for 2007. The main recommendations are: Political decision-making on acceptable risk levels for the financial control of the implementation of the EU budget; continued improvement of controls and control reports; and, not least, simplification of complicated rules and regulations. The Court of Auditors has for several years recommended that the current rules and regulations should be simplified as much as possible, reducing the possible risk of error. The recommendations are put forward with particular emphasis in the annual report for 2007, in which the political authorities are called on to consider simplified legislation in fields such as rural development and research.</p> <p>The Danish authorities would like careful consideration and detailed examination of the Court's recommendations as part of the Council's discharge procedure.</p> <p>In the current situation Denmark considers that the most important contribution to continued progress in the financial management and internal control of the EU budget should come from the following measures:</p> <ul style="list-style-type: none"> <li>• Continued implementation and follow up of the Commission's Action Plan towards an Integrated Internal Control Framework in respect of the implementation of the EU budget. In particular, this concerns control of the Cohesion Fund and the establishment of acceptable levels of error for the implementation of the budget.</li> <li>• Provision of better and more comprehensible information on the use of financial corrections, penalties, etc., and amounts recovered and amounts outstanding in the latest financial years, broken down by country, sector, etc. The Commission should report to the Council and to Parliament on this subject at least once a year. The Member States should of course contribute to this with the necessary reports.</li> <li>• Continued close cooperation between the Court of Auditors and the supreme national audit authorities (the National Audit Office in Denmark) through the exchange and reciprocal use of audit findings, etc.</li> <li>• Simplification of rules and provisions (see above in connection with the Court of Auditors' recommendations). The possibilities for simplification should be examined in greater detail. The Court of Auditors should clarify its position and the Commission should also propose practical changes to legislation, etc., to facilitate the management and control of the way EU</li> </ul>

**TABLE 2. GENERAL REMARKS**

Member State	Reply
	<p>assistance is used.</p> <p>Discharge procedure</p> <p>The Council’s discharge procedure should be supported by an extended and more regular treatment of questions of financial management and control throughout the year.</p> <p>The Council – and thus the Member States – should involve themselves more with the sound financial management of the EU budget, i.e. the regularity as well as the effectiveness and efficiency of budget implementation. The Council’s Budget Committee in particular should deal more regularly with issues in connection with the financial management, control and evaluation of budget implementation. In the current situation this calls for continued discussion of the Commission’s action plan and recovery issues (see above).</p> <p>In future the Council’s Budget Committee should also discuss the following annual documents:</p> <ul style="list-style-type: none"> <li>• The Court of Auditors’ special reports which typically deal with the extent to which EU citizens get “value for money”. The special reports are now discussed only by the appropriate sectoral committee, which does not appear satisfactory. For its discussions on both the drafting and the current implementation of the budget, the Council’s Budget Committee should once a year gain a general view of the main points of the special reports together with the Council’s conclusions. This could strengthen the link between the Council’s establishment of the budget and the Court’s management audit. The Budget Committee’s comprehensive examination of the special reports should take place before the Commission presents its proposal for the new budget for the following year.</li> <li>• The Commission’s synthesis management report containing, for instance, lists of the statements of assurance of the individual Directors-General in their areas of responsibility (with detailed reservations).</li> <li>• The Commission’s report on the Member States’ replies to the Court of Auditors’ Annual Report. This important report – which represents a regulatory part of the discharge procedure – should, at least, be presented by the Commission and commented on by the Court of Auditors at a special meeting of the Budget Committee.</li> </ul> <p>If the Council’s Budget Committee does not have the capacity needed to expand its treatment of questions of financial</p>

**TABLE 2. GENERAL REMARKS**

Member State	Reply
	management and control, the Court should consider appointing a special working party on the implementation of the EU budget. It should be pointed out that the Council has already appointed a special working party for combating fraud.
Finland	<p>As regards the cohesion policy, the Court of Auditor's report gave examples of errors identified in the audits. Because of the large number of errors identified relating to the legitimacy and regularity of projects, fuller details of the audit findings would be welcomed, to provide a more precise and representative explanation of the Court's comments.</p> <p>The background to the incorrect expenditure submitted by the final beneficiaries often contains complex rules and the high level of error does not necessarily mean that failure to comply with the rules was a deliberate attempt to defraud. At EU level, as part of its action plan to strengthen controls on the shared management of structural measures, the Commission has drawn up guidelines for the Member States on important issues regarding eligibility. These guidelines clarify the interpretation of the complex rules and will reduce the amount of ineligible expenditure in the future. The training organised by the Commission for the Member States on questions related to management of the structural funds (control of structural funds, closure of programmes) is particularly useful in this respect.</p>
France	The instructions provided by the Commission (under the format of "guidelines") on a particular issue should be more coordinated or consolidated from a communication to the other one, in order to allow a faster and more correct application.
Germany	<ol style="list-style-type: none"> <li>1. Germany appreciates the efforts by the Commission and the Member States to improve the budget execution.</li> <li>2. However, the ECA didn't give a positive DAS according to Article 248 EU Treaty on EU for the 14<sup>th</sup> consecutive time. On the basis of the current procedures, it is not foreseeable that a positive DAS will be achievable in medium term or in the long term. The controls, imposed by the Commission, are so extensive that they hinder the implementation of structural actions. The ECA's observations in the area of shared management are indicating only insignificant improvements, compared to the previous year. In Germany's view this indicates, that the DAS procedure according to Article 248 EU Treaty on EU is not working. Instead, the budget authorities and the Commission should think about a new DAS approach and should agree on a new procedure as an alternative to the current DAS procedure which didn't lead to a positive DAS in the last 14 years. In this regard, Germany supports</li> </ol>



**TABLE 2. GENERAL REMARKS**

Member State	Reply
	<p>the ECA's idea of tolerable risk of error for each policy area.</p> <p>Germany supports the ECA's recommendation to simplify management and control regulations.</p>
Greece	<p>1) Our service notes point 1.41, in which the ECA finds that ‘its audits in the areas of ‘Agriculture and Natural Resources’, ‘Cohesion’, ‘Research, Energy and Transport’ as well as ‘Education and Citizenship’ show that complicated or unclear eligibility criteria or complex legal requirements have a considerable impact on the legality and/or regularity of underlying transactions’.</p> <p>Our service has repeatedly emphasised its agreement with the above ECA finding and maintains that these ECA observations should be taken into account with regard to simplification of the regulatory framework governing the implementation and financing of expenditure in the above areas.</p> <p>2) Our service comments that the broader picture from the ECA observations is that the situation regarding execution of expenditure from the Community budget is clearly improved in relation to previous ECA observations and that the institutions, as well as the Member States, are cooperating and taking corrective actions to deal with any errors identified. In particular, we note that the overall assessment by the ECA of the supervisory and control systems in the Cohesion area improved from ‘not effective’ to ‘partially effective’.</p>
Hungary	<p>We were glad to see that the European Court of Auditors (hereinafter: ECA) issued an unqualified opinion concerning the reliability of the report for the financial year 2007. In other words, according to ECA assessment, the report gives a true picture, from all material aspects, about the financial situation and the operating and cash-flow results of EU.</p> <p>Unfortunately, ECA repeatedly gave a negative opinion concerning the legality and regularity of the underlying transactions in</p>

TABLE 2. GENERAL REMARKS

Member State	Reply
	<p>most areas of expenditure.</p> <p>The recommendations included in the report identify specific steps and actions for the Commission and for the competent authorities of the relevant member states. In our opinion, such steps and actions could be useful for the targeted elimination of the deficiencies present in the management and audit systems. However, we consider it important that ECA also include in the report or any supplementary document examples of good practice found during the audits. Not only the faults identified during the audits but also the systems successfully implemented in practice could greatly assist the member states in the elimination of their respective deficiencies.</p> <p>Although the report mentions that there was great progress in the field of the action program initiated by the Commission, the practical impacts of such progress cannot be felt yet and, therefore, cannot be assessed at the moment. However, the implementation of certain measures included in the action program would be indispensable so that the relevant processes can start also in the member states. For instance, the too complicated regulatory environment can be simplified at the level of member states only after a simplification in Community regulations.</p> <p>For the establishment of an efficient and successful management and control system it is necessary for the Commission to provide detailed guidelines for the member states. As in the previous year, we would again suggest that ECA should encourage – with due recognition of the work done so far – an improvement in further methodological guidelines and pay more attention to checking the content of such guidelines.</p>
Ireland	<p><b>Cohesion</b> (Special EU Programmes Body) -SEUPB found the discharge procedure very useful for the reasons outlined in question 8.</p> <p><b>Natural Resources</b></p> <p><b>Para 5.15 (a)</b> Agri-Environmental Schemes: On-the-Spot checks by Auditors, farmers had not met all the eligibility conditions. Please see additional information for a detailed response to individual farm findings. <b>Para 5.32 (c)</b> Inadequate verification of the eligible area under agri-environmental measures in cases where this area did not correspond to the data on the IACS database.</p> <p>Land areas claimed under the REPS scheme are cross-checked and verified with the Area Aid/LPIS database. Differences between</p>

**TABLE 2. GENERAL REMARKS**

Member State	Reply
	<p>REPS and Single Payment Scheme (SPS) areas are systematically identified during the processing of annual REPS payments, and these payments are withheld until differences are resolved. When over 60,000 REPS claimed land areas were checked against the Area Aid Land Parcel Identification System (LPIS), minor errors were found in less than 300 cases representing 0.5% of the total area. From 2008, as part of an integrated REPS/SPS/DAS risk analysis, all field inspections of REPS participants include a full On-the-Spot verification of claimed areas. Further, all inspected REPS participants in 2007 are now the subject of an On-the-Spot verification of areas claimed. With the exception of one farm visited by auditors, any measured LPIS areas were shown to be correct and demonstrate the integrity of the Department’s LPIS database as a land area verification system. From 2009, Ireland will impose conformity between areas eligible for payment in SPS and REPS (previously, some areas such as farmyards and internal roadways have been eligible for REPS payment for not for SPS, but this will no longer be the case). Fuller details will be provided to the Commission shortly.</p> <p><b>Para 5.32 (e)</b> Inconclusive and poorly documented administrative and on-the-Spot controls</p> <p><b>Administrative Controls</b></p> <p>Administrative checks are carried out on 100% of REPs applications. Both Article 67 of Commission Regulation 817/2004 and Article 11 of Commission Regulation 1975/2006 afford some discretion to member states in relation to the checks to be carried out. While acknowledging the Commission’s observations, Ireland remains satisfied that previous procedures, involving cross-checking of applications with its area and animal identification databases, gave a very high level of assurance as to their validity. The data on Irelands’ Land Parcel Identification System are regularly updated and demonstrably accurate to a very high degree. The Animal Identification and Movement System is also based on a framework of very regular updating, verification and validation. Ireland contends therefore that its systems for the measurement of land parcels and animal numbers are extremely accurate and therefore that the risk of ineligible payment was extremely small.</p> <p>Article 67(1) pf 817/2004 provides that “The Member States shall define suitable methods and means for verification of compliance with the conditions for granting support. Article 11 of 1975/2006 provides that “administrative checks on payment claims shall cover all elements that it is possible and appropriate to control by administrative means. All REPS Plans are checked during the administrative procedure. “Effective Verification” in Ireland does not rely on assumptions of Planners though it was clear from the inception of the scheme in 1994, and throughout its many years of implementation, that these Professional</p>

**TABLE 2. GENERAL REMARKS**

Member State	Reply
	<p>Agronomists have a key role to play in the implementation of this complex measure.</p> <p>Ireland does not accept that the Plan is not checked in an exhaustive manner. Checks are clearly evidenced and outcomes recorded.</p> <p>Notwithstanding Ireland’s position as regards checks conducted previously, a new system is being introduced from early 2009 which requires all REPS farm plans to be prepared using the latest version of eREPS, the electronic planning system approved by the Department of Agriculture, Fisheries and Food (the latest version includes a number of automatic checks which will in most cases prevent the submission of erroneous data).</p> <p><b>On-the-Spot Field Inspections</b></p> <p>In cases that are selected for 5% on the spot inspection the administrative checks include the following:</p> <ul style="list-style-type: none"> <li>•Eligibility of lands: Re-check of REPS area -v- LPIS area</li> <li>•Ownership and Lease documents, Grazing rights &amp; Commonages documents are all examined to ensure they meet REPS Specifications.</li> <li>•All maps are checked for compliance with the scheme specifications;</li> <li>•Nutrient Management: Ensure that the potential of grassland/tillage areas to take animals and other wastes have not exceeded the maximum permitted in the Specifications and that calculations are correct.</li> <li>•Soil analysis reports are checked against the Plan and the Specifications.</li> <li>•The calculation of maximum permitted chemical P and the lime requirement is checked.</li> <li>•Planned livestock numbers on REPS Plan are compared with the AIMS/CMMS information (the Departments animal identification and movement database) The Aim System has been recognised as a very reliable and accurate means of showing livestock movements and locations.</li> <li>•The calculation of Nitrogen (N) from animal/other wastes is checked.</li> <li>•Check that the maximum number of livestock is consistent with details of livestock enterprise on the Plan.</li> <li>•Check that the N quantities (chemical/animal waste) do not exceed the maximum permitted.</li> <li>•Check that the Plan has adequately addressed the over wintering of animals and the planned animal housing facilities.</li> </ul>

**TABLE 2. GENERAL REMARKS**

Member State	Reply
	<ul style="list-style-type: none"> <li>•Check that the Plan has adequately addressed fodder storage facilities and silage effluent storage facilities.</li> <li>•Check the planned facilities for storage of farm wastes and the diversion of clean run-off from buildings and yards.</li> <li>•Check the undertaking for specific habitat types are outlined in the Agreed Farming Conditions and that Non-Commonage Measure A lands comply with the specific farming conditions for the habitat type.</li> <li>•Where appropriate check that the undertaking required to achieve the conservation objectives for the particular commonage as outlined in the Framework Plan and that Commonage Measure A lands comply with these conditions.</li> <li>•Where appropriate the destocking calculation is checked and the maximum ewe equivalents allowed must be verified.</li> <li>•Where appropriate Measure A lands and Non Commonage Target Area lands, should meet the requirements of the REPS Scheme.</li> <li>•The remaining REPS Measures detailed on the Plan are examined.</li> <li>•The annual works prescribed for the duration of the Plan are examined.</li> <li>•REPS Biodiversity Options indicated on Plan are checked to ensure the options chosen meet with the Planner Specification.</li> <li>•Supplementary Measures (if applied for) are examined.</li> </ul> <p>Ireland is satisfied that the 5% on-the-spot check is sufficiently robust and was always sufficiently robust to meet the control requirements of REPS 2 and REPS 3. We are equally satisfied that the 5% on the spot check for REPS 4 meets these requirements.</p> <p><b>Control Report</b></p> <p>The format of the control report in use for On-the-Spot checks was deemed insufficient to allow for complete verification of the controls. While the control report in use in 2007 did allow for a full evidencing of control of eligibility criteria, revised control reports were put in place from May 2008 onwards to take account of audit opinion. <b>Para 5.32(f)</b> Inadequate consideration of risk factors for the selection of sample of farmers to be controlled.</p> <p>It is acknowledged that in accordance with Commission Regulation 2419/2001 (as superseded by Commission Regulation (EC) No 796/2004) that the proportion of the sample selected randomly for on the spot inspections should have been 20–25% rather than 50%. The proportion of the sample selected randomly is now based on 20–25%.</p> <p>In relation to the risk criteria used for selecting the remainder of the sample the selection of the sample has been amended from</p>

**TABLE 2. GENERAL REMARKS**

Member State	Reply
	<p>2008/2009 onwards to include the additional factors:</p> <ul style="list-style-type: none"> <li>•the number of agricultural parcels and the area;</li> <li>•changes from the previous year.</li> </ul> <p>However, the Irish authority would contend that as ERS2 eligibility and payment are based on land area (and Good Farming Practice applies, not cross-compliance), the two additional factors specified under Article 19 of Commission Regulation 2419/2001 (as superseded by Article 27 of Commission Regulation (EC) No 796/2004) are not relevant to ERS2. These factors are:</p> <ul style="list-style-type: none"> <li>•cases of non-compliance with Regulation (EC) No 1760/2000, which relates to the identification and registration of bovine animals and the labelling of beef.</li> <li>•replacement of animals pursuant to Article 58, which relates to the time limits for the replacement of bovine animals and indicates that “Bovine animals present on the holding shall only be regarded as determined if they are identified in the aid application.”</li> </ul>
Italy	<p>(NOTE: This reply has been provided by <b>the Ministry of Education and research</b> and by the <b>Authority for the ERF</b> on the issues related to their competence)</p> <p>Ministry of education:</p> <p>There are some problems concerning the alignment of the amounts recorded in the last report of the Commission (Ref. REGIO J3/FM/djdd D (2008)) and those recorded in the Annex II of your letter.</p> <p>With regard to the determination of staff costs, the general expenses and the need of more checks on the financial operations, our Administration has adopted some important measures. We have detailed the conditions to evaluate the staff cost, the worked hours and the general charges. The calculation of the general expenses as 60% of the staff cost has been eliminated (no more than 50%, and this figure has to be supported by an adequate accountability documentation). We have eliminated the 5% deduction for the absences. Concerning the additional documentation required, we will transmit it to you as soon as possible.</p> <p>Authority for the ERF:</p>

**TABLE 2. GENERAL REMARKS**

Member State	Reply
	<p>With reference to the table 2.1 of the Chapter "Education and citizenship", we would like to point out the weaknesses of the management and control systems for the European Funds for Refugees. On the 4<sup>th</sup> December 2008, the Commission for the exercise 2007 has audited this Administration. The General-Director of the DG LSJ has demanded to the audit authority to do some additional verification on the regularity of the operations for 30% of the expenditure (instead of 10% minimum required in the art 7, par.2 of the Decision 2006/401/CE).</p> <p>We would like to point out that for the EFR II 2008-2013, Italy has already established a new Management and Control System with an annual and multiannual framework, approved by the EC with the decision C (208)7727 del 5.12.2008.</p>
Luxemburg	<p>ESPO : The programmes for the European territorial cooperation are more complicated than the national ones. It could be useful to go further on the formulation of appropriate specific rules which make easier such programmes</p>
Malta	<p>The European Commission adopted 'Action Plan towards an Integrated Internal Control Framework'. This Action Plan, divided into 16 main points, is addressing gaps in the control systems where EU funds are concerned and is already bearing fruit.</p> <p>In areas such as 'Administrative Payments' and 'Economic and Financial Affairs' no material errors were identified and therefore it was concluded the the control systems in these areas are functioning properly. On the contrary, areas such as 'Research, Energy and Transport' are still suffering from material errors. The Directorate feels that the basic principles of the control systems that are functioning properly should be applied to those areas still afflicted by material errors, although it is understood that in these area expenditure is more complex.</p> <p>Accounts for 2007 are the third set of accounts prepared on the principle of accrual accounting and one has to point out that in this year's accounts there is an improvement on those of the previous two years. This is evident, for example, from the fact that there is a better categorisation of information about recovery of payments which should not have been made.</p>
Poland	<p>Please note that the ECA's preliminary findings of the audit mission for the Statement of Assurance for the financial year 2007 (DAS 2007) in respect of the Operational Programme 2004PL06GDO001 (Temporary Rural Development Instrument (Ref. PF 2565), conducted by the ECA in Poland from 2-6 and 23- 27 July 2007 have not been covered.</p> <p>We therefore present comments on the ECA audit (Ref. 2565) for the DAS 2007.</p>

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Member State	Reply
	<p>Ref. no. II (1) No on the spot checks prior to the decision granting aid.</p> <p>In line with the findings of the STAR Committee, presented in document VI/185/250/04-rev1 Guidelines for Meeting Standards, in the case of projects of a value of over EUR 10 000 the Agency for the Restructuring and Modernisation of Agriculture (ARiMR) visits holdings before taking a Decision. These visits are part of the verification of whether the investment concerned really is necessary on the holding (i.e. whether there are not already suitable premises/installations) and whether investment in the holding has already begun before a Decision granting financial aid for the adjustment of agricultural holdings to EU standards has been taken under the rural development plan. We would also stress that a further visit is made after submission of the statement on the farmer's implementation of the investment.</p> <p>At the same time, in the plan for the adjustment of the holding to EU standards, submission of which is a basic precondition of the aid, the farmer is obliged to give information concerning, above all, the installations for the storage of natural fertilisers with which the holding is already equipped. The adjustment plan defining the state of the holding before the investment, the scope of the planned measures, a brief technical description of the measures and the target state of the holding. In the case of adjustment of dairy holdings, the need for adjustment is confirmed by a decision of the district veterinary officer refusing to certify that the holding complies with minimum standards of hygiene and animal welfare. At the farmer's request the district veterinary officer defines the scope of measures necessary to achieve minimum standards of hygiene and animal welfare.</p> <p>The results of the checks are entered in the system and provide the basis for further verification procedures. A simple administrative control has also been introduced in the ARiMR to check the data entered on the application against the data already in the database on the farmer concerned.</p> <p>Ref. No II (2) Actions in connection with comments made during on-the-spot checks and their impact on risk analysis. It should be clearly stated that Action 6 of the Rural Development Plan on the adjustment of agricultural holdings to EU standards is an action in which support is provided on a one-off basis and hence the results of the checks conducted cannot contribute to selection for controls in subsequent years.</p> <p>Ref. No. II (3) The managing institution relies to too great an extent on the declaration of the final recipient before authorising final payment.</p> <p>With respect to the above form, which raises the issue that the statement of the final recipient is an inadequate basis for effecting the final payment, we would explain that for projects of a value of less than EUR 10 000 the ARiMR conducts on-the-spot checks on a 5.5% sample of applicants. The complaints about the beneficiary's statement, on the grounds that is not sufficient evidence that the measures have been taken, is unjustified since after the statement that measures have been completed checks are carried on 5.5% of cases.</p> <p>It should be borne in mind that Article 69 of Commission Regulation (EC) No 817/2004 of 29 April 2004 laying down detailed rules for the</p>



**TABLE 2. GENERAL REMARKS**

Member State	Reply
	<p>application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) provides that on-the-spot checks are to be made in accordance with Title III of Regulation (EC) No 2419/2001. They are to cover at least 5% of beneficiaries each year and all the different types of rural development measures set out in the programming documents.</p> <p>It should also be emphasised that Article 72(1) of Commission Regulation (EC) No 817/2004 of 29 April 2004 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) provides that any beneficiary found to have made a false declaration as a result of serious negligence must be excluded from all rural development measures under the relevant chapter of Regulation (EC) No 1257/1999 for the calendar year in question.</p> <p>It should also be borne in mind that under Article 75(2) of the Code of Administrative Procedure, if a provision of the law does not require the facts or the legal situation to be officially confirmed by means of a certificate issued by the competent administrative body, the public administrative body must accept, on application by the party, a statement made by that party, who is subject to criminal liability if the statement is false.</p> <p><b>Ref. No III (2) Administrative checks are poorly documented and do not allow conclusions to be drawn.</b></p> <p>The aid is a lump sum covering 100% of the value of the planned investment. It is not therefore calculated on the basis of invoices submitted. The aid is granted on the basis of the payment rates set out in the Regulation of the Council of Ministers of 18 January 2005 on the detailed rules and procedures for granting financial assistance for adjusting agricultural holdings to European Union standards under the rural development plan (Dziennik Ustaw No. 17, item 142, as amended).</p> <p>In cases giving rise to doubts, the control body may demand commercial documents confirming the purchase of necessary construction materials, although this means of verification is not compulsory. The main focus of the analysis of invoices is to establish whether the investment was undertaken before the decision was taken to award financial aid. This is why the result of the verification by the control body was a list of the dates on which the documents were issued. Under Paragraph 12 of the above Regulation, a farmer to whom a payment is granted is obliged to keep documents relating to the payment granted, including commercial documents within the meaning of Regulation 4045/89/EEC of 21 December 1989 on scrutiny by Member States of transactions forming part of the system of financing by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund and repealing Directive 77/435/EEC, for five years from the day of completion of implementation of the adjustment plan.</p>

TABLE 2. GENERAL REMARKS

Member State	Reply
Slovenia	<p><b><u>Managing authority (SVLR – the Slovenian Government Office for Local-Self-government and Regional Policy):</u></b> In its annual report for 2007 the European Court of Auditors gives each Member State the opportunity to examine the main shortcomings, errors and problems that arise in the implementation of structural policies. Because of the transparency and public nature of the data, each Member State is able to focus beforehand on certain bottlenecks and problems in implementation.</p> <p>The <u>managing authority</u> of the Republic of Slovenia does not have any more substantial comments on the European Court of Auditors report as the Court did not carry out any audits in Slovenia in 2007. However, there were a number of audits by other supervisory bodies (the Court of Audit of the Republic of Slovenia, the Budget Supervision Office and the European Commission). The last two audits, by DG EMPL and DG REGIO, are currently in the final stages.</p> <p>Within its sphere of responsibilities, the managing authority will be more active in supervising implementation of the management and control system for Structural Fund and Cohesion Fund resources and start immediately on the tasks conferred on it in response to the needs arising from certain flaws in the system for implementing cohesion policy.</p> <p><b><u>Paying authority (Ministry of Finance, Budget Directorate – SUSEU – Department for Management of EU Funds):</u></b> The certifying authority does not have any comments to make about the 2007 annual report.</p> <p><b><u>Ministry of Finance, Budget Directorate - Unit for cooperation on the EU budget</u></b> welcomes the Commission decision on the introduction of proactive arrangements for the lifting of reservations concerning the VAT resource and GNI.</p>
United Kingdom	<p><b>1.1. CLG</b></p> <p>There has been a unique process in one particular region where sub regional bodies deliver the funding programmes which presented additional challenges. In particular, the Commission had concerns around the physical on-site checking of projects. This resulted in ERDF in England being affected by flat rate corrections for deficiencies in management and control systems. However, the issues were or are being amicably resolved and actions have been taken to improve those management and control systems. In</p>

**TABLE 2. GENERAL REMARKS**

Member State	Reply
	<p>support of the actions taken to improve, the value of suspension originally indicated has been significantly reduced because of these improvements. Additional resources have been implemented to ensure that we get in line with the EC proposed error rate of 2%, which we believe is unreasonable and which we doubt any member state will be able to achieve.</p> <p>There has been greater emphasis on working with the regions to increase the number of on-site checks. We have revised and strengthened guidance on monitoring and inspection activity, additional resources have been employed. Regions are taking action to ensure ineligible expenditure is identified and dealt with and that any ineligible expenditure is deducted from declarations to the Commission. The ERDF IT system will automatically deducted any ineligible amounts once a clawback of grant has been instigated.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
<b>CHAPTER 2 – COMMISSION INTERNAL CONTROL FRAMEWORK</b>		
2.3	<p>The Commission acknowledges nevertheless that further efforts are needed to resolve a number of weaknesses, in particular those highlighted in the reservations of the delegated authorising officers and those belonging to the budget areas that were not considered satisfactory by the Court of Auditors. In this respect the Court considers that the scope of some reservations should be greater than presented by the Commission's Directors-General.</p>	<p><b>Bulgaria:</b> Action taken in June 2008. Content of the action: In the period May-October 2008 Bulgaria reformed its systems for the management and control of the Cohesion Fund (formerly ISPA). The Republican Road Infrastructure Fund was transformed into a National Road Infrastructure Agency (NAPI) reporting directly to the Ministerial Council. NAPI has been designated an intermediate body, accountable to the managing authority at the Ministry of Transport. The two authorities have reached an agreement dividing competences between them and delegating powers for the implementation of road projects. The internal rules of procedures governing the systems' working have been updated (public procurement, reporting of irregularities, verification of expenditure and works, etc.). By order of the deputy prime minister, a working party of directors and competent deputy ministers was set up to monitor the NAPI's activities. The communication referred to in Article 5 of Regulation (EC) No 1386/2002 was updated and sent to the Commission. Council of Ministers Decree No 224 of 10 September 2008 established a council for the coordination and monitoring of EU resources. The National Assembly has adopted: an amendment to the Highways Act, an amendment to the Public Procurement Act and an Act on the prevention and detection of conflicts of interest. Measures to strengthen administrative capacity: Council of Ministers Decree No 197 of 5 August 2008 introduced an incentive system of performance-related bonuses for staff managing EU financial assistance. A European Commission audit to assess the compliance of management and control systems (indicative chart) is expected in February-March 2009.</p> <p><b>Czech Republic, Spain:</b> referred to its reply to Table 2.1 (see above)</p> <p><b>Hungary:</b> In 2007 and 2008 Government Decree 360/2004 (XII. 26.) Korm. (on the elaboration of the financial implementation, accounting and control systems related to accepting funds linked to projects financed from the Operational Programs of the National Development Plan,</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p>EQUAL Community Initiative and the Cohesion Fund) was amended several times with regard to the following: handling of irregularities, first-level audits, statement from the directors of managing authorities/participating bodies on the proper operation of internal control systems.</p> <p><b>Ireland:</b> in relation to the reserve imposed on Ireland. A response was issued to DG REGIO on 10th October 2008. This is currently being considered by the Commission and we understand that a further response is to issue to Ireland early in 2009.</p> <p><b>Latvia:</b> The single payment scheme under Chapter III of Regulation No 1782/2003 is not being implemented in Latvia, because the single area payment scheme under Article 143(b) of Regulation No 1782/2003 is being implemented.</p> <p><b>Luxemburg:</b> Action taken in 2005, 2006 and 2007. Content of the action: reinforcement of the control.</p> <p><b>Poland:</b> action taken on April 2007. In April 2007 the European Commission sent Poland the Action Plan for 2004-2006, intended to contribute to improving existing management and control systems. Action taken on the basis of this document included: checks under Article 4 of Regulation (EC) No 438/2001, checks under Article 10 of Regulation (EC) No 438/2001, expanding the methodology for the conduct of controls on public procurement, improving the system for reporting irregularities, completing work on the IT system. As a result of the EC and ECA audits in 2006 and 2007 and the conclusions in the "Action Plan for Poland for 2004-2006", no reservations were presented concerning the CF management and control system established. Therefore the comments presented in Table 2.1 and in points 2.3 and 2.11 do not concern the CF management and control system in Poland.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p><b>Slovakia:</b> action taken on 30.10.2006 (Opinion of the Human Resources SOP MA, MA for SPD NUTS II Bratislava Objective 3: Action Plan); on 08/2008 (Opinion of the Agriculture and Rural Development SOP MA: increased number of controls); on 14.11.2007 (Opinion of the Ministry of Finance, Resolution of the Government of the Slovak Republic No 974/2007 on an action plan further to findings made in certification checks, controls and audits for the first half of 2007).</p> <p><b>Sweden:</b> the Commission's Directors-General had a reservation concerning Sweden relating to 2006. This reservation is not maintained in respect of 2007, which is why no further measures are planned.</p>
2.11	<p>For Directorates-General for Regional policy and for Employment, Social Affairs and Equal Opportunities the total estimated financial quantification of the impact of their reservations increased from approximately 140 million euro in 2006 to nearly 725 million euro in 2007 (5). For the Directorate-General for Agriculture and Rural Development the new reservation for 2007 on Rural Development expenditure is based on information from Member States which shows an error rate in excess of 3 %. However, this information had not been validated by the certification bodies or accepted by the Directorate-General.</p>	<p><b>Czech Republic, Spain:</b> See table 2.1</p> <p><b>Hungary, Luxemburg, Poland, Sweden:</b> See 2.3</p> <p><b>Slovakia:</b> Action taken on 30/10/2006 (Opinion of the Human Resources SOP MA, MA for SPD NUTS II Bratislava Objective 3: Action Plan) and on 5/2008 (Opinion of the Agriculture and Rural Development SOP MA: Approval of a system for the control and auditing of EAFRD expenditure)</p> <p><b>Latvia:</b> Latvia has prepared answers to the observations by the EC auditors. The coordination and discussion process for the ESF report is ongoing</p> <p><b>Greece:</b> action taken in December 2008. Content of the action: submission of a new plan of corrective actions for the EAGF, showing the measures taken to tackle the weaknesses concerning approval of payment applications in the IACS that were noted by the Certifying Agency.</p>
Table 2.1		<p><b>Czech Republic:</b> Cohesion Fund: in 2007 DG REGIO carried out a "Follow-up system and project audit". The response of the Czech authorities to the report from this audit was dispatched on 29 August 2008. The conclusions of audit missions carried out by the Commission do not contain any findings of significant irregularities of a systemic character in the area of</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p>management and control. Therefore, the Managing Authority of the Cohesion Fund is not aware of any reasons why the Czech Republic was included among the Member States against which the Commission has raised certain reservations for year 2007.</p> <p><b>Hungary, Ireland, Luxemburg, Poland, Sweden:</b> see 2.3</p> <p><b>Latvia, Greece:</b> see 2.11</p> <p><b>Slovakia:</b> action taken on 30.10.2006 (Opinion of the Human Resources SOP MA) et on 12/2007 (Opinion of the Agriculture and Rural Development SOP MA, Adoption of a financial management system for 2007-2013 RDP SR measures financed by the EAFRD, approved by the Slovak Government; adoption of a draft scheme of control and aid from the EAFRD, approved by the Slovak Government</p> <p><b>Spain:</b> action taken in February 2008. Content of the action: instructions to MA and PA from the UAFSE to carry out an adequate control. With regard to the period 1994/99, Spain is working jointly with the Commission.</p> <p><b>UK:</b> action taken and on-going. Content of the action: additional resources, more robust monitoring and follow-up on findings.</p>
<b>CHAPTER 3 – BUDGETARY MANAGEMENT</b>		
3.10	13 % of the unused commitments (18,1 billion euro) concerned the Cohesion Fund, despite the fact that it represents only around 5 % of total authorised commitment appropriations for 2007. This is an increase of 2,7 billion euro or about 15 % compared to 2006. The high level of outstanding	<b>Czech Republic:</b> The spending expected for the individual projects will be compared with progress in the actual implementation and discussed at the biannual meetings of the monitoring committees. The reason why there were large differences in the previous years was lack of experience in the first years of implementation and the fact that when spending forecasts were made, contracts had not yet been concluded for most projects and the forecasts were not based on a realistic vision.

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
	<p>budgetary commitments regarding the Cohesion Fund represents 2,5 years worth of commitments or 4,2 years worth of payment at the 2007 spending rate and reflects also the fact that this fund is not subject to the n+2 rule (see paragraphs 3.12 to 3.17). The spending rate for the Cohesion Fund was less than expected, especially for projects in Spain, Czech Republic and Slovenia. An amending budget reduced the payment appropriations by 0,67 billion euro (14 %).</p>	<p><b>Spain:</b> The remarks of the Commission are accepted: because the eligibility in the projects of the Fund of Cohesion spreads until 2010, some organisms proposed modifications in the establishment of the decisions for delays in the projects. Also, during 2007, the information requests from the EC have increased, principally in case of the requests of the balance (last payment) of the projects. This has generated a delay in the received income diminishing the percentage of payment of the Fund of Cohesion in 2007 and carried over in 2008.</p>
<b>CHAPTER 4 – REVENUE</b>		
4.5	<p>The Court audited a random sample of 30 import declarations in each of six Member States (4). It also carried out an assessment of supervisory and control systems in those Member States as well as at the Commission.</p> <p>(4) The Court selects Member States for detailed audit on a cyclical basis, with the largest contributors being examined more frequently. For 2007 the countries audited were Bulgaria, Denmark, Germany, Spain, Romania and Portugal.</p>	<p><b>Bulgaria:</b> The Bulgarian customs administration did not receive an opinion from the ECA under this audit.</p> <p><b>Spain:</b> in this paragraph, the Court just declared the scope of the inspection.</p> <p><b>Denmark:</b> action taken in May 2008. The court's audit findings are also described in the National Audit Office's statement on the audit of EU funds in Denmark. See pages 129-131 (points 630-632) of the National Audit Office's report No 19/2007 to the State auditors on the audit of the State accounts for 2007.</p>
4.7	<p>Furthermore, a specific examination on customs warehousing was performed both at the Commission and in seven</p>	<p><b>Belgium:</b> Action taken on 12/2006 and 06/2005. Content of the action: payment to the European Commission as a result of the legal action. Adaptation of the OWN RES files.</p>



**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
	<p>Member States. (6).</p> <p>(6) Belgium, Czech Republic, France, Italy, Slovakia, Sweden and United Kingdom.</p>	<p><b>Czech Republic:</b> four of the original nine findings of the ECA (PF 2503/07) have been settled and the Commission has closed them. The Permanent Representation submitted the comments of the Directorate-General for Customs on the remaining five findings to the Commission in letter 5062/2008-SZEU/FU.</p> <p><b>Italy:</b> Observations already presented with a letter to BUDG/B/03/KPS/sa D(08)59078, on the 27/12/2008.</p> <p><b>Sweden:</b> Action taken in 2007, going on in 2008.</p> <p>- The results of controls in connection with management of authorisations are documented in a checklist for controls carried out. Applications for authorisation for storage in a customs warehouse are accompanied by a description of procedures which must be approved by the customs authority before authorisation is granted. A control strategy for monitoring recently issued authorisations has been established. A number of physical checks of storage sites are carried out in connection with the management of authorisations. Revision and reassessment of conditions for authorisations granted after 1 July 2001, in accordance with Annex 67 of the implementing rules. Updating of control strategy for customs warehouses. The following types of customs warehouse are now given priority for checks: warehouses with deficient inventory records, warehouses which handle goods subject to the highest tariffs, warehouses storing high-value goods, warehouses whose operator has infringed conditions applicable to other authorisations issued by the customs service. An increase in the number of documentary checks of customs warehousing declarations. A check that the correct procedure code is used in the removal declaration and that warehouse book-keeping contains mandatory information is part of the follow-up of authorisations. Subsequent checks are carried out and include a review of customs warehouse activities.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p><b>UK:</b> Actions to address concerns about the frequency and depth of assurance activity were already being drawn up at the time of the ECA audit in December 2006, following findings from a national project and prior European Commission audit. Two-thirds of the action plan has already been implemented. We expect the remainder, covering the development of new training, to be completed during 2009. The action plan contains a number of activities including issuing enhanced guidance, developing an improved risk methodology, issuing a new operational assurance strategy for customs warehousing and developing enhanced training for assurance staff.</p> <p><b>Slovakia:</b> action taken immediately. Opinion of the Customs Directorate SR: authorization modified in accordance with Community legislation, addition of written document ‘Report on an inspection and the resultant assessment’, authorizations include detailed handling methods with the application of Article 533 of the Customs Code Implementing Regulation, production of national guidelines, - document DV1 was added immediately SADs were rechecked and, in individual cases, the missing supporting documents were added, ECA recommendations on physical checks, based not on a set number of checks, but on risk factors, were accepted. Regulation of the SR CD DG No 43/2008 adopted, the Slovak Customs Administration subsequently prepared an amendment of Section of Act No 199/2004, the Customs Act, which, following approval in the legislative process at the Slovak Customs Directorate, is ready for further procedure consistent with the legislative process in the Slovak Republic.</p>
4.10	On 7 June 2007 the Council adopted a new Decision on the	<b>Germany:</b> actions from the Member State are not required

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
	<p>system of the European Communities' own resources (2007/436/EC, Euratom) (9), which will come, retroactively, into effect from 1 January 2007. This Decision introduced a uniform rate of call for the VAT-based own resource (0,30 %) and brought about additional reductions in the VAT- and GNI-based contributions of certain Member States for the period 2007-2013 (10) . Accordingly, the 2007 Member States' VAT and GNI-based contributions will be recalculated retroactively upon completion of the ratification procedure, which is expected to occur in early 2009.</p> <p>(9) OJ L 163, 23.6.2007, p. 17.</p> <p>(10) Reduced VAT rates of call for Austria, Germany, the Netherlands and Sweden and gross reductions in the GNI-based contributions of the Netherlands and Sweden.</p>	<p><b>Sweden:</b> action will be taken in Spring 2009. A number of changes to our calculation system will be made after the formal decision has been taken.</p>
4.13	<p>Concerning the A account, in Denmark the data input in the electronic clearance system by the economic operators frequently did not reflect the reality of the import and therefore were not reliable. This has led to a net underpayment to the Commission. In Portugal the duties collected under enforced recovery are accounted for and made available to the Commission with systematic delay.</p>	<p><b>Portugal:</b> action taken in January 2007. No IT system has been introduced in 2009 to overcome the communication problems between DG AIEC and DG CI regarding enforceable recovery, but a weekly control procedure has been used since January 2007 and this has significantly reduced the time lag between effective recovery and entry in the accounts.</p> <p><b>Denmark:</b> action taken on 18 June 2008. This is an ongoing action. The internal memo of 28 September 2007 concerning the treatment of output – list C describes the following procedures”A list of firms' drafts is drawn up daily for each Tax Centre. Each Tax Centre with customs responsibility follows up its list after a specific objective evaluation The data input by the</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		economic operators does not reflect the reality of imports; which is not at all the intention as firms are able to store their own "drafts" on data space in SKAT's Import system
4.20	<p>Reservations are a device to keep doubtful elements in the VAT statements submitted by Member States open for correction after the statutory time-limit of four years. Of the 35 reservations lifted in 2007(16), nine related to 1997 or earlier. 21 reservations in respect of 1997 or earlier (including two relating to 1989 and 1993) remained open as at 31 December 2007.</p> <p>(16) In addition there were six cases, three in Germany and three in Italy, where a reservation was partially lifted.</p>	<p><b>Austria:</b> referred to its reply to Table 4.2 (see below)</p> <p><b>Belgium:</b> The opened reservation since 1989 will be lifted before the end 2008. We will deal with the other reservations during the year 2008. The EC will be doing a control on this issue at the beginning of February 2009.</p> <p><b>Bulgaria:</b> At this stage the European Commission has entered no reservations (an instrument whereby contested entries in VAT returns submitted by the Member States can be corrected) obliging Bulgaria to take appropriate measures. Bulgaria prepared and presented by the deadline fixed by the European Commission (31 July 2008) a report/declaration on the national VAT base in 2007 for the purposes of the European Communities' own resources. The information was prepared in accordance with the European Commission's methodological and technical requirements.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p><b>Cyprus:</b> Measures were taken in 2007 on the three reservations regarding Cyprus: 1) calculation of the compensation for building land and buildings; 2) pro rata calculation of non-deductibility for the intermediate consumption of exempt industries and gross fixed capital formation; 3) the reservation raised by DG TAXUD of the European Commission regarding implementation of the system for travel agencies' profit margin. The two reservations regarding calculation of the compensation for building land and buildings and implementation of the system for travel agencies' profit margin were removed in 2008 (10-14/11/08 following and audit by officials from DG BUDG of the European Commission). Efforts have been made to address the third reservation since 2007 and will continue in 2009. As regards the calculation of the compensation for building land and buildings, a new calculation method has been applied, which has been deemed satisfactory by officials from DG BUDG of the European Commission. As regards implementation of the system for travel agencies' profit margin, please note that the 2005, 2006 and 2007 VAT base statements used the usual 15% VAT rate (in accordance with the EU Directive), even though this is not provided for by the relevant national VAT legislation. National legislation was amended on 20 June 2008 (Regulatory Administrative Act 242/2008) to bring it into line with Directive 2006/112/EC. The audit carried out on Cyprus in January 2006 by DG BUDG of the European Commission raised two reservations (see reservations 1 and 2 in question 3). A further reservation was raised by DG TAXUD (see reservation 3 in question 3).</p> <p><b>Czech Republic:</b> see table 4.2</p> <p><b>Denmark:</b> Previous reservations related only to the methods used for the statement of the calculation base. The Danish authorities subsequently adjusted the method in agreement with the Commission.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p><b>Finland:</b> Action taken after the Commission's inspection visit on 29 September 2007. The Commission conducted an inspection visit in Finland from 24 to 28 September 2007 and examined Finland's VAT own resources statements based on the VAT base for 2004 – 2005. Existing reservations were also discussed, some of which were deleted, but others were added. After the visit there were still eight reservations. The oldest reservation concerns 1995, for which both Finland and the Commission still have reservations. Finland's reservation concerns the turnover to be used to calculate the compensation; the problem will be resolved on the basis of a decision pending in a comparable case concerning Austria's non-physical gold. The Commission's reservation concerns the place of the supply of services and the place of the supply of goods on ships, i.e. how the Member States should calculate compensation. The legal interpretation on which the Commission's reservation is based is still uncertain. The Commission's legal experts have examined the possible interpretations of two key judgments by the ECJ. The first of these is the Köhler case, which concerns the definition of the place of the supply of goods and the second is the Faaborg-Gelding case which concerns the place of the performance of services. The reservations since 1998 concerning own-use taxation in the construction sector and the associated compensation, and calculation of the average rate of taxation, are to be deleted because Finland has approved the Commission views on their calculation and these reservations should be deleted by the next Commission visit at the latest. The Commission also has a reservation from 2002 concerning non-VAT paid on car tax. The decisions of the Court on car tax and non-VAT lay down only the necessary judgments on the calculation of the average rate of taxation and compensation; the reservations concerning them can be deleted. From 2003, the Commission has had a reservation concerning travel agents. An infringement procedure is under way and a decision is pending.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p><b>France:</b> the reservations concern the differences between the national legislation and the rules for the calculation of the harmonised VAT. On the 31<sup>st</sup> December 2007, the oldest reservations for France concern motorway tolls (since 1993) and calculation of TMP (since 1999).</p> <p><b>Germany:</b> action taken on the 11/07/2008. Content of the action: Several corrections of the basis of the VAT-based resources.</p> <p><b>Greece:</b> Following submission of the Commission observations (expected in December 2008) further to the audit that took place in September 2008.</p> <p><b>Hungary:</b> Hungary has no reservation for the period before 1997 as it was not an EU member state yet at that time.</p> <p><b>Ireland:</b> Of the 12 reservations, 6 of these apply to the C.S.O and 6 apply to the Revenue Commissioners. The C.S.O action began in April 2008. While the Revenue Commissioners have started actions on a number of the outstanding reservations. The Revenue Commissioners would expect a number of the outstanding reservations to be resolved by the Irish responses to the Commission report of their visit to Ireland in 2008. Content of the action: a number of changes have been made to the calculations used in the statements of previous years at the request of the Commission.</p> <p><b>Italy:</b> action taken after EC letter with observations on 22/09/2008. Content of the action: presentation of a document with the Italian proposition to lift the outstanding reservations for the years 1996-2006. This document will be sent to the EC.</p> <p><b>Latvia:</b> In 2008, letter No. TAXUD D3 LV/fd D (2008) 28073 dated 22 August 2008 was received from DG TAXUD announcing that the European Commission has decided to close infringement proceedings No 2006/2558 concerning the special VAT regime for travel agencies. The European Commission's DG Budget in turn, has not yet lifted the reservation made in relation to the above infringement procedure. In our opinion, this</p>

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Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p>reservation could be discussed with the representatives of the European Commission during the next control mission of VAT own resources.</p> <p><b>Malta:</b> action taken in 2008. The statements that are being/are going to be sent will take in consideration the factors that led to the creation of reservations, ex. penalties and interest.</p> <p><b>Poland:</b> does not concern the period in which Poland has been a member of the EU.</p> <p><b>Spain:</b> on the occasion of the visit of examination of the declarations presented by Spain concerning the own resources based on the VAT 2004-2006, realized in accordance with the article 11 of the Regulation 1553/89, the necessary documents appeared to lift 4 of 6 outstanding reservations. After the control visit of VAT-basis realized in 2008, 4 of six reservations were lifted. Two are still outstanding (one from 2001 and the other from 2003) because of the differences of interpretation of the 6th Directive.</p> <p><b>Sweden:</b> Prior to the inspection visit in June 2007, Sweden had nine reservations. One concerning the years 1997-1998, which was lifted following the visit. Three concerning the years 1995-2005 which were lifted after the visit. One concerning the years 1995-2005 which will be lifted after the next visit in 2009 once the underlying material has been verified. One concerning the years 2004-2005 which will be discussed during the next visit and is then expected to be lifted. Three reservations concern unresolved interpretation issues, where the Swedish and the Commission interpretations differ. (One concerns the years 1995-2005 and charitable organisations, one concerns the years 1999-2005 and Åland, and one concerns the years 2001-2005 and transfer of tenancy rights). The Åland issue will be discussed at a management meeting in Sweden in 2009, when it is hoped that the Commission will agree with us on a solution.</p>



**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p><b>UK:</b> The UK reservations are currently under review and will be lifted in due course. In one case, a source of information is being sought to enable the WAR to be adjusted. For the others, we are in dispute with the Commission and cannot provide a date of resolution at this stage. The information in Table 4.2 is correct. At the 31/12/2007, the UK had 5 reservations outstanding and 1998 is the oldest one. For your information, we were audited in November 2007 and the Report was issued on 28/02/2008. As a result of the audit, 1 new reservation was placed and 2 were lifted leaving a balance of 4.</p>
4.22	<p>During 2007 the changes to the EU-27 VAT base following the Commission's control work in Member States resulted in an increase in the aggregate VAT resource of about 50 million euro. In addition the upward revisions to the GNI of Greece (see paragraph 4.28), which in turn had an impact on capping, resulted in an increase in that Member State's VAT contribution of around 300 million euro.</p>	<p><b>Greece:</b> Taking account of the provisions of the decision on the system of own resources, the VAT resource paid by Greece is calculated on the adjusted VAT basis; given the agreed revision of Greece's GNI, it became necessary to recalculate the VAT resource.</p>
4.28	<p>The data included in the GNP/GNI Questionnaire 2007 of Greece showed a retroactive increase of between 8,5 % and 9,9 % for the years 1995 to 2005. In the GNP/GNI Questionnaire 2006 Greece had transmitted revised data showing increases of between 13 % and 26 %, representing an exceptionally significant revision. As it considered that it did not have sufficient information on the revised data and the underlying methodological changes reported by Greece, the GNI Committee had taken the view that the</p>	<p><b>Greece:</b> action taken on the 22/10/2008. Content of the action: New GNP/GNI questionnaire. A new GNP/GNI questionnaire was sent with corrected information, which was accepted by the GNI Committee.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
	<p>existing unrevised GNP/GNI series should be used for own resources purposes, until the Commission had fully verified the new data and reported the results of its verification to the GNI Committee (22).</p> <p>(22) See paragraphs 4.24 to 4.26 of the Court's Annual Report concerning the financial year 2006.</p>	
4.29	<p>In 2007 Greece transmitted only a summarized GNP/GNI Questionnaire with no GNP/GNI components and a short explanatory note instead of a Quality Report. Although the GNI Committee considered that, taking due account of the existing reservations, the new Greek GNP/GNI data notified in 2007 were adequate for own resources purposes (see paragraph 4.27), it invited the Greek National Statistical Institute (NSI) and Eurostat to continue their cooperation on outstanding issues, including on some more detailed calculations.</p>	<p><b>Greece:</b> action taken on the 14/12/2007. Content of the action: GNP corrections. Greece agrees with Commission's reply.</p>
4.30	<p>The Commission had carried out beforehand on-the-spot visits in June and September 2007 to verify the Greek inventory and calculated estimates of revised GDP (23) figures for the reference year 2000. The total increase was consistent with the revision included in the GNP/GNI Questionnaire 2007.</p>	<p><b>Greece:</b> see 4.29</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
	(23) Gross domestic product.	
4.31	<p>The Commission and the Greek NSI set up an action plan for further work to be carried out in order to finalize the calculation of national accounts components. In November 2007 the Commission stressed the importance of checking the reconciliation between total revisions and changes linked to specific reservations as well as the need for the Greek NSI to provide full documentation on them. The action plan also required the Greek NSI to send the official detailed figures in accordance with ESA95's transmission of national accounts data (24) by 10 December 2007.</p> <p>(24) Regulation (EC) No 1392/2007 of the European Parliament and of the Council of 13 November 2007 amending Council Regulation (EC) No 2223/96 with respect to the transmission of national accounts data (OJ L 324, 10.12.2007, p. 1).</p>	<b>Greece:</b> see 4.29
4.32	<p>In the absence of the complete information on GNP/GNI required by the GNI Regulation (see paragraph 4.29) and as the details on GNP/GNI components and documentation on reservations required by the action plan (see paragraph 4.31) were not available by February</p>	<b>Greece:</b> see 4.29

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
	<p>2008, the Court was not able to review the calculation of the GNP/GNI for the years 1995-2006 nor to check whether GNP components revised by Greece are covered by specific reservations set for the period 1995-2001. As a consequence, the Court could not assess the accuracy of the adjustments to the GNI balances for these previous years.</p>	
4.33	<p>At the beginning of 2007, there were 43 open specific GNP/GNI reservations relating to the period 1995 to 2001. During 2007, the Commission lifted 18 reservations leaving a balance of 25 at the year end. These open reservations relate either to out-of-date sources underlying certain estimates or to methodological and compilation aspects. Excluding the case of Greece, most of the issues underlying reservations have already been addressed by Member States through the transmission of the annual GNI data in 2007 or previous years.</p>	<p><b>Austria:</b> referred to its reply to Table 4.3 (see below)</p> <p><b>Denmark:</b> Previous reservations related only to the methods used for the statement of the calculation base. The Danish authorities subsequently adjusted the method in agreement with the Commission.</p> <p><b>Germany:</b> we are not affected</p> <p><b>Ireland:</b> no reservations outstanding.</p> <p><b>Luxemburg:</b> action taken in 2006 as a consequence of the revision. All the outstanding reservations (1995 to 2001) have been lifted in June 2008. Content of the action: reinforcement of the control.</p> <p><b>Spain:</b> in this paragraph the Court only observed the elimination of 5 reservations to Spain on the subject of RNB.</p> <p><b>Sweden:</b> No action foreseen. Sweden has no outstanding reservations.</p> <p><b>UK:</b> there is no specific UK reference in this paragraph, which relates to the outstanding GNI reservations shown in Table 4.3. No action required.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p><b>Greece:</b> action taken on the 8/09/2008. Content of the action: new GNI Questionnaire. Briefing by the GNI Committee that 6 out of 7 reservations will be withdrawn</p>
4.35	<p>The Court examined a sample of ten specific reservations lifted in 2007, relating to Spain, Denmark and France. It found that the Commission's work to enable the lifting of reservations involved neither desk checks to corroborate the reliability of the information provided by Member States through comparison with external sources, nor on-the-spot control visits to perform direct verification of national accounts' aggregates. For these reasons, the Court considers that these checks were not sufficient to provide reasonable assurance of the accuracy of the underlying data amended.</p>	<p><b>Spain:</b> we presented the documentation to the EC in order to eliminate the fifth reservation. For this reason, we agree with the Commission's contestation.</p> <p><b>Denmark:</b> previous reservations related only to the methods used for the statement of the calculation base. The Danish authorities subsequently adjusted the method in agreement with the Commission.</p>
4.38	<p>Some Member States (28) did not provide the Commission with the complete version (including process tables) of updated or new GNI inventories by the end of 2007, even though the deadline was 31 December 2006 (29). This delay had an impact on the planning of the Commission's on-the-spot verification missions foreseen for the period 2007 to 2009. Visits were carried out in three Member States (Greece, Malta and Estonia) in 2007.</p> <p>(28)Luxembourg did not send its inventory and process tables; Austria, Cyprus, France, Malta and United Kingdom did not send the process tables.</p> <p>(29) 31.11.2007 for Sweden (which sent its inventory and process tables at the end of January 2008) and 31.12.2009 for Romania and Bulgaria.</p>	<p><b>Austria:</b> Action taken in 2008. Content of the action: the BNE inventory had to be reduced and a further version of the BNE chart had to be produced. A first BNE audit from Eurostat has been done in September 2008.</p> <p><b>Bulgaria:</b> Action taken in May 2008. Content of the action: participation in the Phare 2006 multinational programme for the preparation of the inventory of the sources and the methods for the measurement of GNI. The project's implementation period is expected to be extended to May 2009. Participation of a representative of Bulgaria's NSI in a Eurostat fact-finding visit to the Czech statistical service from 24 to 28 November 2008 concerning the description of GNI prepared by the Czech Republic.</p> <p><b>Cyprus:</b> The GNI inventory (except process tables) was drawn up within the year and sent to Eurostat in October 2007. Work on the process tables was completed at the beginning of the years and the tables were sent to Eurostat on 9 January 2008. Content of the action: preparation</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p>and sending of process tables.</p> <p><b>France:</b> The process tables have been provided to Eurostat in June 2008.</p> <p><b>Greece:</b> This observation does not concern Greece, which had sent the Commission the relevant information within the prescribed time-limit.</p> <p><b>Luxemburg:</b> action taken in June 2008. The inventory of sources and methods GNP was transmitted to the EC. The process tables will be transmitted before the end of the year.</p> <p><b>Malta:</b> The Statistics Office point out the DGN inventories were sent to Eurostat within the required time-frame, i.e. not later than 31 December 2006. In addition, Malta reached an agreement with Eurostat to send its process tables not later than April 2008 and in fact Malta has honoured this agreement and sent them within the agreed time-frame. Therefore, the European Court's remarks that Malta did not send its process tables are incorrect.</p> <p><b>Romania:</b> action taken in February 2008. Content of the action: Review of the inventories of sources and methods relating to GNI for 2006</p> <p><b>Sweden:</b> no action foreseen. Despite the slight delay concerning Sweden's GNI inventory and process tables, the verification visit to Sweden will be settled in 2008.</p> <p><b>UK:</b> The UK sent an updated version of its GNI inventory on 2 July 2007. Eurostat were advised in advance that the UK would not meet the 31 December 2006 deadline as it coincided with a resource conflict created by the modernisation process being implemented by the Office of National Statistics.</p>
4.39	In 2007 direct verification on GNI aggregates was only performed in the particular case of Greece. The	<b>Greece:</b> This observation does not concern Greece since, as moreover noted by the European Court of Auditors, direct verification of GNI

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
	<p>objective of the visits to Malta and Estonia was principally to obtain clarification on the sources and methods used for the calculation of GNI. The Court has in the past urged the Commission to undertake direct verification in order to obtain assurance that Member States really do use the procedures they describe in their GNI inventories (30).</p> <p>(30) See Annex 4.1 of the Court's Annual Report concerning the financial year 2006.</p>	<p>aggregates was undertaken.</p>
4.44	<p>The updated figures for Greece did not include the detail necessary for the Court to verify the accuracy of the adjustments to the GNI balances, in particular for the period 1995-2001 (paragraph 4.32).</p>	<p><b>Greece:</b> see 4.29 to 4.32</p>
Table 4.2		<p><b>Austria:</b> Action taken in November 2007. In November 2008 the Commission announced they will drop reservations as a result of 2006/07 controls. In addition, the management review of 2008 will lead to the lifting of reservations which exist since 1995</p> <p><b>Belgium:</b> See 4.7</p> <p><b>Bulgaria:</b> At this stage the European Commission has entered no reservations (an instrument whereby contested entries in VAT returns submitted by the Member States can be corrected) obliging Bulgaria to take appropriate measures.</p> <p><b>Cyprus:</b> Action taken in 2007 and continuing into 2009.</p> <p><b>Czech Republic:</b> Action taken in 2006. Content of the action: improving data base quality through consultations with the specialised departments of the ministries concerned. The Czech Republic received only an unofficial observation (contained in the summary report on the 2004 audit mission). This definitely was not a reservation.</p> <p><b>Denmark, Finland, Latvia, Germany, Greece,</b></p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p><b>Ireland, Malta, Spain, Sweden:</b> See 4.20</p> <p><b>Hungary:</b> action taken following the receipt of the Summary Report on the audit visit of 29 May - 2 June 2006. For the first reservation, in the summer of 2006 the Central Statistical Office (KSH), responsible for the calculation of weighted average rates, contacted directly the Eurostat auditors in order to clarify the methodology. Several letters have been exchanged since that. It is expected that Eurostat will make a decision during or after the 2009 audit. For the calculation of average rates in 2004 the data of year n-2 i.e. 2002 had to be used. However, the Simplified Business Tax (EVA) did not exist yet in 2002. Although KSH used the estimation methods in accordance with a former Eurostat guideline, it gave rise to problems of interpretation. For the second reservation, It will be possible to eliminate it as soon as reservation no. 4 can be released. For the third reservation, if the Commission approves the applied methodology and data then this reservation can be released as early as during the 2009 audit. Based on border traffic data and using the established estimation method, we have already calculated in subsequent reports with the income realized by foreign companies in Hungarian road sections. For the fourth reservation, as it is a complex one, only a partial release or division into several elements can be expected in the near future. <b>a)</b> Our attempts to obtain adequate data on newly registered passenger cars from the database managed by the Central Office for Administrative and Electronic Public Services have been unsuccessful yet. <b>b)</b> We are expecting the Commission's policy position on how to take open-end leasing into consideration. <b>c)</b> We are also expecting the Commission's policy position on how to take the positive element of second-hand cars into consideration. <b>d)</b> In an attempt to clarify fuel data, we have tried to find an alternative data source (Hungarian Petroleum Association). However, as the consumption of private individuals is not separated there, we are still using the current data source (Energiaközpont Kht.). For the fifth reservation, if the Commission approves the applied methodology and data then this reservation can be released as early as during the</p>



**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p>2009 audit. As from 2008 the new VAT Act already stipulates harmonized rules for tour operation activities. We have quantified the VAT base implications for 2004-2006 and forwarded the calculation, together with the detailed methodology, to the Commission. The 2007 calculation will be completed in 2009, probably before the annual audit.</p> <p><b>Lithuania:</b> Measures to resolve the reservations relating to VAT statements about which Lithuania was notified were taken as soon as the Commission's comments on Lithuania's observations were received on 6 June 2006, following the Commission's VAT own resources control visit in April 2006. This document also indicated two reservations. A VAT own resources control visit to Lithuania is planned by the Commission in June 2009, during which the Commission is due to assess actions taken in respect of reservations and it will be possible to resolve these reservations. The reservations about which Lithuania was notified have been discussed in detail and were taken into account when drawing up subsequent VAT own resources base statements.</p> <p><b>Poland:</b> action taken in 2007. New calculations were sent to the Commission in June 2008; they will be discussed during the control visit in September 2009. Content of the action: new calculations carried out.</p> <p><b>Slovenia:</b> no action taken. Slovenia has still not received the definitive final Commission report containing the reservations and grounds for these reservations and is therefore unable to start lifting the reservations. We will start lifting the reservations immediately after receiving the Commission's final report and, in any event, before the next visit. Slovenia welcomes the Commission's more active approach to lifting reservations concerning the VAT report and GNI, also in the form of bilateral contacts ("management meetings") which do not form part of the regular inspection visits.</p> <p><b>UK:</b> table 4.2 is a list of outstanding VAT reservations which will be the subject of continuing discussion between HM Revenue and</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		Customs and the European Commission. No specific action is required.
Table 4.3		<p><b>Austria:</b> no reservations for Austria</p> <p><b>Denmark, Germany, Greece, Sweden:</b> see 4.33</p> <p><b>Ireland:</b> see 4.20</p> <p><b>Spain:</b> see 4.35</p> <p><b>UK:</b> table 4.3 is a list of outstanding GNP/GNI reservations which will be the subject of continuing discussion between HM Revenue and Customs and the European Commission. No specific action is required.</p>
Annex 4.2		<p><b>Germany:</b> action taken in 2004, since then several reports to the Commission on clarifying the case, the latest report has been sent on 25/09/2008. Content of the action: Clarifying the case, already provided own resources (328.670,02 €) and default interests (486.005,20 €), as well as an explanation why further contributions are not justified. We are waiting for Commission's reaction and appraisal.</p> <p><b>Greece:</b> We agree with the Commission's reply and await the drawing up of a joint revision policy by Eurostat.</p>
<b>CHAPTER 5 – AGRICULTURE AND NATURAL RESOURCES</b>		
5.3	The Single Payment Scheme (SPS) financed by EAGF: the SPS was introduced in order to break the link between agricultural production and the payments made to farmers ("decoupling"). In order to qualify under the SPS farmers must first obtain "entitlements". The number and value of each farmer's	<b>Malta:</b> Payments under the Single Payments System were made by the Agency in June 2008 in accordance with the legal requirements. At present the Directorate of Internal Auditing and Investigations is carrying out a certification audit for the year ending 15 October 2008. This audit also covers the Single Payments System.

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
	<p>entitlements was calculated by the national authorities according to one of the models provided for under EU legislation (3). Every entitlement, together with one hectare of eligible land declared by the farmer and kept in good agricultural and environmental condition (GAEC), gives rise to an SPS payment at least until 2013. SPS has been growing in importance and now constitutes 55 % of expenditure (28 199 million euro) compared to 12 % (6 260 million euro) paid for direct coupled payments and 10 % (4 869 million euro) for intervention measures in agricultural markets. It is applied in 17 MemberStates with the remaining 10 (4) scheduled to apply the scheme from 2010 onwards.</p> <p>(3) Under the historical model each farmer is granted entitlements based on the average amount of aid received and area farmed during the reference period 2000 to 2002. Under the regional model all entitlements of a region have the same flat-rate value and the farmer is allocated an entitlement for every eligible hectare declared in the first year of application. The hybrid model combines the historical element with a flat rate amount and, if it is dynamic, the historical component decreases each year until it becomes a predominantly flat rate-system.</p> <p>(4) The Member State which joined the EU in 2004 and 2007 except for Slovenia and Malta, currently apply a simplified version of SPS called the Single Area Payments Scheme (SAPS) as the farmers did not receive EU subsidies during the reference period.</p>	

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
5.9	<p>As regards its assessment of supervisory and control systems, the Court has conducted an extensive audit of the establishment of SPS entitlements and the related payments in all Member States applying SPS, with the exception of Slovenia and Malta. During 2007 it examined the reliability of the supervisory and control systems applicable to Single Payment Scheme claims in selected paying agencies in Finland, France, Greece, the Netherlands, Italy, Portugal, Sweden, Spain (Andalucia) and the United Kingdom (England) (7).</p> <p>(7) The ten Member States which first applied SPS were audited in 2006. See the Annual Report concerning the financial year 2006, paragraphs 5.15 to 5.38.</p>	<p><b>Spain:</b> in this paragraph, the Court just declared the scope of the inspection</p> <p><b>UK:</b> The reference to the UK in Paragraph 5.9 is simply in respect of them being one of the Member States whose control systems in respect of the Single Payment Scheme had been examined by the Court in 2007.</p>
5.10	<p>The Court has also tested the supervisory and control systems for direct coupled payments in 6 Member States (8). The audit covered an assessment of the functioning of the administrative controls of all claims and the selection and execution by the paying agencies of on-farm inspections for a sample of a minimum of 5 % of the claims, depending on the scheme. In addition, the Court's auditors conducted a number of re-performances of controls on-the-spot.</p> <p>(8) Germany (Bayern), Italy (AGEA), and Portugal which have introduced SPS in 2005; France, Greece and Spain (Castilla y Leon) which have introduced SPS in 2006.</p>	<p><b>Germany:</b> Audit in Bavaria</p> <p><b>Spain:</b> see 5.9</p> <p><b>Greece:</b> Evaluation and mainstreaming of the findings is undertaken via the secondary checks and supervisory checks carried out by OPEKEPE (Payment and Control Agency for Guidance and Guarantee Community Aid). Total secondary checks account for 2% of OPEKEPE checks and 5% of the sample of the Directorates of Rural Development.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
5.14	<p>In the EAGF, the following errors were identified by the Court's sample:</p> <p>SPS: farmers overclaimed and/or the entitlements were wrongly calculated, resulting in incorrect payments.</p> <p>SPS: overpayments to certain olive oil claimants as a result of being allocated extra entitlements from the national reserve when they were not eligible to receive them (Spain); the beneficiary audited was paid an amount considerably in excess of the average payment over the reference period (1999-2002) but did not meet the investment criteria of the programme under which the extra entitlements were awarded.</p> <p>SPS: in its Annual Report concerning the financial year 2006(10), the Court pointed out that in Greece, Spain and Italy the olive cultivation GIS data, was neither complete nor reliable, and could have an impact on the integration of the olive oil production aid scheme into the system. These weaknesses persist in Italy and Greece where four out of five transactions audited contained errors, some of which led to significant overpayments.</p> <p>Direct Coupled Payments: significant overpayments were found as a result of area discrepancies for nuts and dried grapes (Spain and Greece) and, in one case, large unexplained differences were noted between the number of sheep recorded in the farmer's register, upon which EU aid was paid, and the actual number identified (Spain).</p> <p>Other schemes (Non IACS): errors relate to illegal deductions from payments to farmers(11) and failure to charge interest on debts (various Member States), weaknesses in export refund controls (Portugal) and missing quantities of rice from public storage (Greece).</p>	<p><b>Portugal:</b> action taken immediately after the Court's mission. From 1 January 2007 with the introduction of STADA – export and link up with SSA (automated system of customs declaration selection), authorisation for release of goods is not required until the end of the period indicated in the box for entry of the final date of loading if the accompanying document authorising the goods' movement is available. This problem has been drawn to the attention of the Alverca customs office in order to avoid similar situations. As part of the process of standardisation of procedures DG AIEC's internal rules, which have since been published, cover these situations to ensure stricter compliance with regulations. This was an isolated case which was not covered by usual procedures and the conclusion reached in point 5.14 that there was insufficient control of export refunds is considered to be unreasonable.</p> <p><b>Spain:</b> The Paying Authority disagrees with the Court's observations.</p> <p><b>Greece:</b> action taken on 2007. An administrative check is made on 100% of applications that include sheep and goats, during which the latest entry of the register submitted together with the application is compared with the declared animals in the single application. The results of this check are recorded in the system and taken into account for payment. During the on-the-spot checks by the inspectors a comparison is made between the animals identified and the holding register and only those animals correctly recorded in the register are counted as eligible. The results of this control are recorded in the system and taken into account for payment. The farmer himself is responsible for completing the application. He must ensure that the data concerning him (personal data), as well as the detailed information about the land parcels he is declaring, are completed within the deadline and correctly, as precisely requested in the various fields of the application, with-out gaps, erasures or omissions. With regard to cases where he mistakenly declares areas different from the actual ones and where his application does not re-request correction of the declared data, the services are not able make any possible corrections on their own initiative, based</p>

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Paragraph	Observation in the 2006 Annual Report	Member State reply
	<p>(10) Paragraphs 5.82 to 5.84.                      (11) Ref. Article 23 of Commission Regulation (EC) No 1227/2000 (OJ L 143, 16.6.2000, p. 1), according to which the payments due shall be made in full to the beneficiaries.</p>	<p>on the results of the on-the-spot check, so as to offset the negative with the positive discrepancies in the on-the-spot checks. Moreover, the method of calculating the discrepancies, and, by extension, the penalties imposed for the crop groups; in no case entail a charge for the Fund. As regards land parcels which the administrative cross-check identifies as being declared twice, the payment corresponding to the disputed land parcel is blocked in order for the actual beneficiary to be ascertained through the appeals procedure, following an administrative and/or on-the-spot check. Finally, with regard to the comment by the auditors that ‘...as regards non-automatic blocking of payment of aid, there is a risk of payments being made before completion of the necessary checks’, we would clarify that processing of payments is only undertaken after completion and recording of the results of the administrative and on-the-spot checks. However, in individual cases in which correction is made to the application data (appeal, manifest error) after issue of the payment, the payment software offsets the ‘new’ positive or negative amounts that result in a subsequent payment to the producer. Consequently, no risk results for the Fund.</p> <p>After weighing the product the quantities that exceeded the tolerance limit were listed for the intervention agencies. There are no further rice stores in Greece from the 2008 financial year. Each year volume measurement is carried out on 100% of stores in the annual inventory. There are no further rice stores in Greece from the 2008 financial year.</p>
5.15	<p>With regard to rural development operations, the Court found the following types of error:</p> <p>a) agri-environmental schemes- in nine out of thirteen cases audited the farmers had not met all the eligibility conditions (France and Ireland);</p> <p>b) interest rate subsidies: the procedures in place do not ensure an adequate audit trail with the result that the regularity of the payment of the EU subsidies to the final</p>	<p><b>France:</b> on this point, France admits that the existent system includes imperfections. Nevertheless, France plans to set up an unique reference base allowing to perform a rapprochement between databases of CNASEA and those of the banks, and it for the improved loans set up till the end of 2006. Eventually, this device will allow to pass to an invoicing by CNASEA of expenses as the supply, and so to control real-time bills issued by banks. In this way, the tracing of the loans of the bank to the final beneficiary will be more obvious.</p>

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Paragraph	Observation in the 2006 Annual Report	Member State reply
	beneficiaries cannot be verified (France); additionally, irregularities detected through Member State inspections were not taken into account in the computation of the payment claims to the Commission resulting in the declaration of unjustified expenditure which was charged to the EU accounts.	<b>Ireland:</b> referred to its comment on the Table 2 General remarks (see above)
5.16	As regards environment, fisheries, and health and consumer protection, the payments audited revealed the following errors: (a) projects financed through the LIFE instrument included ineligible expenditure; (b) inadequate documentation was presented to demonstrate that the invoiced work had actually been performed (Spain); (c) a disease eradication programme payment was made without adequate supporting documentation; in addition, there was a non respect of ceilings per test for eligible costs and failure to undertake recommended technical checks (Germany).	<b>Germany:</b> Audit in Spain – German payment authorities are not affected  <b>Spain:</b> see 5.14
5.22	As an illustration, the following significant shortcomings, whose financial impact is difficult to estimate, were identified in the calculation of the entitlements: (a) in the United Kingdom (England) the four entitlements audited were erroneously calculated mainly due to failure to take account of changes in land parcels; while these errors did not have a significant impact on the 2007 payments, since England applies the "dynamic" model (16), these initial entitlements, unless corrected, will result in significant over/underpayments in future years; (b) The Netherlands initially allocated entitlements in excess of the national ceiling of 4,9 million euro and have carried out individual	<b>Netherlands:</b> The second linear reduction based on Article 42(7) of Regulation 1782/2003 was 1.5%. The Netherlands authorities took a decision to this effect on 10 August 2007, to be backdated to 18 January 2007. The amounts overpaid, i.e. 1.5% per entitlement, have been or will be recovered, except for amounts smaller than €100 (application of Article 73(8) of Regulation 796/2004). The Netherlands authorities fail to see how this finding applies to them. The instruction at that time stated that livestock which did not meet the premium conditions could not be counted as "animals determined" and thus could not be taken into consideration in the calculation of payment entitlements either. The Netherlands authorities will take up this finding with the Commission in the light of the inspection visit conducted by the Commission from 22 to 26 September 2008 and the ongoing discussion of this matter.

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

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	<p>payments on this basis. Although the total payments made were less than the national ceiling, individual farmers were overpaid. At the time of the Court's visit (January 2008) no formal recovery action had been taken.</p> <p>(c)when calculating the farmer's reference amounts, the Dutch and Greek authorities included bovine animals which were not eligible for premium in the reference period; furthermore the Greek authorities allocated reference amounts to farmers of arable land without taking into account the reductions that had been made during the reference period;</p> <p>(d)when calculating the number of entitlements, the Greek and Spanish authorities systematically disregarded forage area requirements for farmers that benefited during the reference period exclusively from premia that did not require any land and allocated special entitlements (17) to them instead of the entitlements based on areas (18) , thereby generating much higher payments per hectare, and a consequent reduction in areas required to be subject to GAEC;</p> <p>(e)unjustified withdrawal of entitlements, thereby depriving potential beneficiaries of aid (Greece).</p> <p>(16) Under this model the payment for each entitlement consists of two elements: i) an amount based on an historic reference period for each farmer, and ii) a flat rate amount which is the same for all farmers. In 2005 the ratio was 90:10 but each year the flat rate increases and will reach 100 % in 2012. If too many entitlements have been given to the farmer he will receive more and more money under the flat rate component which outweighs the loss</p>	<p><b>UK:</b> action taken on 6/6/2008. The UK have recalculated the entitlements that were incorrectly calculated.</p> <p><b>Spain:</b> see 5.14</p> <p><b>Greece:</b> no action foreseen. OPEKEPE, under Decision No 324032/24.12.05 of the Minister for Rural Development and Food, was designated as the competent agency for calculating and managing single payment entitlements. Annex 1 to Joint Ministerial Decision No 292464/27-07-2005 on 'Supplementary administrative measures to apply and calculate the number and value of entitlements for beneficiaries of single payment pursuant to Council Regulation (EC) 1782/2003 and Commission Regulation (EC) No 795/2004' states that the reference amount for olive oil is the four-year average of the total payment amounts granted to the farmer in the marketing periods 1999/2000, 2000/2001, 2001/2002 and 2002/2003. The average payment granted to olive producers was determined from the computerised payment files of OPEKEPE, physical payment files and Tables X. Greece chose to calculate the reference amount for olive oil on the basis of the payments actually made to each producer and not by combining quantities at the determined price. This is because the price at which the payments had been calculated differed from the determined price by 0.8% and concerned the fees of the producer organisations. Account was also taken of the following: These payments corresponded fully with the quantities that the producers had produced in recognised olive oil mills and for which payment applications had been submitted and had also been declared eligible. Consequently, taking account of the payments, the Greek authorities were certain that the quantities for which aid had been paid were those that, for the producers, had to be added in for the reference period. Olive oil production during the reference period had suffered major disasters (fires of 2000, frosts of 2000, 2001 and 2002) and the anticipated applications for revision of single payment interim entitlements by means of a request for exclusion of years from the reference period was leading to the olive oil component, and, by extension, the</p>



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	<p>on the individual component.</p> <p>(17) Payment entitlements subject to special conditions are set by article 47 and 48 of Regulation (EC) No 1782/2003 mainly for cases when the farmer was granted livestock premiums but had no hectares or the entitlement per hectare results in an amount higher than 5 000 euro.</p> <p>(18) Regulation (EC) No 1782/2003, Chapter 3, section 1.</p>	<p>national ceiling, being significantly exceeded. Otherwise, if the reference amounts were calculated on the basis of the quantities produced by a producer, the Greek authorities had to face serious risks. There were quantities that had been excluded from the aid as ineligible for various reasons and there was a risk, with the new calculation method, of exceeding the approved quantity of olive oil for aid for each olive-growing period and exceeding the ceiling on the olive oil component. Secure checking of the olive oil pressing documents that would be supplied by the olive producers in revision applications was impossible because these documents were not always computerised and the data held by the producer groups could not be used by OPEKEPE with certainty. It is noted that, as found by the ECA auditors, the reference amounts calculated on the basis of the payments made to olive producers were below those calculated in accordance with Annex VII to Regulation (EC) 1782/2003. Greece, in order to comply with its national limit, applied a linear reduction of 2.72% to all producers when, in calculating the reference amount for olive oil, it took account of payments made and not quantities. If the quantities eligible for aid to olive oil at the determined aid price were taken into account to calculate the reference amount, the result would be application of a higher percentage linear reduction in order, in any case, to comply with our national limit. The above shows that, in essence, no practical problem was created for olive producers. The strictness of the action was aimed at safeguarding Community inputs in Greece. As regards supply of supporting documents for consideration of the samples, we note the following: In the sample most of the producers checked were olive producers. The reference period for the olive oil scheme covers four years, the first year being 1999. OPEKEPE was set up in 2001 and did not, therefore, have direct access to the primary data concerning the olive-growing periods 1999/2000 and 2000/01, given that the primary data was kept at the Directorates for Rural Development and the Unions of Rural Cooperatives. Nevertheless, activities were undertaken and the data collected were provided for all the producers, supplying, in the case of some producers, payment applications for the years in the reference period, in the case of</p>

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Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p>some producers, payment lists and, in the case of some producers, both payment applications for the years in the reference period and payment lists. Any deficiencies noted concern the olive-growing period 1999/00, when the time that elapsed between granting of the payment for olive oil production and February 2008, when the control took place, was considerable.</p>
5.24 (a)	<p>The audit found several weaknesses in the use of the national reserve: various instances of misuse of the national reserve (France): two ineligible programmes (totalling 42,4 million euro), failure to respect the statutory deadline for four other programmes, acceptance of investments based on short term rented equipment, failure to systematically apply mandatory provisions to new farmers who commenced farming during the reference period leading to an overallocation of 20,8 million euro.</p>	<p><b>France:</b> The legal basis of the programme is the article 42.5 of the regulations (EC) n°1782 / 2003 of the Council. Indeed, French agriculture (France corresponds to a zone as pointed in the article 42.5), would have been able, of the simple fact of the implementation of the reform of CAP (public intervention according to the article 42.5), to suffer a strong restructuring, consequence of the suspension of the agricultural activity of many farmers whose income would have strongly diminished between 2005 and 2006. The application of the article 42.5 with the supplementary programme avoid that farmlands are left and compensate for the artificial losses of income from which the farmers would have been able to suffer. Indeed, for many farmers, without the implementation of this programme, the payments obtained in 2006 after decoupage would have strongly diminished in comparison with the income of 2005, what would have jeopardised the viability of these farms.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
5.26 (a)	As regards the management and monitoring of SPS entitlements, the following weaknesses were noted: incorrect application of late claim penalties (Netherlands, Portugal and the United Kingdom (England));	<p><b>Netherlands:</b> In reply to ECA letter PF 2720, the Netherlands authorities state that they do not agree with the ECA interpretation that the Netherlands applied the penalties incorrectly because of the untimely submission of the applications for assistance. According to the minutes of the Management Committee for this area, the European Commission shares the opinion that the deadline of 15 May was substantially postponed. On the basis of the attached “MINUTES of the 55th meeting of the Management Committee for Direct Payments 14 June 2006” the Netherlands authorities take the view that Article 1 of Regulation 1187/2006 was applied correctly. The document reads as follows: “<i>Late applications:</i> Exchange of views and vote on a draft Regulation derogating to Article 21 of R. 796/2004 for 2006 (DS/2006/26). The Commission clarified that following Article 1 of the draft Regulation the reduction of 1% per working day will not be applied until after the date specified (31 May or 15 June) for the Member State concerned. After that date, i.e. from 1 June or 16 June, <i>the 25 days where a reduction by 1% per working day is applied starts to count. 25 days after the specified date, i.e. the 25 June or 10 July 2006, the application becomes inadmissible and shall be excluded.</i>”</p> <p><b>Portugal:</b> The Court of Auditors has only now clarified its views on this matter. As the Commission has indicated, PT's interpretation of the application of the derogation provided for in Article 1 of Regulation (EC) No 1187/2006, although very rigid, does not pose a fundamental risk.</p> <p><b>UK:</b> barcodes were introduced in 2006 for electronic receipt and tracking. The system continues to be enhanced and is supported by full desk instructions.</p>
5.26 (b)	As regards the management and monitoring of SPS entitlements, the following weaknesses were noted: in the United Kingdom (England) the same parcel can be claimed by two “farmers” under different area related EU aid schemes. In 9 out of 12 on the spot visits to “new	<p><b>UK:</b> This has been discussed at bilateral meetings with the Commission. RPA is now undertaking a review of a sample of new entrants to SPS where an RD scheme is claimed by a third party, although the UK Authorities maintain, as agreed by the Commission, that the Regulations provide for such circumstances. Where necessary the “new</p>

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	beneficiaries" of EU direct aid that the Court had highlighted in its Annual Report concerning the financial year 2006 , the area declared for SPS was not eligible in whole or in part either because it was not in good agricultural condition, its main use was not agricultural or the beneficiary was not eligible because he did not carry out any agricultural activity on the land;	beneficiaries” have been inspected and the results are being assessed. Any necessary corrections will be made.
5.26 (c)	As regards the management and monitoring of SPS entitlements, the following weaknesses were noted: Portugal has allocated entitlements and paid SPS aid to farmers who declared areas on “baldio” land. This land is usually public land of very poor pasture and mostly covered by bushes and trees. There are no limits as regards the number of trees allowed on such land and there is no obligation for farmers to respect GAEC on this land. In 2007 Portugal paid 3,5 million euro for “Baldio” land. In Italy it was found that the areas accepted as permanent pasture for SPS payments were bigger than the eligible part actually covered by grass or herbaceous forage.	<b>Portugal:</b> No measures have been taken as the Portuguese authorities consider that the options they have chosen comply with Community legislation. The baldio is a traditional form of (common) farming of forage areas by local farming communities. These areas generally consist of extensive pasture land, usually containing trees, which are used for extensive grazing for small ruminants and became eligible in 2005 under the Single Payment Scheme. The Portuguese authorities cannot accept the Court's view that beneficiaries of direct aid who farm these areas are not required to comply with agricultural and environmental good conditions (GAEC) and Statutory Management Requirements (SMR). The only condition which does not apply to these farmers is to check there is no undesirable woody vegetation in accordance with Article 5 of Regulation (EC) No 1782/2003. All other GAEC and SMR standards apply to these farmers.
5.26 (d)	As regards the management and monitoring of SPS entitlements, the following weaknesses were noted: payments were made to 275 farmers in France and 33 farmers in Spain (Andalucia) who did not hold payment entitlements; no recovery action has been taken	<b>France:</b> <u>Population 1:</u> for 77 dossiers representing 247.882€, the amount of decoupled payment is zero; a title of transfer had been issued after the payment for the same sum; therefore there is coherence between the absence of DPU and the absence of the payment. <u>Population 2:</u> for 185 dossiers representing 534.356 €, the instruction of the dossier DPU was not accomplished at the moment of the constitution of the database DPU for the auditors (March 05th, 2007) and led then to the attribution of DPU to the concerned farmers. The decoupled payment for these dossiers is in line with the presence of DPU. <u>Population 3:</u> for 13 dossiers representing 178.085 €, the dossier was provisionally jammed in the computer

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		<p>because of ongoing checks. For this reason, these dossiers DPU did not appear in the database of March 05th, 2007 transmitted to the auditors. They were then released, without adjournment of attribution and of decoupled payment to the farmers. The list of dossiers recovering from these 3 populations appears in 3 files Excel transmitted to the Court as a supplement to the answer to the corresponding letter of sector.</p> <p><b>Spain:</b> see 5.14</p>
5.27	<p>The direct coupled payments managed under IACS totalled some 5 500 million euro in 2007. For the animal-based schemes the systems are generally functioning satisfactorily, reflecting the reliability of the IACS for this purpose. However, the Court found a number of systems weaknesses in administrative and on-the-spot controls of the area aids:</p> <p>a) administrative controls weaknesses, leading to errors such as: wrong input of application data (Greece), payment for multiple incompatible aid schemes on the same parcel (Italy), and a failure to correctly apply penalties and sanctions, which lead to overpayments (Greece, Italy, Spain and Portugal);</p> <p>b) lack of documentation of the reasons why certain criteria of the risk analysis have been selected, and absence of yearly reassessment of the risk parameters by the paying agencies, for the selection of the 5 % on-farm inspections (Portugal, Spain).</p>	<p><b>Germany:</b> Production-linked direct payments</p> <p><b>Greece:</b> Changes and/or corrections to application data are only made following an appeal/application by the beneficiary producer using the procedures outlined in the circular on management of administrative operations. Thus, if there is no writ-ten request from the producer, it is not possible to change the application data. Consequently, the identified corrections to applications have been made using the procedure in question. As regards the procedure for administrative checks, these are made a) on 100% of original applications and evidence submitted with them, by the Regional Directorates of OPEKEPE, taking ac-count of any changes to the applications within the framework of the procedure for administrative operations and b) on 10% as regards correct computerized registration of the applications by the competent agencies. As regards the erroneous recording of the date of performance of on-the-spot checks in the IIS, on checking this was found to be mainly due to inadvertent error by the operator in re-cording the date of entry of the control results by the operator. As regards completion of the results of 2006 on-the-spot checks and in accordance with the instructions that had been given to the inspectors, ‘...In identifying the area of each land parcel, the D(eclared) area is al-lowed in place of the</p>

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		<p>M(easured) area if the difference between them (as absolute values) is at most equal to the ‘allowed measurement tolerance’, i.e. when <math> D-M  \leq \max(M \times 5\%, P \times 1.5)</math>, when P is the perimeter of the land parcel, expressed in hectares (area in <math>m^2/10000</math>)....The heading ‘Control of eligible area’ records the area, either eligible for the scheme or eligible for the entitlements and equal to: The declared area, where the difference, as an absolute value, between the declared area and the measured area is within the prescribed tolerance limits. The measured area, where the difference, as an absolute value, between the declared area and the measured area is outside the prescribed tolerance limits....’ Therefore recording of the measurement did not constitute a compulsory field. The tables of statistical data, as laid down in Article 76 of Regulation (EC) No 796/2004, have been sent to the services of the European Commission under documents Nos 45493_1.4.08 and 93511_25.06.08.</p> <p><b>Portugal:</b> action taken in 2007. Content of the action: Correction of the use of the average unitary value of entitlements for areas cleared after penalties now forms part of the SPS clearance system. The method of selecting samples has been changed.</p> <p><b>Spain:</b> see 5.14</p>
5.28	The re-performances of controls carried out by the Court found a	<b>Spain:</b> see 5.14

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	<p>number of specific weaknesses in the quality of the on-the-spot controls and identified ineligible areas or parcels that should have been excluded by the national inspectors. (Greece, Italy, Spain, Portugal). In Italy, a farmer had received aid for a parcel of pistachio nut trees. While the parcel had been subject to an on-the-spot control by the Italian authorities in 2005, the Court's audit found the parcel to be long established general forest land and, thus, not eligible for aid.</p>	<p><b>Greece:</b> action taken between end of 2008 and start of 2009. Content of the action: new LPIS.</p>
5.29	<p>As indicated at paragraph 5.19, the effectiveness of the supervisory and control systems incorporated in IACS forms a key element of the overall effectiveness of the system. This applies to each of the main aid schemes covered by IACS.</p>	<p><b>Germany:</b> see 5.27</p> <p><b>Greece:</b> action taken in June 2007. A) As regards the checking procedure, these checks are carried out: on 100% of original applications and evidence submitted with them, by the Regional Directorates of OPEKEPE or, as appropriate, the Directorates for Rural Development, administrative checks to verify eligibility conditions, taking account of any changes to the applications within the frame-work of the procedure for administrative operations and on 10%, by the Regional Directorates of OPEKEPE, as regards correct computerized registration of the applications by the competent agencies. On 8%, by the Regional Directorates of OPEKEPE or, as appropriate, the Directorates for Rural Development, on-the-spot checks to verify eligibility conditions. On 100%, cross-checks. With specific regard to the cross-checking procedure, the following applies: At the stage of completion of the applications by the competent body (Association of Rural Cooperatives), computerized checks are made regarding correctness of completion of the recorded data and completeness of the application fields.</p> <p>At the stage of finalization of the applications in the central system of the Paying Agency and simultaneous receipt of an electronic reference number, computerized cross-checks are made at national level as regards the completeness of the GNI fields, the correctness of the data, the uniqueness of the GNI, the compatibility of the carto-graphic data, and so on. After the closing</p>

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		<p>date for completion of applications, including the 25 working days, central computerized cross-checking is undertaken with regard to the cartographic data concerning the parcels at national level before issue of the computerized sample of on-the-spot checks. Before payment, central computerized cross-checking is undertaken at national level, taking account of the data in the applications and the results of the administrative and on-the-spot checks. In addition, on the basis of the results of the secondary checks and with a view to improving the quality and reliability of the primary checks, the following improvement initiatives have been undertaken: Improvement of the control forms and issue of more detailed instructions for undertaking checks and completing the relevant forms. Training of inspectors from both prefectural administrations and Regional Directorates of OPEKEPE and evaluation of those trained. Start of performance of secondary checks immediately after the start of primary checks so that any weaknesses are identified in good time for immediate programming of corrective actions (e.g. provision of additional staff, undertaking of checks by OPEKEPE, provision of training materials for control, and so on).</p> <p><b>Netherlands:</b> The Netherlands is adapting its plot register to ensure that, probably by 2010, it will include only the exact eligible area for which payments are made. Until the measure is fully implemented, the Netherlands will <i>inter alia</i> carry out strict administrative and physical checks of the eligible area. This is also stated in the communication on the sector. After more detailed analysis of the findings of the inspection visit by the Commission in October 2007, the Netherlands identified some gaps in the LPIS-GIS. The Netherlands discussed this with the Commission on 24 November 2008.</p> <p><b>Portugal:</b> In accordance with subparagraph (d) of Article 12(1) of Regulation (EC) No 796/2004, the surface area of parcels forming an integral part of a particular application may be rounded up to two decimal places only if the parcels are declared to have a surface area equal to or more than 0.01 hectares. The Portuguese authorities consider this satisfies the condition laid down in Article 14(4)</p>



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		<p>of the Regulation obviating the need for national rules on this requirement to be published.</p> <p><b>Spain:</b> see 5.14</p>
5.30 (a)	<p>Administrative controls to establish eligibility of surfaces: the effectiveness of the administrative controls depends on the quality of the information recorded in the Land Parcel Identification System (LPIS(21)), the use of computerised geographical information techniques for the graphical layer of the LPIS which is the Geographic Information System (GIS) and the use of up-to-date aerial or spatial orthoimagery: the administrative controls in the United Kingdom (England) do not provide assurance that EU aid is paid out correctly. The United Kingdom (England) do not avail of the option to use aerial or spatial orthoimagery in support of the GIS. The English LPIS does not always contain information on eligible area of the reference parcel;</p> <p>(21) LPIS is a database in which all the agricultural area of the Member State is recorded with a unique identification number.</p>	<p><b>UK:</b> The RLR data refresh project is underway.</p> <p><b>Greece:</b> action taken between end of 2008 and start of 2009. Content of the action: new LPIS. The project has been completed and delivery took place of the data from digitisation of the cartographic database of single payment applications for 2006. During implementation of the project in question, correlation was also undertaken with the base of existing registers (vineyard and olive-growing). After digitisation of the 2006 files, the digital files of single payment applications for 2007 were checked and then used to correct the cartographic material. It is planned to introduce new orthophotomaps from satellite pictures and also to renew the system for recognition of single-application land parcels in the system.</p>
5.30 (c)	<p>Administrative controls to establish eligibility of surfaces: the effectiveness of the administrative controls depends on the quality of the information recorded in the Land Parcel Identification System (LPIS), the use of computerised geographical information techniques for the graphical layer of the LPIS which is the Geographic Information System (GIS) and the use of up-to-date aerial or spatial orthoimagery: in France and the Netherlands the</p>	<p><b>France:</b> The actualisation of orthophotos is conditioned by their availability in IGN, responsible for orthophotos used to update RPG. From 2009, IGN should reduce to 5 years the delay between the date of the provision of a new orthophoto and the date of the shot of the previous orthophoto. This should allow amore frequent renovation of</p> <p><b>Netherlands:</b> The Netherlands is adapting its plot register to ensure that, by 2010, it will include only the exact eligible area for which payments</p>

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	<p>paying agencies do not sufficiently deduct ineligible features visible on orthoimages from the eligible area recorded in the LPIS and do not update their LPIS with the results of on-the-spot inspections. In Portugal the update is carried out with significant delays. France and Sweden use orthophotos some of which are more than 5 years old;</p>	<p>are made. Until the measure is fully implemented, the Netherlands will <i>inter alia</i> carry out strict administrative and physical checks of the eligible area. This is also stated in the communication on the sector. After more detailed analysis of the findings of the audit visit by the Commission in October 2007, the Netherlands identified some gaps in the LPIS-GIS. The Netherlands discussed this with the Commission on 24 November 2008.</p> <p><b>Sweden:</b> Since 2007, ortho-photos have been updated more often.</p>
5.30 (d)	<p>in France, Portugal and Sweden the eligibility of land declared for activation of set aside entitlements (22) is not reliably verified. (22) Determination of set aside entitlements is set by article 53 of Regulation (EC) No 1782/2003</p>	<p><b>France:</b> see 5.30 (c)</p> <p><b>Portugal:</b> no action taken. Areas under permanent pasture have been identified in accordance with Community regulations and this information is used to check the eligibility of areas declared to activate set-aside entitlements. Administrative cross-compliance checks of aid applications based on information in the LPIS database are affected electronically and cover 100% of aid applications.</p> <p><b>Sweden:</b> no action foreseen. The Swedish authorities merely undertake the necessary checks to ensure that set-aside entitlements are linked to parcels of land eligible for set-aside.</p>
5.32	<p>The imprecise definitions in national legislation of some eligibility conditions and the often complex rules, particularly those related to agri-environmental measures, adversely affect the quality of the controls carried out to verify the farmers' compliance with the relevant requirements. These controls have once again, been found deficient. The principal weaknesses detected were:</p> <p>insufficient checks on the validity of the bids submitted in the context of private procurement. The checks carried out do not provide reasonable assurance as to the</p>	<p><b>France:</b> Concerning the databases for the animals (rare races), the French authorities remind that DDAF will have access at the root of data HARASIRE of the national Hars farms to prove the number of horses used for the PRM. Currently, the counting of the animals is only made in on the spot controls. Concerning the analysis of risk for the selection of the samples, the French authorities iterate that controls of place lean on a procedure of reliable selection with the aid of secured tools, for the analysis of risk in zone of remote sensing, tested and founded on 5 main criteria of risk described in R. (EC) n°796 / 2004. This procedure allows to respect principles governing the installation of controls and to prove good management and use of public funds. Finally, concerning the official report of break of the audit</p>

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	<p>legality of the required tendering procedure which may consequently affect the eligibility of the project as a whole (Romania);</p> <p>lack of cross checks with the specific animal databases (rare breeds) to validate the number of animals declared by the farmer which is the basis for the agri-environment payments (France);</p> <p>inadequate verification of the eligible area under agri-environment measures in cases where this area did not correspond to the data in the IACS database. As a consequence, not all the conditions for granting the support could be checked (Ireland);</p> <p>lack of systematic verifications as to whether detailed agri-environment commitments tailored to the farm fulfil the overall requirements of the measure (e.g. the maximum permitted level of chemicals);</p> <p>inconclusive and poorly documented administrative and on-the-spot controls with an over reliance on beneficiaries' declarations before approving final payments (Ireland);</p> <p>inadequate consideration of the risk factors stipulated in EU legislation for the selection of a sample of farmers to be controlled on-the-spot (France and Ireland);</p> <p>inadequate verification of the existence of private co-financing. Projects were often approved without the required certificate from a financial institution, increasing the risk that EU funds are paid to beneficiaries who are unable to pay their share of the investment (Romania);</p> <p>the inadequate audit trail for projects receiving interest rate subsidies made it impossible to trace the final beneficiaries who benefited from EU funding. Consequently, the auditors could not verify whether the amounts declared were correct or if beneficiaries respected all eligibility</p>	<p>trail, France considers that difficulties of the Court constitutes a formal error due to the absence of the file of the Credit agricole corresponding to loans chosen for the mission of audit, and not in a substantial and systematic error. In this regard, the French authorities want to remind that during the audit carried out diligently by the services of the Commission in October, 2008 ( n°2008 / 16), the auditors could retrace correctly the audit trail of the selected samples and certify the regularity of the EU payments.</p> <p><b>Ireland:</b> referred to its comment on the Table 2 General remarks (see above).</p> <p><b>Romania:</b> The procurement tender procedure for private beneficiaries, which was accredited by the European Commission (EC), took place before the conclusion of financing contracts between the private beneficiaries and the Paying Agency for Rural Development and Fisheries (PARDF). No measures have been taken to improve/change this procedure, since contraction of the funds under the SAPARD Programme has been finalised. Both the selection of tenders by private beneficiaries and the approval of the procurement dossiers at PARDF level were in accordance with the European Commission's accredited procedures. We therefore consider that these procedures were compliant. The Note at the end of the table contains details concerning the selection and evaluation of the tenders. The PARDF procedure accredited by the European Commission requires the beneficiary, in order to guarantee the provision of private co-financing, to submit a "bank account statement approved and dated by the bank at least five working days before the date for submission of the financing application, where co-financing is to be provided by private sources (self-financing)". We consider that the projects comply with this condition, in accordance with the procedure. Furthermore, all four projects referred to in the Court of Auditors' preliminary audit report have been completed, which demonstrates</p>

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	requirements.	that the beneficiaries had the capacity to ensure their own financial contribution to implementation of the projects.
5.40	On 30 April 2008 the Commission took three financial clearance decisions for the expenditure made under EAGF, EAFRD and TRDI and cleared all paying agencies accounts. These decisions are based on certificates provided by independent auditors (certifying bodies). The Court's audit did not detect expenditure cleared by the Commission which should have been refused (disjoined) in the financial clearance decisions.	<p><b>Austria:</b> see annex 5.3</p> <p><b>Belgium:</b> Wallonia contests the materiality of the error under EAFRD in a letter of 30/01/2007 (p.84). Further explications have been provided to the EC on the 15<sup>th</sup> of April. Flanders: action taken the 1/04/2008. Content of the action: more dossiers tested for EAGF.</p> <p><b>Finland:</b> Action taken in 2009. Content of the action: Supplementing the work of the certifying authority.</p> <p><b>Germany:</b> For the EAFRD funds, the Commission didn't clear the accounts of the payment authorities in Bavaria and Baden-Württemberg, related to the key date 30/4/2008 for the financial year 2007. This happened because the certifying authorities didn't make a fault localisation despite the fact that the materiality limit was exceeded. In the meantime the work by the certifying authorities has been completed. The Commission send an email in which it said that the work which has been done is sufficient and that a clearing decision can be expected in the beginning of 2009.</p> <p><b>Malta:</b> action taken in 2008. The Commission did not approve the amount in question because the Payment Agency was put in a state of provisional accreditation. The Maltese Competent Authority and Payments Agency together with Italian experts which are taking part in the Twinning Light project together with the Maltese, held meetings with the Commission on the factors that led to the Agency not being granted with full accreditation. In addition, in the certification audit for the year ending 15 October 2008 that the Directorate of Internal Auditing and Investigations is at present carrying out is also considering</p>

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Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p>whether there were any improvement in those factors that led to the Agency not being granted with full accreditation.</p> <p><b>Netherlands:</b> the Commission has reviewed the EU conformity of the certification operations. All concerned are satisfied with the outcome. The Netherlands is still awaiting the decision approving the 2007 EAGF account.</p> <p><b>Greece:</b> Following an instruction from the European Commission, the Certifying Agency carried out a supplementary check on 2007 expenditure and issued a new certificate. We were informed that financial closure for 2007 and 2008 will be examined in April 2009. Closure will take place after evaluation of the supplementary report.</p>
5.43	Despite the Spanish paying agencies making payments for the first time under the SPS during the year, the Spanish certifying bodies did not include the required verification of entitlements in their work.	<b>Spain:</b> see 5.14
Annex 5.1.1		<p><b>Germany:</b> referred to its observation to 5.27 (see above)</p> <p><b>Portugal:</b> action taken in 2007. Although Portugal does not agree with the Court's conclusions, procedures have been adopted to clarify concepts, including the detailed conditionality rules to be observed in controls and these have been sent to inspectors. The inclusion of models for area and animal checks in a standard model will remedy the situations identified by the Court.</p> <p><b>Spain:</b> see 5.14</p> <p><b>Greece:</b> In line with the Integrated Action Plan for Greece, the following applies: The project has been completed, as has the delivery of the data from digitisation of the cartographic data base of</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p>single payment applications for 2006. In implementing the project in question, correlation with the base of the existing registers (vineyard and olive-growing) also took place. After digitisation of the 2006 files, the digital files of single payment applications for 2007 were checked and then used to correct the cartographic material.</p> <p>It is planned to introduce new orthophotomaps from satellite pictures and also to renew the system of land parcel recognition for single payment in the system by the end of 2008. Additionally, the recommendation concerning the orthophotomaps showing the layout and position of the land parcel is made by the producer. Within the framework of the computerised cross-checks performed in the system, the land parcels are checked regarding the correctness of their cartographic code and, if a land parcel is found to have a duplicate or non-existent or incompatible code or to exceed the island, its payment is automatically blocked. Changes and/or corrections to application data are only made following an appeal/application by the beneficiary producer using the procedures out-lined in the circular on management of administrative operations. Thus, if there is no written request from the producer, it is not possible to change the application data. Consequently, the identified corrections to applications have been made using the procedure in question. As regards the procedure for administrative checks, these are made a) on 100% of original applications and evidence submitted with them, by the Regional Directorates of OPEKEPE, taking account of any changes to the applications within the framework of the procedure for administrative operations and b) on 10% as regards correct computerised registration of the applications by the competent agencies. As regards the erroneous recording of the date of performance of on-the-spot checks in the IIS, on checking this was found to be mainly due to inadvertent error by the operator in re-cording the date of entry of the control results. As regards completion of the results of 2006 on-the-spot checks and in accordance with the instructions that had been given to the inspectors, ‘...In identifying the area of each land parcel, the D(eclared) area is allowed in place of the</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p>M(easured) area if the difference between them (as absolute values) is at most equal to the ‘allowed measurement tolerance’, i.e. when <math> D-M  \leq \max (M \times 5\%, P \times 1.5)</math>, when P is the perimeter of the land parcel, expressed in hectares (area in <math>m^2/10000</math>)....The heading ‘Control of eligible area’ records the area, either eligible for the scheme or eligible for the entitlements and equal to: The declared area, where the difference, as an absolute value, between the declared area and the measured area is within the prescribed tolerance limits. The measured area, where the difference, as an absolute value, between the declared area and the measured area is outside the prescribed tolerance limits....’Therefore recording of the measurement did not constitute a compulsory field. The tables of data, as laid down in Article 76 of Regulation (EC) No 796/2004, have been sent to the services of the European Commission under documents Nos 45493_1.4.08 and 93511_25.06.08.</p>
Annex 5.1.2		<p><b>France:</b> The French authorities contest the assessment made by the Court of the IACS relating to the SPS.</p> <p><b>Netherlands:</b> The findings in Annex 5.1.2 affect the LPIS-GIS on the one hand and eligibility on the other. The contents of the measures (where relevant) are specified in this letter in the findings on the 2007 Statement of Assurance.</p> <p><b>Portugal:</b> no action taken. In accordance with subparagraph (d) of Article 12(1) of Regulation (EC) No 796/2004, the surface area of parcels forming an integral part of a particular application may be rounded up to two decimal places only if the parcels are declared to have a surface area equal to or more than 0.01 hectares. The Portuguese authorities consider this satisfies the condition laid down in Article 14(4) of the Regulation obviating the need for national rules on this requirement to be published.</p> <p><b>Spain:</b> see 5.14</p> <p><b>Sweden:</b> see 5.30</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
Annex 5.2		<p><b>Germany:</b> The backlogs in completing checks according to Council Regulation 4045/89, reminded by the Commission, occurred in the payment authority in Lower Saxony and have been cleared in the meantime. Therefore, the Commission has suspended the audit without accusing any financial impact.</p>
		<p><b>Netherlands:</b> The Netherlands is currently examining the Commission's findings from the audit of 22-26 October 2008 on the establishment of payment entitlements. The Commission's findings are very similar to those of the ECA.</p>
		<p><b>Spain:</b> see 5.14</p>
		<p><b>Sweden:</b> see 5.30</p>
Annex 5.3		<p><b>Austria:</b> Action taken, additional documents sent to EC on 2/6/2008</p>
		<p><b>Belgium, Germany, Netherlands:</b> See 5.40</p>
		<p><b>Malta:</b> action taken in 2008. The Commission did not approve the amount in question because the Payment Agency was put in a state of provisional accreditation. The Maltese Competent Authority and Payments Agency together with Italian experts which are taking part in the Twinning Light project together with the Maltese, held meetings with the Commission on the factors that led to the Agency not being granted with full accreditation. In addition, in the certification audit for the year ending 15 October 2008 that the Directorate of the Internal Auditing and Investigations is at present carrying out is also considering whether there were any improvement in those factors that led to the Agency not being granted with full accreditation.</p>
<p><b>CHAPTER 6 – COHESION</b></p>		



**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
6.28	<p>The Court's findings on the management and supervisory systems in the Member States for the 16 operational programmes which it assessed are set out in Annex 6.1. In 11 cases, the Court rated management systems as 'partially effective', in three cases as 'not effective' and in two cases as 'effective'. The continued high level of error identified by the Court's substantive testing of underlying transactions similarly suggests that systems in general in the Member States were only partially effective in managing the risk of illegality and irregularity in reimbursements.</p>	<p><b>Czech Republic:</b> Action taken in September 2008. Content of the action: When carrying on–the–spot checks, a checklist is used to verify the transparency of the selection of contractors. Training focusing on the performance of on–the–spot checks, destined for all employees of the OPIE/OPEI implementation structure. An external company has been hired to help reduce the error rate and subsequent risks in the verification of the project progress and performance of on–the –spot checks; this company exercises supervision before payments are authorised.</p> <p><b>Denmark:</b> The Court of Auditors considers that the supervisory and control systems for the Social Fund in Denmark (objective 3) are effective.</p> <p><b>France:</b> we will provide a further reply.</p> <p><b>Greece:</b> with regard to the Court's observations on the Greek ESF audit, the matter was closed following the first reply from the Greek authorities.</p> <p><b>Ireland:</b> action taken in July 2008. Content of the action: project has been advised 25% penalty likely. MA awaiting Commission confirmation.</p> <p><b>Portugal:</b> Portugal disagrees with the findings of the Court regarding the PO Norte. The Court failed to take on board the facts presented by the IGFSE at the tripartite meeting in Luxembourg. The Court's arguments in the consultation procedure were based on inaccurate and incorrect facts, as was shown by supporting documents during the contradictory procedure. Portugal disagrees with the Court's finding that Article 4 and Article 9 controls do not work. Furthermore, the EC carried out a more comprehensive audit than the Court's on PO Norte (systems audit report No 1999PT161PO017 PONORTE), a few months after the audit of the ECA, auditing the period from 2000 to 2007 (including the period of analysis of the Court – 2007), and issued an unqualified opinion on the existing management and control systems (exercised by the IGFSE and manager of PONORTE) and established an error rate of close to 0%.</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p><b>Slovakia:</b> action taken on 1/08/2007. Opinion of the Ministry of Finance, the body under Article 10 of Commission Regulation (EC) No 438/2001: the document ‘Procedures for the financial control of the Structural Funds and the Cohesion Fund – Version 3’ was published together with a guide, and the sample checks under Article 10(1) (b) of Council Regulation (EC) 438/2001 are carried out more rigorously. Building on an amendment to Act No 502/2001 on financial control and internal auditing, the document ‘Procedures for government auditing of the Structural Funds, the Cohesion Fund and the European Fisheries Fund’, effective as of 20 August 2008, was published. This document lays down uniform procedure for the performance of systems audits and sample checks (audits on operations) for the 2004-2006 and 2007-2013 programming periods. Guidelines (effective as of 1 October 2008) were published in connection with this document.</p> <p><b>Spain:</b> action taken in June 2008. Content of the action: revision of all management systems in order to address the shortcomings. As a follow-up to the Court's observations on the Spanish ESF audit, Spain took action in July 2008 to bring in an apportionment method that complies fully with national and Community rules, to implement a sub-contracting system compliant with the applicable rules and in October 2008 proposed the application of standard costs to validate real costs. Measures have been introduced to prevent double financing and intermediate bodies have received a manual and guidance on management and control. The IGAE (audit body) will revise its work programmes with a view to extending verifications as regards subcontracting.</p>
Annex 6.1		<p><b>Czech Republic:</b> referred to its reply to 6.28</p> <p><b>Germany:</b> action taken in 2<sup>nd</sup> half of 2008. Actions are taken to comply with the procedures which were aligned with the ECA</p> <p><b>Ireland, Spain:</b> see 6.28</p>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p><b>UK:</b> action taken and on-going. Content of the action: revised &amp; strengthened guidance plus additional resources. Closer co-operation between those involved to increase the number of on-site checks.</p>
<p><b>CHAPTER 8 – EXTERNAL AID, DEVELOPMENT AND ENLARGEMENT</b></p>		
8.12	<p>However, in Bulgaria it was found that in spite of EDIS accreditation having been given (thus waiving the Delegation's <i>ex-ante</i> control) the systems in question contain significant weaknesses. In two implementing agencies that had received EDIS accreditation in June 2007 there were weaknesses concerning respect of the applicable tendering and contract award procedures, as well as the fulfilment of contractual implementation conditions. This has been confirmed by the Commission services and has given rise to a reservation in DG Enlargement's Director General's Annual Declaration.</p>	<p><b>Bulgaria:</b> Action taken on the 3<sup>rd</sup> March 2008. Content of the action: adopting a detailed action plan, fixing deadlines and assigning responsibilities, for implementation under the day-to-day supervision of the National Authorising Officer. Priority was given to sensitive issues of great importance such as transparent public procurement, strengthening administrative capacity, improving the handling of irregularities and barring contractors involved in irregularities under contracts co financed by the EU, reinforcing the supervisory functions of the National Authorising Officer and improving the system of reporting to the European Commission. Detailed replies were sent to the EU in our letters of 31 March 2008, 16 June 2008, 1 July 2008 and 15 October 2008 presenting the measures taken to implement the action plan.</p>
8.33 d	<p>In order to mitigate these weaknesses, the Court recommends that further steps should be taken urgently to correct the weaknesses in the management of EU funds in Bulgaria, and the necessary monitoring maintained in Turkey;</p>	<p><b>Bulgaria:</b> action taken on 26 March 2008. On 26 March 2008 the Council of Ministers adopted an action plan of corrective measures when carrying out EU pre-accession programmes and structural instruments, implementation of which came to an end in June 2008. Measures were taken to:</p> <ul style="list-style-type: none"> <li>✓ strengthen administrative capacity;</li> <li>✓ improve interdepartmental coordination;</li> <li>✓ prevent corruption and conflicts of interest;</li> <li>✓ upgrade rules and procedures;</li> <li>✓ carry out a policy of greater publicity and transparency with the active involvement of civil society.</li> </ul> <p>(2) In follow-up to the report on Bulgaria's progress published by the European Commission in July 2008, on 7 August 2008 the government adopted an action plan containing practical measures to tackle the shortcomings identified in the management of EU resources, namely:</p> <ul style="list-style-type: none"> <li>✓ strengthening the administrative capacity to manage EU resources;</li> </ul>

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		<p>✓ abolishing existing or potential networks of conflicts of interest;</p> <p>✓ improving the supervision and transparency of public procurement procedures at central, regional and local levels;</p> <p>✓ increasing control of the legality and regularity of expenditure by conducting real and regular on the spot checks and audits;</p> <p>✓ building on the initial steps taken in improving co-ordination between ministries, between the various stakeholders as well as between central, regional and local authorities.</p> <p>(3) The following measures have been taken:</p> <ul style="list-style-type: none"> <li>- the Republican Road Infrastructure Fund has been transformed into the National Road Infrastructure Agency;</li> <li>- the staffing of the OP managing authorities and the Phare intermediate bodies has been increased;</li> <li>- Council of Ministers Decree No 197 of 5 August 2008 has introduced an incentive system of performance-related bonuses for staff managing EU financial assistance;</li> <li>- Council of Ministers Decree No 131/2005 defining the role and functions of the National Authorising Officer has been amended to extend his powers to guarantee and strengthen his key role in the management of Phare resources;</li> </ul> <p>(4) Council of Ministers Decree No 224/2008 has established a council for the coordination and monitoring of EU resources;</p> <ul style="list-style-type: none"> <li>- the Public Procurement Act has been amended to include specific provisions aimed at strengthening the control and transparency of public procurement procedures, including those for projects co financed by the EU;</li> <li>- an Act on the prevention and detection of conflicts of interest has been adopted;</li> <li>- a Council of Ministers Decree has transformed the Ministry of Finance's Audit of EU Funds Directorate into an Audit of EU Funds Executive Agency at the Ministry of Finance. The Decree's publication in the Official Gazette is pending.</li> </ul>
8.34	A summary of the results of the Court's follow-up of key observations in recent Statements of Assurance may be found in Annex 8.2.	<b>Romania:</b> action taken on the 2 <sup>nd</sup> of April 2007. EDIS accreditation was obtained from the Ministry for Employment, the Family and Equal Opportunities. All three PHARE implementing

**TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT**

Paragraph	Observation in the 2006 Annual Report	Member State reply
		agencies obtained EDIS accreditation. EC Decision (C (2007) 1281 final) of 2.4.2007.
<b>CHAPTER 9 – EDUCATION AND CITIZENSHIP</b>		
9.20 (b)	The assessment by the Commission is based on information sent by Member States and is still ongoing in the form of monitoring visits to Member States. Its value as an instrument to ensure that Member States supervisory and control systems are in line with the regulatory framework is reduced by: the limited number of monitoring visits to Member States (10 Member States out of the 26 had been visited by the end of 2007) and the fact that most of them were not performed within the 12 month period following submission of the systems' descriptions as required by EU rules.	<b>Denmark:</b> Denmark does not participate in the European Refugee Fund II.
9.21	<p>As descriptions of the Member States supervisory and control systems for the External Borders Fund (EBF) were only provided (12) to the Commission in the last quarter of 2007, the Commission could not assess the Member States' systems by the end of the year 2007. As a consequence there were no transfers of funds to the responsible authorities in Member States during the financial year 2007 (13).</p> <p>(12) With the exception of Italy, Luxembourg and Malta who had not provided the required documents by December 2007.</p> <p>(13) The payment appropriations for 2007 amounted to 95 million euro</p>	<p><b>Italy:</b> action taken in June 2007. Content of the action: the system of Management and Control has been completed. The description of this system has been sent to the EC (DG JLS) to be approved.</p> <p><b>Luxembourg:</b> action taken in November 2008. The detailed description of the management and control system was presented to the EC in November, 2008. The multi annual plan 2007-2013 as well as the annual plan for 2007 was approved by the Commission. The financial assistance for 2007 is 46 116 euro, the public co financing is 15.372 €.</p> <p><b>Malta:</b> action taken in July 2008. The Programme Implementation EU Funds Unit within the Ministry for Justice and Home Affairs sent the description of the monitoring and control systems of the External Borders Fund to the Commission in July 2008.</p>

## ANNEX

### Questions put to Member States concerning Agriculture/Natural resources and Cohesion

In the 2007 report, the Court has again expressed concerns (previously expressed in the 2006 report) about the reliability of payments made under the SPS (single payments system). The Court identified the most urgent issues to be addressed as:

- Improving identification, registration and management of entitlement
- Eliminating from the database ineligible areas and beneficiaries and ensuring up to date information on land parcels
- Clarifying and simplifying the rules underpinning the measures-in particular the case of the National Reserve

Question 1: Please state whether in the last year you have addressed any one or all of the above mentioned.

In the Cohesion chapter, the Court found that in some cases the supervisory and control systems were partially effective and in a certain number of cases they were not effective. The main weaknesses identified were related to:

- Managing Authorities- insufficient day-to-day checks of the reality of expenditure, failure to identify expenditure declarations not supported by appropriate evidence and failure to identify weaknesses in tender procedures;
- Paying Authorities- failure to identify when Managing Authorities had not carried out adequate day-to-day checks;
- Audit Bodies- failure to carry out sufficient checks to obtain assurance on the effective functioning of the control systems.

It would be helpful to be informed of the measures taken by your Member State to address these shortcomings. In particular:

Question 2: Have any new members of staff joined managing authorities and paying authorities in the last 12 months? (total staff increased by % in managing authority/paying authority)
Question 3: In the case of managing authorities, have members of staff been trained in financial management and control in the last year? If yes, can you state the number of authorities benefitting from the training programmes and the number of employees trained? (% of staff trained last year)
Question 4: In the case of paying authorities, have members of staff been trained in financial management/control in the last year. If yes, can you state the number of authorities benefitting from the training programmes and the number of employees trained? (% of staff trained last year)
Question 5: Do Managing Authorities provide a starter pack containing documents and guidelines for new staff members? If yes, please indicate which of the following documents are included. (5a) Checklists (5b) Guidance notes on control strategies (5c) Guidance notes on reporting control findings and error rates (5d) Digest of eligibility rules for checking claims (5e) Public procurement rules (5f) Final payments-rules and checks to be made (5g) Irregularities-the consequences (5h) Any other procedure manuals
Question 6: The Court cites failure on the part of the audit bodies to carry out sufficient checks. This occurs as a result of: (6a) Guidelines not systematically provided to audit bodies (6b) Scope of audit too limited (6c) Auditee cooperation questionable (6d) Any other reasons
Question 7: Has there been an overall reduction (compared to last year) in the number of errors identified by the Court for your country? ( % reduction in number, % reduction in financial impact)
Question 8: Please indicate whether you participated in the tripartite discussions with the Court of Auditors and the Commission in May/June this year before the contradictory procedures? Did you consider these discussions useful?
Question 9: Can you indicate any areas in which the Commission could improve its supervisory role in shared management?