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Editorial

Dear members of EUROSAI,

We are on the dawn of the 21st Century. In time we have noted how the industrial era gave way to our present era of information technology, and this is now to be followed by the era of complexity.

Economic globalisation forms a more complex process than mere financial globalism. The economies of the sovereign nation states are mixed and interlinked by transnational players, with their diverse identities, orientations, power quotas and other intermesh factors. This provides an affinity between the different globalisation logics (cultural, political, social, financial, economic and ecological), that must be solved and understood in mutual interdependence of a “whole” that is not simply the sum of its parts.

The way toward a global economy, considered as a creative process of integration and learning, requires strategic management that, assuming limited instability, is aimed at avoiding the system sliding toward a systemic crisis, and which, at the same time, assumes its greatest level of complexity, driving it toward a more stable order. In this case, the new strategies of globality must bear integration in diversity in mind, as well as cooperation. If each country knows and understands the “dynamics” of the “whole”, the consequences of their own acts, within the global system in which it acts, will be different from solely understanding ones own situation, which will lead to reinforcement of the very concept of responsibility, avoiding the so-called moral risk.

A way to limit such lack of stability and to minimise the cost is to form regional unions that, at the same time as preventing instability in exchange rates, may allow exchange oscillation as to currencies from other zones. These processes of regional integration give rise to new challenges that oblige one to consider, from the perspective of the Supreme Audit Bodies, the integration of controls, by means of a balanced process of technical collaboration and coordination of objectives, aimed at approximation to procedures and achievement of efficiency in the common audit zones, so that, respecting the local diversities, all the controls over regional unions are integrated in cooperation strategies. Our mission is aimed at identifying all elements that may contribute to strengthening the wish to cooperate.

Two of the major themes considered in our exchanges of opinion and decision taking are closely linked to these dynamics. First of all, reflection as to the independence of the Supreme Audit Institutions, a matter that is dealt with not only by the last EUROSAI Seminar, but also forms the backbone of our next Congress, as to which great sensitivity was is noted within the INTOSAI. Secondly, although not of lesser relevance, we have mentioned the work we are carrying out to achieve a high degree of effectiveness and efficiency in the contents, techniques and performance in the scope of training of the members of EUROSAI.

Please allow me to provide this reflection in sincere appreciation of all the authors who have made evaluation of this new number of the EUROSAI magazine possible, while once more offering this forum, which is aimed at making mutual cooperation between members of our Organisation a reality.

Ubaldo Nieto de Alba
President of the Spanish Court of Audit
Secretary General of EUROSAI


**Eurosaï News**

**XVII MEETING OF THE GOVERNING BOARD**

The XVII meeting of the Governing Board was held in Lisbon, Portugal, on 23rd June 1998.

The efficient organisation by our Portuguese colleagues meant that, in addition to the meeting taking place satisfactorily, it was possible to visit the Universal Exhibition Lisbon 98.

In addition to passing the minutes of its previous meeting, the Steering Committee resolved that the Secretariat General create a EUROSAI web page.

The meeting dealt with matters of relative importance, such as that of the proposal, by the SAI of Canada, to create an INTOSAI working group on the independence of the Supreme Audit Institutions.

The EUROSAI Secretariat distributed the conclusions obtained on the inventory made on the needs and collaboration agreements to train the members of EUROSAI. Due to the importance of the matter, the Governing Board agreed to commission the Secretariat General and the National Audit Office of Norway to prepare a report proposed on the matter. That report will be presented to the XVIII Governing Board of EUROSAI.

During the meeting, the First President of the Audit Body of France, Mr. Joxe, presented information on preparation of the IV EUROSAI Congress, to be held in Paris in 1999.

**SEMINAR IN LISBON - 1998**

The seminar was held in Lisbon, Portugal, on June 24th to 26th 1998 and developed one of the subsystems for the IV EUROSAI Congress. It is a system related to "The relations of the SAIs to the legislative, executive and judicial powers". Preparation of the seminar was carried out by a work group formed by the SAIs in France, Italy, Poland, Portugal and the United Kingdom.

The Seminar was attended by representatives of 34 SAIs, in addition to observers representing 6 SAIs and the OECD.

The Seminar Organisation prepared a questionnaire prior to it being held, which was sent to all the members of EUROSAI. The questionnaire referred to the following matters:

1. Characteristics that guarantee the independence of the SAIs.
2. Scope of the auditing.
3. Personnel recruiting.
4. Degree of independence of the SAIs when preparing their annual work schedule.

5. Scope of the financial independence of the SAIs.
6. Level of cooperation between the internal control institutions and the SAIs.
7. Level of cooperation between the SAIs and the Legislative, Executive and Judicial powers.
8. Specification of the specific features that characterise the independence of the SAI s that are not covered by the preceding points.


34 answers to the questionnaire were received and the Organisation used them to produce a publication also containing the general conclusions taken as the working document for the EUROSAI 4th Congress.

The definitive declaration drafted for the Seminar is as follows:

The Supreme Audit Institution (SAI) members of EUROSAI which met in Lisbon on 24th to 26th, at the preparatory Seminar for the IV EUROSAI Congress, to be held in Paris 1999, agreed on the following final declaration, resulting from the discussion of the matter of the Seminar:

The independence of the Supreme Audit Institutions - Relations with the Legislative, Executive and Judicial powers.

1. The capacity to carry out independent action is a fundamental guarantee for proper operation of the SAI. That capacity must mean, specifically, lack of mobility among their members, regardless of whether they hold life or temporary office, of their self-government and adequate financial means.

These fundamental points of independence must be consecrated by enactment in a law and to be respected by the legislative power.

2. As to the executive power, it is indispensable to assure favourable conditions for creation of self-government by the SAI s, for management of human resources, as well as to manage financial resources. Specifically, determination of the activities to be carried out (scope, calendar and methods), decision on the entities to audit, cooperation and relations with the internal control bodies, the obligation on bodies audited to collaborate with the SAI s, recognition of the responsibilities of the bodies audited and establishment of the contradictory procedure.

3. As to the judicial power, it is considered desirable, that whenever necessary, the SAI s and the bodies of judicial power may have a set of rules to regulate coordination of their respective powers.

EUROSAI MEETING DURING THE XVI INCOSAI

The EUROSAI Regional Group met on 13th November 1998 at the time of the XVI INCOSAI meeting in Montevideo, Uruguay. During the meeting, that was participated in by the majority of the Members of the Organisation, the Secretary General, Mr Nieto de Alba, reported on the conclusions obtained at the Seminar held in Lisbon in June 1998 and discussed the preparation for the EUROSAI IV Congress.

NEWS ON EUROSAI MEMBERS

The SAI of Poland joined as a member of the Working Group of INTOSAI on Environmental Auditing. That Group presented the results of its work at the 16th INCOSAI, titled "How the SAI s may cooperate in auditing International Agreements on the Environment".

The Althingi, the legislative body of Iceland, passed a new National Audit Act of 1997, that provides a more precise definition of the mandate of the INAO (SAI of Iceland).

The Presidents of the Supreme Audit Institutions of the Countries of Central and Eastern Europe met in Warsaw on 26th and 27th March 1998, chaired jointly by Mr Wojciechowski, President of the Supreme Control Chamber of Poland and Mr Friedmann, President of the European Court of Auditors. Mr Everard, a Member
of the Audit Institution, participated as the Member responsible for the PHARE/TACIS sector.

On 31st October 1997, the German Federal Department passed the Budget Law Development Act, which includes the necessary regulations and provisions to re-organise the external control over the Federal Audit Institution. The external control system that has existed up to present, with its two levels of review, will become a single level system. The Federal Audit Institution has created 9 Control Offices in the Federation, to prepare, support and complement its auditing work, that commenced their activities in early 1998.

The Audit Office of Estonia appointed Mr Juhan Parts as its new Auditor General, on retirement of Mr Meri, the Auditor General until then.

The Supreme Audit Institution of Sweden has begun an ample training programme aimed at the financial auditors of the Institution. The purpose of the programme is creation of a structured vocational training course at the Department of Financial Auditing, in order to assure greater quality auditing.

On 1st October 1998, the new Director of Federal Control of Finance of Switzerland, Mr Kurt Grütter took office. Mr Grütter will replace Mr Peter Probst due to his retirement.

After twelve years of activity, at the end of last November, Mr Giuseppe Carbone ended office as Chairman of the Audit Institution of Italy. He played a profoundly important key role in EUROSAI, as he was the founder and main driving force behind the Organisation. Mr Francesco Sernia has been appointed as the new Chairman of the Italian Audit Institution.

On 1st April, Mr Henk E. Koning, Chairman of the Audit Institution of The Netherlands is to retire. He was appointed Chairman of the Institution on 5th November 1991

VISIT BY THE COMPTROLLER AND AUDITOR GENERAL OF IRELAND TO THE TURKISH COURT OF ACCOUNTS

The Comptroller and Auditor General of Ireland Mr. John Purcell, accompanied by his EUROSAI Audit Representative Ms. Maureen Mulligan, visited Turkish Court of Accounts (TCA) on 16-20 June 1998.

The Comptroller and Auditor General and Ms. Mulligan were briefed on the or-
organisation, functioning and powers of TCA. Mr. John Purcell and the President of TCA, Professor M.Kamil Mutluer exchanged views on the EUROSAI matters in general and audit of EUROSAI accounts in particular as well as on the matters of mutual interest. They also conversed about the key issues facing SAI on the threshold of the second millennium.

A DELEGATION FROM ALBANIAN SAI VISITS THE TURKISH COURT OF ACCOUNTS

A delegation composed of six auditors from the Supreme Audit Institution of Albania visited TCA on 3-19 October 1988. During their stay in Turkey Albanian colleagues, headed by Vice President Ms. Arina Nati, participated in a course, which had been specially designed to the Albanian SAI's requirement, and where they were imparted general knowledge on the Turkish financial and tax systems.

APPOINTMENT OF NEW AUDITOR GENERAL AND DEPUTY AUDITOR GENERAL OF THE REPUBLIC OF CYPRUS

The President of the Republic of Cyprus appointed recently a new Auditor and Deputy Auditor General. This is a brief note of the CV and career history of both of them.

Mrs. Georghadji was born in July 1956, in Famagusta, where she lived until 1974, when her family was displaced by the Turkish invasion of Cyprus. She now resides in Limassol, Cyprus, with her husband and two children.

Having studied economics at the University of Athens, she continued her studies, with emphasis in econometrics, at the University of Southampton in the U.K. After her appointment in 1981 as an economic officer at the Ministry of Finance in Cyprus, she obtained a scholarship from the Fulbright Commission and took her Masters degree in economics from the University of Chicago, in the USA.

Since 1991, when she was promoted to the post of Senior Economic Officer, in the Finance and Investments Division of the Ministry, she has been responsible for matters relating to the financial sector, generally, and, in particular, the insurance subsector. In 1995, while maintaining her post at the Ministry, she was appointed as Assistant Superintendent of Insurance and had the responsibility of heading the Service for the Supervision of Insurance Companies in Cyprus.
She was also the Deputy Chairperson of the Securities and Exchange Commission of Cyprus for the period 1993-1998.

On 1.12.1998 she was appointed by the President of the Republic of Cyprus as Auditor General of the Republic.

Mr George Kyriakides was born in October 1950. He is a Fellow of the Chartered Association of Certified Accountants of the U.K. and a member of the Association of Certified Public Accountants of Cyprus. He is the holder of a post graduate degree in Public Sector Management.

He took part in several training programs on Performance Audit and Computer Audit, in the U.S.A. and U.K. as well as other training programs organized by ASOSAI. He was selected by the local government of Krasnodar, Russia, and he conducted Seminars on International Tendering, together with other officials from the Cyprus Development Bank.

From 1973 to 1982 he trained and worked as a qualified accountant in the U.K. In 1982 he joined the Audit Office of Cyprus as a Principal Auditor and was promoted through the ranks to Director of Audit.

On 1.8.98 he was appointed by the President of Republic as Deputy Auditor General of the Republic.
European Union

THE EUROPEAN COURT OF AUDITORS’ PUBLICATIONS FOR 1998

Presentation of the 1997 Annual Report

On 17 November 1998, the President of the European Court of Auditors, Mr Bernhard Friedmann, presented the Annual Report and the Statement of Assurance for the financial year 1997 to the plenary sitting of the European Parliament in Strasbourg.

The content of the 1997 Annual Report differed from that of previous Reports. Over the years, its size had increased to such an extent that it was no longer practical to prepare and finalise it within a reasonable period of time. Moreover, since the Treaty of Maastricht, the discharge procedure has also taken Special Reports into account. The Court chose to publish the majority of its audit findings in its Special Reports, which also has the advantage of enabling it to spread its work out better over the whole year. Thus, rather than giving the detailed findings of various audits, each Chapter of the 1997 Annual Report contained observations of a general nature and a summary of the conclusions of the audit work adopted in the form of Special Reports since the publication of the previous Annual Report. At the time of the publication of the 1997 Annual Report, the Court had adopted 25 Special Reports, 10 Opinions and 15 special Annual Reports.

After the presentation of the 1997 Annual Report in Strasbourg, Mr Friedmann and Mr Liikanen (the Commissioner responsible for the Community budget) held a press conference at the European Parliament’s Press Centre in Strasbourg in the presence of more than 200 journalists. The President was accompanied by the following Members of the Court: Mr Wiggins, Mr Clemente, Mr Everard, Mr Sousa Ribeiro, Mr Karlsson, Mrs Nikolaou, Mr Colling and Mr Bernicot.

Moreover, both the presentation of the 1997 Annual Report and the press conference were televised via Europe by Satellite. The press conference was also broadcast live to the Commission’s Press Centre in Brussels, where around 400 journalists were present.

This wide-ranging media coverage brought significant publicity as around 400 articles were published following the President’s presentation of the 1997 Annual Report and similar presentations given by most of the Members in their respective capitals.

Furthermore, in the light of the European Court of Auditors’ recent Annual and Special Reports, on 17 December 1998 the European Parliament refused to grant the European Commission discharge for the 1996 budget.

Special Reports

In 1998, the European Court of Auditors adopted 25 Special Reports covering a wide range of subjects:

1/98 in respect of bilateral financial and technical cooperation with non-Member Mediterranean countries;

2/98 on the Commission’s Decisions of 23 April 1997 and 30 July 1997 on...
the clearance of accounts for 1993 of guarantee expenditure for agriculture of the European Agricultural Guidance and Guarantee Fund (EAGGF);

3/98 concerning the implementation by the Commission of EU policy and action as regards water pollution;

4/98 concerning the importation at reduced rate of levy into the Community and disposal of New Zealand milk products and Swiss cheese;

5/98 on reconstruction in former Yugoslavia 1996-1997;

6/98 concerning the assessment of the system of own resources based on VAT and GNP;

7/98 in respect of the European Community Development Aid Programme regarding South Africa (1986-1996);

8/98 concerning the Commission departments responsible for fighting fraud, notably the Unit for the Coordination of Fraud Prevention (UCLAF);

9/98 on the protection of the financial interests of the European Union in the field of VAT on intracommunity trade;

10/98 concerning the expenses and allowances of Members of the European Parliament;

11/98 on the development of the PHARE and TACIS private sector for the 1991-1996 period;

12/98 on the implementation of the operational programmes relating to the promotion of rural development in the Objective 5(b) areas;

13/98 on the use of risk analysis techniques by Member States in customs control and the clearance of goods;

14/98 on the closure of the forms of ERDF assistance;

15/98 concerning the assessment of Structural Fund interventions for the 1989-1993 and 1994-1999 periods;

16/98 on the implementation of appropriations for Structural operations for the programming period 1994-1999;

17/98 concerning support for renewable energy sources in the shared-cost actions of the JOULE- THERMIE programme and the pilot actions of the ALTENER programme;

18/98 on the Community measures to encourage the creation of joint enterprises in the fisheries sector;

19/98 on the Community financing of certain measures taken as a result of the BSE crisis;

20/98 on the agricultural products receiving export refunds;

21/98 on the accreditation and certification procedure as applied to the 1996 clearance of accounts for EAGGF-Guarantee expenditure;

22/98 concerning the management by the Commission of the implementation of measures to promote equal opportunities for women and men;

23/98 concerning the information and communication measures managed by the Commission;

24/98 concerning risk capital operations financed from the resources of the European Development Funds and

25/98 on the operations undertaken by the European Union in the field of nuclear safety in Central and Eastern Europe (CEECs) and in the Newly Independent States (NIS).

The European Court of Auditors: 1977-1997: Brochure published on the occasion of the Court’s 20th anniversary

A special brochure was published in 1998 to mark the European Court of Auditors’ 20th anniversary. It contains the various speeches delivered at the ceremonial session held to mark the occasion. It also contains a study carried out by the Directors of the Court’s audit groups concerning the sound financial management of own resources and the three main areas of expenditure, namely the Agricultural Guarantee Fund, the Structural Funds and development aid, on the basis of the observations made in the Court’s most recent reports. Lastly, the
third part of the brochure contains a number of provisions on Community Regulations and general information about the Court.

Internet

Since April 1998 all the Court’s publications have been available in the 11 official Community languages on its Web site (http://wwweca.eu.int) on the same day as they are published in the Official Journal of the European Communities. Its Web site is also now published on the Internet in all the official languages and provides links to other Community and European sites. You can contact the Court for any information or documentation you may require by electronic mail at its general address: euraud@eca.eu.int.

EUROPEAN IMPLEMENTING GUIDELINES FOR THE INTOSAI AUDITING STANDARDS

In his capacity as doyen of the Contact Committee of the Heads of the Supreme Audit Institutions of the European Union, Mr G. Carbone, President of the Italian Corte dei Conti, received, on 8 May 1998, the first copy of the final document produced by a Working Party set up by the Committee (see accompanying photograph). The document, which comprises 15 European Implementing Guidelines for the INTOSAI Auditing Standards, had been finalised by the Working Party during its final meeting in Rome held earlier that day. Mr Carbone particularly welcomed the completion of the work by the Working Party, which brought together representatives of several European SAIs, because the Corte dei Conti intends to use the European Guidelines as a central element in revising and modernising its audit approach. Given the Italian State's long tradition of taking an essentially jurisdictional approach to audit matters, modernisation has been a significant theme of Mr Carbone's Presidency of the Corte dei Conti and, in the future, increasingly greater emphasis will be placed on performance audits.

Background to the work of the ad hoc Working Party

The ad hoc Working Party on auditing standards was set up by the Contact Committee of the Heads of the SAIs of the EU at a meeting held on 24 and 25 September 1991 in Madrid. The Party initially comprised representatives of the Danish, Spanish, Italian and Dutch SAIs. The UK and Swedish SAIs joined in 1994 and 1996 respectively. The ad hoc Working Party was chaired by the European Court of Auditors (ECA).

The ad hoc Working Party’s work focused on methodological aspects relating to the performance of audits of activities in which the SAIs of the EU countries concerned have a joint or common interest. The INTOSAI Auditing Standards provide a common methodological thread which runs through the rich diversity of public audit traditions in the EU Member States, and the ad hoc Working Party sought to build upon this common thread by drawing up a series of 15 guidelines. These describe how the INTOSAI Auditing Standards may be applied in the context of auditing EU activities. The Working Party sought to develop guidelines in all major
areas of the audit process. Thus, for example, the INTOSAI standard on Evidence was developed by introducing four guidelines entitled Audit evidence and approach, Audit sampling, Using the work of other auditors and experts and Other information in documents containing audited financial statements. Furthermore, when developing its guidelines, the Working Party also took account of the International Federation of Accountants' (IFAC) International Standards on Auditing.

Whilst the Working Party’s initial task was to provide a common methodology for joint or coordinated audits carried out by EU SAI’s, it was pleased to note that its draft guidelines had also proved useful to some of the SAI’s, particularly when they carried out fundamental reviews of their audit methods, e.g. in response to new national legislation. Further mention is made below of the potential uses to which the guidelines might be put.

The full set of 15 European Implementing Guidelines and their relation to the INTOSAI Auditing Standards are shown in the diagram at the end of this article. They are broken down into five groups:

Group 1 - three guidelines concerning the preparation of audits;
Group 2 - six guidelines concerning the obtaining of audit evidence;
Group 3 - two guidelines concerning the completion of audits;
Group 4 - one guideline concerning performance audits, and
Group 5 - three guidelines dealing with other matters.

During the course of its work the ad hoc Working Party received comments and support from the Heads and liaison officers of the EU SAI’s and from auditing staff within many of these organisations (particularly the staff of the SAI’s represented within the Working Party itself).

The guidelines were originally drawn up in English, the Working Party’s working language, but have since been translated into all the official EU languages and into a number of Central and Eastern European languages. The various language versions may be consulted on the Court’s Web site (http://www.eca.eu.int).

A common methodological base

Whilst the guidelines are more detailed than the INTOSAI Auditing Standards, they still do not constitute detailed working procedures for individual auditors, as the ad hoc Working Party considers that each SAI must decide the details of its own procedures in the light of national circumstances, traditions and legislation. The guidelines do, however, represent a common base that can be referred to and adopted by all the EU SAI’s, if they so wish, within the context of their respective auditing methods and during audits of EU activities, whether undertaken independently at national level, or jointly or in co-ordination with other SAI’s at international level.

Some of the EU Member States’ SAI’s have adopted audit approaches that are based more closely or more explicitly on national auditing standards than on the INTOSAI Standards. These national auditing standards are, in turn, often closely related to the International Standards on Auditing issued by the International Federation of Accountants (IFAC). During the course of its work, the ad hoc Working Party took note of a comparative study of the INTO-SAI and IFAC standards carried out by the ECA. The comparison revealed that, whilst the two sets of standards differ in terms of their levels of detail and their terminology, their differences have no material impact on the underlying audit methodologies. The ad hoc Working Party thus takes the view that the European Implementing Guidelines can be used by all EU SAI’s.

A European dimension

When preparing the guidelines, the ad hoc Working Party sought in particular to develop a European dimension. On occasions, when a particular European aspect might affect the way in which an individual auditor carries out his or her work, it is actually mentioned in the guideline. For example, the guideline on Irregularities contains a summary of relevant EU legislation.
The Working Party is of the opinion, however, that the guidelines' principal European dimension lies in the fact that they set out a common technical base that all EU SAIs can adopt, if they so wish, within the framework of their respective auditing methods. In other words, the ad hoc Working Party considers that the most significant European dimension stems from the general acceptability of the guidelines to each of the seven SAIs that took part in its work and the fact that, as a whole, they broadly represent the main features of all the public auditing traditions and organisational structures that exist within the European Union.

A wider role for the guidelines?

The basic work of drafting the 15 guidelines was spread over seven years, a further year being needed to make final editorial changes and prepare for publication of the complete set. Europe (and the rest of the world) did not stand still during that time: many developments took place that will affect public sector auditing and the environment in which it is carried out within the European Union. Perhaps the most significant of those developments are the steps that have been taken towards enlarging the EU and, in particular, the preparations for membership in the Central and Eastern European countries and the CIS. The ad hoc Working Party was pleased to learn that its guidelines, when still in draft form, had been forwarded to the SAIs of these countries, and it was very satisfied at receiving positive feedback from some of these bodies. The Working Party believes that the guidelines could play a very useful additional role unforeseen in 1991 when it started its task - in helping the SAIs of these countries prepare for membership of the EU. It hopes that its work will contribute considerably in this area.

The Working Party understands that certain guidelines have been used outside Europe, in particular as a tool for training auditors, in at least one South American country. It is just possible, therefore, that the guidelines will play a greater role than that originally envisaged for them.

OFFICIAL MEETINGS


On 20 and 21 October 1998, the Heads of the Supreme Audit Institutions (SAIs) of the Member States of the European Union held their annual meeting in Luxembourg under the chairmanship of Mr Bernhard Friedmann, the President of the European Court of Auditors (ECA).

The first part of the Luxembourg meeting highlighted, in particular, the progress made by the Supreme Audit Institutions in their joint discussions and work on subjects such as auditing VAT in intra-community trade (a large share of which contributes towards the Community budget), audits of the application of aid granted by the Member States under Articles 92 and 93 of the Treaty, the situation in the Member States with regard to the conversion into national law of Community provisions concerning public contracts and the question of drawing up general audit standards.

During this discussion, the Heads of the SAIs agreed to increase their individual cooperation with the National Audit
Institutions (NAIs) of the Central and Eastern European countries (CEECs), having taken the decision to create a new Working Party on this subject.

The second part of the meeting was devoted mainly to discussing the day-to-day relations between the European Court of Auditors and the SAIs of the Member States. Two documents were discussed, one concerning the improvement of procedures for the presentation of the Annual Report of the European Court of Auditors and the other regarding the practical implications of the concept of audits carried out by the ECA “in liaison” with the NAIs under Article 188c(3) of the Treaty on the European Community.

MEETING OF THE LIAISON OFFICERS OF THE SUPREME AUDIT INSTITUTIONS (SAIS) OF THE EUROPEAN UNION ON 22 AND 23 SEPTEMBER 1998 IN LUXEMBOURG

After a first meeting held in May 1998 in Frankfurt, the Liaison Officers met in Luxembourg on 22 and 23 September under the chairmanship of Mr Norbert Schmidt-Gerritzen, Director of the External Relations Department of the European Court of Auditors, in order to prepare the meeting of the Heads of the SAIs due to be held the following month.

The meeting was divided into two phases. The first phase was devoted to the work of the Liaison Officers and ad hoc working parties concerning the audit of VAT (which finances a large share of the budget of the European Union), the audit of the application of aid granted by the Member States under Articles 92 and 93 of the Treaty and the audit role and methods of the SAIs in the field of public contracts. It also involved the discussion of the question of drawing up guidelines for harmonising audit methods and the possibility of setting up a new Working Party on audit performance in the field of the Common Agricultural Policy.

The second phase was more particularly devoted to relations between the European Court of Auditors and the Audit Institutions of the Member States and dealt with subjects such as the improvement of the presentation of the Court’s Annual Report and the practical implications of the concept of audits carried out by the ECA “in liaison” with the NAIs under Article 188c(3) of the EEC Treaty. This meeting also looked at the question of cooperation with the Central and Eastern European countries that have applied to join the European Union.
MEETING BETWEEN THE HEADS OF THE SUPREME AUDIT INSTITUTIONS (SAIS) OF THE CEECS AND THE EUROPEAN COURT OF AUDITORS

On 26 and 27 March 1998, the Supreme Audit Institutions (SAIs) of the Central and Eastern European countries (CEECs) and the European Court of Auditors (ECA) organised a meeting in Warsaw, hosted by the Polish Supreme Chamber of Control. On this occasion, SAIs from 12 different CEECs were represented. The European Commission was represented by the Director-General of DG IA (External relations), the Deputy Director-General of DG XX (Financial control) and a Delegation from the PHARE/SIGMA programme.

The Heads of the SAIs emphasised the importance of continuing their cooperation with a view to a joint debate on Audit Institutions in connection with the future accession of the CEECs to the EU of the CEECs. They recognised the importance of cooperation in the audit field, because, in the context of their future membership, there was a need to establish appropriate control at all levels as the national authorities of the CEECs would be increasingly responsible for managing Community funds.

Finally, the Heads of the SAIs declared that it would be appropriate to define an organisational structure which would enable and help the various activities to be implemented.

Seminar on the harmonisation of the audit methodologies of the Supreme Audit Institutions (SAIs) of the Central and Eastern European Countries (CEECs) in Valence (Budapest, Hungary) on 8-10 September 1998

On 8, 9 and 10 September 1998 a seminar was held in Budapest to discuss the harmonisation of the audit methods of the Supreme Audit Institutions (SAIs) of the Central and Eastern European Countries (CEECs). It was organised by the Hungarian Audit Office with the participation of delegations from the SAIs of Albania, Bulgaria, Croatia, the Czech Republic, Estonia, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia. Representatives from the European Commission's DG XX (Financial Control) and the PHARE/SIGMA programme were also invited.

The 15 “European Implementing Guidelines for the INTOSAI Auditing Standards” were drawn up by an ad hoc Working Party set up by the Contact Committee of the Heads of the SAIs of the European Union. These guidelines provide a common audit methodology for the audit of activities affecting all the SAIs of the Member States of the European Union and are based on the internationally accepted INTOSAI standards. They could also serve as audit guidelines for the NAIs of the CEECs and were therefore presented during the seminar by the members of the ad hoc Working Party.

This meeting was held in the context of joint cooperation with the SAIs of the countries that have applied to join the Union in order to set up appropriate audit systems and strengthen ties between the Union’s institutions and the CEECs.

Visit by Mr Lubomir Volenik, President of EUROSAI and the Czech Supreme Audit Institution, to the European Court of Auditors on 12 and 13 March 1998

During his visit, Mr Volenik met the President and the Members of the Euro-
pean Court of Auditors (ECA). The objective of the visit was to enhance contacts with the European Union in the context of European integration and to discuss the ECA's auditing practices. In particular, meetings took place to discuss audit methods and standards, the Community budget and Regulations, the ECA's Statement of Assurance, trainee exchanges and the audit of Community expenditure in Central and Eastern Europe. The last subject also covered the scope for cooperation between both institutions: cooperation within the framework of an audit of a programme involving several countries that is being financed by the EU is scheduled for 1998.

Following the launch of the enlargement process in December 1997 and the start of accession negotiations in spring 1998, the European Union will increase its pre-accession aid substantially. This aid will not only include an increase in the budget allocation for the existing PHARE programme, but will also comprise, as of the year 2000, aid for agriculture and a structural instrument which will give priority to measures similar to those of the Cohesion Fund.

The increase in funds, as well as the fact that these funds will, to a certain extent, be managed by the national authorities, makes it necessary to establish appropriate internal and external control structures with the objective of ensuring effective and proper use of European taxpayers' money and the development of sound financial management.

In this context, at the end of 1996, the ECA launched an initiative to develop a framework for cooperation with the Supreme Audit Institutions of the Central and Eastern European Countries (CEECs). This cooperation has taken concrete form since the meeting between the Contact Committee of the Heads of CEEC SAIs and the ECA held on 26 and 27 March 1998 in Warsaw.

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1 In a joint audit, the participating SAIs set the same audit objectives within their fields of responsibility when examining the same subject. In a coordinated audit each participating SAI examines a common subject and, whilst the objectives of each SAI's audit may differ, there is close cooperation between the SAIs concerned, which allows information to be exchanged, thus enriching the individual audits of each SAI.

EUROPEAN ORGANISATION OF SUPREME AUDIT INSTITUTIONS
Quality and Certification

GERT JÖNSSON
The Swedish National Audit Office, Audit Director and Head of the Financial Management Department

During recent decades we have seen clear shifting in perspectives on state control, follow-up and inspection.

Requirements change

The focus on state control, follow-up and inspection has shifted from reform development to follow-up, assessment and inspection to ensure that public funds had been used for the right purpose and in the right way. In this way the importance of reporting, inspection, responsibility and auditing increased considerably.

At the same time state activities have become more complex and more difficult to overview. There are more organisations in action, a larger number of and more complicated forms of association, changed market conditions, more complicated regulations, etc. It is hard for a private individual and citizens’ elected delegates to take in all that the state does and why it does what it does. More and more reports, accounts and other information are produced and these are more easily available than before. Nevertheless, the uncertainty of citizens and politicians about what information is important and correct is growing.

It is in this situation that many people are putting their hopes in the assumption that the auditors know everything about which information is correct and relevant.

More difficult to audit – and broader expectancy gap

The requirements on state auditing are increasing in many ways. The state is more complicated than before. The regulations demand both broad and deep knowledge. State undertakings are no longer an issue for one authority, but are also taken care of by other actors. It is becoming increasingly more difficult – for example as a consequence of the profusion of information – to live up to the expectations of the general public and politicians.

To audit the state successfully with limited resources and in accordance with good standards, the individual auditor must be prepared to take great personal responsibility. Quality assurance must be performed quickly and be reliable and carried out by a limited team of auditors. A method where analyses, assessments and decisions are tested at many organisational levels is not possible. Audit management must rely to a large extent on the assumption that the individual auditor performs his/her work correctly from the beginning and the individual auditor must have great confidence in his/her own ability.

Requirements on knowledge and experience

Individual employees have much personal responsibility and a self-interest in developing their competence. The auditing organisation also has responsibility for specifying competence requirements, ensuring that opportunities are given for further education and other improvements and for following up how the auditor lives up to specified requirements.

An organisation which performs auditing can very well arrange a series of courses, seminars, practical training, etc., but it is only when the requirements are clarified that you see a clear connection between demand and what is available and it is first then that further training and other means of developing competence are given the chance to take precedence over normal, daily work routines.

"Improving the CV of the personnel"

Education and training cost and it costs to quality assure competence. You can,
course, claim that the personnel must know their business when they actually begin employment and it can be claimed that investments in competence development are very costly when an employee finishes to take up another position of employment. In addition it can very well be the case that the demand for our personnel increases with the risk of increased turnover of personnel. An objection to this could be that a systematic competence development programme with a yardstick to measure one’s progress can actually also contribute to an organisation being more interesting to apply to and remain at.

There are plenty of indications that a modern and forward-looking organisation must invest to improve the merits of the personnel - "improve the CV of the personnel".

With this background the Swedish National Audit Office (RRV) recently has started a comprehensive competence development programme and which also is to be interfaced with specific forms for how we can assure the competence of our financial auditors.

"Otherwise we are done for"

We are best and we shall continue to be best at auditing state activities and state undertakings. This attitude is firmly rooted in the Financial Audit Department. We feel the "distinctive state character", we know how state control and auditing work in practice and which regulations apply, we know the environment. This is the basis for the confidence our employers have placed in us, but it is also a confidence that we must hold in trust and develop. To an increasingly greater extent state activities are run in forms which superficially are the same as in privately-owned business companies. Management culture and management models have many characteristics in common, etc. There is a risk that the important specific characteristics which apply to the state – democratic management, the exercise of authority, law and order, public insight, etc. – are neglected. Against this background we must develop our general competence in auditing, but in particular develop and administrate our knowledge of and perspective on the state. We must also be able to show outwardly that we possess this competence. This is essential for maintaining and strengthening others' confidence in us which we have already built up.

Competence development programme

The consequences of the increasing requirements put on us at the Financial Audit Department are that we must make a purposeful investment to achieve and maintain high quality in auditing. One way of reaching this goal will be to establish a competence profile, i.e. to make clear what requirements on competence and experience are required to work as an auditor at this department.

The increased requirements on quality mean that personnel must be offered the competence development required to achieve our goals on high quality. By means of systematic tests we would get indications about the extent to which personnel meet established requirements. In this way we also form the basis for designing and adapting our programme for competence development.

Starting points - competence development

Below, the starting points for direction and extent of the competence development plan are presented.

- Our duties as the state auditing organ

According to the instructions given to the Swedish National Audit Office (RRV), we shall annually audit the accounts and annual reports of all government agencies and make statements on the annual reports and the managements compliance with laws and regulations, as well as presenting a summary assessment of the results of the audit to the government.

1 A more detailed description of the programme is available in English.
— The Manual

An essential prerequisite for the content of the plan is that we shall follow good auditing standards as this concept is defined in Guidelines for Annual Auditing (the Manual). The content of various parts of the plan are thus designed to take into consideration the new direction of auditing as given in this handbook. This means, for example, that internal control applies to the wider perspective as given in the handbook guidelines. The term auditing process applies to all the parts of the handbook as far as the concept of risk, strategies, etc. are concerned.

— Integration

The plan takes into consideration the principles given in the handbook that administration, auditing and accounting should be viewed as a whole. This means, for instance, that aspects of auditing will also be included in courses that do not have auditing as a title. This holistic view should also be applied where practical work is concerned. The course of education must illustrate the whole perspective, but also refer to methods for the inspection of individual items.

— Successive competence development

The basis of the training plan is that auditors at the department will be offered a successive course of training, an "educational stepladder" interlaced with actual auditing. The section managers must ensure that all personnel are given the opportunity of planned "job rotation". The various courses must be given at logically relevant times and as a complement to the practical parts of the course. Later courses on the stepladder will be based on earlier parts of the plan.

— Practical examples in the course of education

The education plan is based on theory being interlaced with all-round practical work. This requires job rotation, during the first years of employment at Financial Audit Department. Each unit should strive to ensure that during the first three years auditors work with different types of authorities, e.g. subsidy-financed and self-financing, corporate authorities, subsidies, tax-levying, transfer payments, etc. To bring this even closer to reality, the theoretical parts will, in most of the courses in the plan, be interlaced with practical examples.

— Certification

The plan has been designed so that as far as content and quality are concerned, it will form the grounds for certification. A requirement on those who will be granted the benefit of the whole educational stepladder is that they also take the tests for certification. To be able to participate in certification, attendance records from all the courses in the ladder or, alternatively, that the auditor can demonstrate that equivalent courses have been taken in some other way, e.g. at the Audit Office. For a number of years ahead special transitional regulations will apply.

Auditors who are not aiming for certification can regard the various sections of the education plan as a menu from which to select courses in collaboration with the unit manager.

— Selection principles

The various courses in the plan are for all personnel at department according to the needs each person has. The needs are not only based on practical work and previous education, but will also be judged on the basis of the auditor’s current and future work duties. At development meetings a joint assessment will be made by the auditor and the unit manager as to where on the educational stepladder the auditor is as far as the different subject areas are concerned.

— Adaptation of work at the department

The different courses will be run during periods where they will come into as little conflict as possible with duties for which the department has fixed deadlines. The courses in the basic training pro-
gramme will thus be given during April, May, September and October. The tests will then be given twice per year, in June and November.

- Exchange of experience

To a large extent the courses has been purchased externally. The Financial Audit Department is a relatively small organisation and will not therefore have any great possibilities themselves of continually producing the extensive training material which is required, training teachers and running the courses. Through an exchange of experience with external auditors outside the Audit Office we would also benefit from ideas and ways of thinking which are of value to us in our continuous work on development. The need of a holistic view does, however, require – for several of the courses – that auditors from the department participate in the courses and mediate what is specific for the state and the ideas in the Manual.

Competence development plan

The following are included in the competence development plan:
- Educational background
- Practical experience
- Basic education
- Further education
- Specialist training

Educational background

For work as an auditor at the Financial Audit Department a basic education corresponding to 3.5 years' full-time study with an economic orientation. This is now part of our recruitment policy.

Practical experience

To be able to participate in various courses, practical work experience is required where the number of years depends on where in the ladder the course is. To be able to participate in higher courses on the educational ladder, attendance records from previously taken courses will be required. Once you have applied/been enrolled on a course, attendance is obligatory.

Basic education

The educational programme will essentially meet the requirements of theoretical basic education in auditing, accounting and other subjects which are required to acquire necessary competence for certification as an auditor for the state. The course will be conducted in parallel with an all-round, compact practical period where theoretical knowledge can be applied. The course does not eliminate the need for self-study.

The basic course covers 80 hours per year, i.e. a total of 400 hours over a five-year period. These hours are distributed as follows: 80 hours in years one, two and five, and 96 hours in year three and 64 hours in year four. This has been judged to be the most appropriate for the times for tests and the opportunity for participants to have time to get the relevant practical experience. Practical experience of auditing has been judged to be a prerequisite for understanding and for being able to absorb the contents of certain courses.

Further education

After five years of auditing (at or external to RRV) RRV would offer obligatory further education of 40 hours per employee per year. At the annual development meeting both the need for further education for the coming year and also a development plan extending over several years will be established for each employee.

Specialist education

Over and above the basic education and further education, there should also be a specialist course of education. The difference between this and further education is that specialist education aims at delimited areas which may also be studied from year one to year five. The range of specialist courses is adapted from the specific requirements each year.
There is a need for the further education of specialists in other areas which are outside the competence development programme. Examples include IT auditing, internal IT, accounting and support generally. In most cases such further education can not be established in general competence development plans, but must be highly customised for each individual.

Certification

As can be seen from the above, educational performance should be followed up, for example by tests with the aim of ensuring that personnel at the department have a thorough knowledge of auditing and state accounting. In addition, from all who wish to perform duties with increased responsibility good judgement and documented suitability as an auditor should be required, which includes good analytical and communicative abilities. The test will be linked to the competence profile which has been established as a minimal requirement for working as an auditor at the department. The testing procedures will therefore be an important part of our internal work on quality. High quality in annual auditing provides added value for the whole of the state administration. To stimulate personnel to invest in the courses and quality in their work, those who have passed the tests should be given some sort of confirmation of their competence and suitability as an auditor, certification. This should also lead to increased commitment as there is a clear educational goal to strive towards.

Certification should be followed by requirements on obligatory further education for further certification and to ensure that competence is maintained. Requirements on quality in one’s work and observance of rules generally, e.g. our ethical requirements, must be linked to the requirement on maintained certification.

A relevant issue is how many certified auditors we will need. In our opinion this will not be a problem. Depending on turnover of staff, we will more probably, as up to now, continually suffer from a lack of qualified auditors. As mentioned above, certification may also mean that it will be easier for us to retain personnel as a clearer career path will be created at the department. The ambition is to carry out tests and certification procedures in cooperation with an external body. This matter have been discussed with the Auditing Board and The Swedish Association of Authorised Auditors (FAR) examination committee, which in the private sector runs examinations at auditor and higher auditor levels.

Direction for competence profiles

Relevant subject areas includes:
- auditing
- accounting
- the role of the auditor
- financing in government activities
- the budget process
- information technology
- economic management
- commercial law
- administration
- some economics
- some taxation law

The direction of the tests is guided by the established competence profile.

Structure

Two tests ought to be required for certification. The aim is that the tests should mainly test the ability to practically apply what has been learned in connection with situations which we find ourselves in when auditing for authorities. The first test could possible be more theoretical.

Test I will test whether the auditor has the required knowledge in all relevant areas that are required for auditing smaller and medium-sized authorities and also has the ability to apply this knowledge in practice.

Test II tests whether the auditor has a deeper knowledge of all relevant areas for larger authorities, corporate authorities and authorities which for some other reason are difficult to audit. It is especially important here that the test is designed so that the ability of putting theory into practice is tested.

Test I will be taken after two to three years' experience of auditing at our department. To participate in test II, the following is required:
Private Finance for Public Services: Audit Issues

DAVID FINLAY
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The United Kingdom National Audit Office has a team of value for money auditors who specialise in examining privately financed public service contracts and other forms of partnerships between the public and private sectors. There follows a summary of a paper "Private Finance for Public Services: Audit Issues" presented by Jeremy Colman, a Director of the United Kingdom National Audit Office, to the fifth meeting of the INTOSAI working group on the audit of privatisations held in Jerusalem in June 1998. It outlines some of the key audit issues in examining privately financed public service projects, describes an audit approach based on issue analysis which has been developed by the United Kingdom National Audit Office and sets out some common themes which have emerged from examinations using this approach. The topic of privately financed public service projects will be considered further by the sixth meeting of the INTOSAI working group on the audit of privatisation to be held in Poland in Autumn 1999.

Introduction

1. The purpose of this paper is to comment on the value for money issues raised by the introduction of private finance into the delivery of public services, consider the auditor’s function and skills required to carry out such audits, and draw out some common themes arising from our four completed examinations of privately financed public service projects.

Characteristics of Privately Financed Projects in the United Kingdom

2. Increasingly private finance is being introduced more widely to finance ser-
vices such as information technology, property, roads and prisons. Under such contracts the private sector typically designs, builds, finances and operates the assets required to provide the service contracted for and in return is paid on the basis of the service provided. So for example with information technology services, all the necessary hardware and software is supplied, developed, operated and maintained by the private sector. The public sector as part of the contract specifies the outputs required and pays for these outputs usually on the basis of volume subject to agreed quality criteria. Under these arrangements all the risks associated with the design, development, construction and maintenance of the assets necessary to provide the services contracted for are borne by the private sector as they only receive payment when the service is in place.

**Value for Money Issues**

3. The United Kingdom National Audit Office has now published four reports dealing with the provision of public services through the medium of private finance. These have dealt with a privately financed bridge, a major new computer system, prisons and roads. The cost of private finance is likely to be greater than the cost of government borrowing. Therefore the only way in which such arrangements can offer better value for money than conventional public procurement is if there are other real benefits to offset the additional financing cost, for example, improved risk allocation, better exploitation of opportunities, innovation and better management.

4. Although there can be an excellent case for using private finance based on the real benefits just mentioned, the fact remains that it can be highly attractive for a public body to use private finance as a means of getting their project now and pay for it later, regardless of value for money. The prime audit issues which we have identified relate to ensuring that the need to secure value for money has not been overlooked by public bodies using the private finance approach. These questions can be grouped under four general questions which are then broken down into more detailed sub-questions. This form of issue analysis allows the auditor to home in on the evidence he or she requires to carry out the examination.

**Are the objectives clear?**

5. As external auditors we would always hope to find that audited bodies have formulated clear objectives for major projects. But in the context of auditing private finance deals, this is much more than a routine question. Such deals are highly complex, and they are unlikely to deliver good value for money unless the means by which they may do so have been thoroughly thought through in advance of procuring the project.

6. Hence, this question deals the strategic issues which need to be considered before the public sector enters into any procurement competition. It covers the selection of the services to be included in the contract, the clarity of the objectives and approach to their delivery, the identification of the best form of partnership arrangement and risk transfer. It is good practice for the procurer of a privately financed project to bring all these considerations formally together in what is sometimes known as an outline business case. Such a document not only aids decision-making on the project, but also gives the auditor assurance that the audited body had a sound basis for its decisions.

7. The objectives for the services to be provided should be expressed in output terms concentrating on what is required rather than the precise method of delivery. The reason for this is that one of the key ways in which the private finance approach can deliver excellent value for money is by permitting innovations in the way services are delivered. Obviously, the scope for such innovation is maximised the fewer unnecessary constraints are placed on those bidding to deliver the services. In our report on the first four privately financed road schemes, we noted that, as a result of the various public inquiries which had taken place, many detailed aspects of the road schemes had been prescribed. This case shows that there may be legitimate detailed constraints which have to be imposed on bidders, but that does not remove the need to...
ensure that unnecessary constraints are avoided.

8. Value for money in privately financed projects will not be achieved unless the private sector suppliers bear risk (otherwise their participation would amount to secure lending to a sovereign borrower – but at higher rates of interest than normal). They will expect to be paid for bearing such risks, so an important test of value for money is whether the amount they are paid is worth the risk transferred from the public sector. It is quite possible that the use of private finance will create new risks as well as lead to some of them being transferred from the public sector. Risk creation will increase the total cost of the project compared to conventional procurement; it is important in planning privately financed projects to be clear which risks are being created and which transferred.

9. The auditor should be looking for evidence that an outline business case was prepared to ensure high quality proposals, avoid unnecessary cost and to maximise the chances of getting good deals. As a minimum, the business case should cover the following matters: a) needs expressed in output terms; b) the extent of risk transfer sought; budget and affordability limits; c) any public sector contribution (including limits); d) an appraisal of alternative options; e) a timetable; f) criteria to be used in evaluating bids.

11. So this question aims to establish how well the procurement itself was managed. This includes planning the procurement, establishing the right conditions for ensuring a successful competition, regularly assessing whether the competition is effective and controlling the cost of the process.

12. As regards the way the procurement had been planned, the auditor will be looking to see that a properly qualified project team was established in good time possessing the necessary skills (preferably including people with previous experience of these deals). The auditor will wish to examine whether the public sector purchaser investigated the market to ensure that suppliers exist who are competent and willing to bid for the contract. Important contract issues need to be identified and considered such as the length of the contract, possible risk allocation between parties, the payment mechanism and the standards of service required, how these will be monitored and compensation for poor performance. A tendering strategy should have been established setting out a timetable and issues such as how many bidding rounds there will be. Important also at this stage is some means by which the procurer intends to establish that the deal does indeed represent value for money. Sometimes this will be comparator which represents the expected cost to the purchaser of providing the service over the life of the contract by conventional means.

13. Effective competition is one of the best means for ensuring value for money in procurement. The auditor should be looking for evidence of competitive tension throughout the procurement process. This is achieved by stimulating market interest, creating a good tender list, providing clear information on the services and quality required and writing a clear invitation to tender providing scope for innovation and showing the criteria for evaluation. The auditor is seeking evidence that the timetable was closely adhered to and that any negotiation with preferred bidders is subject to competitive tension. The bids should be evaluated fairly and consistently against technical and financial criteria and different proposals for risk allocation and innovation taken fully into account.

14. The initial appraisal of alternative options as part of the outline business case

As external auditors we would always hope to find that audited bodies have formulated clear objectives for major projects.
should have demonstrated that the private finance approach was potentially worthwhile and likely to deliver value for money. But the position must be regularly reviewed during the competition process so that if the project is no longer worthwhile management can cancel as early as possible. The auditor will be concerned to see evidence that such reviews have taken place.

15. Because contracts involving private finance are inherently more complex than conventional contracts the cost of the competition can be significant. The auditor should seek evidence that such costs are minimised. Budgets for external advisers, appointed following competition, should be set and closely monitored.

16. Because competition is central to achieving value for money from these deals, the procurer must consider very carefully whether bidders’ interests are being given proper weight in the procurement. This means that everything which may legally and properly be done to encourage bidders to bid and to remain in the competition should be done. Although the process of awarding the contract for a privately financed deal is procurement, it is most important for public bodies to bear in mind that in many ways it is also selling a business opportunity to the private sector.

Was the best available deal selected?

17. If competition has been successful there should be a range of solutions proposed by the different bidders. The public sector needs to fully understand the differences between the bids and evaluate them against the pre-determined criteria and select the economically most advantageous bid. Finally, negotiations with the preferred bidder will need to be carefully managed.

18. The different ranges of solutions may offer radically different designs of the assets to be used to provide the services being contracted for. It is in this area where bidders have the most scope to offer innovative ideas. There will also be different proposals put forward for the operation of the services and the ways in which they will be financed and monitored. Finally bids are also likely to offer variations on the allocation of risk. The auditor should seek evidence that such differences have been evaluated and where appropriate expert external advice has been taken. It is unlikely that there will be a clear winning bid against all the criteria and the relative importance and weighting attached to the criteria should be carefully considered. The auditor should seek evidence of such considerations.

19. A key consideration will also be the cost of the competing bids. It is not always the lowest price that offers the best value for money. Non-financial factors such as quality of service are very important and there may be additional risk to deliverability attached to low priced bids. The auditor should seek evidence that proper consideration has been given to these factors before the final selection is made.

20. The period between selection of the winning bidder and the final contract is very important as it will generally involve some reduction in competitive tension and thus additional risk to value for money. The public sector purchaser needs to manage this stage very carefully to ensure that the bidder does not succeed in renegotiating the deal in his favour. The auditor should look closely at any changes in the terms of deals that take place in this period to satisfy him or herself that they were justified. Such changes may not simply be related to price but also reduction in quality of bids, risk allocation or penalties for non-performance.

Does the deal make sense?

21. Before finally signing the contract the purchaser needs to stand back from the detail of negotiation to ask this fundamental question. Typically the competition process will have lasted many months and there is a need to reconsider the fundamental reasons for the competition and whether the service covered by the contract still makes sense. The auditor should seek evidence:

a) That the purchaser has established that the contract will meet the original objectives and fits within original priorities;

b) whether alternatives have been fairly considered and eliminated;

c) whether the contract will ensure satisfactory delivery of the service over the contract life; and finally

Value for money in privately financed projects will not be achieved unless the private sector suppliers bear risk.

Auditors must inevitably be concerned to establish that the proper legal processes have been applied in any procurement.
d) whether it is affordable over both the short and long term.

Common Themes

22. Our experience with the four reports we have already published has identified a number of common themes which are beginning to emerge.

- **Ensuring effective competition** — testing the market, attracting the right bidders and bidder selection, maintaining competitive tension, bringing together effective project teams, using advisers.

- **Appropriate allocation of risk** — identifying real risk and recognising the business consequences should it materialise, creating and mitigating risk, valuing risk.

- **Assessing value for money** — public sector comparators and/or alternatives, whole-life cost of contracts.

- **Managing contracts** — ensuring delivery of service over the lifetime of the contract, flexibility in contracts to cope with future changes, penalty and compensation arrangements for non-performance.

Effective competition is one of the best means for ensuring value for money in procurement.

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**Analytical Procedures: A Valuable Audit Tool**

**ROBIN SWAN**

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Financial statements reflect the financial activities of an organisation. There is a functional relationship between lines and balances within these statements of the other financial statements and other financial and non-financial data.

1. Introduction

Procedures reflect those relationships: they are used to model the relationships and provide evidence that either all is in order or identify potential problems.

Analytical Procedures is the generic name for the collection of methods. In the United Kingdom auditing standards are defined to be "The analysis of relationships:

(a) between items of financial data, or between items of financial and non-financial data, deriving from the same period; or

(b) between comparable financial information deriving from different periods,

The purpose is to identify consistencies and predicted patterns or significant fluctuations and unexpected relationships, and the results of investigations thereof".

Within the private sector audit firms, Analytical Procedures are one of the most commonly used methods. Research in the USA indicates that nearly 40% of all audit hours are devoted to the use of such procedures.

Given this high usage and the apparent propensity of some classes of Analytical Procedure to be inappropriate for reliably detecting error, Analytical Procedures might be a cause for concern. The potential problem can be minimised by adopting a three-stage strategy of developing an expectation, comparing to the audited records, and then evaluating the results taking account of the precision of the procedure. This strategy reflects the idea that, in order to obtain the maximum benefit from the analytical procedures, the auditor needs to understand the relative strengths of the different methods, and apply their judgement, skill and knowledge of the audited body.

Analytical Procedures is the generic name for the collection of methods.
2. The purpose of using Analytical Procedures is to inform the auditor’s judgement

Analytical Procedures can direct the auditor’s attention, provide evidence, or confirm the findings of an audit. This can be categorised into the planning, substantive and review stages of an audit. At each of these stages Analytical Procedures have very different purposes.

2.1. At Planning Analytical Procedures are used to direct attention

At the planning stage of an audit Analytical Procedures are used to assist in understanding the entity’s business, to identify areas of potential audit risk and to assist in planning the nature, timing and extent of other audit procedures. Analytical Procedures at this stage are frequently based on interim financial information, budgets and management accounts. The data used is often of a high level; for example the comparison of annual figures from the financial statements (a finding of Loebbecke & Steinbart (1987)). Typically the methods used are simple ones such as scanning; simple trend analysis and ratio analysis

2.2. Analytical Procedures can provide valuable Substantive Evidence

A financial audit always needs some substantive evidence. The issue is about the quantity and quality of that evidence: is it sufficient to address the residual risk after the assessment of client risk controls? There are two categories of substantive test; Analytical Procedures, and other procedures, such as tests of details (requiring inspection of documents) of transactions and balances.

Analytical Procedures are not only a supplement to other substantive procedures: they can provide all the substantive audit evidence. When the activities are uncomplicated and the number of variables to be considered is limited, Analytical Procedures can often be a cost-effective means of obtaining much of the evidence required by the auditor. An example might be a small organisation that employs a known number of staff at fixed rates of pay throughout the audited period. Here it will usually be possible for auditors to use this data to estimate the total payroll costs for the period with a high degree of accuracy, thereby providing audit evidence for a significant item in the financial statements without the need to perform tests of details on the payroll. Auditors of commercial organisations use widely recognised trade ratios (such as profit margins, or sales per square footage of the stores, for different types of retail businesses) to provide evidence to support the reasonableness of recorded items.

Analytical Procedures can be an effective means of testing for completeness of income, provided the results can be predicted with a reasonable degree of precision and confidence. Variations from expected results might indicate possible omissions, which have not been detected by other substantive tests. Many argue that when testing for the completeness objective, they form the best evidence. An example is the audit of an organisation such as a Passport Office. Suppose there are three types of passport at different, but fixed, charges. The number of passports in stock and issued is very tightly controlled for reasons of national security. A very simple Analytical Procedure would be the calculation of the income, based on the number of passports issued in a year of each type multiplied by the relevant charge. The number issued is a function of stock change (change in stock level after adjusting for purchases of blank passports, damaged and destroyed passports before issue).

The UK Auditing Standards encourage auditors to consider a number of factors when deciding whether to use Analytical Procedures as substantive procedures. They include:

- The plausibility and predictability of the relationships identified for comparison and evaluation. For example, a strong relationship between certain selling expenses and turnover in businesses where the sales force is paid by commission;
- the objectives of the Analytical Procedures and the extent to which their results are reliable;
- the degree to which information can be disaggregated;
• the availability of information, both financial (such as budgets or forecasts) and non-financial (such as the number of units produced or sold);
• the relevance of the information available;
• the comparability of the information available;
• The auditors general knowledge of the business.

The standards go on to point out that “the reliability of the information used in Analytical Procedures is likely to be enhanced if it comes from sources independent of, rather than internal to, the entity or from sources independent of the accounting system”. This is exactly right. Reliability implies that the results of using an analytical procedure will be grouped about some estimate. Reliable data is needed for that.

The methods applied at the substantive phase tend to be more sophisticated than at planning or final review. A range of procedures are used. They include scanning, simple trend analysis and ratio analysis. More complex procedures such as reasonableness tests¹ are also common while quantitative modelling methods such as statistical regression are used, but less frequently than other methods.

Loebbecke and Steinbath (1987) found that some of the simple Analytical Procedures that are used at this stage are very unreliable at detecting material error. It is for this reason that the structure is proposed in Section 4.

2.3. At the Final Review stage of an audit, Analytical Procedures have the function of corroborating the audit and directing the auditor’s attention towards outstanding issues

Analytical Procedures form a key, and mandatory part, of the overall review when completing the audit. The conclusions drawn from the application of such procedures corroborate conclusions formed during the audit regarding individual elements of the financial statements and assist in arriving at an overall conclusion as to whether the financial statements, taken as a whole, are consistent with the auditors’ knowledge of the entity’s business. They may also identify areas requiring further work. At this stage the simple methods predominate.

3. To be effective good judgement is required

For an Analytical Procedure to be effective, the auditor needs to understand the business so that they can discern the proper relationships between different parts of a set of financial statements, or with other sets of data. They also need to exercise good judgements about the quality of data. To put this into context, the auditor needs a framework to work within. In addition they need to consider how accurate their procedure is likely to be. The methodology for this is well understood if statistical methods are used. As, frequently, the methods will be non-quantitative, the auditor must make some assessment of the accuracy of the method. The following paragraphs describe a framework for providing a structure for the auditor’s judgement while allowing them the flexibility to apply their experience and knowledge of the audited organisation.

4. A methodology for Analytical Procedures: A Three-Step Process

In order to address increase the effectiveness of Analytical Procedures, the following strategy is recommended when doing an Analytical Procedure. The basic structure is a three-step process:

[1.] Develop a model for the expectation.
[2.] Compare the predicted amount with the recorded balance.
[3.] Evaluate the results taking into account the precision associated with the expectation model. This can be done explic-

¹ Reasonableness tests can be regarded as an informal version of statistical analysis. They involve the use of financial and non-financial data to predict an account figure.
ity for statistical methods, but must be done implicitly in others.

In more detail the process is:

[1]. The first step is to set down what the auditor expects to be the relationship between the value in the financial statements that is being checked and other data. Put more formally this means develop an expectation\(^2\) (a model) of the figure in the financial statements, based on a procedure such as ratio, trend or modelling analysis. This seeks to incorporate causal links between different sets of data, and the analysis will utilise the auditor’s understanding of the plausible relationships between different sets of data. Understanding and knowledge of the client’s business by the auditor are an essential part of this process. The standards recognise this: "The application of Analytical Procedures is based on the expectation that relationships between data exist and continue in the absence of known conditions to the contrary" (SAS 410).

Although there is no specific reference in the definitions to estimation and the associated variability of such estimates, the implication is that the auditor will form a expectation. Without a considered development of a expectation model the Analytical Procedure may be misleading or wrong. Putting the model formation step first will emphasise the assumptions that are implicit in the estimation process and focus attention on the method being used to make the estimate. For example, the comparison of current and prior balances could be biased by the presumption that prior year balances are relevant predictors of what the current year balance should be. Unless the auditor has established the relationships that link those two balances, then they could miss information that might alter their view of the financial statements. For example, it may be that if the pay figure is not on the same basis as last year, because the mix of staff has changed. If this was not considered, an area of investigation might not be considered (why had total pay bill stayed the same when there had been a change in the underlying (associated) data?).

At this stage, certainly before any approach is made to the audited body, it is essential to identify potential explanations for any differences.

[2]. Compare the figure in the financial statements to the auditor’s estimate. The potential explanations, identified at stage 1, then form the basis for making a judgement [stage three] of the explanation provided by the audited organisation. Things to be considered include:

- Is the Analytical Procedure deficient?
- Was the data, used by the auditor, of good quality?
- Are there possible errors in the financial statement?
- How much variability is associated with the estimation process and consequently how precise can it be expected to be?

[3]. The final stage is the auditor’s decision about the success of the process. The judgement is based upon the difference between the expectation developed by the auditor and the recorded figure in the financial statements. That will include an assessment of the precision of the estimate, the results other audit work, the significance of the difference, and the explanations generated and tested.

The consideration of the degree of precision required of an expectation will depend on the objective of the AP; is the Analytical Procedure being used as part of planning, as a substantive test or as part of the final review? Precision is important at all three stages, but it might be argued that is at its most important when used to provide audit assurance at the substantive phase. The greater the precision, then the more reliable will the analytical procedure be at detecting material error. A similar argument applies at planning since the Analytical Procedure will be used to direct work. Thus an Analytical Procedure, which is not acknowledged by the auditor as being imprecise, may fail to signal a potential problem to the auditor. This could cause the auditor not to gather sufficient audit evidence in their later work. This is

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\(^2\) Expectation means some “model” that the auditor expects to reflect the process and which will predict the value being tested.
not an argument that Analytical Procedures should not be encouraged. Rather it is an inducement to auditors to use their judgement in a wise and transparent way. That is the work and judgements should be documented in such a way that the auditors peers and seniors can reperform and/or review the work.

Blocher and Patterson (1996) were involved in setting the standards in the USA. In an article they set out key considerations affecting the precision of an expectation. They are [1] the methods used, [2] the reliability of the data, [3] the dis-aggregation of the data and [4] the predictability of the relationship. These are similar to those put forward above; [1] and [4] are equivalent to the quality of the model, while [2] and [3] are equivalent to data quality and also the use of confirmatory information.

The UK auditing standards recognise some of these factors. The Auditing Standard, SAS410: Analytical Procedures, says:

The extent of reliance that auditors place on the results of Analytical Procedures when used as substantive procedures may also depend on the following factors:

- Other audit procedures directed towards the same financial statement assertions. For example, other procedures auditors undertake in reviewing the collectibility of debtors, such as the review of subsequent cash receipts, may confirm or dispel questions arising from the application of Analytical Procedures to an aged profile of customers’ accounts;

- The accuracy with which the expected results of Analytical Procedures can be predicted. For example, auditors normally expect greater consistency in comparing the relationship of gross profit to sales from one period to another than in comparing discretionary expenses, such as research or advertising; and

- The frequency, with which a relationship is observed, for example a pattern repeated monthly as opposed to annually.

The “reliance taken” is expressed in the same terms in the Blocher and Patterson’s points for considering precision (points [3] and [4]).

5. All the good work from doing an Analytical Procedure can be lost if the auditor fails to obtain good explanations for fluctuations from Expected Values or for unexpected results

Analytical procedures are a very powerful tool for the auditor, but a good knowledge of the audited body and its systems is required.

A crucial part of the Analytical Procedure cycle is obtaining justifiable explanations for the difference between auditors’ prediction and the recorded value in the financial statements. The UK standards are clear about a requirement for obtaining proper explanations for significant fluctuations, or unexpected relationships identified that are inconsistent with other relevant information or that deviate from predicted patterns. They say, “auditors are required to investigate and obtain adequate explanations and appropriate corroborative evidence” (SAS 410.4). This is the critical part of the process. No matter how good the analytical work, failure to properly assess the results and obtain satisfactory explanations for the findings of the audit work, will put the audit conclusion in jeopardy.

5.1. Robert Libby called this problem the “Explanation Effect”

There has been considerable research into this problem in the social sciences. Robert Libby (1981) found that, without adequate preparation many auditors fail to get the correct explanations for the difference. The problem has been neatly described as the explanation effect. Given this, the next step is to ascertain whether the explanation effect could be minimised by getting the decision-maker to postulate both explanations and counter-explanations.

Anderson & Sechler (1986) researched this area. While their work was not in the audit field, it was about getting the “right” explanation for an occurrence. They concluded that “If people typically considered all possible alternatives before making important decisions, the explanation bias might be relatively unimportant; the various counter-explanations would tend to leave the decision maker relatively unbiased”. Their work also led them to conclude that “The [explanation] error seems to be grounded people’s inability (or un-
willingness) to see that the availability of a particular explanation may have been due to factors unrelated to the truth of the explanation, and that equally plausible causal explanations could be generated..."

This is a skill that auditors, statisticians, lawyers and many other professions need.

To help counteract these problems, we in the NAO have developed a set of rules. These are:

- identify potential alternative explanations while developing the expectation model;
- make the prediction and compare it to the account figure;
- review the alternative explanations;
- seek explanations; &
- confirm those explanations.

The purpose of these rules is to provide a framework to assist the auditor to make considered judgements about their own work and the arguments put forward by other.

6. Conclusion

Analytical procedures are a very powerful tool for the auditor. They can only be effective and provide reliable evidence if used with skill and good judgement by an experienced auditor (or under the close supervision of a senior). A good knowledge of the audited body and its systems is required.

Assessing the Quality of Public Services

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The public sector provides services for the benefit of both the individual citizen and the wider community.

1. Central government provides a huge range of services as diverse as health, legal, welfare, education, policing and cultural to name but a few. The quality of these services and their cost are of fundamental concern to the government, taxpayers and users.

2. All central government services are subject to examination by the National Audit Office (NAO) and we have reported to Parliament on the quality of a range of public services in our value for money (VFM) reports, for example how well the London Metropolitan Police respond to calls from the public; the quality of consular services which UK nationals receive from UK embassies when travelling overseas; and the standard of service which welfare benefit recipients receive at local social security offices. The typical risks to VFM from poor standards of service are summarised in the figure below.
3. Assessing the quality of public services can be very complex partly because:

- **Delivery of public service has under gone rapid change.** The government has become less a provider and more a purchaser of service. Privatisation, market testing, contracting out and private/public partnerships are leading to different arrangements for the provision of public services. For example, provision for the delivery of services are often provided for in contracts and there can be financial penalties if service agreements, including quality aspects are broken. **We have to make sure that we have full access to the records of contractors providing government funded services.**

- **Consumerism is now a major influence.** One of the influences in quality of service standards in recent years has been the extent to which the public sector has adopted factors which influence quality in the private sector such as giving customers a choice. **But differences between the private and public sector remain and raise a number of questions which we have to be alert to in our VFM studies, for example,**

  **Who determines the standard of service provided?** In the private sector it is the customer’s freedom of choice which influences the standard of service. Standards are partly influenced by an assessment of the level of quality required to maintain a certain amount of profit. If sales go down a provider may take steps to reverse the situation. Price will be a factor but he or she will also consider the quality of their product – reliability, customer service, accessibility, cleanliness of shops, fringe benefits etc. In the public sector it is the service provider who largely determines the standards set and how they will be met. **The key questions for our VFM studies are how standards are set, whether they are cost effective, and the extent to which service users are consulted about them.**

  **Can customer expectations be managed?** In the private sector, market research provides information on what customers expect and what will influence them to buy. In the public sector, expectations are less easy to establish and the extent to which they can be met will depend on what can be afforded. One way of managing expectations is to make sure that users of public services are fully aware of the standard of service they will receive so that their expectations are realistic. **The key VFM question is how effectively are customer expectations managed?**

  **How much does quality cost?** In the private sector a provider can determine how much to spend on quality of service, which in turn usually depends upon what is profitable and what is not. In the public sector services are often free at the point of delivery and the relationship between the quality of service and cost of providing the service is less clear cut. Nevertheless, research on the cost of quality indicates that expenditure on resource costs can be reduced if a service is delivered to the user as promised. “Getting things right first time can save money” for example, the Foreign and Commonwealth Office has a marketing campaign to inform people of the risk to their health etc when travelling abroad and what to do in the event of an emergency. This investment up front pays dividends in helping to reduce the number of people who have to call on the consular services for help. **The key VFM question is whether the cost of the standard of service provided is known and whether this cost is appropriate?**

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**Note 1:** The Citizen’s Charter was launched by the government in 1991 with the aim of making public services answer better to the wishes of their users and to raise quality overall. The Charter applies to all public services and many privatised utilities.
Are measures of quality reliable? In the UK the Citizen’s Charter1 and other initiatives have encouraged public bodies to set up systems to measure the quality of the service that they provide and to publish periodically the results. But quality is inherently a subjective term and its measurement is laden with difficulties. Experience from our previous studies suggests that the reliability of some quality of service information – such as that derived from departmental surveys – is questionable (for example, low response rates, and lack of consistency over time). The information is then misreported and a false picture given. The key VFM question is whether reliable measurement systems are in place and whether appropriate action is taken when quality is less than that planned for.

In summary, the public sector has a wide range of customers. They can be customers in the real sense in that they pay for the service and can exercise a choice because there are a number of suppliers – these customers are no different from those buying an airline ticket or new clothes. In the UK, the privatised utilities such as gas and electricity are good examples of having this type of customer. There are customers who pay for the service or product but have no choice of supplier such as those obtaining a passport or driving licence. And then there are those who do not directly pay for the service and have no choice of supplier such as those receiving income support from the Benefits Agency. But, how can we evaluate the standard of service these customers receive and form reasonable judgements on whether the service is delivered cost effectively?

Assessing quality

4. There are a number of techniques that can be used to assess quality of service. They can be grouped into three categories (i) assessing the cost of quality; (ii) measuring the views and opinions of those receiving the service; and (iii) examining how organisations deliver services.

5. Assessing the cost of quality. Cost of quality is a concept based on the recognition that there are costs associated with getting work done correctly and with getting things wrong. Costs can be analysed as:

- Prevention costs including the investment in training, standard setting and planning to ensure that work is done right the first time.
- Appraisal costs relate to the cost of monitoring quality and checking whether the work was done right first time.
- Failure costs are the complaints handling costs and penalties (rework, delays, waste and chasing) which occur when work’s not done right first time and any compensation costs.

Costing quality can help in assessing whether services are delivering tangible results and whether financial savings might be achieved by reducing failure costs, by investing to save, or by eliminating activities which are not critical to the delivery of the services.

7. Measuring views and opinions. The views of those receiving a service is a key to understanding whether quality is being achieved, whether customer expectations are realistic, and whether there may be scope for improving the service by giving priority to aspects which are more important to customers. A number of techniques can be used to obtain customers’ views.
Surveying using questionnaires are a tried and tested method of gathering data on customers' views and opinions. The results of statistical surveys can be extrapolated to enable you to say something about the whole population. In undertaking a survey you have to consider who to survey, when to survey (you may get different answers to the same questions from the same people if you were to ask them immediately after they had received the service, six months later, and a year later) and how to carry out the survey (for example face to face or telephone).

Focus groups can be a small gathering of customers who with the assistance of a facilitator discuss their views on the quality of the service they receive. Focus group are best for collecting qualitative information and while the results cannot be extrapolated because they are not statistically representative, the information – if used in conjunction with other evidence – can help to explain why individuals made certain decisions or reached an opinion.

Mystery shoppers. This approach usually involves sending in somebody who attempts to use the service in question. To the staff of the organisation, this is simply another customer. The 'mystery shopper' then assesses service levels against the quality standards specified by the organisation.

8. Examining how organisations deliver services

How an organisation designs a service and goes about delivering it will significantly influence service quality. Any assessment of quality will need to assess the way in which the organisation provides the service. There is often scope to improve efficiency, reduce costs with no loss of quality by critically appraising existing practices and the accepted way of doing things. A wide range of approaches and techniques can be used to examine how an organisation delivers a service. Some examples are.

Modelling The Service Quality or SERVQUAL model is a technique for measuring the quality of service provided by different organisation and activities. The model identifies some 22 factors categorised into five groups –reliability, responsiveness, tangibles, assurance and empathy which most influence the achievement of high quality services. While the model can be complex to use – expert technical advice is needed – it does help you to identify, with some precision, factors which people regard as important to a high quality service. The model was originally developed for the private sector but is now being applied in the public sector.
• Process management. This technique is useful when there is evidence that customers are not receiving their services quickly enough; when more efficient ways need to be used to deliver the service; and when existing work flows are poorly understood and do not seem to be working well. Examining the processes involved in delivering a service requires that you focus on the internal measures (cost, delivery times, volume and resources consumed); output measures (error rates, accuracy levels, and conformance to standards) and user satisfaction measures. The technique can be expensive but focusing on that part of service delivery which consumes the most resources or is most critical to quality can reduce the cost of using the technique.

• Benchmarking can be used to compare different organisations’ approaches to delivering quality and its cost. In our study on Regulating and Monitoring the Quality of Service provided to customers by the Water Industry we examined the regulator’s benchmarking activities when they compared the performance of the water industry with that of four sectors-energy, telecommunications, insurance and banking.

• Network analysis. Quality of service usually depends on various and often disparate staff and divisions within an organisation interacting efficiently and effectively. Network analysis is a method for mapping the activities and, in particular, the critical path required to deliver a service. The critical path refers to those activities in a system where there is no flexibility – ‘slack’ time. Any delays on the critical path will delay the entire service. Once the critical path has been identified you may be able to identify how the efficiency of service delivery might be improved.

• Observation. Observing procedures or physical equipment and facilities can be a useful technique for gathering information on the quality of a service. We did this in our study looking at the quality of service provided by Scotland’s Museum’s and Galleries.

Concluding remarks

9. Quality of service is undoubtedly an important feature of value for money and providing quality is more and more a key consideration for government in designing and delivering programmes. Through recommendations in our VFM reports we continue to make a contribution to improving quality by focusing on how departments might:

• Get quality right first time to save money and achieve improved accuracy for example, in processing benefit claims.

• Be more responsiveness to customer concerns: such as better telephone answering services and more user-friendly opening times.

• Ensure that their complaints procedures work satisfactorily. Having clearly defined complaints procedures which are speedy and offer an effective remedy in cases where something has gone wrong.

• Improve customer service training. Providing staff training on technical aspects of their job and how to deal with members of the public.

• Achieve better target or standard setting. Setting challenging and realistic targets, for example to reduce waiting times or correspondence turnaround times. Also setting standards of service, such as for waiting times and answering correspondence.

• Improve their consultation with users of the service they provide. Regular consultation with users, through surveys, meetings or complaints handling.

10. In all cases we have to form a view of the cost for departments of implementing our recommendations to ensure that they are practical and that likely benefits
will exceed costs. To do so requires a clear and comprehensive understanding of all the factors which contribute to a quality service.

11. We have produced technical guidance on how to assess quality of service. The guidance is entitled "Are we being served" and copies are available from the National Audit Office. Other titles in the series include:

- Collecting, analysing and presenting data. How software can help (1996)
- Value for money handbook (1997)

Picking the winners: a guide to vfm study selection (1997)
Focus groups: How to apply the technique to vfm work (1997)
Benchmarking: How benchmarking can help in vfm examinations (1997)

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Quality of service is undoubtedly an important feature of value for money.

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Auditing the Good Use of Public Funds a New Domain for the Belgian Court of Audit

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First President of The Belgian Court of Audit

New dimension to the role of informant assumed by The Court of Audit.

1. INTRODUCTION

The Act dated 10 March 1998, through which the Court of Audit of Belgium Act is modified, has widened the scope of authority of this Court, making it responsible for a posteriori audit of the good use of public funds.

This new mandate, which will allow the Legislative Assemblies of the Federal State and Federated Assemblies to improve the performance of their mission of controlling their respective Executives, is actually the culmination of a political and social evolution aimed at introducing control of the efficiency of the performance of public authorities, and adds a new dimension to the role of informant assumed by the Court of Audit.

2. GENESIS

Several elements, amongst which we find the pressure of budgetary obligations resulting from the economic crises that occurred in earlier decades, the influence of the private sector model and the multiplication of welfare State interventions, have contributed towards an increase in the need to provide citizens with information concerning the use of public funds. The demands manifested by civil society with regard to the quality of services has been increasing, while public authorities, concerned for a greater democratic transparency, have simultaneously shown themselves to be prepared to provide better information about their activities.

A first step in this direction was taken with the passing of the Act dated 18 June 1989 which modified the laws concerning State accounting, with the establishment of a new budget structure. The budgetary speciality would no longer be expressed according to the nature of the expenses but according to programmes that regroup the activities contributing to the achievement of one same objective. The allocation of
the necessary resources would have to be based on supporting vouchers. This reform was intended, therefore, to raise the budget to the status of an authentic instrument for management, that would permit the assessment of the degree to which objectives were achieved as well as that of the resources used in relation to the results obtained.

On the other hand, this Act dated 28 June 1989 commissions the Court to draw up, during May, a prefiguration of the results of the enforcement of the previous year’s budget, which can give rise to approval by the Chamber of a reasoned motion for provisional settlement of the budget under consideration.

In the reasoned motion for provisional settlement of the 1990 Budget, adopted on 8 July 1991, the Chamber of Representatives stated its wish for the Court to perform, for Parliament, a “management audit” with a view to assessing whether, and to what degree, the budgetary resources used allowed the objectives indicated to be reached.

As a result, the Court has been performing several management audits, the results of which have either given rise to specific publications or have been included in the Observations Book. In this way, reports concerning the functioning of services and bodies that are dependent on both the Federal State and the different Belgian Communities and Regions. The observations, which referred to the deficiencies detected in byelaws, procedures or administrative structures have, in some cases, resulted in the improvement of service management, the introduction of reforms or the acceleration of the process of putting them into practice.

However, the reasoned motion did not constitute an indisputable legal basis that allowed the Court to perform systematic audits on management effectiveness and efficiency.

The Act dated 10 March 1998 has conferred this power on the Court.

3. THE ACT DATED 10 MARCH 1998

Articles 5 and 5ª of the Court of Audit Act, as modified by the Act dated 19 March 1998, are shown below. The changes that have been introduced appear in italics.

**Article 5 of the Court of Audit Act**

**Article 5** This Court shall be responsible for the examination and settlement of the accounts of the General Administration and those of any persons accountable to the Treasury for use of funds.

It shall be watchful to ensure that no article of budget expenses is exceeded and that no transfer occurs.

All operations relating to the determination and receipt of all rights recognized by the State and the Provinces, including tax revenue, shall be subjected to the general audit of the Court of Audit. The modalities for performance of the said audit shall be established in a Protocol signed between the Ministry of Finance and the Court of Audit.

**Articles 5 and 5ª as modified by the Act dated 10 March 1998**

**Article 5** This Court shall be responsible for the examination and settlement of the accounts of the General Administration and those of any persons accountable to the Treasury for use of funds.

It shall be watchful to ensure that no article of budget expenses is exceeded and that no transfer occurs.

All operations relating to the determination and receipt of all rights recognized by the State and the Provinces, including tax revenue, shall be subjected to the general audit of the Court of Audit. The modalities for performance of the said audit shall be established in a Protocol signed between the Ministry of Finance and the Court of Audit.

It shall approve the accounts of the different State administrations, being responsible for collecting, for the said purposes, whatsoever accounting information and documents may be necessary.

The Court shall have the right to require whatsoever accounting statements, information and elucidations relating to the income and expenditure of funds belonging to the State and the Provinces.

The demands manifested by civil society with regard to the quality of services has been increasing, while public authorities, concerned for a greater democratic transparency, have simultaneously shown themselves to be prepared to provide better information about their activities.

The Court of Audit shall audit “a posteriori” the good use of public funds; and it shall guarantee that the principles of economy, effectiveness and efficiency are respected.
The competent authority shall be under the obligation to remit to the Court the documents, information and elucidations requested by the latter and to respond to its observations, within a maximum period of three months. The Court may extend the said period of time.

The Court may perform audits in situ. It shall approve the accounts of the different State administrations, being responsible for collecting, for the said purposes, whatsoever accounting information and documents may be necessary.

The Court of Audit shall audit “a posteriori” the good use of public funds; and it shall guarantee that the principles of economy, effectiveness and efficiency are respected.

The Chamber of Representatives may commission the Court of Audit to perform management analysis in the services and bodies subjected to its control.

Article 5a The Court of Audit is empowered to require notification of whatsoever documents and information of whatever nature, relating to the management of the services and bodies subjected to its control.

The Court may perform in situ audits in situ.

The competent authority shall be under the obligation to respond to the observations of the Court of Audit within a period of one month. The Court of Audit may extend the said period of time.

3.1. Scope

The purpose of the Act dated 10 March 1998 is to permit Parliament to judge the way in which public funds are used within the framework of the policies that the Government is carrying out.

With this purpose in mind, it charges the Court to audit a posteriori “the good use of public funds” and examine the management of the bodies subjected to its control. The general criterion adopted for this purpose is indicated in the regulatory part of law having recourse to the auditing concepts known internationally as the “3Es”, that is, economy, which assesses the cost of the resources used, efficiency, or the relationship between those resources and the results obtained, and effectiveness, or the relationship between the results obtained and the objectives pursued. As a whole, it is a question of assessing the suitability of the resources used, in the light of the ends pursued. This analysis not only takes into consideration financial and accounting aspects, but also the structure and methods of the public body being audited.

Management audit shall be performed on the initiative of the Court of Audit, by reason of its independence and the impartiality of its investigations. However, the Act dated 10 March 1998 contemplates the possibility that the Chamber of Representatives, with the intention of improving and updating its information concerning topics that merit its particular interest, may charge the Court with examining the management of services and bodies within its area of jurisdiction.

In accordance with the preparatory work done by the Act, the exercise of such right shall, however, be subjected to a formal request measure, that is still to be determined in the Internal Regulations of the Chamber with regard to the scope and modalities of each mission entrusted to the Court. This is an attempt to avoid the inconvenience caused by the fact of having to resort too frequently to that power, since it could hinder the organization of the work of the Court and affect its independent nature.

Finally, it is important to point out that the auditing of the good use of public funds stumbles against two limitations that are imposed by the balance established between the powers. In the first place, this auditing, which is registered in the administrative sphere, may not refer to the choice or the expediency of the policies that the authorities decide to apply, nor to the objectives defined in that same framework. The Court must limit itself to providing Parliament objectively with the information that allows the former to assess the performance of executive power and, if appropriate, to adopt the necessary corrective measures. In the second place, this auditing shall have to be exercised a posteriori, on penalty of hindering governmental freedom of action and thereby calling into question the principle of separation of powers.

The Court must limit itself to providing Parliament objectively with the information that allows the former to assess the performance of executive power and, if appropriate, to adopt the necessary corrective measures.

By the adding of an article 5a to the Act dated 28 October 1846, the Act dated 10 March 1998 has, in an extensive sense, redefined the powers of investigation that the Court possesses in its traditional tasks and in the new mission that the said law attributes to it.
3.2. Powers of investigation

By the adding of an article 5a to the Act dated 28 October 1846, the Act dated 10 March 1998 has, in an extensive sense, redefined the powers of investigation that the Court possesses in its traditional tasks and in the new mission that the said law attributes to it.

This modification comprises two aspects. On the one hand, it reinforces the free access of the Court to the information it needs, with the specification of “information and documents of whatever nature” and with the widening of two concepts, in the over-restrictive notion of documents “relating to income and expenditure of funds belonging to the State and the Provinces”, which would be converted into documents “relating to the management of the services and bodies subjected to its control”.

On the other hand, it reduces the period of time envisaged in the contradictory procedure, that is, the time allowed to the competent authority for replying to the observations made by the Court. The period is effectively reduced from three months to one month only, in order to preserve the contemporaneous nature of the control and therefore the veracity of its results.

4. CONCLUSIONS AND PERSPECTIVES

Issuing from the recent evolution of the economic and socio-political climate, the establishment of audit of the good use of public funds ought to emanate from a clear and defined will on the part of legislative power. The mandate entrusted to the Court of Audit had, then, to rest on a solid legal foundation and be drawn up in an explicit way. The Act dated 10 March 1998 has materialized that objective.

The correct fulfilment of this new auditing mission of the Court will lie in the usefulness of the results of management audits. And so, the reports deriving from such controls ought to deal with social problems, draw up suitable recommendations that are easy to put into practice and, finally, be published at the appropriate moment and be easy to understand.

The purpose of management audit, which is to contribute to an improved functioning of public services, provides the Court of Audit mandate with a new dimension, thereby reinforcing the legitimacy of this body. The examination of the efficiency of the performance of public authorities seeks to mitigate the inadequacies detected and improve management of the administration, through the recommendations deriving from the results of the examination.

Thus, the best information the Court can furnish the legislative and executive powers with, as regards the effectiveness of the use of public funds, will also allow these authorities to modify the direction of the objectives pursued by the policy being carried out, depending on the political criteria that are agreed upon.

Finally, management audit will permit the satisfaction of the aspirations of a civil society concerned about knowing the real destination of public funds.

It will only be possible to take on these challenges that are so important and essential in a democratic society if specific conditions are fulfilled: a wise choice of the subject for analysis, the performance of serious high quality work that results in suitable recommendations, and an effective diffusion of the analyses and their results.
The Jurisdictional Functions of the Spanish Court of Audit

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The characterisation of the accounting jurisdiction as an authentic jurisdiction within our juridical order is now a consolidated reality, not only due to the due practice of the jurisdictional bodies at the Audit Institution following enactment of O.A. 2/82, but also and mainly due to the contribution by the Constitutional Jurisprudence.

I. THE ACCOUNTING JURISDICTION AS A REAL JURISDICTION

The Spanish Constitution of 1978 constitutionalised the Audit Institution and its functions while introducing a net separation between the two basic ones attributed to it - fiscalisation and jurisdictional - and refers to an Organic Law for regulation of its composition, organisation and functions.

The accounting jurisdiction and its different nature as to the audit function was not in itself a creation of Organic Act 2/82 of 12th May by the Audit Institution (hereinafter O.A. 2/82), as one may not forget that the by-law contained in article 136, paragraph 2 of the Spanish Constitution recognises the Audit Institution has its “own jurisdiction”, although it was the Organic Act that developed all the matters concerning the Institution as to their specific particulars (power to judge and execute the judgements, bodies), objective scope (defining the content of the accounting aims), subjective scope and limits as to the remaining jurisdictional orders (penal, civil, contentious-administrative, social and military), as well as everything related to the procedural activity in its three dimensions of place, time and form.

Article 2.b) of the O.A. 2/82 defines that the function of the Audit Institution is "to judge the accounting liability incurred in by those who are in charge of handling public funds or bills".

This legal expression is an explicit declaration of the jurisdictional power of the Audit Institution for the actual Act establishes the configuration of the different principles that develop it. Thus, in addition to the note of independence of the Institution provided - article 5 of O.A. 2/82 - the Act recognises that very characteristic for the holders of the holders of the accounting jurisdictional bodies - article 30.2, 33.1 and 36 of the O.A. 2/82 - making them subject to the same juridical statute as those integrated in the Judicial Power (incompatibilities, liability, immovability, article 136.3 of the Spanish Constitution and articles 30.2, 33.1 and 36 of O.A. 2/82); its preexistence, with constitutional and legal support; the effectiveness of matter judged that must be attributed to its resolutions or judgements; the characteristics of need, ban on prorogation, exclusiveness and fullness (article 17 of O.A. 2/82); all linked to the competency to hear incidental and prejudicial matters and to execute the findings handed down (article 46 of the O.A. 2/82). Definitively, one must point out that the power to judge and have the judgement executed is established in articles 15, 24, 25, 26 and 46.1 of O.A. 2/82, developed by articles 49, 52, 53, 54 and other concordats of Act 7/88 of 5th April on the Functioning of the Audit Institution (hereinafter LFTCu. 7/88), which attributes the Accounts Councillors, as bodies of the accounting jurisdiction, the competency to find on files to cancel bonds, at sole instance, when there is no contradiction in aims, and at first if there are any, as well as
the competency to decide at first instance on accounts trials and scope reimbursement procedures. On the other hand, the Court of Justice hears, at sole instance, the appeals filed against administrative findings handed down on matters of accounting liability when foreseen in the laws and at second instance, of the appeals taken against the findings of instant.

On the other hand, one must not cease to mention the nature of accounting aims has a notable effect on collective interest, which undoubtedly justifies recognition of exercise of popular action in this field, and in any of the jurisdictional procedures (article 125 of the Spanish Constitution and articles 47.3 of O.A. 2/82 and 56 of the LFTCu. 7/88); as well as the mandatory intervention by the State Attorney as actively legitimate part (article 124 of the Spanish Constitution, article 1 of the Statute of the State Attorney of 30th December 1981 and article 16.2 c and d) of the LFTCu. 7/88).

Due to that, O.A. 2/82, having sufficient constitutional support, attributed the Audit Institution the function of accounting judgement as a real jurisdiction, without that recognition being an insurmountable obstacle to the principle of jurisdictional unity set forth in article 117.5 of the Spanish Constitution, nor its complement of exclusiveness that recognises the same constitutional principle in section 3, by establishing “exercise of jurisdictional power in all kinds of proceedings, judging and having the judgements executed, according to the rules of competency and procedure established in same”.

One must not forget that Organic Act 6/85 of 1st July, on the Judicial Power, reproduces said fundamental principle and expressly admits, in article 3.1, that the Constitution recognises jurisdictional powers held by bodies not forming part of the Judicial Power, on stating that “The jurisdiction is a sole one and is exercised by the Courts and Tribunals foreseen in this Act, notwithstanding the jurisdictional powers recognised by the Constitution to other bodies”.

The Spanish Constitution of 1978 thus recognises jurisdictional functions held by other bodies outside the Judicial Power, such as occurs at the Constitutional Tribunal and the Audit Institution that, in our case, are developed by O.A. 2/82 and the LFTCu. 7/88, so one may not speak of breach of the principle of jurisdictional unity where the Constitution and the Organic Act for development foreseen therein establish the express exceptions.

The above affirmations are also based on other reasons, such as:

1. Against the resolutions handed down by the Court of Justice at the Audit Institution (article 49 of O.A. 2/82 and articles 81 and following of the LFTCu. 7/88) one may file remedies of appeal and review before the Contentious-Administrative Court of the Supreme Court. Both, of an extraordinary nature, shall only be appropriate due to specific motive and against specific findings, and do not constitute a new judicial instance, due to the end of the appeal being limited to examination of the formal and material application of the juridical order made by the Court of Instance. Due to that, the Court of Appeal may only hear duly jurisdictional findings (Findings and Sentences that fulfil the requisites set by Law) handed down by a body the Law has provided jurisdictional powers, and due to judicial proceedings, as to the institution conceived as an instrument to satisfy claims, which takes place through a procedure that as a legal channel, also has an essential nature.

2. Jurisdiction as a power of the State, by which the public power satisfies aims, has its juridical manifestation through the process of inexcusable budget. In turn, the channel through which the process is carried out is the procedure as to combination of procedural acts, activity, time, form … which is the essential requisite for the process to adequately achieve its end. Now, the LFTCu. 7/88 does not establish specific formalities to judge suits under the proceedings for reimbursement scope or accounts suits, but rather refers to the ordinary procedural rules. Thus, in the first case, the remission is made to the ordinary declaratory procedures regulated by the Civil Procedural Act as to amount and in the second (or accounts suit) to the rules of the contentious-administrative appeal included in the Act of said jurisdiction. In other matters, as to appeals the LFTCu 7/88 also refers to the general regime of contentious-administrative matters, although the suppression by Act 10/92, of 30th April of the appeal filed under this or-
der obliged the Courts of Justice at the Audit Institution to unify criteria, establishing the rule to follow in the formalities, according to the amount of the appeal of such nature contained in the Civil Procedural Act, as it considered the civil procedural legislation to be applicable which is, after the Act on the Contentious-Administrative Jurisdiction, the second degree supplementary for exercise of the jurisdictional functions, as foreseen in Final Provision 21.2 of the actual O.A. 2/82.

3. As indicated, Final Provision 21.2 of O.A. 2/82 establishes, for exercise of the jurisdictional functions and, failing the provisions of the actual Act and those in the LFTCu. 7/88, application of the regulating acts “on Contentious-Administrative Jurisdiction and those of Civil and Criminal Judgement in that same order of preference”. Now, such a supplementary regime would not have juridical sense if the accounting judgement by the Audit Institution did not deserve the classification of a real jurisdictional action.

4. Lastly, article 31 of Organic Act 2/87, of 18th May, on Jurisdictional Conflicts, considers the bodies of accounting jurisdiction, although only for the inherent purposes of solving conflicts and matters of competency within the contentious-administrative jurisdictional order.

To sum up, the characterisation of the accounting jurisdiction as an authentic jurisdiction within our juridical order is now a consolidated reality, not only due to the due practice of the jurisdictional bodies at the Audit Institution following enactment of O.A. 2/82, but also and mainly due to the contribution by the Constitutional Jurisprudence (Judgements 187/88, of 17th October, Juridical Grounds 2; and 18/19, of 31st January, Juridical Grounds 2; Judgement of 16th December 1993 and 29th October 1996), that recognises that “accounting judgement is configured as an activity of a jurisdictional nature. The Organic Act, using the expression set forth in article 136.2 of the Spanish Constitution, classifies accounting judgement as a jurisdiction inherent to the Audit Institution, attributing it the features of being necessary and impossible to postpone, exclusive and full ..., while guaranteeing the independence and immovable nature of its members ... The activity by the Judgement Section at the Accounts Court consists of applying the juridical rules to the accounting act, issuing a judgement on adaptation thereof and thus declaring whether the civil servant is or is not liable, absolving or condemning him and, in the latter case, coactively executing its decision. This is all through the judicial procedure regulated in Chapter 3 of Title 5, and developed by the Law of Functioning of the Court, that set forth the objective, subjective and formal factors that characterise proceedings. On the other hand, its findings, in the cases and in the manner determined by the Functioning Act, are liable to a remedy of appeal and review before the Supreme Court ...”

II. CONTENT AND LIMITS

The difficulties that were initially stated to achieve peaceful interfacing of the accounting jurisdiction with the ordinary one (mainly the contentious-administrative jurisdiction) arose from the diverse interpretations the doctrine reached (and even the General Council of the Judicial Power on reporting the Draft LFTCu. 7/88), based on the literal tone of article 38.1 of O.A. 2/82, by establishing that “whoever, by act or omission breaching the Law were to cause detriment from the public funds or assets will be obliged to compensate the damage and losses caused”.

As to the wide or extensive formula that seems to arise from the literal reading of the text, the jurisprudential doctrine of the Court of Justice at the Audit Institution made well known, from the beginning, its great caution and full knowledge of the matter put to judgement, from the perspective of transitory law, as well as that of the need to harmonise the juridical fact of the existence of the accounting jurisdiction in our system with the constitutional demand for respect for the principles of unity and exclusivity when exercising the jurisdiction for the Judges and Magistrates forming the Judicial Power imposed by article 117 of the Spanish Constitution. In that same sense, the Judgement by the Court at the Audit Institution on 11th January 1986 (Juridical Ground 6) states that “In principle, and considering what is set forth in article 38.1 of Organic Act 2/82, of 12th May, one may consider that such damage
constitutes a case of accounting liability, whereby, due to an act or omission that breaches the Act, there has been detraction from the public funds, determined by the Public Administration concerned assuming all the damaging consequences arising from that event. However, forming the principle of accounting liability may not be performed in literal terms based on article 38.1 of the said Act. If this was done in that manner, the principle would not regulate accounting liability, but rather civil liability to the Public Administration, with the absurd consequence that hearing all the matters arising on the matter, should be assigned to the jurisdiction of the Audit Institution and not to the civil or contentious-administrative jurisdictional orders, as would be correct. That would give rise to breach of article 16 of the actual Organic Act, in going beyond and competency of the accounting jurisdiction, that may never invade the scope reserved for the rest of the jurisdictional orders.”

This jurisdictional criteria was so reiterated that the LFPCu. 78/8 set it down in its articles 49, 72 and concordats, just as proclaimed in the very Explanation of Motives on stating “as to the jurisdictional function, this concerning the nature, scope and limits of the accounting jurisdiction, it considers it as a jurisdiction, that has the necessary constitutional backing, although as to its content coinciding with the Report by the Judicial Power of 29th January 1986 - must be interpreted restrictively and within the precise limits to be able to make it compatible with the unity and exclusiveness in application of the jurisdiction recognised by article 117 of the Constitution. Due to that, the objective it is attributed is to hear claims for liability against those who, being in charge of handling public funds or assets, involving severe fraud, blame or negligence, cause detraction from same due to acts or omissions that breach the laws that regulate the applicable budget and accounting regime for Entities in the public sector or persons or Entities that are beneficiaries or receivers of subventions, loans, guarantees or other aid from said sector. And if the liability is accounting, in addition to the duty to show the accounts that must be rendered by all who manage public funds or assets, as provided pursuant to article 15 of Organic Act 2/82, it must also involve a breach of the principles regulating accounting to which, in general terms, the Entities in the public, or those handling funds or assets that deserve the same legal status are subject ...”

In the same line and as an expression of the consolidated jurisprudential doctrine, Judgement 1/93 of 28th January, declares with emphasis on its Juridical Ground 3 that “one must not forget that we are faced with a case of accounting trial, a subspecies of the civil ones, in which the legitimated parts exercise claims of liability of that nature against those who handle public funds or assets, due to rendering of accounts, in the ample sense, in which the General Budget or Accounting Act is breached ...”

The damages caused by those who are outside the procedures to render accounts are excluded from the concept of accounting liability and, thus, all outside the jurisdictional scope of the Audit Institution.

The accounting jurisdiction is compatible as to the same events with exercise of disciplinary power and the action of the penal jurisdiction.
and 43 of O.A. 2/82, and 49 and 72 of the LFTCu. 7/88).

On the other hand, on the basis of the generic reference to article 38.1 of O.A. 2/82 and of 49.1 of the LFTCu. 7/88, one may sustain that the field of accounting liability, that is compensatory or asset based in nature, the tax payers include "entities" or corporations as parties presumed liable. The Court of Justice at the Audit Institution has reiterated its pronouncement in this sense. Judgement 14/93 of 26th March declares: "that as this type of liability is a subspecies of civil liability and it being applicable to corporations, there are no legal reasons to deny that it may be required of accounting (their representatives are liable for civil illigence, as long as arising within the scope of their legal and statutory attributions). The Court of Appeal of this Audit Institution has pronounced itself in this sense, on the basis provided by articles 38, as to articles 4.2, 2.b) and 15 of O.A. 2/82, and 128.c) and d), 25 and 123 of the General Budget Act)."

On the contrary, that conclusion is imposed by the principles cited in O.A. 2/82, of the LFTCu. 7/88 and concordats of the General Budget Act, as well as the criteria applied by the actual Court of Justice in its Judgements of 18th April and 28th October 1986, 25th June and 29th October 1992, and Sentences of 11th and 18th January 1988, among others.

The compatibility of the accounting jurisdiction with the disciplinary power and penal jurisdiction is established in Organic Act 2/82 in article 18.1 that states that "the accounting jurisdiction is compatible as to the same events with exercise of disciplinary power and the action of the penal jurisdiction."

And no. 2 of that article adds that "when the events constitute an offense, the civil liability will be determined by the accounting jurisdiction in the scope of its competency."

On the other hand, article 49.3 of the LFTCu. 7/88 develops the terms of O.A. 2/82 in the sense that "when the events constitute a criminal offense pursuant to the terms of article 18.2 of the Organic Act, the Judge or Court that hears the suit shall abstain from hearing matters of accounting liability arising therefrom, transferring the necessary antecedents to the Audit Institution so it may specify the amount of the damages and losses caused to the public funds or assets".

In spite of the difficulty involved in application of that exception from the outset, the penal jurisdictional bodies are now fulfilling those regulatory mandates of which they a good example is provided, indeed, by the Judgements of the Supreme Courts, Court 2, of 27th September 1991 and 10th February 1995, among others.

Finally, as to the limits it refers to O.A. 2/82, article 16 (in the same sense as article 49.1 and 2 of the LFTCu. 7/88, as to article 9 of the L.O.P.J. 6/85, of 1st July) with the principle that "the accounting jurisdiction is not competent to judge matters of: a) matters attributed to the Constitutional Tribunal; b) matters subject to the contentious-administrative jurisdiction (in our system of general clause of attribution, the contentious jurisdiction hears the claims that arise as to acts by the Public Administrations subject to administrative law and the provisions of category lower than Law, along with specific attributions as to contracting and Public Administration asset liability); c) events constituting a crime or offense; d) matters of civil, labour or other natures to be heard by the bodies of the Judicial Power."

III. PROCEDURES AND EXECUTION OF JUDGEMENTS AND OTHER JURISDICTIONAL RESOLUTIONS

Lastly, special reference must be paid to specific essential aspects of the jurisdiction. Thus, firstly, as to the procedures to be followed to ascertain claims of accounting liability, the three types recognised under the traditional procedural legislation of the Court must be distinguished, the proceedings of which vary according to the nature of the claim:

a) Amount claims as a typical form of accounting liability. In this case, article 72.1 of the LFTCu. 7/88 defines what must be understood by amount, and does so in similar terms to what is stated repeatedly in the actual jurisprudence by the Court. In this sense and in all, Judgement 11/93 of 26th February understands amount to mean "the negative or unjustified balance of the accounts (in the ample
sense) that must be rendered by the person in charge of said funds or assets. The concept of amount is linked to the obligation to give or render accounts ... Not rendering accounts when this must be done due to being in charge of custody or handling of public funds, not justifying the negative balance of these, not making the deposits required due to receiving or holding public funds, appropriating or consenting appropriation by others, or allowing the opportunity for a third party to appropriate public funds or assets under its charge, or putting them to own or other uses, etc., are all cases of amount claims and as such, in principle, give rise to accounting liability”.

In such cases, the LFTCu. 7/88 establishes that the procedure to follow is that called reimbursement by amount claimed, the formalities of which are basically those of a civil declaratory suit according to its amount by remission to the Civil Procedural Act.

b) Cases of accounting liability other than amount claims as stated in the actual Preamble to LFTCu. 7/88, “... the other cases of liability imply, in most cases, a complex process of fiscalisation and data checking - detraction or damage to public funds or assets, breach of the regulating legal principle of the budget regime and accounting that is applicable, cause-effect relationship, etc. -, that only through a declaratory process, such as the ordinary contentious-administrative one, may be clarified with adequate guarantees”. Due to that, all the other cases of accounting liability are dealt with through what is known as accounts trial, the formalities of which are fundamentally those of the contentious-administrative appeal.

c) Files to cancel deposits. As also stated in the Preamble to the LFTCu. 7/88, these are indeed procedures “similar to voluntary jurisdiction cases under the Civil Procedural Act”. In these no accounting liability claims are filed and their sole end is precisely to record the lack of this so that, if this were so, one may proceed to their cancellation and return, as appropriate. However, in the event of opposition to cancellation, the proceedings will become contentious and be substantiated according to the rules of the proceedings of accounts trial, or of reimbursement by amount claimed, according to the nature of the claim.

Secondly, as to the bodies of the accounting jurisdiction, the LFTCu. 7/88 reduces them to the Councillors assigned to the Trial Section and the Courts at the Audit Institution, although at present by mandate of Additional Provision 10 of the LFTCu. 7/88 there is only one Court of Justice, notwithstanding increase if the needs of the service were to so require. Court 3 at the Supreme Court will also be the body of accounting jurisdiction to the extra that it is attributed competency to hear the remedies of appeal and of review against the findings handed down by the jurisdictional bodies of the Audit Institution, in the cases and for the legal motives. In all other matters, the bodies of accounting jurisdiction may note, even ex officio, their lack of jurisdiction or competency.

As to the parts intervening in the accounting process, they do not differ from common rules established the legislation of the Court on capacity, representation and procedural postulation, although the active legitimation is limited to the Public Administration or Entity damaged, as well as the State Attorney. However, O.A. 2/82, as aforementioned, declares that the action to call for accounting liability is public in any of the jurisdictional procedures by the Audit Institution, without bond posting being required in any case.

Finally, as to execution of the findings on accounting jurisdiction, the LFTCu. 7/88, with the sole and important difference that execution may be agreed ex officio, refers to what is established for civil jurisdiction, although some basic rules foreseen in the actual Act are applied to the jurisdictional body that may hand it down at first instance, such as: a) when it has not been possible to obtain full reimbursement of the liabilities decreed, all the arrangements deemed pertinent shall be carried out to ascertain and discover assets of any kind on which such may be enforced. b) If the said arrangements are not successful, those directly responsible will be declared insolvent and proceedings taken against the subsidiaries. c) Declaration of insolvent by those responsible, whether directly or as subsidiaries, shall in all cases be understood to be performed with the notwithstanding clause, in order to be able to enforce accounting liability when better fortune arises.
To sum up, one may infer from all the foregoing that accounting trial as an inherent function of the Audit Body has, undoubtedly, a really jurisdictional nature, and now under our Regulations has all the essential elements required to exercise that power under a Rule of Law, although within a scope of reduced knowledge, as thus it must be to avoid illegitimate interference with other jurisdictional orders. However, its scope of hearing is undoubtedly important. One must consider that the State must pursue the public ends and also solely assign the amounts it has collected from private economies to this, that obligation being the counterpart of the right/power to impose taxes. In that specific relation, the citizens have the fundamental right to equitable assignment of the public expenditure and, thus, to correct, efficient management of the means available.

In order for this to be fulfilled, the role of the accounting jurisdiction whereby, when faced with inappropriate conduct by managers of public funds, it is necessary to establish, by virtue of the principle of liability of the public powers guaranteed in article 9.3 of the Spanish Constitution, an efficient system to repair the damages caused to said funds (that belong to all and to which all citizens have contributed). Under our juridical Regulations, just as in others, the requisite for managers of public funds is the duty to compensate for damage caused thereto, assigned from days of old to the Audit Institution, which is thus attributed jurisdictional power to require such liability in a compatible manner, with the unity and exclusiveness imposed upon the jurisdiction by the Spanish Constitution.
The Austrian Audit Institution draws up its balance Globalisation of auditing in the struggle against corruption and economic mismanagement

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As the body that controls the National Council, the Austrian Audit Institute deals with matters of federal management and, in its tasks as body that controls the relevant regional parliament, it inspects matters related to regional or municipal management. Up to 31st December each year, its obligation is to inform the National Council as well as the regional parliaments of the activities carried out in the previous year. Moreover, the Audit institution may present individual reports at any time on special fiscalisation. The activity reports as well as the special reports by the Audit Institution must be published along with the project and presented to the legislative powers, and also distributed to the members of parliament.

In 1998, the Chairman of the Audit Institution, Dr. Franz Fiedler, drafted a special report for the National Council on fiscalisation of the Semmering-Basistunnel railway project, a report on management of the Social Security set by law as to medicines and therapeutic resources, and another on implementation of motorway tolls.

Fiscalisation of the management provided savings amounting to millions, as during the first year after fiscalisation of the social security, disbursement on medicines and therapeutic resources dropped to an approximate value of 100 million S. and, moreover, the main association notified a reduction in expenditure on medicines of approximately 725 million S. The success of fiscalisation of motorway tolls amounted to 12 million S. Moreover, a considerable reduction in the expense of producing the motorway toll tickets was possible.

As to the “Semmering-Basistunnel” railway project, subject to years of controversy, the Audit Institution achieved an interruption of the drilling work on the exploration gallery, as well as a profound analysis of the possible variations on the basic terms amended since the beginning of the project and a recent study as to its profitability.

The report on activities in 1997, which was presented to the public opinion at the beginning of December 1998, also contains a series of proposals for saving.

The Audit Institution located considerable saving potentials in juridical and administrative simplification of the Austrian tax regime, in order to mention only one area, as on average, for example 1.6%, of the funds collected must come from transport rates and tax revenue. If one were able to achieve just 10% reduction on the cost of collecting transport taxes and rates, there could be an annual saving of approximately 50 million S. By abolition of the so-called “stamps” alone, which are coupons bought by the citizens to pay the fees of certain services rendered of an administrative nature, such as passport issue for example, material costs of approximately 90 million S. could be suppressed.

In other matters, the activity report exhaustively covers control of Austrian management of EU funds, the organisation of which in relation to constitution and im-

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Implementation has been submitted, within the framework of several management reviews, to a transversal analysis by the Audit Institution. Diligent management of the EU funds, the functional skill of the

Fiscalisation of the management provided savings amounting to organisation and the control systems that assure the regulatory use and adequate assignment of the EU funds are most important aspects for the Austrian citizens as net payers, in order to detect irregularities in the administration or application of community funds, determined for example by the European Commission or the European Audit Institution, also avoiding the possible imputations arising from this (cut-back or return of EU funds).

To benefit the Austrian tax payers, the Audit Institution shall also supervise fulfilment of the requisites of Community law by the control offices, as well as their proper operation. Pursuant to the legislation on EU subventions (article 92 of the European Community agreement), as to falsification of competency and damage to trade, the Audit Institution also determined possibilities of improvement (for example, improvement of control) in the national development body.

Moreover, the Audit Institution has reviewed the extent to which the border gendarmes implemented in 1995 to execute the obligations arising from the Schengen Convention have fulfilled their mission to intensify control of the outer borders according to unified standards, and to reconstruct the Schengen information system. At the time of the administrative review, establishment of the border control had practically been completed. The terms to set up the Schengen information system were also established in due time, so the accounts auditor was able to obtain a fairly positive overall impression.

Combatting corruption

In Austria the efforts are being intensified to involve the Audit Institution in the struggle against fraud and corruption. At the requirement of the Minister of the Economy and the Chancellor of the Exchequer, the Audit Institution has now taken charge of two audits in the scope of construction (Vienna airport and the sections of federal building and construction of roads at the Federal Ministry of Economic Affairs). In the area assigned to the awards body, the Audit Institution regularly provides convenient recommendations, such as thorough planning, precise description of the services according to the quantity and quality, tender rules, monitoring of the construction costs and similar functions aimed at preventing bad economic management and abusive practice. The recent mission of the Audit Institution, based on financial control, provides an additional, parallel, measure to action by the police and the courts.

Austria joining the EU makes the bases of the free, loyal competition, as well as equal treatment of all the candidates and bidders take on a new meaning. The Audit Institution also considers that competition is an important factor for the acquisitions in the public sector to be performed at a good price. However, in this sense, it warns of the danger involved in making the “principle of the best bidder” equivalent to the “principle of the cheapest bidder”. The Audit Institution opposes awards to the cheapest bidder if not also the best bidder, as frequently, when executing the order, defects appear, that in the end cause greater expenditure on the acquisition than bids with a higher price, but better quality.

Globalising control of finance

The governmental bodies and parliaments at international level also express their desire to increase the involvement of the High Audit Bodies in combating fraud and corruption.

At international level, the following areas are considered especially liable:
- collection of taxes and rates as well as tariffs.
- formalities of the procedures for acquisitions and service contracts.
- assignment of subventions and approval of permits.
- personnel hiring and administration.
- privatisation processes.

Among the most frequent modes of corruption in international terms is embezzlement of capital, favouritism, graft and bribery.

"In Austria the efforts are being intensified to involve the Audit Institution in the struggle against fraud and corruption."
The contribution by the Audit Institution to combating fraud consists of guaranteeing and encouraging a reliable budget management, adequate internal control and the obligation to render accounts publicly and openly state discrepancies. Publication of the audit reports is a measure of intimidation that makes those responsible aware that the public sector manages the citizens’ money, trusteeship of which is held by the state. Thus, the Audit Institution must guarantee the best investment of the money levied by taxes, that is to say, in an economic, efficient, adequate manner, so it is not put to uses other than intended.

The auditing task of the Austrian Audit Institution is not aimed at competing with the juridical penal system. Rather, the Audit Institution leaves the process of judgement to the courts and competent bodies, implementing measures to prevent potential corruption, thus avoiding such phenomena arising. Adequate collaboration with the judicial authorities is essential. Importance must also be given to international exchange of the experience obtained from financial auditing.
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