“Towards better spending – Models of parliamentary scrutiny of expenditure”

Chaired by Michael Theurer
Chair of the EP Committee on Budgetary Control

Thursday
14 November 2013
9.00 - 12.30
József Antall building
Room 4Q2

European Parliament
Brussels

With the support of the Directorate for Relations with National Parliaments
Interparliamentary Committee Meeting
European Parliament - National Parliaments

Brussels, 14 November 2013
9.00 to 12.30

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**Disclaimer:**

The set of documents contained herein should be considered as background documentation, supporting the exchange of views around the theme “Towards better spending – Models of parliamentary scrutiny of expenditure”
1. Programme
PROGRAMME

Committee on Budgetary Control
Interparliamentary Committee Meeting with National Parliaments

“Towards better spending – Models of parliamentary scrutiny of expenditure”

Thursday, 14 November 2013 - 9h00 - 12h30

European Parliament
Room: József Antall building (4Q2)
Brussels

8.00 - 9.00  Registration of participants from national Parliaments
9.00 - 9.10  Welcome and introductory remarks

Mr Michael Theurer, Chair, Committee on Budgetary Control, European Parliament

Expenditure Scrutiny Models from around the EU

09.10 – 10.40  Keynote speaker: Ms Jolita Vaickienė, Chair, Committee on Audit, Seimas of the Republic of Lithuania
**Key questions for the debate**

Budgetary scrutiny allows Parliaments to hold the executive accountable for the use of public resources and promote improvements in their management. This normally involves an examination of public sector accounts and an assessment of the extent to which they were used for the purpose indicated when the budget was adopted.

- How does your Parliament scrutinise expenditure?
- Are performance audits appropriate tools to provide for a sound financial management?
- Has the economic crisis triggered reforms on budgetary scrutiny in your country?

Debate between Members of national Parliaments and Members of the European Parliament

**Best practice on rules for funds under shared management**

10.40 - 12.20 Keynote speaker: Mr **Vitor Manuel da Silva Caldeira**, President of the European Court of Auditors

**Key questions for the debate**

About three quarters of the EU budget are spent under what is known as "shared management", with EU member states actually distributing funds and managing expenditure. This especially concerns EU regional policy and the common agricultural policy. EU funds spent by the Member States appear in the national accounts and an examination of the national budget will necessarily include an examination of such funds.

When implementing the budget under shared management, the European Commission and the Member States commit to respect the principles of sound financial management, transparency and non-discrimination and to fulfill their respective control and audit obligations in a proportional way.

- How can we ensure that EU funds deliver results on the ground?
- Do the current rules strike the right balance between budgetary control on the one hand, and the cutting of red tape and administrative burden on the other?
- Is the current audit strategy of the EU funds under shared management efficient?
- Are the reforms of EU regional policy and the common agricultural policy delivering on budgetary control and transparency aspects?

Debate between Members of national Parliaments and Members of the European Parliament

12.20 - 12.30 Conclusions: Mr **Michael Theurer**, Chair, Committee on Budgetary Control, European Parliament

12.30 Sandwich lunch
2. European Parliament Committee on Budgetary Control

Vademecum
(C05 CONT) Commission du contrôle budgétaire

1 - Bureau

M. THEURER Michael
(PR, ALDE, DE, DE)

M. STAES Bart
(1VP,Verts/ALE, BE, NL)

M. DEUTSCH Tamás
(2VP, PPE, HU, HU)

M. LIBERADZKI Bogusław
(3VP, S-D, PL, PL)

M. SONIK Bogusław
(4VP, PPE, PL, PL)
2 - Titulaires

01 - PPE

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Mme GRÄSLE Ingeborg (DE, DE)

Mme MACOVEI Monica Luisa (RO, RO)

Mme ORTIZ VILELLA Eva (ES, ES)

Mme PANAYOTOVA Monika (BG, BG)

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M. SARVAMAA Petri (FI, FI)
M. HAUSLING Martin
(DE, DE)
M. VANHECKE Frank
(BE, NL)
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3 - Suppléants

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Mme HOHLMEIER Monika (DE, DE)
Mme JĘDRZEJEWSKA Sidonia Elżbieta (PL, PL)
Mme LE BRUN Agnès (FR, FR)
M. MARINESCU Marian-Jean (RO, RO)
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M. SIEKIERSKI Czesław Adam (PL, PL)
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M. OLBRYCHT Jan (PL, PL)
Mme DE LANGE Esther (NL, NL)
M. MARINESCU Marian-Jean (RO, RO)
Mme MATHIEU HOUILLON Véronique (FR, FR)
M. OLBRYCHT Jan (PL, PL)
Mme DE LANGE Esther (NL, NL)
M. MARINESCU Marian-Jean (RO, RO)
Mme MATHIEU HOUILLON Véronique (FR, FR)
M. OLBRYCHT Jan (PL, PL)
Mme DE LANGE Esther (NL, NL)
VADEMECUM

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- M. BERMAN Thijs (NL, NL)
- Mme HERCZOG Edit (HU, HU)
- Mme KADENBACH Karin (AT, DE)

- M. KALFIN Ivailo (BG, BG)
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- M. MYNAŘ Vojtěch (CZ, CS)
- Mme WEILER Barbara (DE, DE)
Mme ANDERSDOTTER Amelie
(SE, SV)

Mme JOLY Eva
(FR, FR)
VADEMECUM

05 - ECR

M. BRADBORN Philip (GB, EN)

M. EPPINK Derk Jan (BE, NL)
VADEMECUM

08 - NI

M. HARTONG Lucas
(NL, NL)

Power and responsibilities of the Committee on Budgetary Control
Powers and responsibilities of CONT as laid down in Annex VII (V) of the Rules of Procedure:

Committee responsible for:

1. the control of the implementation of the budget of the Union and of the European Development Fund, and the decisions on discharge to be taken by Parliament, including the internal discharge procedure and all other measures accompanying or implementing such decisions;

2. the closure, presenting and auditing of the accounts and balance sheets of the Union, its institutions and any bodies financed by it, including the establishment of appropriations to be carried over and the settling of balances;

3. the control of the financial activities of the European Investment Bank;

4. monitoring the cost-effectiveness of the various forms of Community financing in the implementation of the Union's policies;

5. consideration of fraud and irregularities in the implementation of the budget of the Union, measures aiming at preventing and prosecuting such cases, and the protection of the Union's financial interests in general;

6. relations with the Court of Auditors, the appointment of its members and consideration of its reports;

7. the Financial Regulation as far as the implementation, management and control of the budget are concerned.
4. Association of Chartered Certified Accountants (ACCA) report on “Parliamentary financial scrutiny in hard times”
Parliamentary financial scrutiny in hard times
This report reviews the measures that have been taken to improve parliamentary financial scrutiny and considers lessons learnt and what still remains to be done.

Looking at specific examples from Australia, Canada, Ireland and the UK, the role of parliaments is considered in the context of dramatic political developments and the tumultuous global financial crisis.

About ACCA

ACCA (the Association of Chartered Certified Accountants) is the global body for professional accountants. We aim to offer business-relevant, first-choice qualifications to people of application, ability and ambition around the world who seek a rewarding career in accountancy, finance and management.

Founded in 1904, ACCA has consistently held unique core values: opportunity, diversity, innovation, integrity and accountability. We believe that accountants bring value to economies in all stages of development. We aim to develop capacity in the profession and encourage the adoption of consistent global standards. Our values are aligned to the needs of employers in all sectors and we ensure that, through our qualifications, we prepare accountants for business. We work to open up the profession to people of all backgrounds and remove artificial barriers to entry, ensuring that our qualifications and their delivery meet the diverse needs of trainee professionals and their employers.

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ACKNOWLEDGMENTS

With special thanks to: Dr Danny Chow, Durham University; Dr Ruth Fox, The Hansard Society, UK; Sharon Sutherland, senior associate researcher, Centre for Global Studies, University of Victoria; Peter Batten, board secretary of the Australian Accounting Standards Board; and members of ACCA’s public sector global forum.
Parliamentary scrutiny of public spending is a vital mechanism for holding governments and other providers of public services to account for the taxpayers’ money they spend. The financial crisis that began in 2008 provides an opportunity for parliaments to have a fundamental reconsideration of how financial scrutiny can be improved. Legislatures will need to improve their performance if financial scrutiny is to keep pace with budget and accounting reforms, as well as financial developments.

The evidence in this report suggests that financial scrutiny may not be taken seriously enough nor seen as strategically important. This is reflected in the slow evolution of the parliamentary financial scrutiny process since the financial crisis began. This finding is particularly worrying because of the significance of public spending, severity of austerity measures and continuing sovereign debt problems experienced by governments. Parliamentary financial scrutiny on its own may not prevent the next financial crisis, but it is a vital part of a nation’s governance and if done well it may help manage the risks of future financial crises.

All four of the countries (Australia, Canada, Ireland and the UK) included in the case studies in this report have a history of weak parliamentary financial scrutiny capacity, as reported by the Organisation for Economic Co-operation and Development (OECD), and it is disappointing to find that there has been little improvement, apart from the growth of Independent Fiscal Institutions (IFIs). IFIs have, however, been introduced by governments to provide independent analysis and forecasts of the economy and public finances, not to supply parliamentary financial scrutiny.

The outdated ‘estimates supply votes’ process that exists in Westminster-style systems is a key barrier to effective parliamentary scrutiny of the budget and financial reports. In countries using the Westminster model of government, parliaments cannot realistically amend spending proposals, and many are barred from substituting a budget of their own. Instead, they are confined to assenting to spending proposals that are put to them and, as a result, parliamentarians see little point in getting involved in the technical detail of estimates that they will have little chance of influencing. The focus of financial scrutiny needs to be re-aligned with the budget, spending plans and resource accounts, but this will require significant structural and cultural reform.

Independent fiscal institutions (IFIs) are becoming increasingly popular with governments. The UK introduced an IFI in 2010, and political promises to establish similar models have been made in Ireland and Australia. In contrast, Canada established a Parliamentary Budget Officer (an officer of the House of Commons Library) in 2008. Although these models are increasingly popular, they do not perform a parliamentary financial scrutiny role and at some point will require an evaluation of their performance.

Parliamentary select committees are the ‘engine room’ of parliaments and across the case study countries they proved to be an important means for holding governments to account. They have a number of strengths, including the ability to facilitate technical debate and scrutiny, but they also have a number of weaknesses, such as a general lack of skills, lack of action in following up recommendations and general inability to influence government policy through their reports. For example, research by the Constitution Unit in the UK highlighted that 40% of select committee recommendations were accepted by the government and roughly the same proportion were implemented, but this still left a significant number confined to the dustbin.

The case studies in general show a greater need for training and professional development of parliamentarians to promote a culture of financial awareness and to empower politicians to ask more searching questions on financial matters. This change also requires the provision of high-quality accounting information, effective independent audit and clear responsibilities for accounting officers.

1. Independent fiscal institutions are commonly defined as non-partisan public bodies, other than the central bank, government or parliament, that prepare macroeconomic forecasts for the budget, monitor fiscal performance and/or advise the government on fiscal policy matters. An IFI may also be referred to as the Parliamentary Budget Officer (PBO) or Office for Budget Responsibility (OBR).

2. Parliamentary select committees often mirror government departments and are responsible for scrutinising departmental spending, policies and administration. The UK’s Public Accounts Committee is an example of a select committee that whose remit crosses departmental boundaries.
Fiscal transparency has become a philosophy of governments seeking to improve both finances and their own popularity. The drive for transparency has inspired governments to publish spending data, whole-of-government accounts, and a wide variety of other documents. The present research shows that the generation of more data does not mean the provision of better information, and can conversely diminish the accountability that it seeks to promote. Also, making data widely available should not be seen as a substitute for effective financial scrutiny by parliaments.

Systematic evaluation and monitoring of reforms rarely takes place. Rhetoric about improving financial scrutiny is well established in the policy dialogue of governments, and concepts such as ‘transparency’ and ‘fiscal discipline’ are cited at the start of projects, but these terms are often left vague and undefined. It is critical that systematic monitoring and evaluation of reforms by both parliaments and governments is undertaken to prevent important concepts such as ‘transparency’ from becoming devalued.

There is a risk that governments may use the financial crisis to reduce scrutiny rather than enhance it. For example, in Australia there is a perception that the budget process has become less transparent as the Federal governing party plays on popular fears that the economy is faltering and needs urgent attention. Such anxiety can make the public willing to grant the government power that it would not usually have in the normal democratic process. Similarly, it is perceived by some commentators that parliamentary scrutiny is also lacking, as policy initiatives are rushed through to prop up the economy without proper debate or consultation.

This report shows a failure by parliaments to use the available research in a significant way. In some cases, the work commissioned by a country’s own parliamentary bodies has been under-used, raising questions about the efficiency and purpose of engaging such resources. This report shows that few recommendations have been put into practice: for example, the establishment of separate taxation committee in the UK.

The changing landscape of the financial and political arenas across the case study countries and the severity of the austerity measures raise concern about the lack of resources available for parliamentary financial scrutiny. This may become more acute in the future, particularly for those countries undergoing cuts in public spending. It will be important that resources such as support for select committees are safeguarded from unreasonable cuts and a clear and coherent policy is developed to improve financial scrutiny at an institutional level.
1. Introduction

‘Good scrutiny makes for good government’.
ROBIN COOK, LEADER OF THE HOUSE OF COMMONS, SELECT COMMITTEE ON MODERNISATION OF THE HOUSE OF COMMONS, UK, DECEMBER 2001

Parliamentary scrutiny of public spending is a vital component of a modern democratic system. In times of increasing austerity and anxiety, it is more important than ever to ensure that public funds are spent wisely. Effective financial scrutiny ensures that governments are held to account for their actions and fiscal policy decisions, as well as allowing parliaments to monitor both public service provision and value for money.

Nonetheless, politicians are frank about their lack of understanding and engagement with financial figures. Natasha Engel, UK Labour MP, observes that: ‘We do not take that seriously enough...don’t look at it carefully...don’t understand it...yet we are making very important decisions’.

In the middle of the most significant financial crisis for decades, the need for austerity means that effective parliamentary scrutiny of public spending, taxes and, more widely, the impact of the budget on government debt is critical. This report reviews the measures that have been taken to improve parliamentary financial scrutiny and considers lessons learnt and what still remains to be done. Looking at specific examples from Australia, Canada, Ireland and the United Kingdom, the role of parliaments is considered in the context of dramatic political developments and the tumultuous global financial crisis.

RESEARCH METHODOLOGY

This international comparative study reveals the experiences and lessons to be learnt from each of the four case study countries, at different stages in their economic recovery following the financial crisis. Findings are based on a review of the existing literature and a subsequent series of interviews conducted with officials and politicians in each country. These interviews were conducted in person where possible, and in such cases were semi-structured and participant-led where appropriate. Where data were collected by telephone and email the process was more formalised, with participants responding to a series of specifically written questions that concerned their area of expertise.

Many of the key developments identified here have their roots in complex political reforms and initiatives that precede the financial crisis and the chronological scope of this paper accounts for these parameters. This paper is not intended as a detailed guide to the financial scrutiny or budget processes of specific countries, but should be read as discussion document and as a basis for identifying areas for further research.
2. Context

All four countries have fared differently as a result of the global economic crisis. Australia’s financial system has proved very resilient. This was partly the result of solid domestic banking supervision, which was substantially reinforced after sizeable banking sector losses in the early 1990s, and low exposure to toxic assets (OECD 2010). Also, the Labor party government inherited a budget surplus with very little debt, and high natural resource exports due to strong Chinese demand. Similarly, Canada did not experience the financial crisis to any significant degree, and suffered no major bank failure or similar collapse because it was protected following regulation to limit exposure to bad debt in the housing market. Nevertheless, it has kept a watching brief on the experiences of other countries.

In contrast, the UK was caught out by the banking crisis. As a result, two major banks came under state control and a series of austerity measures stretching over four years were introduced to reduce the financial deficit. Ireland fared the worst, suffering financial collapse and requiring external support from the EU and IMF to see it through its economic difficulties.

In addition, both Ireland and the UK are not isolated from the recent changes in fiscal policy introduced by the European Union (EU). The European Court of Auditors has raised concerns that the global crisis has major consequences and challenges for accountability, transparency and public audit. The OECD has also reported that governments are unlikely to improve accountability on their own, but require some kind of external influence encouraging them to do so (OECD 2009).

This report recognises that each country studied here is quite different in both the civil society around its parliament and the way in which its government has approached its modernisation strategies. For example, in the UK the House of Commons Liaison Committee, established in 2002, has improved accountability in the way that the work of select committees is considered and how evidence from the Prime Minister is heard on matters of public policy. In contrast, this model has not been repeated in Federal Canada. Instead, Canada’s House of Commons is loaded with statutory accountability offices, including the parliamentary budget officer.

Three of the four case studies chosen are parliamentary democracies based on the Westminster model (Australia, Canada and the UK). The exception is Ireland, which is classified by the OECD as a semi-presidential system maintaining a Westminster-style budget system. The nature of the relationship between the various parties in Westminster-style systems is often compared unfavourably with the US congressional system for spending and taxation, as the latter gives Congress much greater negotiating ability and budgets and financial legislation are frequently batted between the executive and the legislature. It is questionable whether Westminster-style systems will ever change to the US model as parliaments would have to be given much greater power on appropriation decisions and this is something that most governments would wish to avoid.

All four countries are located within the lower quartile of the OECD’s ‘International Index for Legislative Budget Institutions’. This index, designed by OECD budget expert Joachim Wehner, maps the comparative capacities of worldwide parliaments for fiscal scrutiny. Given the poor ranking of all four countries studied here, and the UK in particular, which is deemed ‘dismal’ by comparison with other countries in general (Wehner 2006), this report offers a timely insight for improving financial scrutiny.
Financial scrutiny ensures robust accountability in the public interest, by holding governments and other providers of public services to account for the taxpayers’ money they spend. Quality health care, education, and the reduction of poverty are just a few of the real outcomes for which public money is appropriated and invested by governments.

The financial crisis that began in 2008 revealed to many countries the reality of their vulnerability in the face of global financial collapse. Therefore, the need for parliamentary financial scrutiny of government spending is greater than ever before. National parliamentarians are growing more active in budgetary and financial matters around the world, with legislatures recognising the importance of scrutiny and seeking to engage more effectively with the budget process (Wehner 2004: 1). An OECD study in 2007 reported that in more than half the countries surveyed, legislatures had a larger budgetary role than they had had a decade earlier (Anderson 2009:3). Even so, the four case studies emphasise that there have been patchy activity and few reforms.

Although financial scrutiny is a fundamental component of good governance and an essential mechanism for ensuring the safeguarding of the public interest, this report recognises that not all scrutiny is of equal value. Additionally, a formalised system of financial scrutiny does not automatically translate into a meaningful role for parliament in affecting the budget (Wehner 2004: 1). A sound system of financial scrutiny in parliament is not alone sufficient to ensure sound fiscal decisions or strong national economies. Despite having a strong Congressional Budget Office, the current state of the American budget and finances is proof that improved scrutiny alone is not sufficient to achieve better economic policy or public spending. The US experience illustrates that financial scrutiny does not operate in a vacuum, but takes place in a political and often highly charged environment.

Despite piecemeal developments, financial scrutiny is still considered by a number of commentators to be less compelling than the potentially more interesting scrutiny of government policy and high-profile scandals, such as the recent inquiry into phone hacking in the UK. Also, in the middle of the financial crisis, there is growing concern that the complexity of budgeting and anxiety of fiscal vulnerability may be used by governments to undermine their accountability to parliament, eroding the very democracy on which these countries stand (Anderson 2009: 2).
4. Fiscal scrutiny and the financial crisis

This chapter compares and contrasts the changes made to financial scrutiny by the legislatures and executives across the four case study countries since the financial crisis began in 2008.

The studies show that, although it has raised awareness of the significance of financial risk and the fragility of the global banking system in general, the financial crisis has not been the only impetus for change in and parliamentary reform of financial scrutiny. Where reforms have been made to the budget and financial accounting processes, as well as scrutiny processes, these are frequently the result of initiatives pre-dating the financial crisis and tend to be located within the existing policy rhetoric, usually as part of a wider ‘drive towards greater transparency’.

In countries such as Australia, changes were made to the budget in response to a local financial crisis arising from major flooding, without there being any corresponding changes to the financial scrutiny process. In the UK, an initiative for aligning the different measures of public spending to simplify arrangements for reporting and controlling public expenditure to parliament (the ‘clear line of sight’ or ‘alignment’ project (CloS)) was introduced before the economic crisis, together with the ‘whole of government accounts’ project. Both the UK and Australia now publish whole-of-government accounts, two of four countries around the world to do so.

The exception is Ireland, where reform of the budget and financial scrutiny processes is driven by the urgent need to respond to financial collapse and the milestones set out in the EU/IMF Programme of Assistance. But even here, budget reforms had been in progress for a number of years predating the financial crisis. Proposals for further fiscal reform have also been set out by the Oireachtas (Parliamentary) Committee on Finance and the Public Service in 2010. These include recent changes extending parliamentary scrutiny to cover all board appointments and addressing issues about the lack of accountability and transparency.

In contrast, data collected from the Canadian House of Commons Committees Directorate reveals that there has been no reform to parliamentary scrutiny of the budget process, no change to the level of resources available for fiscal scrutiny and no change in the role or function of select committees regarding fiscal scrutiny since 2008.

In the UK, although not a major catalyst for reforms so far, the financial crisis has provided some indirect impetus for change. For example, select committees appear to have increased their level of interest in budget scrutiny and fiscal matters in general. This is reflected in an increase in the number of questions raised by these committees as stated by the Deputy Head of the Scrutiny Unit, Parliament. Further detail on the activities of the Scrutiny Unit can be found in Chapter 7.

At the general level, and not confined to the field of fiscal policy, there has been reform and progress made to the scrutiny function of Parliament in the UK since 2001, but there has been ‘no revolution’ according to the Speaker of the House of Commons. There remains a lack of interest among UK MPs in scrutinising government expenditure, despite relatively high levels of scrutiny in other areas, such as the Iraq war. Possible explanations for this include a lack of public interest from voting populations who elect MPs, but also the lack of possible action that can follow scrutiny, given that the current system focuses on supply estimates (the means by which the government seeks authority from Parliament for its own spending each year). The supply estimates process offers a blunt instrument for such change because there is little incentive for parliamentarians to scrutinise the figures given that the outcomes have already been determined by the government.

Although reforms across the case study countries generally pre-date 2008, it remains to be seen what changes made in coming years can be attributed to more recent reactions to the crisis. The mechanisms of the legislature are often slow to change, owing to the difficulties in reforming both procedures and operating systems, as well as dealing with the complexities involved. Any significant reform by the legislature and/or executive usually requires time and extensive planning.

CONCLUSION

Since the financial crisis there has been no significant change in parliamentary financial scrutiny across the four case study countries. This finding is particularly worrying because of the continuing sovereign debt problems, the significance of public spending and the severity of austerity measures being introduced by governments. While changes are being made to the budget and financial accounting processes within the four countries, little or no attention is paid to improving parliamentary financial scrutiny.

Also, despite the impact of the financial crisis and findings of the OECD, which show that all case study countries have a history of weak parliamentary financial scrutiny capacity, it is doubly disappointing to find that not much has changed.
This chapter explores the balance of power between the legislative and executive arms of the state, what impact this relationship has on financial scrutiny and the arguments put forward for less parliamentary engagement in scrutinising budgets.

THE BALANCE OF POWER BETWEEN THE LEGISLATURE AND EXECUTIVE

Internationally, the balance of power between the legislature and the executive varies considerably. According to the IMF, the level of control depends upon the links between the political powers of legislatures and the degree of separation of the legislative and executive branches of government (IMF 2005: 18). The separation of political powers in parliamentary monarchies based on the Westminster model, which includes three of the case study countries (Australia, Canada and the UK), is deemed to be extremely weak. The IMF study shows that the political powers enjoyed by the executive are accompanied by strong budgetary powers. Governments that follow the Westminster model have not only initiated laws to strengthen their own budget powers but, by virtue of their control over parliamentary select committees, have also inserted into parliamentary regulations limitations on their parliament’s capacity to change the government’s proposed draft annual budget.

Some parliaments, such as those in presidential systems, can influence spending proposals, by either amending or rejecting them, and some can formulate their own. According to the IMF, 63% of parliaments can and do make minor adjustments to the budgets presented by government, although the scope for real influence is severely limited by the Westminster-style system of parliament. Although Ireland’s system of government is semi-presidential as classified by the OECD, it shares the same weaknesses as it retains most of the features of a Westminster-style budget system. Its Parliament, the Dáil, was also categorised by the IMF as having weak budgetary powers (IMF 2005: 17).

The power held by a parliament over the budget process varies significantly within the international context. In measuring the relative power of parliaments over national budgets on a scale of 1 to 10 (10 representing significant power) the IMF measured whether parliaments:

- approve an annual budget strategy
- have powers to amend draft budgets
- allot time for discussion of the annual budget within parliament
- receive technical support for scrutinising the budget.

The IMF also considered the government’s ability to modify the budget once it has been approved. Against these measures Australia, Canada and the UK achieve a low score of 1, while the US, a presidential system which enjoys an extensively resourced Congressional Budget Office, has the highest possible score of 10 (IMF 2005: 18). Many would-be reformers look towards the US as an example of how effective budget scrutiny can be achieved. Nonetheless, the issue here is that despite such a system the US deficit of 15 trillion dollars is the largest in history.

ARGUMENTS AGAINST GREATER INVOLVEMENT OF PARLIAMENTS IN SCRUTINISING THE BUDGET PROCESSES

As discussed above, it is important to recognise the limitations of the legislature in its role as budget, financial accounting and spending scrutineer. Financial scrutiny tends to be retrospective and focuses on government policies and decisions already made (ex post). The current system of supply estimate voting, which is frequently criticised by opposition MPs, is designed to limit the powers of parliamentarians and to preserve decision making on fiscal allocations in the budget as the sole right of government. For example, the UK Treasury sets the framework for the budget and ensures financial discipline and that allocations are met by the government’s spending policies. Parliament, by contrast, votes only on whether government departments have managed to adhere to the pre-defined allocations. This rationale is used to explain the lack of opportunity for legislative influence in the estimates stage of the budget.
Although increased parliamentary scrutiny is related to strengthened democratic systems and better accountability, weak parliamentary scrutiny is not the only or even primary cause of over-spending. The pursuit of public interest is the driving force behind reform in public sector spending, but the limitations of this approach must be recognised. Increased scrutiny of public sector financing is just one way in which to ensure that governments are held to account and consistently act for the public good. An arbitrary increase in parliamentary activism in the budget process does not necessarily create sound budget outcomes (Wehner 2004: 1). While unrestrained governmental power in the aftermath of a fiscal crisis can be heralded as providing short-term benefits (perceived or real), the long-term goal is for a sustainable balance between power held by the government and by parliament, where processes and reforms are monitored against outcomes.

Alternatively, increased parliamentary involvement in the budget could lead not to greater financial discipline but to chronic deficits as parliaments fail to restrain them, constantly calling for higher public spending and lower taxes. This view has remained pervasive for hundreds of years, and has been endorsed by prominent scholars who correlate parliament’s capacity to amend the budget with fiscal outcomes. As a result, in some countries parliaments have voluntarily relinquished their budgetary powers because they could not trust themselves to make responsible financial decisions. For example, in a paper published by the European Commission, Jorgen von Hagen gives strong empirical support for the hypothesis that limits on the amendment power of parliament, and other rules, strengthen fiscal discipline and result in relatively small deficits and public debt (Anderson 2009: 3). The lack of financial skills and weak accountability may also be contributory factors.

Some research has suggested that fiscal outcomes are better in countries with weak legislative controls, where there is less pressure to spend more and tax less. Without proper financial discipline, this can risk the creation or exacerbation of deficit in the national budget. Underpinning this argument is the concern that, if left to parliament, allocation of spending and resources can be unfair, and not influenced by the national interest. There is a belief that parliamentarians may be inclined to reward supporters and particular constituencies with budgetary allocations.

Also, given its elected status, parliament lacks accountability for fiscal decision making, and is particularly vulnerable to the pressure of lobby groups and sectoral interests. This has been an issue in Ireland and the UK. The intended consequence of parliamentary scrutiny is to improve the accountability of public sector spending and so any reforms implemented towards this aim must be balanced in order not to risk exacerbating the problem.

CONCLUSION

In summary, all four of the case study countries continue to exhibit significant weaknesses in their arrangements for budget and financial scrutiny and will continue to do so without major structural and cultural reform. In the middle of the largest financial crisis that the world has seen, parliaments and governments should not waste the opportunity to reform how they go about scrutinising public funds and taxation policies. As highlighted above, the arguments for improving financial scrutiny are more compelling than those against greater parliamentary involvement.
6. Scrutiny of budgets, estimates and spending reviews

The wider value of scrutiny is demonstrated to the public through the recent catastrophes among the major banks and companies that accompanied the global financial crisis and localised scandals. This chapter discusses the challenges faced by parliaments in scrutinising budgets, taxation, estimates, financial reports and spending plans, as well as those factors conducive to financial scrutiny.

THE BUDGET, ESTIMATES AND SPENDING REVIEW PROCESS

To understand how financial scrutiny is performed in practice, it is important to have a grasp of the budget, estimates and spending review processes across the four case study countries. Studying the budget is in itself a complex task, not least because of the number of actors involved in both its formulation and implementation, to say nothing of the myriad agents who contribute to the auditing and accounts vital to this process, as well as political parties, civil society groups and business and private enterprise, etc. For the reasons set out earlier in this report, financial scrutiny tends to be ex post scrutiny.

Conventionally, the budget is the key economic policy tool of government and regarded as the most comprehensive statement of policy priorities (Wehner 2004:1). During the 20th century, many governments attempted to reform their budgetary systems, and most of these initiatives date from the mid-1980s onwards. In contrast, Canada began its own series of reforms as early as the 1960s (Hawke and Wanna 2010: 2).

Canada’s budget is the government’s fiscal plan, presented to Parliament in late February. It includes aggregated projections of the government’s expenditure plan for the coming and following two fiscal years and the annual budget, which is a macroeconomic and fiscal statement to parliament. Its budget is not a mandated statement (in 2002, the government chose not to present a budget at all). Shortly after the budget the ‘main estimates’ (updated forecasts for all statutory programmes) are presented to parliament to approve together with government department ‘Reports on Plans and Priorities’ (RPPs). The latter reports are for information and are not voted on in the House. A second report demanded of government departments and agencies is the ‘departmental performance report’, each of which is presented to parliament in the autumn and set out performance against targets.

Similarly, in the UK the budget refers to an annual statement of revenue that is required to pay for the expected spending of government, and which the Chancellor of the Exchequer presents to Parliament in March. The estimates process is similar to that operated in Canada. In addition to the annual budget, a spending review is performed which allocates budget funding across departments. Spending reviews were first introduced in 1997 by the Labour government and typically covered a two-to-three year period, but now they stretch over four years.

In Ireland, the budget is the annual statement presented to the Dáil in December. The legislature has 10 months in which to approve the budget, so there is considerable time for scrutiny. It typically sets out budgetary targets for the following year and contains a financial statement, budgetary measures, statistics and tables and a stability programme update. A White Paper on receipts and expenditure usually precedes the budget statement. Parliament is generally not permitted to make any changes; it can only approve or reject the budget as a whole. In general, the budget falls or passes in its entirety; however, ministers for finance do accept minor amendments on revenue-raising measures.

In contrast, the Australian budget is usually presented in mid May, only six weeks before the commencement of the financial year, thus limiting the time available for parliamentary scrutiny through debates and senate estimates hearings. The budget has to be approved by both houses before the start of the new financial year, although in reality some revenue or spending matters may remain unresolved (Hawke and Wanna 2010: 72). The budget contains planned government expenditures for the coming year, as well as other documents such as economic statements and revenue proposals. The estimates process is similar to that of the other countries studied. The Australian Parliament’s capacity to influence the allocation of funds within appropriations is limited under the constitution. The Senate is prevented from amending bills for the ordinary annual services of government, which comprise most of the annual appropriations (Hawke & Wanna 2010: 74). Senate select committees now perform a vital function in the consideration of estimates, following reforms made during the 1990s.
A key motivating factor for financial discipline is that in all the case study countries government departments are able to keep savings from efficiency gains that they have made. In Canada departments have the ability to move funds within a vote allowing savings from efficiency gains to finance other expenditures of the same type. The ability of managers to reallocate unspent funds that have been approved through budgeting is contentious. While it can serve as a motivator for greater efficiency and savings, the ability to move funds between programmes without seeking parliamentary approval may undermine the level of financial scrutiny that takes place.

**CRITICISMS OF THE WESTMINSTER-STYLE ESTIMATES SUPPLY SYSTEM**

The outdated ‘estimates supply votes’ process that exist in Westminster-style systems presents specific challenges to effective parliamentary scrutiny. These are both structural and cultural, and can have a detrimental impact on both the perception and practice of financial scrutiny in parliaments.

Despite vast changes in the governance of these countries, the method by which parliament approves government funding remains largely unchanged; parliamentary scrutiny of financial matters has not kept pace with extensive reforms in almost every other aspect of a political and democratic system. A number of key criticisms are highlighted below.

Lack of detailed information about expenditure, indicated by the small number of lines included in each estimate, prevents parliamentarians from scrutinising the proposed spending allocations or voting on specific areas of spending within government departments.

The parliamentary system does not award sufficient time or meaningful debate to scrutinising the estimates, especially considering the huge sums involved, and the myriad purposes for which they are used.

The estimates day debates (held three times a year) are used as a chance to debate the policies that underline specific select committee reports, rather than for the detailed scrutiny of expenditure. Therefore, the debates are more concerned with policy than with the money that the government is seeking from parliament.

There is a general lack of scrutiny of the estimates. This is partly explained by the perceived futility of further action on the estimates. As estimates cannot be amended, there is no real possibility that parliament will reject the proposed spending, as to do so would be in effect to deny the total funding to the government department concerned. The last time the UK Parliament voted down a request for money was in 1919, when the Lord Chancellor was refused funding for a second bathroom. Amendment experience in many other Westminster-type parliaments is similar. According to the Westminster tradition, successful attempts by parliament to amend the budget proposal are considered tantamount to a vote of no confidence in the government (Wehner 2004: 7).

In an interview with Joachim Wehner, budgeting expert with the OECD and LSE, he recommended that parliamentarians should be presented with examples of good practice in supply estimate procedures, such as those used by South Africa or America. This should, however, be done with the knowledge that improving scrutiny in parliament is not on its own sufficient to ensure sound fiscal decisions or strong national economies. As stated earlier, despite extensive budget scrutiny and a Congressional Budget Office that exercises unrivalled control over the budget and supply estimates, the current state of the American budget and finances is proof that improved scrutiny alone is not sufficient to achieve better economic policy.

In the UK, the involvement of select committees in the scrutiny of estimates is now focused largely on an assessment of the efficiency and performance of the relevant department, rather than a detailed examination of the estimates proposed. This practice was established following the division of the estimates committee after the Second World War, when it was split into sub-select committees for the examination of selected estimates and their related departments. A series of reforms during the 1960s awarded greater power to the estimates select committees, in response to growing concern in Parliament about the lack of effective scrutiny in public spending. Following these reforms, select committees came to be recognised as performing wide-ranging administrative scrutiny, with value for money and the pursuit of efficiency as their main concerns (Giddings 1994: 673).
In the US, in contrast, the lines contained in the estimates are numbered in the thousands (compared with hundreds in the UK). These resources allocations are not only amendable by the legislature, but the well-staffed Congressional Budget Office exists to scrutinise and amend these estimates line by line. Australia has recently amended its own estimates in order to include more specific spending details, for instance in the Defence budget, which was entirely covered by just one line in the supply estimates. Canada operates a good policy in which requests for resources are made through programme level spending updates, allowing even greater detail in both allocation and reporting of finances.

In addition to increasing the accountability and specificity of fiscal allocations, increasing the detail of estimates would also limit the power of governments to move funding around between departmental programmes, which can currently occur through virement without the requirement for parliamentary approval.

In Ireland, the virement of funds between line items is possible because the parliament, in appropriating money in the annual Appropriation Act, does so by specifying only the overall total of the vote for each department or office. The Minister for Finance thus has discretion for reallocating between line items. The manner in which this is done may be questioned by the Committee of Public Accounts, which comprises members of the Lower House. Therefore, the use of savings on one item to fund excesses on another is not automatic.

**FACTORS CONducIVE TO SOUND SCRUTINY BY PARLIAMENT OF THE BUDGET AND FINANCIAL REPORTS**

There are a number of factors that are conducive to sound financial scrutiny. Considering the role of parliament, the most effective way in which to achieve efficient and effective engagement with the budget, estimates and financial reports is set out in Box 1.

**Box 1: Facilitating factors for financial scrutiny**

Parliamentarians should have access to the appropriate support, resources and information for scrutinising the budget, financial reports and estimates. To strengthen financial scrutiny, in 2001 the UK Parliament established a House of Commons Scrutiny Unit, consisting of financial professionals. Nonetheless, specialist expertise on key areas such as tax issues continues to be absent.

Parliamentarians should have access to a research facility so that they are able to gain sufficient knowledge about often-complex financial issues, such as sovereign debt issues. They should also have access to learning and development support. For example, the UK Parliamentary Scrutiny Unit has hosted a number of financial management and reporting workshops for MPs. The key problem here has been that they are not well attended.

Sufficient parliamentary time and effective timetabling should be made available to promote discussion of the budget and estimates day debates. This remains a weakness in Westminster-style systems.

The quality of financial information provided to parliamentarians is critical. Financial reporting and accounts should be transparent, accurate, timely and reliable as this will ensure not only good policy but also effective engagement by parliamentarians.
The outdated ‘estimates supply votes’ that exist in Westminster-style systems are a key barrier to effective parliamentary scrutiny. Countries using the Westminster model of governance cannot realistically amend spending proposals and because of this there is no real possibility that their parliaments will reject such proposals, and many parliaments are barred from substituting a budget of their own. Instead, they are confined to assenting to spending proposals as they are put to them.

This antiquated estimates system existing across the case study countries present specific challenges to effective parliamentary scrutiny and it is difficult to see how these will be overcome without significant structural and cultural change. Parliamentarians see little point in getting involved in the technical detail of estimates that they will have little chance of influencing; the outcome has already been determined by government. As the Hansard Society in the UK notes, ‘the government decides the value of the cheque, to whom it should be paid and when, and Parliament simply signs it’ (Brazier and Ram 2006). The focus of financial scrutiny needs to be realigned with the budget, taxation and spending plans, and financial reports. To some extent projects such as the ‘clear line of sight’ (CLoS) initiative in the UK, which seeks to realign estimates with the budget and resource accounts, will go some way to addressing issues of complexity, lack of accountability and transparency. As the project is relatively new, however, it is still too early to evaluate how successful it will be in addressing these issues.

CONCLUSION

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7. The rise of the independent fiscal institutions

This chapter explores the rise and popularity of IFIs. Although they are not directly part of parliamentary financial scrutiny they are involved in the independent examination of budget processes and fiscal policy.

THE GROWING TREND

There appears to be a trend in OECD countries (and globally) to establish IFIs or budget units, as their legislatures become more involved in the budget process. These bodies are commonly non-partisan public bodies that prepare macroeconomic forecasts for the budget and monitor fiscal performance.

The creation by parliament of an independent unit or body to assist parliamentary scrutiny and to undertake research can potentially address bias toward spending and deficits, and more generally enhance fiscal discipline, raise the quality of debate and scrutiny, and promote transparency and accountability (Von Trapp 2011). More generally, IFIs are often created as part of a broader package of reforms. This partly reflects pressure from the European Commission, IMF and OECD to introduce IFIs, and a growing recognition of the benefits of such institutions.

Budget processes are complex and often difficult to understand, requiring specialist knowledge and the time in which to research and gain full understanding of crucial issues. The inherent complexity of budgetary issues presents a barrier to effective engagement by parliamentarians, who are rarely trained in fiscal policy; in addition, numerous issues compete for their time and attention. The establishment of IFIs can add value in helping the state to navigate the budget, but they are not financial scrutineers acting on behalf of parliament. They have been introduced to provide independent analysis and forecasts of the economy and public finances.

In Canada, the legislation to establish a Parliamentary Budget Officer (PBO) was passed in 2006, and this promise was met in 2008 by appointing an Officer of the Library of Parliament (a position, that is, an individual as opposed to an independent office, placed within a non-partisan Library of Parliament, reporting directly to the Librarian of Parliament) (Sutherland 2011). This position was designated as the PBO, with authority to hire personnel and manage a budget, as stipulated by the Speakers of the two houses of Parliament. The position was established in response to political events rather than financial pressure. In particular, it was a reaction to public outcry at two reports of fiscal maladministration that had been reported by the auditor general. The legislation established a position and not an institution so the PBO cannot be considered to be an IFI.

Nearly three years later the PBO has demonstrated an impressive record of achievements, including five economic and fiscal updates and more than 20 research reports, which have achieved high praise (Brooke Jeffrey 2010). Even so, controversy still remains as to whether the connection with the Library of Parliament should be severed and a stand-alone office established, supported by legislation to strengthen accountability.

In contrast, the UK created an Office for Budget Responsibility (OBR) in 2010 and this was heralded by the coalition government as a response to shortcomings of the previous government, which had presided over the state as the financial crisis rocked the global economy. Citing the inadequacy of the existing fiscal framework, the OBR was created to provide independent fiscal and economic forecasts on which the budget could be based. The independence of the OBR was questioned by some, but became crucial in carrying out one of its first duties as it assessed the impact of spending cuts made by the new government as a response to the deficit.

In his address to the OECD annual meeting of parliamentary budget officials in 2011, the chair of the OBR, Robert Chote, described its establishment as a response to the need in the UK for credibility of fiscal management, which had been undermined pre-crisis by over-optimistic public finance forecasts (Chote 2011).

In comparison, the Australian government promised the introduction of a PBO in May 2011, but nothing has yet appeared. So far, Ireland has not introduced an IFI, although the Oireachtas supports the introduction of an Independent Economic Advisory Council and a separate Budget Review Council. This trend is not confined to the OECD countries, and is occurring in both presidential and parliamentary systems (Anderson 2009:8).
Generally, IFIs are staffed by non-elected professionals and mandated to provide non-partisan oversight of fiscal performance and advise on key aspects of fiscal policy (OECD 2011). Publicly funded, the IFI is supposedly independent of the government, and crucial to its functionality is the perception and realisation of its independent status. The challenge of maintaining impartiality is paramount for its success. Located within the Parliamentary Library, the Canadian parliamentary budget officer has faced particular tensions regarding his status; the legislation has had the effect of keeping the PBO out of Parliament. Also, conflicts have arisen in relation to parliamentary procedure, for example, the PBO was so far from considering himself a part of the parliamentary library office that when Parliament was not in session he issued to the media a major report on the costs to Canada of the war in Iraq. The parliamentary Opposition and media still desire that the PBO should be an office rather than a position, reporting directly to a House standing committee, ie an American-type position with a large staff and matching the freedom from all constraint of the Office of the Auditor General.

In contrast, the UK OBR is an office and was initially situated within the Treasury, which raised questions from commentators about how independent it really was. Recently, it has relocated offices although it still receives analytical and research support from treasury staff.

**CONCLUSION**

Apart from the increasing popularity of IFIs and other models, such as the creation of non-partisan budget officers, across the case study countries, little has changed in relation to parliamentary financial scrutiny. IFIs have been introduced by governments to provide independent analysis and forecasts of the economy and public finances and are not bodies of parliament. They are also not a substitute for effective parliamentary financial scrutiny but can have a complementary role to play.

It is possibly too early to evaluate whether or not IFIs have been successful in enhancing financial discipline, raising the quality of debate on fiscal policy and improving accountability. It is, however, critical that at some stage in the near future they are evaluated to test whether they are operating effectively and are adding the value that was originally intended.
This chapter considers the role of parliamentary select committees as a primary source of financial scrutiny and some of their limitations. Interviewees considered them to be a valuable resource, but their resources are often stretched and they risk taking on too much, with too little time and too few appropriate members.

**SELECT COMMITTEES ‘THE ENGINE ROOM’ OF FINANCIAL SCRUTINY**

Select committees are the ‘engine room’ of the legislature and, internationally, committee involvement in the budget process appears to be growing (Wehner 2006). Committees can facilitate technical debate and scrutiny, unlike the political grandstanding that usually characterises debate in the Chamber (Wehner 2006). The exact structure of committee involvement differs from country to country. For example, the Australian Senate introduced a departmental committee stage for the budget approval process as early as 1970, India in 1994, and the Ugandan and Zambian parliaments have recently created new select committees to consider budget issues.

In a number of cases a budget or finance committee has overall responsibility for the approval process. In some legislatures, it has sole responsibility for considering the draft budget; in others it acts as a coordinating body for the work of sectoral select committees on departmental budgets (OECD 2002; Wehner 2004) to assure itself that the budget it approved is implemented fully, efficiently and effectively. In addition, to assure itself that the budget it approved is implemented, the legislature also requires committee time for the ex post scrutiny of audit findings supplied by the supreme audit institution. Arguably, the most effective legislative vehicle for this purpose is a dedicated Public Accounts Committee (PAC) (McGee 2002; Wehner 2003).

A number of factors make for strong select committees, including a consistent and coherent approach to scrutinising estimates and departmental resource accounts, allocating sufficient time for debate and being adequately resourced with support staff, and appropriate terms of appointment for members. The democratisation of appointments to select committees in the UK in 2011 was seen as a turning point in their development for effective scrutiny. Also, factors such as the powers of select committees to summon individuals and access all relevant information help to make for strong scrutiny. Select committees also benefit from a perception, whether perceived or real, among parliamentarians and the wider public that their recommendations will be followed and that they exercise real influence in policy and budget processes. The challenges of select committees are captured below.

**Select committees in the UK Parliament**

There has been considerable growth in select committee activity at Westminster since the mid-20th century. There are now more select committees, more systematically organised, occupying the time and energy of many more MPs, receiving written and oral evidence from more ministers and officials (Giddings 1994: 669) than ever before. Nonetheless, there are serious concerns about the future capacity of these select committees to perform their vital role in supporting and providing scrutiny in Parliament.

There has long been concern that the growing use of select committees in Parliament would have a detrimental impact on Parliament itself: increased workload, decreased efficiency, and unsustainable pressures on the time and resources of ministers have been cited as potential limitations inherent to the system (Giddings 1994: 670). According to an interviewee: ‘select committees are in danger of becoming victim of their own success, as they take on increasing workloads, including the scrutiny of pre-legislature bills and draft, post-legislature scrutiny, committee hearings for public appointments, and general research duties’.

Select committees operate in a changing landscape. When departmental select committees were established over 30 years ago, they operated as the sole means for scrutiny. In the contemporary political field, freedom of information (FoI), localism, devolution, a plethora of think tanks and access to continuous live media coverage are all forms of scrutiny. In this context, select committees must reconsider their priorities, and assess how financial issues can be incorporated more effectively in the new field of scrutiny.

The agency for change has also shifted away from its historic roots in government. Traditionally, the impetus to reform had to come from government, but this has shifted in recent years to give new power for reform to the
Procedure Committee, the Liaison Committee and Backbench Business Committee. ‘These committees can and should act as conduits for institutional reform in the House’ as highlighted by Dr Ruth Fox in interview.

Also, in response to the current localism reforms of the UK coalition government, the Public Accounts Committee (PAC) published a significant report examining the implications of such reforms to the functionality of Parliament. The report found that select committees were at risk of being overstretched by growing demands on their already limited resources, and that localism reforms could hand Parliament responsibility for holding innumerable local delivery bodies to account for their use of taxpayers’ money, without adequate support or resources.

LIMITATIONS OF SELECT COMMITTEES

Although select committees are an important tool for scrutinising public finances they also have some limitations and these are explored below.

The usual suspects
Although some perceive the quality of skills to be sufficient for supporting select committees, many observers within and outside parliaments question the level of skills provided. Interviewees involved in this research from both Canada and the UK revealed that these concerns are expressed internationally. Nonetheless, there have been some notable changes. For example, in the UK select committee members are now elected by their fellow members and have to campaign about their work, rather than being selected by whips. This has the potential to change the dynamics of a committee. This is particularly the case for select committee chairs, many of whom produced manifestos when running for their positions in 2010.

Lacking action
Although research conducted by Russel and Benton (2011) shows that roughly 40% of committee recommendations have been implemented by the UK government, a frequent criticism of select committees is that recommendations made are not systematically followed up. As a result, a minister or government department may experience a general lack of pressure to make changes on a sustained basis. It is noteworthy that there is no mechanism for debating the Bank of England Annual Report; prior to 2008 such a debate could arguably have flagged up problems although such a claim is difficult to prove conclusively. Where select committees make recommendations there should be in place mechanisms for their implementation and evaluation.

A sense of direction
There is a lack of overarching strategy from Parliament to guide the actions of select committees in relation to scrutinising issues that cut across departmental boundaries. This has generally arisen because select committees often replicate the government departmental structure. Although this structure has its strengths it also can be an obstacle to ‘joined-up’ scrutiny. For example, in considering the extensive scrutiny required for private finance initiatives (PFI) in the UK, departmental select committees look at each individual department’s PFIs rather than assessing the issue as a thematic/cross departmental issue on a higher level. Margaret Hodge, a UK Labour MP and Chair of the Public Accounts Committee (PAC), recently said that ‘she wanted to review issues such as the PFI and procurement on a pan-government basis rather than in departmental “silos” and to ensure that findings were acted on’. The PAC is now moving toward longitudinal examinations of programmes to stop the avalanche of ‘silo-based’ reports recommending the same set of actions.

Resources for scrutiny
A particular threat following the extensive budget cuts is the scarcity of funding and resources made available for select committees. This has the potential to undermine their effectiveness. Despite calls for the establishment of sub-select committees in the UK to deal with increasingly complex scrutiny tasks and growing case loads, the parliamentary budget does not expand to allow for creation of additional facilities. As the remit of select committees expands, the resource allocation for them does not necessarily increase either. Although committee funding overall has increased in the past, since 2008 budgets have been cut as for everything else in the UK. Ironically, against a backdrop of reduced funding in Parliament and following drastic cuts to departmental budgets in 2010, the Scrutiny Unit of the House of Commons UK has noted a marked increase in fiscal scrutiny by the select committees.
Select committees are an important means of holding governments to account across the case study countries. They have a number of strengths including facilitating technical debate and scrutiny. Nonetheless, they also have a number of limitations, such as a lack of relevant expertise and skills, lack of action in following up recommendations and general inability to curb the abuse of government policy through their reports. If these issues are addressed this may go some way to making financial scrutiny more effective in the future.

What is clear is that an overarching strategic approach to financial scrutiny that guides select committees in their roles and defines their remit and resources will help them to manage the risk of taking on too much, with too little time, and with too few resources. Lessons should be learnt across the case study countries with respect to new financial scrutiny approaches. New methods of scrutiny, such as move towards longitudinal examinations of programmes initiated by the PAC in the UK, should be commended.
9. Holding governments to account: other ways and means

The accountability of public spending is critical because ‘it is unlikely that key actors will invest effort in making a budget realistic if the execution is unaccountable’ (DFID 2002: 6). This chapter explores other ways and means by which governments are held to account for their use of public money. It considers the vital role that sound financial information plays, the role of the accounting officer and of independent audit, as well as that of evaluation and monitoring systems. These are key means by which the legislature can exercise control over the executive for public spending.

FINANCIAL REPORTING PROMOTING TRANSPARENCY

As stated earlier, effective financial scrutiny is dependent on parliamentarians’ access to sufficient information, which is provided through financial reporting of spending and accounts of governments. Not only should financial reports be reliable but they should provide a realistic reflection of services and performance. Outside the OECD, this is particularly significant in developing countries where assured levels of transparency can be a prerequisite for major aid donations. The IMF, OECD and World Bank all identify fiscal transparency as a major component of good governance (OECD 2002).

Even so, more financial information does not necessarily mean better financial scrutiny and better scrutiny does not always mean improved finances. If governments take seriously their own claims of promoting transparency and stronger parliaments, they must ensure that quality of information is not replaced by quantity of data. In 2011, the PAC of the UK Parliament reported concerns regarding the ‘dumping’ of data in a bid for transparency. Margaret Hodge MP, Chair of the PAC stated that: ‘While we welcome the Government’s commitment to transparency it is not good enough to dump data into the public domain. It must be analysed to be relevant, robust and fit for purpose. As responsibility for service delivery is devolved to new bodies government departments must clearly set out what they are expected to deliver, how they will be held accountable and what action will be taken should performance fall short.’

The drive toward transparency at all levels across governments is made possible by the development and widespread use of information technology. Pre-dating the financial crisis, the availability of desktop publishing software and the internet, and widespread access to and use of both, have had a significant impact on the abilities of governments to disseminate their data as well as their political message (Thain 2010: 61). In response to the quality over quantity debate, the PAC of the UK Parliament helpfully set out criteria that should underpin financial reporting, as shown in Box 2 below.

Box 2: The purpose of government financial reporting

The purpose is

- to provide parliaments and select committees with sufficient, timely, reliable and high-quality information with which to examine government departments’ performance in carrying out policies, functions and programmes
- to provide sufficient information to Parliament to enable the consideration and approval of finance for services in the Appropriation Act
- to ensure the accountability of government departments to Parliament for the money spent.
- to provide Parliament with information on performance of government departments, measuring the economy, efficiency and effectiveness with which they operate services; this information can then provide the basis on which to conduct enquiries.

Among the case study countries, Australia follows comparatively good practice by making its financial accounts publicly available within four months of the end of the financial year. The UK is following this example, although publication dates are not always consistent.

In addition to its requirements for financial information the OECD has also defined a set of best practices for budget information, as outlined in Box 3 below.

**Box 3: OECD best practices for budget information**

A comprehensive budget that encompasses all government revenue and expenditure, and includes performance data and medium-term projections.

A pre-budget report, stating explicitly the government’s long-term economic and fiscal policy objectives, and its economic assumptions and fiscal policy intentions for the medium term.

Frequent and scheduled reporting that includes monthly reports and a mid-year report to provide a comprehensive update on the implementation of the budget, including an updated forecast of the budget outcome for the medium term.

A year-end report that is audited by the supreme audit institution and a pre-election report that will illuminate the general state of government finances immediately before an election. In addition, a long-term report is needed to assess the long-sustainability of current government policies.

Following reforms to Australia’s budget, documentation has been produced with new regularity and greater volume and scope (Hawke and Wanza 2010: 65). Despite this good practice there nonetheless remains a perception among some commentators that the Australian government uses cash or accrual figures depending on which figure provides them with the best political outcome. The challenge for Australia has been to ensure that this documentation is used for effective fiscal scrutiny, which must be demanded by both parliament and the wider population.

As outlined earlier, all the case study countries provide budget information that fulfils the above criteria to varying degrees and/or are striving to make improvements through their budget reform processes.

**THE ROLE OF ACCOUNTING OFFICER**

The use of accounting officers in the UK is intended to ensure that departmental spending, which comprises the overwhelming majority of public spending, is the direct responsibility of an individual. This is usually the most senior official within a government department. The accounting officer acts within the authority of the Minister, but has separate personal responsibility to Parliament for the management and organisation of the department, including the use of public money and the stewardship of its assets. The accounting officer model has a number of strengths as it promotes high standards of propriety in public spending and an understanding within government departments of the importance of securing value for money.

There is no clear demarcation between ministerial responsibility for policy and accounting officer responsibility for implementation. More recently, ministers have taken a closer interest in how their policies are implemented, and the present public service reforms will inevitably affect senior relationships within departments. These developments, taken to their logical conclusion, might be perceived as supporting the argument for a shift from the current ministerial accountability model to a collective model in which departmental boards would be held accountable for implementing areas of policy, such as securing value for money.
In Canada, the accounting officer’s responsibilities are set out in the Financial Administration Act, which was formally adopted in 2006. Deputy Ministers are designated as accounting officers, and assigned statutory responsibility for the stewardship of their respective departments. The adoption of this system in Canada was influenced by the British model that dates from the 19th century, although some observers regard the formalisation of the accounting officer’s role to be an exercise in aligning legislation with procedures that have been established and practised for some time (Jervis 2009). One significant consequence of these reforms is that the formalisation of the accounting officer model has acted in some ways as a substitute for financial scrutiny. This mirrors concerns from Australia, where critics claim the success of recent reforms is used to distract from or placate contemporary calls for further strengthening in financial scrutiny processes.

ACCOUNTABILITY THROUGH THE ACCOUNTING OFFICER

In 2011, the PAC of the UK Parliament reported that ‘the personal accountability of the accounting officer forms the foundation of Parliament’s ability to hold government to account for public spending’. These observations were part of a report looking at the challenges to parliamentary power in light of government reform. The PAC report investigated the implications for the power of Parliament to hold government to account for public spending, in light of decentralisation and localism proposals. These proposals, which form a tenet of post-crisis reform in the UK, envision significant devolution of responsibility for service provision to a wide range of new bodies, in some cases independent of both central and local government. The PAC found that:

- localism reforms risk weakening the system of parliamentary accountability for safeguarding taxpayers’ money, at a crucial time when budgets are falling
- there is a potential conflict between the demands of accountability to Parliament and the devolution of responsibility for the provision of public services under the government’s reform and localism agenda.

The report raised concerns that Parliament could be handed responsibility for holding innumerable local delivery bodies to account for their use of taxpayers’ money, without proper support or resources. Given the tensions arising from recent government initiatives in the UK, one government department, the Department for Communities and Local Government, is currently undertaking a review of how demands of localism reform might be reconciled with the need for accountability to Parliament for public spending.

THE ROLE OF AUDIT

External audit in the public sector is an essential part of the process of accountability for public money and the governance of public services. The recent financial crisis has called into question the quality of audit in the private sector and a question has been asked as to whether auditors did enough to live up to their designated role (NBA 2010). Given the state of government finances around the world the same questions could be asked of audit in the public sector. In order for audit to provide public confidence and certainty in the systems of governance and public spending it is critical for each country to have a reliable and trusted audit system.

Each of the case study countries has a national audit office/function that fulfils this role and reports to a PAC. This is the most effective legislative vehicle for scrutiny in all these countries. All the national audit bodies are creatures of parliaments and have specific powers and duties to act on matters of legality. A distinguishing factor is that they have a regulatory objective to fulfil, whereby the auditor is required to provide assurance that the transactions recorded in the financial statements are in accordance with the relevant authority, legislation and regulations. The auditor generals can also carry out value for money (VFM) examinations of government entities. In Canada, performance audits take the lion’s share of the auditor general’s budget. Also, in all these countries, the majority of line ministries are subject to internal audit, although only in Canada and Australia are these prescribed by law. These audits tend to be guided by best practice guidelines and international standards for internal audit.
In relation to recent developments, the national audit functions are taking on more responsibilities. For example, in England the National Audit Office (NAO) is taking a more active role in providing technical and specialist support to select committees. The Hansard Society reported that the combined work of the NAO and PAC and the departmental select committees results in significant savings for government, but considerably more could be achieved. The fundamental question is whether long-term improvements in outcomes are achieved, wider lessons are learned and mistakes not repeated (Brazier and Ram 2006).

**PERFORMANCE MONITORING FOR ACCOUNTABILITY**

Performance monitoring can provide data that are accessible and relevant to scrutineers, including members of parliaments and the public, who are often concerned with outcomes rather than with the output-based assessment of programmes. These data must be objectively scrutinised to ensure that publications give useful and accurate reflections of government departments’ programmes and services.

Output or performance management plays a major role in almost all countries that are reforming their public sector. It provides a measure for assessing the success of new policies and monitoring the performance of government departments in a clear and accessible way. Performance orientation is regarded as an essential prerequisite for increasing transparency and accountability in the public sector (Reichard 1998: 129). Despite widespread adoption of performance measures for fiscal reporting in government, the impact of such reforms on the budget process remains contested.

All case study countries make publicly available reports on their performance against targets, which are commonly published by government departments and agencies in the autumn. In every country reviewed, the performance information is reportedly used as part of the budget negotiations between the central budget authority and line or spending ministries. In reality, performance-based budgeting in many countries is not actually used to make fiscal decisions or to influence the budget.

In 1999, Australia was the last of the case study countries to introduce performance measures. Canada had been the forerunner, introducing a government-wide initiative for performance measures as early as the 1970s, followed by Ireland in 1996 and the UK in 1998. In the immediate years following the financial crisis in the UK, there was some evidence that the Labour government was awarding increasing significance to performance-related data in the formation of budgets (Thain 2010: 60). The use of public sector agreements (PSAs) was, however, abolished by the incoming coalition government, heeding claims by critics that the lack of clarity resulting from outcome-focused rather than output-focused assessment failed to provide fiscally sound data on which to allocate resources. Under the previous government, select committees in the UK had an active role in scrutinising government departments’ performance against PSAs. Now that PSAs have been dispensed with the focus will be on government department business plans.

Among the case study countries for which information was available, the performance-based indicators were not used in a way that could be perceived as punitive toward departments. It was shown in 2008 that failure to achieve performance against targets rarely or never results in the elimination of related programmes, or in a negative impact on the pay or career prospects for responsible officials. Indicators were more likely to influence increased monitoring of the programmes concerned. In Canada and Australia there is a tendency to use measures of performance against targets for decision making in the Central Budget Authority and by the Cabinet, but the overall trend among all countries was not to use these measures in budget formulation itself.
‘What was promised in reform announcements rarely get implemented in practice’.

GOOD AND LINDQUIST (2010: 91)

Across the case study countries the present research shows no effective and systematic monitoring of reforms. The lack of systematic evaluation means that potentially reforms are costly and time consuming. For example, observers may tire of measures that are taken to achieve ‘transparency’ if these are perceived to be ineffective and costly or the concept itself risks becoming vague and overused.

Hawke and Wanna found that, in Australia, when central budget agencies announced reform initiatives, they did so without specifying objectives or explicit rationale. Governments have tended to be wary of defining specific goals for reforms, and instead have talked in generalities such as ‘transparency’ and ‘efficiency’ (and ‘fiscal discipline’) (Hawke and Wanna 2010: 66). This is also the case in the UK, where the Treasury and the Parliamentary Scrutiny Unit are wary of defining clear goals for reforms to ‘improve transparency’, such as the ‘clear line of sight project’. It is not clear how this project will be evaluated against the aim of improving transparency.

In comparison, budgetary reform in Australia has occurred largely intermittently, and without a clear strategy to guide the changes. There has been no comprehensive or post-crisis review of the extensive reforms to Australian budgeting that have taken place since the 1980s (Hawke and Wanna 2010: 85). As is common in government practice, successive Australian governments have tended to be wary to defining specific goals for reforms, and instead have talked in generalities as set out by Hawke and Wanna above. This lack of clarity is exacerbated by the seminal Australian Charter for Budget Honesty Act 1998, which contains some key terms that are highly subjective and contextual; eg ‘sound fiscal management’ is described as managing financial risks prudently having regard to circumstances. Such lack of clarity leads Hawke and Wanna to conclude that ‘the word means what the government wants it to mean’ (2010: 73). In addition to defining specific goals, outputs or targets for reform, key terms and concepts should be clarified at the outset, in order to ensure a clear focus throughout implementation.

In Canada the auditor general annually reports that federal departments are not trying hard enough to measure performance and factor performance information into decision making.

CONCLUSION

Strong parliamentary financial scrutiny is supported by sound financial information, effective independent audit and clear responsibilities for accounting officers. These are key means by which parliamentarians can exercise control over the executive for public spending.

The research also shows that more financial information does not necessarily mean better financial scrutiny and better scrutiny does not always mean improved finances. Policy reforms also pose challenges for accountability and may place public money at risk. The PAC was generally found to be the most effective financial scrutineer, but even here changes are necessary to ensure that cross departmental issues can be addressed and recommendations followed up systematically.

More generally, there is a lack of systematic evaluation and monitoring of reforms, as well as patchy professional development of parliamentarians. These factors, together with the fact that potential resources and support could be undermined because of austerity measures pose challenges for effective financial scrutiny.
This chapter explores the resources and expertise available to parliamentarians and sets out recent training developments and initiatives.

The performance of a parliament is ultimately driven by the will of its parliamentarians, but this must be matched and facilitated by their understanding of the issues at hand. In order to scrutinise the budget and financial statements, parliamentarians must be able to engage with and understand the accounts and finances of the government. Given the myriad demands and the limited time and resources of parliamentarians and parliamentary staff in general, the complex issue of financial scrutiny is an issue not easily awarded the attention it deserves.

Unlike members of other professions, parliamentarians have no defined qualifications or criteria for their role; nor is there a professional supporting body (Coghill et al. 2008). On election into parliament, parliamentarians are often faced with highly demanding schedules and a new set of responsibilities for which they have had little or no formal training or experience.

Currently, the provision of specialised training for parliamentarians is severely limited. None of the case study countries provide a formal professional development regime; only ad hoc training opportunities are available. A recent report on professional development for MPs shows that where parliamentary officials and agencies have sought to implement parliamentary strengthening programmes, they have encountered a distinct lack of research in the area (Coghill et al 2008). Coghill et al. (2008) also show that where training and induction are of high quality, this is largely due to the professionalism of the House of Commons staff and/or parliamentary officers responsible for its provision rather than any structural arrangements for good training. In this, the experience of Australia mirrors that of Canada where scrutiny functions, while effective, arise from the professional conduct and personal standards of parliamentary officers rather than structural provision of good service.

There are two lessons to be taken from this experience; first, it is important to recognise the high quality of service offered by these officials, and the contribution that they make through self-regulation to the effective functioning of parliament and the democratic state. Second, this quality must be standardised and structural provisions made to guarantee their continuation. Internationally, the Inter-Parliamentary Union claims that training is being reported by fewer than half the parliamentary chambers of affiliated parliaments (Coghill et al. 2008: 79). The examples set out in Boxes 4, 5 and 6 illustrate the experience of different countries.

Box 4: Induction training for parliamentarians in Australia

A recent study of induction training for the Australian senate found that the training on offer was well designed and met, if not exceeded, the expectations of the new parliamentarians. Even so, these inductions were geared toward training senators in the functions and operations of the Chamber, rather than providing guidance on more specific tasks such as financial scrutiny (Coghill et al. 2008).

Box 5: A training programme for parliamentarians in Canada

In Canada there is no formal training programme and no introduction for staff to the budget cycle but, from time to time, information sessions are offered to members of parliament and their staff on financial procedures (HoCC Select Committees Directorate). Although there is a good history of hitting the budget, this is because of the professionalism and ethos of civil servants in the public service rather than parliamentary scrutiny, and recognition of this fact further removes the impetus for investing resources in developing the scrutiny function of parliament through training and other initiatives.
The Scrutiny Unit in UK Parliament provides assistance to select committees in their duty of scrutinising government, including extensive involvement in the rolling out of the ‘clear line of sight’ project reforms. Chris Bryant, Labour MP, is one of the MPs who champion the promotion of training and induction for MPs in the UK, citing the current lack of formal provision as a cause for concern (Bryant 2011). Regarding specific matters and briefings, there is good-quality research and support offered by the parliamentary library and parliamentary researchers. Nonetheless, there is currently no commitment for the future to provide parliamentarians with either induction or professional development training on financial issues. While this is recognised by officials and MPs as being problematic, it is an issue on which there is no consensus and no agreed recommendations for further action.

1. There is an expectation that parliamentarians will ‘hit the ground running’, owing to the potentially short cycle of office in which they will serve. This is especially relevant in Australia where the parliamentary cycle is particularly tight.

2. Competing demands of parliamentarians’ time and attention limit their availability for training. These demands are often unpredictable and volatile, further restricting the ability of MPs to attend training (Coghill et al 2008: 81).

3. Training can only be undertaken on a voluntary basis by individual members.

4. Party discipline can motivate an MP either to forgo training for political reasons, such as conflicting demands, or conversely can be used to encourage attendance at training, potentially overcoming the barrier described above by offering a tangible and immediate benefit to the recipient. These considerations have led to the Hansard Society’s recommendation that training should be encouraged and that the whips should stress the importance of attendance at committee meetings. While there is unlikely to be much support from the party in government, it is feasible to expect considerable support from those in opposition.

5. Members of minor parties and independent members are further limited by having little or no information and advice from political party personnel (Coghill et al 2008: 77), yet it is these independent and minor party members who may be best placed to undertake scrutiny without the limitations of party discipline or considerations of career politics.

6. Programme cost is restrictive to implementation. The question of who is to fund or resource these professional development sessions remains pertinent. In the past, in the UK funding has mainly been undertaken by the House of Commons or on a voluntary basis by organisations such as the Hansard Society. Raising financial support for training is particularly difficult given the complexity of illustrating the overall fiscal cost versus the measurable outcomes in the short and long term (Coghill et al 2008).
There is very little motivation for MPs to be interested in budget scrutiny. Unless it is sensational, the press and public are not interested, even in the middle of a financial crisis. Considering the current situation in the UK, Coghil et al. question the incentives for MPs to invest and engage in fiscal scrutiny while the current system denies them the chance to change budgets. Coupled with this disincentive, there is a perception of little interest among the public, the political parties, or the MPs themselves.

8. Time is a valuable resource in short supply. From scheduling MPs inductions, backbenchers questions, and holding debates, the proceedings of parliaments are consistently cited as a key factor in restricting scrutiny. In response, parliaments must be more efficient with the limited resources that they have, and must prioritise scrutiny when timetabling.

So what are the actions parliaments have to take to overcome the lack of training and development on financial issues? The present research supports Coghil et al.’s finding that it is a legitimate, non-partisan role for each chamber of parliament to provide continuing professional development for parliamentarians. Training should have a dual focus; explaining and clarifying the scrutiny role to parliamentarians and highlighting the resources available and where to find them.

WAYS OF OVERCOMING THE OBSTACLES COULD INCLUDE THE FOLLOWING.

- Hosting separate training events for parliamentarians and other staff, to encourage participation. The potential for partisan conflicts of interest should also be taken into account when scheduling training events.

- Introducing training at the start of office, when parliamentarians are enthusiastic and open to new ideas.

- Extending training and education more widely to researchers in order to improve their function and the support provided to parliamentarians. Research support of financial issues would be enhanced and would result in better-quality research. This can be facilitated by ensuring that researchers are well paid and employed in long-term rather than short-term contracts.

- Providing structured training with a focus on the skills and competencies required to function effectively immediately upon election, as well as continuing development for the specialist skills required for such roles as committee chair or parliamentary secretary and so on up the career ladder (Coghill et al. 2008).

- Use of party discipline to encourage participation in training and development.

Although the above provide examples of how to overcome the obstacles to effective training and development of parliamentarians, the training sessions are no substitute for the use of existing experts to support the financial scrutiny. Each will enhance the other. More generally, while training and education can empower parliamentarians and provide them with the knowledge and skills required to tackle fiscal documents, there also needs to be a cultural shift to promote democratic systems in which this scrutiny is not only facilitated but also desired. Parliamentarians are frank about their lack of understanding and engagement with fiscal figures. This has the potential to breed complacency.

CONCLUSION

Overall the research identified a need for greater awareness and empowerment through training and professional development within parliaments to facilitate fiscal awareness and promote a culture of scrutiny at the individual and institutional levels. This is a critical area that requires addressing across the case study countries. Generally, there is resistance to training in any form and often an obstructive attitude among parliamentarians.
Parliamentary financial scrutiny is a complex task, not least because of the issues raised throughout this report. It is critical for the legislatures and the executives to approach this in the right way and use the financial crisis as an opportunity to have a fundamental re-think about how they can improve financial scrutiny. The evidence suggests that financial scrutiny may not be taken seriously enough nor, indeed, seen as strategically important. This is reflected in the low levels of change seen since the financial crisis began in 2008. This finding is particularly worrying because of the significance of public spending and severity of austerity measures being introduced by governments.

Politicians will need to improve their performance and embrace training and professional development on financial issues both to increase fiscal awareness and to promote a culture of scrutiny at the individual and institutional levels. Although innovative attempts have been made across the case study countries through induction programmes, providing technical support and resource, this is not nearly enough. The growth of Independent Fiscal Institutions (IFIs) is a positive development in engaging politicians in fiscal scrutiny, but IFIs should not be seen as substitutes for effective parliamentary financial scrutiny. In addition, many are still new and their effectiveness has not been evaluated.

The outdated ‘estimates supply votes’ that exist in Westminster-style systems continue to be a key barrier to effective parliamentary financial scrutiny. If financial scrutiny is to be strengthened in the long term, structural and cultural change will be required. In addition, parliamentary select committees continue to be an important means of holding governments to account across the case study countries but they have a number of weaknesses such as a general lack of skills, lack of action in following up recommendations and general inability to influence government policy through their reports. These limitations will need addressing by parliaments to improve performance on financial scrutiny.

The severity of the austerity measures pose new dangers to the resources made available to parliamentary financial scrutiny, and these may become more acute in the future. It will be important for resources and technical support to be safeguarded from unreasonable cuts in the future. In addition, the drive for fiscal transparency, although welcome, does not necessarily mean more accountability. More data do not necessarily mean better information, and can conversely diminish the accountability that they are supposed to promote.

Overall, parliamentary financial scrutiny on its own may not prevent the next financial crisis, but it is a vital part of a nation’s governance by holding the executive to account for public finance. If done well it may help manage the risks of future financial crisis and potentially the future risks of a downgrading of a country’s credit rating.
5. Written contribution from the Public Account Committee of the Danish Parliament
Recognizing that each Parliament has its own model on how to deal with the scrutiny of EU we would like to take this opportunity to provide written information on Denmark’s audit of the European Funds.

In Denmark, European Funds are audited in the same way as public funds. The Danish Supreme Audit Institution (Rigsrevisionen) has since 2006 submitted an annual report on the audit of EU Funds in Denmark. This report is dealt with by the Public Accounts Committee, which submits the report with its final conclusions to Parliament.

Rigsrevisionen audits the revenue Denmark receives from and contributes to the Community budget, and issues - on the basis of its audit - this annual re-port and audit opinion. The report provides a coherent assessment of the financial administration of Community funds in Denmark, which are significant and attracting much interest from the European Commission and the European Parliament. Rigsrevisionen is cooperating and sharing knowledge with the Supreme Audit Institutions of the other Member States and with the European Court of Auditors in an effort to enhance the control and management of Community funds.

In addition to this, Rigsrevisionen publishes two memorandums annually to the Public Accounts Committee on the European Court of Auditors’ Annual Report and the European Parliament’s discharge resolutions regarding the European Union accounts.

The annual reports and memoranda have been translated into English and may be found here http://uk.rigsrevisionen.dk/international/eu/.

The Public Accounts Committee is in general very concerned with the audit of European Funds. As an example we have taken the initiative to joint parliamentary meetings with the Committee on European Affairs and the Finance Committee in 2011 and 2012 where the accounts and audit of the European Funds have been discussed. We welcome the initiative “Towards better spending” and wish you a good meeting.
6. Extracts from the European Commission Staff Working Document accompanying the follow-up to 2011 discharge

Replies to requests from the European Parliament – SWD(2013)0349 final
Brussels, 26.9.2013
SWD(2013) 349 final

COMMISSION STAFF WORKING DOCUMENT

Accompanying the document

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND TO THE COUNCIL

on the follow-up to 2011 discharge - Replies to requests from the European Parliament

{COM(2013) 668 final}
{SWD(2013) 348 final}

Full version of the document available at:
53. **(§ 50)** The Parliament notes that the Commission should give guidance to Member States to draft meaningful annual summaries; notes that for this purpose, information given on operational programmes under shared management should be standardised as regards form and content; annual summaries should be put at the disposal of Parliament and should not only be made available in the language of the Member State, thus increasing transparency and accountability.

**Commission’s response:**

Guidelines on the form and content of the summaries have been provided to Member States in 2010, including a template. The Commission notes that, in terms of assurance, Annual Control Reports and audit opinions by audit authorities provide the basis for the AAR assurance and more detailed information than the annual summaries. The Commission therefore considers that the added value of the summaries is limited, as shown by an external study which was communicated in May 2011 to the EP (Ares(2011)505770).

In the area of Structural funds all annual summaries for the financial year 2010 have been submitted to the Parliament in the original language. Requesting the MS to transmit their AS in another language than theirs would affect current regulatory provisions on the use of languages by Member States (Regulation 1, article 2). However, even if the EP has also a translation service, and taking duly the principles of proportionality and cost-effectiveness into account, the Commission is committed to provide translation by DGT of the most important elements of those summaries into English provided that there are no confidential information in them that would preclude their translation being externalised by DGT and that sufficient time is allotted for the task. Given the current resources situation, DGT would have to re-invoice the requesting DG for the costs incurred for these translations. If possible, the annual summaries in German and French should not be subject to any translation.

54. **(§ 51)** The Parliament reiterates its request that the Commission should analyse the strengths and weaknesses of national control systems on the basis of the annual summaries received; and demands that the Commission take immediate action to ensure that the next annual summaries are useful for assessing the performance of beneficiaries.

**Commission’s response:**

The Commission notes that, in terms of assurance, Annual Control Reports and audit opinions by audit authorities provide the basis for the AAR assurance and more detailed information than annual summaries. The Commission therefore considers that the added value of the summaries is limited, as shown by an external study which was communicated in May 2011 to the EP (Ares(2011)505770).

Annual summaries do not assess the performance of beneficiaries but provide a summary of controls over the programme in the previous year (information more easily accessible in the audit opinion in the annual control reports).
7. European Commission staff working paper

Adding value to Declarations: increasing assurance on execution in shared management
SEC (2011) 250 final
COMMISSION STAFF WORKING PAPER

Adding value to Declarations: increasing assurance on execution in shared management
Adding value to Declarations: increasing assurance on execution in shared management

This is a working document prepared by the Commission services. It provides an analysis of the assurance process on the execution of the EU budget in shared management and technical guidance to the attention of the responsible public authorities on how to add value to this assurance process.

1. Purpose

Around 80% of the EU budget is implemented in shared management with Member States. Sound assurance vehicles for this expenditure are therefore vital to underpin the Commission's assumption of responsibility for budget execution in line with the Treaty. To this end, the Commission currently has three different instruments at its disposal. For structural and other similar actions, Member States provide, at national level, annual summaries containing a certification of the expenditure declared. In the area of agriculture, paying agencies issue compulsory management assurance declarations, accompanied by an opinion issued by the certification bodies. In addition to this, some Member States have taken the voluntary initiative to complement the above instruments by issuing voluntary political declarations.

As called upon in its report to the European Parliament and the Council on the follow-up to the 2008 discharge, this document presents guidelines which assess these voluntary declarations and statements (hereafter termed "national declarations") against key criteria which, when observed, would add value to the Commission's overall assurance on the operation of management and control systems in the Member States.

The existing national declarations are provided essentially for internal national accountability reasons and their main addressees are the national Parliaments. It is nonetheless useful to assess the extent to which they add assurance on the management of EU funds for the purposes of EU accountability.

This working document ends with a comparative analysis of the declarations or statements currently issued by four Member States, measuring them against elements such as coverage, overall conclusion, underlying work or timeliness of publication.
2. The present situation

Article 317 of the TFEU provides that "the Commission shall implement the budget in cooperation with the Member States, in accordance with the provisions of the regulations made pursuant to Article 322, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management. The regulation shall lay down the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities".

The Financial Regulation (FR) sets out the responsibilities of Member States operating in shared management, in Article 53b(3) stating that: "Member States shall produce an annual summary at the appropriate national level of the available audits and declarations". These summaries should be transmitted to the Commission by 15 February following the year which they cover. The underlying provision of Article 53b was introduced at the time, at the Council's request, to give effect to paragraph 44 of the Inter-Institutional Agreement on budgetary discipline and sound financial management.

As regards the annual summaries on structural actions, to date all Member States have fulfilled their obligations though both the quality and added value of the summaries differs and the Commission has had to take action on areas of non-compliance in a limited number of cases. A preliminary evaluation of the added value of the annual summaries submitted by the Member States over the last three years for the structural funds suggests that in their current form they have provided little added value. The Directorates-General responsible for Cohesion policy reported that annual summaries have not proved to contribute to a great extent to the information needed for their Annual Activity Reports (AARs). For the agricultural funds, where statements of assurance are a legal requirement (as opposed to the Structural Funds), the certification bodies of the Member States are also required to issue an opinion on the statement of assurance signed by the director of each paying agency. It can be said that these elements provided true added value within the framework of the overall system for the management and control of agricultural funds.

At this time, four Member States have additionally taken a voluntary initiative regarding some form of national declaration or statement. These national declarations cannot replace the current annual summaries or management assurance declarations as their provision is a formal legal requirement under Article 53b(3) FR. National (governmental) declarations, signed by the respective Minister of Finance, are currently provided by the Netherlands and Sweden.

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2 "The institutions agree on the importance of strengthening internal control without adding to the administrative burden for which the simplification of the underlying legislation is a prerequisite. In this context, priority will be given to sound financial management aiming at a positive Statement of Assurance, for funds under shared management. ...Member States therefore undertake to produce an annual summary at the appropriate national level of the available audits and declarations." (OJ C 139, 14.06.2006, p.1.).

3 Article 7(5) of Regulation (EC) No 885/2006 provides that if a Member State has more than one paying agency, its coordinating body shall also draw up an annual summary (the so-called synthesis report) covering the statements of assurance and the certificates of the certification bodies.
The UK's HM Treasury publishes annually Consolidated Statements on the use of EU funds in the UK which are signed by the Permanent Secretary. Denmark's Supreme Audit Institution, the Rigsrevisionen, publishes annually audit statements on the use of EU funds in Denmark which are signed by its Auditor-General. The coverage and timing of these political declarations are quite diverse (see Annex).

However, in order to provide the assurance needed by the Commission, these voluntary national declarations should be drawn up in accordance with some key criteria regarding their basis for assurance, including the scope, information concerning underlying work done, the accompanying audit opinion and the timeliness of their publication. In practice these essential requirements do not always appear to be observed by the issuing bodies.

This document summarises the added value a national declaration could provide by comparing the current situation with the assurance system based on a broad application of annual management declarations as proposed in a recent Commission's proposal of a new Financial Regulation (Article 56). Given the Lisbon Treaty, which emphasised the responsibility of the Member States for budget execution, the Commission has proposed to introduce compulsory management declarations in all areas of indirect management to underscore the new provisions of the Treaty.

3. CRITERIA FOR EFFECTIVE DECLARATIONS

This section aims to provide an analysis of the existing reports and statements and to draw, based on the experience so far, additional guidance for the usefulness of national declarations in the future.

Beyond the declaration itself, the underlying process of establishing a management declaration is crucial. Offering insight into the operation of the financial management and internal control environment adopted is indispensable to display the true impact on the improvement of accountability at national level, as any declaration of assurance is intended to increase the ownership and accountability of the bodies managing EU funds.

3.1. True and fair accounts

In order to identify clearly what assurance is being given, a summary of the funds received from and emitted to the EU is needed. This can take the form of individual or consolidated financial statements. An audit opinion furthermore guarantees the reliability of these accounts, certifying that they are compliant with the Member States' accounting rules and that they present a true and fair view. Such an audited account provides assurance to the Commission that all transactions are correctly recorded and overall that the accounts present a true and fair view of the financial management of funds.

3.2. Effectiveness of the management and control systems

The declaration should cover the quality of management and control systems in place for funds received from and emitted to the EU. This includes not only the setup (description) of

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4 COM(2010) 815
the systems but also their performance (functioning of the operational parts). For this purpose, the body issuing the declaration can base itself on a review of the management and control system carried out by the audit body that audited the systems to assess their correct functioning.

The management and control system should comply fully with the regulations and function effectively to offer reasonable assurance as regards the accuracy of the expenditure statements\(^5\). The declaration should clearly set out weaknesses identified in systems, their potential impact and the action to be taken to address them.

**Current experience:** The two national (political) declarations currently issued both contain qualified opinions regarding certain parts of the ERDF systems.

### 3.3. Legality and regularity of the underlying transactions

The transactions underlying the accounts should be, taken as a whole, legal and regular (that is to say compliant with the provisions laid down by the Legislator). A clear statement on the legality and regularity of the underlying transactions for all funds is therefore necessary to underpin the Commission's own assumption of responsibility. To this intent, the national declarations should be primarily based on the existing work performed (and required) at the level of the managing and audit authorities, without re-performing all audit work.

Because of the sheer volume of transactions, in many cases not all aspects of these transactions can be controlled in detail, notably as regards checking of detailed aspects at beneficiaries' premises. Moreover, most control systems of audit authorities therefore provide for detailed checking on a sample basis, both to detect and correct errors and to provide information on the likely error rate in the population which is not controlled in detail. Such testing contributes to the assurance on the legality and regularity of the underlying transactions.

The national declaration should also make mention of the cases in which the assessments reported in the accompanying audit report and opinion are based solely on systems-based audits conducted and no transaction testing could take place (for example when no expenditure has been declared to the European Commission within the audit period because all processes were not operational yet) as was for example the case for the Dutch national declaration issued.

**Current experience:** For the latest Consolidated Statement on the use of EU funds in the UK covering the period ending 31 March 2009, the Comptroller and Auditor General issued in his accompanying Report a qualified opinion on the regularity of the transactions.

### 3.4. Coverage of assurance

Beyond the question of scope, any declaration should ultimately encompass all funds under shared management, the main funds being: the European Agricultural Guarantee Fund

\(^5\) Cf. the definition of internal control in INTOSAI's *Guidelines for internal control standards for the public sector* (p6) or COSO's *Internal control – Integrated Framework.*
(EAGF), the European Agricultural Fund for Rural Development (EAFRD); the European Regional Development Fund (ERDF); the European Social Fund (ESF); the Cohesion Fund; the European Fisheries Fund (EFF) and the four Funds of the General programme "Solidarity and Management of Migration Flows" (i.e. the European Refugee Fund (ERF); the European External Borders Fund (EBF); the European Return Fund (RF) and the European Fund for the Integration of third country nationals (IF)).

In the case of multiple programming periods (e.g. for Structural funds and the Migration Funds there is not only the 2007-2013 programming period but also the winding up of the former programming period 2000-2006), a distinction should be drawn between the programming periods running in parallel.

If deemed appropriate, the national or political declaration encompassing all funds managed under shared management can rely on different sub-declarations signed by the head of each managing authority for each fund and each programme they are responsible for.

**Current experience:** When analysing the two national (political) declarations currently issued, Commission services noticed that their scope does not cover all activities in shared management at present.

### 3.5. The underlying basis for assurance

The European Court of Auditors has stressed that the value of national declarations for building assurance depends on the value of the underlying work. In its Opinion No 6/2007 it highlighted that it would only be possible to make use of potential assurance provided by the audited national declarations and national audit work on the condition that "...the national declarations or national audit work would need to be of appropriate scope, approach and timing, and be carried out according to international standards". The Commission shares this view as adding information to the declarations about the underlying work carried out in the context of the related independent audit opinion would allow the Commission to better assess how to draw assurance from political or management declarations prepared by the Member States.

This means that the declaration should not only present a summary of the audit opinion or the underlying declarations (if the declaration relies on sub-declarations) but that the audit report and opinion accompanying the annual declaration should also provide detailed information about the underlying work carried out in order to reach this opinion. This information can include the audit approach (standards used, types of audits done, overall audit coverage, scope of the system audits, number of substantive tests, sampling methods, reliability and materiality rates), the results of the samples' evaluations, detected error rates, etc.

It must be noted that, although heavily driven by an accompanying audit opinion, the national declarations should also draw upon other relevant sources of information (such as the results of the checks carried out by the managing authorities). All elements which contribute in a meaningful way to the declaration's assurance should be appropriately disclosed.

**Current experience:** The current declarations differ in their inclusion of information regarding underlying work done.
3.6. Audit opinion

The value of any document which may be used for assurance purposes is increased by the addition of an independent audit opinion. As already mentioned, this is also true for national management declarations. Thus, where national audit bodies, in their capacity as independent external auditors, and with due regard for international audit standards, issue an independent audit opinion for the management of EU funds to accompany declarations signed at Member State level this can add value and help the European Commission take better account of them in its assurance work.

It is for the Member States to decide whether independent audit opinions are drawn up by its national Supreme Audit Institution (SAI), another public sector auditor, or a private audit firm. In practice the four Member States currently providing declarations have used only the first option. There is therefore a potential role for national SAIs in certification of the different assurance declarations issued by the ‘different subpopulations’ in the Member States.

In this light, the European Court of Auditors has recognised in its Opinion 6/2007 that audit opinions on national declarations produced by national audit bodies may constitute audit evidence on which the Court can place reliance if internationally accepted auditing standards are used. A precondition to using this assurance is that the national declarations would need to be of appropriate scope, approach and timing.

**Current experience:** In three cases the national SAI’s audit opinion has been included in the Member State declaration or statements currently issued.

3.7. Reservations and disclaimers

Reservations or disclaimers should be included in a Member State's declaration so that the limits of the assurance are clear. For all funds under shared management a **reservation** should be made in case of material departures from legality and regularity (when the error rate exceeds the tolerable threshold or materiality rate used by the national audit body) or in cases of non-respect of Community policies (for example non-compliance with the cross-compliance requirements in EAFRD). Such reservations should provide a clear indication of the financial amounts at risk and of the action taken to address the weaknesses identified.

In case the managing or auditing authority could not form (and consequently refuses to present) an opinion on the reliability of the accounts, the effectiveness of the management and control systems or the legality and regularity of the underlying transactions, a **disclaimer** should be issued.

**Current experience:** All national declarations currently issued contain, in some form or another, a reservation or qualified opinion.

3.8. Timeliness for Commission assurance purposes

The Directors-General or Heads of Service of the Commission are required by the Financial Regulation to give an account of their work, including a management declaration of assurance, in an Annual Activity Report each year. To match this reporting exercise, as well
as for its incorporation into the European Court of Auditors annual report, Commission services would need to receive the declarations at the latest in February of the year N+1 (the year following the EU budget year on which assurance is given) in order to use it within the constraints of its reporting obligations to the European Court of Auditors and the Discharge Authority. To be compatible the financial year used for the national declaration should match that of the EU budget.

The fact that the declaration (accompanied as appropriate by an independent audit opinion) should be provided at the latest in February does not imply that the audit work should start only after the end of the reporting period. System audits can already be carried out in the beginning of the reporting year and substantive testing of transactions can partially be carried during the year.

| Current experience: only the Netherlands national declaration is currently delivered, but only in draft form, in time to inform Commission AARs. The latest UK report covering the period 1 April 2008 to 31 March 2009 does not match the EU budget year and was only published on 19 January 2011, providing therefore no support for the Authorising Officer by Delegation when signing off his 2008 and 2009 AAR, which was done end-March 2009 and 2010 respectively. |

3.9. National accountability context

The current declarations are all being issued on behalf of the national government or Supreme Audit Institution, depending on the choice of the Member State, in some form or another and are therefore to be seen within the context of accountability to national Parliaments. By doing this, the Member States' declarations provide the national Parliaments with an insight into the management of European funds under shared management.

If made public or forwarded to the Commission, the Member States declarations would provide at the same time the European Commission with accountability information, within the constraints set out above.

4. THE ROLE OF THE VOLUNTARY NATIONAL DECLARATIONS IN THE CONTEXT OF THE COMMISSION'S ASSURANCE MODEL

4.1. The Commission's assurance process

The principle of managerial responsibility constitutes a cornerstone of the Commission's assurance process. To feed effectively into the Commission's assurance process, any declaration should therefore be based on the work performed at management level, reflected in management declarations signed by persons who have overall executive management or supervision responsibility for spending.

The Commission operates an annual assurance framework (as does the Court of Auditors as regards its Declaration of Assurance), even though many of its programmes are multi-annual. This annual management declaration of assurance directly links the assurance from the national authorities with the expenditure of the financial year.
4.2. **Commission use of national declarations**

The Commission believes that if the criteria discussed under section 3 are observed, management declarations endorsed at political level in the Member States could indeed contribute to the Directors-Generals' Annual Activity Report and declaration of assurance.

However, the Commission's assurance will rely first of all on the reporting process itself, the quality of the information provided and the reliability of the declaration based on the independent audit opinion. Only under these conditions, could a "national" declaration effectively increase the ownership of the management and internal control of EU funds in the Member States and ultimately strengthen accountability of the authorities managing the EU funds in the Member States.

More concretely, a clear statement on the legality and regularity of transactions in these declarations is an essential condition in order to enhance their value for the Commission assurance process, thereby mirroring the requirement for Directors General to state in their declaration of assurance whether they have "reasonable assurance that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions".

Such declarations issued at senior management level could make the control process in the Member States more transparent and help identify changes needed to make systems more effective. Furthermore they could reinforce the chain of accountability between Member States and the Commission concerning the use of EU funds under shared management.

---

**Current experience:** Analysis by Commission services revealed that three out of the four declarations have not provided any new elements which were not already stated in the Annual Control Reports received for the corresponding financial period. In the Commission's view there is no evidence of the impact that national declarations had on the improvement of accountability at national level.

5. **Conclusion**

Under Action 5 of the Commission Action Plan towards an integrated internal control framework (COM(2006)9), the Commission has been promoting operational level declarations and synthesis reports at national level. Four Member States decided to produce national declarations or statements on a voluntary basis. The Commission considers that the information contained in three out of the four national declarations is almost identical to the information already provided by the Member States in other reports (Annual Summaries, Annual Control Reports, Annual Statements etc) and that it has not proved to contribute to a great extent to the information needed for the AARs of the Directors-General responsible for Cohesion policy. In this respect, the additional information provided is similar to that provided by another eight Member States who append a statement of assurance to their annual summaries for the structural funds for the year 2009. In the Commission's view, these voluntary disclosures provided also little added value, contrary to the statements of assurance and the accompanying opinion issued by the certification body within the context of the agricultural funds.

---

6 The Netherlands being the exception.
7 BG, CY, EL, FI, FR, HU, LT and RO.
Indeed, the above mentioned key criteria which could – if observed – add value to the national declarations, are included in the provisions of Article 56 of the proposed revision of the Financial Regulation which are foreseen to come into force on 1 January 2014. In particular the assurance model that the Commission proposes in the context of the triennial revision of the Financial Regulation for shared budget management modes is based – by analogy with the model used for agricultural funds – on an annual management declaration of assurance (complemented by and subject to an independent audit opinion) signed by a senior national official.

This way the relevant Commission managers would take full account of the underlying declarations in framing their own declarations of assurance in the DGs' Annual Activity Reports. This would result in a single logical assurance chain in which the assurance provided is derived directly from the management chain, thereby offering greater assurance. A management declaration of assurance issued by local managers would have a positive impact on the level of error as audit results show that the main causes of error can be traced to deficiencies in first level management verifications.

The timeline proposed must fit within the Commission's own assurance framework to provide a single standard assurance chain for all programmes in shared management and for all Member States. The annual declaration of assurance would directly link the assurance from the national authorities with the expenditure of the financial year. This way it would fill possible gaps, for example in Cohesion Policy, where currently the Commission has information on error rates for the expenditure declared in the year preceding the one on which it has to report its assurance only. According to the Court of Auditors, this should usefully improve the timeliness and coherence of financial and management reporting.

While this proposal differs from the EP's request to have declarations signed at political level, such management declarations would provide the Commission with substantial additional assurance as to the use of EU funds by Member States, since they would derive directly from the management chain. Indeed, the senior Member States officials in charge of payments from EU funds would sign off on the legality and regularity of these payments, the proper functioning of their internal control systems, and the completeness, accuracy and veracity of their accounts, as well as the respect of the principle of sound financial management. The proposal thus also addresses the criticism expressed on the low added value of existing annual summaries, which do not include an obligatory assurance statement or audit opinion. In the Commission's view such management declarations, certified by external audit opinions, are much more appropriate to obtain assurance from Member States than the present national declarations, and they would reinforce cooperation with Member States in the implementation of the budget by underlining their control and audit obligations stemming from the Lisbon Treaty (Article 317 TFEU).

---

8 And reflected in the AAR's signed in March 2015
# Overview of existing National Declarations

<table>
<thead>
<tr>
<th>National declaration title:</th>
<th>The Netherlands</th>
<th>Sweden</th>
<th>UK</th>
<th>Denmark</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;DUTCH NATIONAL DECLARATION&quot;</td>
<td></td>
<td>&quot;ANNUAL REPORT FOR CENTRAL GOVERNMENT&quot; (extract from the report)</td>
<td>&quot;CONSOLIDATED STATEMENT ON THE USE OF EU FUNDS IN THE UK&quot;</td>
<td>&quot;REPORT TO THE PUBLIC ACCOUNTS COMMITTEE ON THE AUDIT OF EU FUNDS IN DENMARK&quot;</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th></th>
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<th></th>
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<tbody>
<tr>
<td>First publication (Financial Year)</td>
<td>2006</td>
<td>2008</td>
<td>Financial year ended 31 March 2007</td>
<td>2005</td>
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<table>
<thead>
<tr>
<th>NATIONAL DECLARATION (ND)</th>
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<table>
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<tr>
<th>ND issued by:</th>
<th>Government (Ministry of Finance)</th>
<th>Government (Ministry of Finance)</th>
<th>Government (HM Treasury)</th>
<th>Rigsrevisionen (SAI)</th>
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</table>

<table>
<thead>
<tr>
<th>ND signed by:</th>
<th>Minister of Finance</th>
<th>Minister of Finance and Minister for Local Government and Financial Markets</th>
<th>Permanent Secretary HM Treasury</th>
<th>Auditor-General of Rigsrevisionen</th>
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</table>

<table>
<thead>
<tr>
<th>AUDIT OPINION (AO) issued</th>
<th>YES</th>
<th>YES</th>
<th>YES</th>
<th>YES</th>
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</table>

<table>
<thead>
<tr>
<th>AO included with declaration:</th>
<th>YES</th>
<th>NO</th>
<th>YES</th>
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<table>
<thead>
<tr>
<th>AO issued by:</th>
<th>Rekenkamer (SAI)</th>
<th>The accounts have been audited by the NAO but the audit opinion has not been included</th>
<th>NAO</th>
<th>Rigsrevisionen (SAI)</th>
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<table>
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<tr>
<th>AO title:</th>
<th>&quot;Report on the Dutch EU Member State declaration&quot;</th>
<th>None</th>
<th>&quot;Audit opinion and Report&quot;</th>
<th>&quot;Report to the Public Accounts Committee on the audit of EU funds in Denmark&quot;</th>
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<table>
<thead>
<tr>
<th>AO signed by:</th>
<th>The President</th>
<th>na</th>
<th>Comptroller and Auditor general (C&amp;AG)</th>
<th>The Auditor-General</th>
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<tr>
<th>COVERAGE</th>
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<table>
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<tr>
<th>- Agricultural funds (EAGF, EAFRD, EFF)</th>
<th>YES</th>
<th>YES</th>
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<th>YES</th>
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<thead>
<tr>
<th>- Structural funds (ERDF, ESF)</th>
<th>YES (but no transactions)</th>
<th>YES</th>
<th>YES</th>
<th>YES</th>
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<table>
<thead>
<tr>
<th>- Migration Flows (ERF, EBF, RF, IF)</th>
<th>YES (but no transactions)</th>
<th>YES ( but no opinion as no final payments)</th>
<th>YES</th>
<th>NO</th>
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</table>

<table>
<thead>
<tr>
<th>- Revenue (own resources)</th>
<th>NO</th>
<th>NO</th>
<th>NO (not part of Statement but published separately)</th>
<th>YES</th>
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EUROPEAN COMMISSION
### Multi-annual Fin. Framework

<table>
<thead>
<tr>
<th></th>
<th>Old programming period</th>
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<th>New programming period</th>
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<tbody>
<tr>
<td></td>
<td>NO</td>
<td>NO</td>
<td>YES</td>
</tr>
<tr>
<td>-</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
</tr>
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</table>

### AUDIT METHODOLOGY

<table>
<thead>
<tr>
<th>Audit standards used</th>
<th>ISO and ISSAI</th>
<th>Swedish GAAP (accounts)</th>
<th>UK GAAP (but on IFRS basis from next year)</th>
<th>“Same materiality and risk considerations that apply to the audit of government funds”</th>
</tr>
</thead>
<tbody>
<tr>
<td>Financial Statements included</td>
<td>YES (for agricultural funds only)</td>
<td>YES</td>
<td>YES</td>
<td>YES</td>
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</table>

### Financial Statements included

- YES
- (for agricultural funds only)

### Audit scope

<table>
<thead>
<tr>
<th></th>
<th>1. The management and control systems</th>
<th>1. True and fair view of accounts</th>
<th>1. True and fair view of financial statements</th>
<th>1. True and fair view of financial statements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Audit scope</td>
<td>2. The underlying transactions</td>
<td>2. “Effectiveness of internal control”</td>
<td>2. Regularity of financial transactions (on a test basis)</td>
<td>2. Legality, regularity and compliance of underlying transactions</td>
</tr>
</tbody>
</table>

### UNDERLYING TRANSACTIONS

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>YES</th>
<th>YES</th>
<th>YES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exceptions</td>
<td>Declarations on regularity of transactions limited to agricultural funds (as there were no transactions for ERDF+ESF and the European Migration Funds)</td>
<td>No audits of operations have been performed (as few if any statements of expenditure have been submitted). The ESV has also not carried out any system-based audits on three programmes “Interreg IV A Öresund-Kattegat-Stragerrak”, “Interreg IV A Botnia-Atlantica” and “Interreg IV B Northern Periphery”. As a consequence, no audit opinion has been submitted on these programmes.</td>
<td>None</td>
<td>None</td>
</tr>
</tbody>
</table>

### Overall audit opinion

<table>
<thead>
<tr>
<th></th>
<th>1. Unqualified for accounts (but limited to EAGF and EAFRD) 2. Qualified opinion on the management and control systems in place for ERDF (no qualification is given regarding payments since there were no payment claims in 2009)</th>
<th>1. Unqualified for accounts 2. “Satisfactory” internal control for EU funds” (no reference to transactions)</th>
<th>1. Qualified for accounts 2. Qualified for regularity of transactions</th>
<th>1. Unqualified for accounts 2. Unqualified for transactions (taken as a whole)</th>
</tr>
</thead>
</table>

### OTHER INFORMATION

<table>
<thead>
<tr>
<th></th>
<th>Dutch States General (House of representatives)</th>
<th>Submitted by the Government to the Swedish Parliament (Riksdag), as part of the Annual Report for Central Government.</th>
<th>The consolidated statement was ordered by the House of Commons and created following an announcement by the Economic Secretary.</th>
<th>Danish Public Accounts Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose</td>
<td>To provide the States General with an insight into the management of EU funds in the NL and the EC with accountability information</td>
<td>The Government’s statement is intended to increase the insight of the Riksdag into how Sweden fulfils its management responsibility and how the EU funds awarded have been used, and also to reinforce internal control at the authorities responsible for managing the funds.</td>
<td>To strengthen Parliamentary scrutiny of the UK’s use of EU funds and to add transparency by providing a single perspective on how the UK manages EU funds. The Government hopes that the ECA and the Commission will be able to take into account the</td>
<td>The report has been issued for the national discharge for the ministries’ management of EU funds.</td>
</tr>
</tbody>
</table>

### Annex
**Detailed declarations:**  
For each policy area audited, a separate declaration and audit opinion and a scope statement

<table>
<thead>
<tr>
<th>Detailed declarations:</th>
<th>None</th>
<th>No declaration</th>
<th>For each policy area audited, a separate declaration and audit opinion</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Official publication (translated version)</strong></td>
<td>19/05/2010 (advanced version in Dutch on 10 March)</td>
<td>23/09/2010</td>
<td>19/01/2011</td>
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<tr>
<td><strong>Language:</strong></td>
<td>NL, EN</td>
<td>SE, EN</td>
<td>EN</td>
</tr>
</tbody>
</table>
8. **European Court of Auditors - Opinion No 9/2012**

III

(Preparatory acts)

COURT OF AUDITORS

OPINION No 7/2011

(presented pursuant to the second subparagraph of Article 287(4) of the Treaty on the Functioning of the European Union)

on the proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006

(2012/C 47/01)

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<td>PART II — Detailed comments to the Commission’s proposal</td>
<td></td>
</tr>
</tbody>
</table>
THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 4 and 5, and the Treaty on the Functioning of the European Union (TFEU), in particular Articles 174 to 178, 287(4), second subparagraph, 317, 318 and 322 thereof;

Having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (1) and to its implementing rules (2);

Having regard to the Council's request for an opinion, which reached the Court on 11 November 2011;

Having regard to the proposal for a general Regulation presented by the Commission (3) as well as its Funds-specific proposals (4);

Having regard to the impact assessment on the proposed regulatory package revising the Regulations applicable to the management of the Structural and Cohesion Funds (5);

Having regard to the Commission communications entitled ‘Conclusions of the fifth report on economic, social and territorial cohesion: the future of cohesion policy’ (6), ‘The EU Budget review’ (7) and ‘A Budget for Europe 2020’ (8);

Having regard to its Annual and Special reports as well as to the Court's Opinion No 2/2004 on the 'single audit' model (9), the response by the European Court of Auditors to the Commission's communication ‘Reforming the Budget, Changing Europe’ (10), the Court's Opinion No 1/2010 'Improving the financial management of the European Union budget: Risks and challenges' (11) and the Court's Opinion No 6/2010 on a proposal amending the Financial Regulation (12);

Whereas, pursuant to Article 5 of the Treaty on European Union, the Union takes action in areas which do not fall within its exclusive competence only if and insofar as the objectives of the proposed action, by reason of the scale or effects, can be better achieved at Union level;

Whereas following Article 174 of the Treaty on the Functioning of the European Union, in order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion;

Whereas Article 317 of the Treaty on the Functioning of the European Union makes the Commission responsible for the implementation of the budget, having regard to the principle of sound financial management, and requires the Member States to cooperate with the Commission to ensure that the appropriations are used in accordance with this principle;

HAS ADOPTED THE FOLLOWING OPINION:

INTRODUCTION

1. The European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF) (hereinafter referred to as the ‘CSF Funds’) pursue complementary policy objectives and their management is shared between the Member States and the Commission. ‘CSF Funds’ could represent up to 45 % of the total expenditure for the 2014-20 period whose leading theme is the Europe 2020 strategy (14). The contribution of the EU Budget to meeting the Europe 2020 objectives depends therefore to a large extent on an economical, efficient and effective use of CSF funds. This will also impact on the credibility and legitimacy of the EU action.

2. The Court opinion so far as possible follows the structure of the Commission's explanatory memorandum regarding the content of the general Regulation. It consists of two parts, the first deals with general observations and the second contains a detailed analysis of the draft general Regulation.

PART I

General observations

3. The aim of the Commission's proposal for a general Regulation is to deliver a common set of basic rules geared towards a focus on results through a simplification of policy delivery and an increased use of conditionality. The proposal addresses also Member States' capacities to absorb large volumes of EU funds and the need to strengthen their administrative and institutional capabilities. The proposed reduction of the capping rate for national allocations is a significant policy change, whose impact needs to be assessed by the Commission.

(3) European Commission, COM(2011) 615.
(10) Published in April 2008.
(11) http://eca.europa.eu
(13) (14) Common Strategic Framework, the CSF Funds refer to the Funds covered by the Common Strategic Framework.
4. Overall, the proposal essentially retains the framework that was established in the previous programming periods, although a further emphasis is placed on Member States' responsibilities, in particular concerning systems set-up and financial management. The respective roles and responsibilities of the Commission and Member States remain a key theme in the design of Cohesion spending instruments. The ongoing challenge for the Union is to obtain good qualitative results from a scheme where funds are pre-allocated among Member States and absorption is an implicit objective. An effective supervision and accountability from the Commission on the use of the funds will support Member States' capacity to use these funds successfully.

5. The arrangements for Cohesion spending are complex. There are six layers of rules (common provisions, general provisions, Fund-specific provisions, delegated acts, implementing acts, Commission's guidelines). National legislation will, in some cases, constitute an additional layer. The Court notes the positive efforts to reduce beneficiaries' administrative burden (for example, through the increased use of lump sums and standard costs). However, the burden for the EU and national administrations remains high, and will even possibly become higher than is currently the case.

6. Despite the claimed focus on results, the scheme remains fundamentally input-based, and therefore oriented towards compliance rather than performance. The latter objective is essentially left to the introduction of a performance reserve (whose success will depend on the capacity to develop suitable indicators) and of Joint Action Plans with specific objectives, result indicators and outputs as a basis for payments (with the expectation that the current input based management structure will not be needed anymore). The provision for ex ante conditionalities should permit addressing the lack of coordination among different EU policies noted in the past.

7. The Court also notes the distinction between 'common' provisions (applicable to all CSF Funds) and 'general' provisions (applicable only to some of them: ERDF, ESF and CF). This leads to an incoherent legislative framework and the question is whether it would be preferable to limit the general Regulation to those provisions which are applicable to all five Funds (the 'common provisions') and to include other provisions ('general provisions') in Fund-specific regulations.

8. Finally, the Court would like to point out that on several aspects the regulatory requirements are deferred to a later stage, through delegated and implementing acts under Articles 290 and 291 TFEU. Prior adequate consultation with all stakeholders concerned will therefore be key in ensuring that those acts comply fully with the objectives laid down by the general Regulation. The Court notes in particular that matters to be covered by delegated acts, meant to cover non-essential elements of EU legislation, deal in reality with key elements of the future Cohesion scheme (\(\text{\textsuperscript{4}}\)). Concerning the conferral on the Commission of implementing powers (\(\text{\textsuperscript{5}}\)), the Court observes that in several cases the procedure (advisory or examination) for adoption of these acts following the Regulation (EU) No 182/2011 is not specified. As a result, the respective roles of the Commission and of the Member States remain undefined (for example, in case of suspension of payments and financial corrections, see Articles 134(2) and 137(5) of the general Regulation).

Strategic issues

EU added value

9. The Court has highlighted that expenditure programmes which do not add European value are by definition unlikely to be an effective and efficient use of the EU taxpayer's money (\(\text{\textsuperscript{6}}\)). It has therefore recommended articulating the concept of European added value in a suitable political declaration or in EU legislation in order to provide guidance to the EU's political authorities to be used when choosing expenditure priorities (\(\text{\textsuperscript{7}}\)). A favourable opportunity for the Legislative authorities is to do so when putting in place the legal framework for the 2014-20 period.

10. A fundamental prerequisite of EU spending added value is that it must offer clear and visible benefits for the EU and for its citizens which could not be achieved by spending only at national, regional or local level (\(\text{\textsuperscript{8}}\)). In that perspective, the Court has suggested recasting expenditure programmes in terms of acceptable outputs; with programmes based on a set of concrete objectives, and disbursements linked to the achievement of results (\(\text{\textsuperscript{9}}\)). The Commission endorsed this stance in its proposal for amendment of the Financial Regulation (\(\text{\textsuperscript{10}}\)) and indicates in the explanatory memorandum to the

\(\text{\textsuperscript{4}}\) Such as the adoption of a Common Strategic Framework; the adoption of detailed rules on financial instruments; the responsibilities of Member States concerning the procedure for reporting irregularities and recovery of sums unduly paid; the conditions of national audits; the accreditation criteria for managing authorities and certifying authorities; the level of financial correction to be applied; the amendment of the method for establishing the performance framework and the set of ex ante conditionalities.

\(\text{\textsuperscript{5}}\) Such as decisions approving the Partnership Contracts, decisions allocating the performance reserve and decisions suspending payments linked to Member States' economic policies; and as regards the Funds, decisions adopting operational programmes, decisions approving major projects, decisions suspending payments and decisions on financial corrections.

\(\text{\textsuperscript{6}}\) European Court of Auditors, Budget review paper, paragraph 7.

\(\text{\textsuperscript{7}}\) European Court of Auditors, Opinion No 1/2010, paragraph 18.

\(\text{\textsuperscript{8}}\) European Court of Auditors, Budget review paper, paragraph 8.

\(\text{\textsuperscript{9}}\) European Court of Auditors, Budget review paper, paragraph 24.

draft general Regulation that focus on results will be one of the major hallmarks of the next set of programmes (7). In practice, like the proposal for amendment of the Financial Regulation (2), the proposed future Cohesion scheme falls short of this aspiration and remains fundamentally input-based. The claimed switch towards a performance oriented scheme is limited to the introduction of a performance reserve and of Joint Action Plans.

**Thematic concentration**

11. The Court has suggested that reasonable concentration of expenditure is prima facie likely to support the objective of adding value (3), so as to build up a critical mass and make it more likely that EU interventions will have a tangible impact.

12. The proposal (Article 9 of the draft general Regulation) provides for 11 thematic objectives derived from the Europe 2020 strategy. Collectively they represent a very wide range of activities in support of which money from CSF funds can be spent. Out of these thematic objectives, the ERDF intervention should focus on three of them (4), in particular for more developed and transition regions. Four ‘thematic objectives’ are proposed for the ESF (5). Within these ‘thematic objectives’, the number of investment priorities for the ESF is limited to four (Article 4(3) of the ESF draft Regulation). However, the ERDF could intervene in each of the 32 investment priorities foreseen (Article 5 of the ERDF draft Regulation). This would make possible to fund almost any kind of projects (6). Finally, no concentration is deemed necessary for a number of thematic objectives (7) and, as a consequence, it will be even more difficult to achieve the necessary critical mass for those priorities.

13. Finally, whereas for the ERDF, ESF and CF a maximum amount of support is to be defined for each priority axis, for the EAFRD and the EMFF this maximum amount of support is to be established at the level of each measure. No justification is provided for this distinction. At present, the amounts in the EAFRD programmes are allocated to priority axes which makes it possible to fix (and concentrate) budgets per objective rather than per measure.

**Common Strategic Framework**

14. The provision for a Common Strategic Framework (Article 11 of the draft general Regulation) is meant to translate the objectives and targets of the Union priorities into key actions for CSF funds. The Common Strategic Framework should also identify coordination mechanisms among Cohesion funds and other EU policies and instruments (for example, EIB financial instruments, Research Framework programmes, Connecting Europe Facility and trans-European networks, Competitiveness and Innovation Framework Programme). Given the significant part of CSF funds proposed for Research and Innovation, such coordination will be of particular interest in this area. The envisaged coordination would make it possible to set the co-financing rate from the Funds to operational programmes taking account of the different EU funding sources, thereby potentially increasing the multiplier effect of Union resources.

**Partnership contracts**

15. With the aim of encouraging results-oriented spending Article 14 of the draft general Regulation provides for the setting of agreed conditionalities and targets. For this the proposal envisages the introduction of a Partnership Contract, an additional layer compared to the current programming period. It is however for consideration whether this extra provision is necessary or if conditionalities and targets could be set instead in the programmes themselves, building upon the implicit ‘contract’ between the EU and national authorities in the operational programmes which apply in the current programming period.

**Ex ante conditionalities**

16. The Commission proposes (Article 17 of, and Annex IV to the draft general Regulation) that a number of ex ante conditionalities shall be defined for each Fund. This is a key development which could reinforce the ‘intervention logic’ of EU actions by facilitating the necessary integration of CSF funding with other EU policies and finally have a positive impact on the effectiveness of the investments. Indeed, the Court’s audits show (8) that funding projects without taking into account of broader EU policy requirements (for example, environment and water resources protection) and outside a comprehensive development plan, setting out long-term needs and priorities appropriate to the context, is not the most effective way for using EU funds.

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(1) European Commission, COM(2011) 615, points 1 and 5.2.2.
(2) European Court of Auditors, Opinion No 6/2010, paragraphs II and 42.
(3) European Court of Auditors, Budget review paper, paragraph 8.
(4) Strengthening research, technological development and innovation; Enhancing the competitiveness of small and medium-sized enterprises; Supporting the shift towards a low-carbon economy in all sectors.
(5) Promoting employment and supporting labour mobility; Investing in education, skills and lifelong learning; Promoting social inclusion and combating poverty; Enhancing institutional capacity and an efficient public administration.
(6) Actually only a limited number of categories of projects is formally excluded for ERDF (Article 3 of the ERDF draft Regulation), such as those dealing with the manufacturing, processing and marketing of tobacco and tobacco products or the decommissioning of nuclear power stations; in more developed regions only, investments in infrastructure providing basic services to citizens in the areas of environment, transport, and ICT.
(7) Enhancing access to, and use and quality of, information and communication technologies; Promoting climate change adaptation, risk prevention and management; Protecting the environment and promoting resource efficiency; Promoting sustainable transport and removing bottlenecks in key network infrastructures.
Ex post conditionality (mid-term performance review, performance reserve)

17. For the new period, the Commission also plans to release 5% of the funds depending on the results obtained (Articles 18, 19 and 20 of the draft general Regulation). A similar performance reserve existed in the 2000-06 period with limited success due to the very limited amount of expenditure that had been completed in time for the mid-term review and the lack of an appropriate methodology for assessing progress achieved by programmes. In the 2007-13 period Member States might introduce such a reserve but very few have made use of this possibility.

18. The method for the performance review (detailed in Annex I to the draft general Regulation) shows that this review will still mainly focus on financial implementation (financial indicators), on outputs and only in a limited way on results (outcomes, impacts). In line with the Impact assessment, one should also consider whether it would be feasible to set robust indicators, how factors unrelated to a specific programme could be identified, how results which may only be visible in the long term could be taken into account (1). The added-value of a performance reserve will be considerably reduced if very low and easy to achieve targets will be set or if performance disbursements will in the end be mainly based on absorption grounds as the Court noted for the period 2000-06. Also, the allocation of a performance reserve should be subject to a sufficient implementation of operational programmes (2). It should therefore be provided that the reference years for the review of performance, currently 2016 and 2018, will be revised in case of delayed start of the programmes.

Macroeconomic conditionality

19. Among the set of conditionalities proposed, the Commission also suggests (Articles 11 and 21 of the draft general Regulation) establishing a link between Cohesion policy and European economic governance, such as the excessive deficit procedure, excessive imbalances procedure and the European semester of economic policy coordination. The Commission could ask to review programmes or suspend the funding if remedial action is not taken.

20. The application of the envisaged macroeconomic conditionality would require careful consideration, since it might entail difficulties for the implementation of CSF programmes, legal uncertainties and a potential risk for the fulfilment of long-term obligations taken in the framework of partnership contracts by the respective partners at national and regional level.

Joint Action Plans

21. In view of simplifying and reinforcing the result orientation of EU funds, the Commission proposes the introduction of Joint Action Plans (Article 93 of the draft general Regulation) for ERDF, ESF and CF. These consist of a group of projects as part of an operational programme, where EU funds are directly linked to the respect of specific objectives and outputs, agreed milestones, result indicators. Such an instrument could represent an alternative intervention mechanism geared towards performance as long as it replaces rather than complements the current input based management structure.

Common management and control arrangements

Institutional capacity

22. Adequate institutional capacity is necessary to ensure that EU funds are correctly spent to support durable economic development. Effectiveness of national management and control systems should therefore be ensured from the start. Regulation alone is however not enough (3). Key in this respect will be the day-to-day actions of managers in the Commission and in the Member States on whose systems assurance at EU level heavily relies. For example, the Commission’s analysis of errors in Cohesion policy for the years 2006-09 points to weaknesses in the administrative capacity and the national management and control systems as the main factor explaining those errors (4).

23. The Court notes that one of the thematic objectives put forward by the draft general Regulation is ‘Enhancing institutional capacity and an efficient public administration’. This constitutes rather a prerequisite for achieving the other 10 thematic objectives than an objective itself. It is also noted that the support for administrative capacity is limited for the ESF to Member States with less developed regions or eligible to the Cohesion Fund; this is not the case for ERDF although national systems for the two Funds are subject to similar requirements.

National accreditation

24. With the introduction of an accreditation procedure, the draft Regulation reinforces Member States’ responsibilities concerning the administrative capacity of national management and control bodies (recitals 42 to 44 and Article 64 of the draft general Regulation). The intention is to submit to an accreditation process all bodies responsible for the management and control of CSF funds (Article 64(1) of the draft general Regulation). Thus, national authorities would accredit management authorities and, where appropriate, certifying authorities for the implementation of ERDF, ESF and CF.

25. The Court is of the opinion that the Commission, as holder of the ultimate responsibility in the budget implementation, should have a supervision role in this process to mitigate the risk of leaving the detection of any failure to subsequent checks, which may lead to more frequent checks, action plan requirements and financial corrections (1). Such a role should imply for the Commission to confirm, for example in the Directors-General Annual Activity reports, that management and control bodies satisfy the conditions for a national accreditation as provided for in the relevant delegated act. This would require, at the start of the programmes, to assess the documentary evidence provided by the Member States and subsequently to review the functioning of the systems, for example on a risk basis in line with the suggestion made in the explanatory memorandum (2).

26. In addition, the draft Regulation foresees that Audit authorities, who provide an opinion on the CSF annual accounts submitted to the Commission, are designated by Member States. The Court considers that since the Commission is using the work of these bodies as a source of assurance, it should review (by systematic on-the-spot visits) their systems and their performance in order to ensure that their work is reliable (3). The Court also points out that the role of annual accounts and of their audit is not clear in the Commission's proposal. Extensive accounting information is to be provided at the mid-point of the financial year (at present not required for Commission's accounts) but there is no clear requirement for reliable information at year end (information that is required for Commission’s accounts). The Commission proposal therefore requires significant clarification.

Management declaration of assurance

27. In order to strengthen the arrangements in the area of assurance and financial management, the Commission proposes to introduce the management declaration of assurance to be drawn up by the Managing Authorities of the operational programmes (Article 114(4)(e) of the draft general Regulation). This declaration shall cover the functioning of the management and control systems, the legality and regularity of the underlying transactions and the respect of the principle of sound financial management (4).

(1) This is particularly the case for procurement procedures, a key precondition for the implementation of the internal market. As indicated by the Commission (COM(2011) 615, p. 167), infringements in this area alone lead to an error rate on payments of approximately 2%-4% on average each year for the current programming period. If public administrations and beneficiaries in the Member States are unable to improve the implementation of the procurement rules, Cohesion Policy would continue to be systematically affected.

(2) European Commission, COM(2011) 615, paragraph 5.2.3.


(4) The use of the expression ‘declaration of assurance’ risks creating confusion. The description of the roles of management and the auditor needs to ensure that their tasks are clear and accord with best practice.

28. As stated by the Court, whether these declarations provide useful information to the Commission for assurance purposes will depend on the scope and quality of the work that underlies them (5). This should be clarified in the implementing act adopting the model for the management declaration. In this respect the Court draws attention to the weaknesses found in the agriculture area (6) (insufficient basis for paying agencies’ statement of assurance, limited added value of the certification bodies’ opinion) which, if unresolved, will limit the assurance the Commission can take from these declarations.

Clearance of accounts, ‘rolling’ closure and financial corrections

30. The Commission proposes to introduce an annual clearance of accounts procedure and an annual ‘rolling’ closure of completed operations or expenditure (Articles 130 and 131 of the draft general Regulation).

31. The Court notes that the ‘clearance decision’ (Article 76 of the proposal) shall cover ‘the completeness, accuracy and veracity of the financial accounts submitted and shall be without prejudice to any subsequent financial correction’. As the annual clearance decision would not cover the legality and regularity of the underlying transactions, the same problems noted by the Court for agriculture expenditure (7) will be extended to all CSF funds. The Court recommends bringing Article 76 in line with the provisions of the Financial Regulation. Also, as stated already in its Special Report No 7/2010, the Court recommends establishing time limits for all stages of the procedure and, in particular, a time limit for the Commission to take its final decision on a specific financial year.


(3) Moreover, when looking at the functions of the certifying and audit authorities (Article 115 and 116 of the general Regulation) there is no mention of the principle of sound financial management.

32. According to the Financial Regulation (Article 53b(4)) and its implementing rules (Article 42), the aim of the clearance of accounts is to establish the amount of expenditure recognised as chargeable to the budget after the Commission has performed appropriate checks. In the proposal of general Regulation, the Commission's checks would only take place after the clearance and therefore this process would not take into account subsequent financial corrections.

33. With the rolling closure, the Commission seeks to provide legal certainty to the individual beneficiaries about the eligible expenditure for a given year and to reduce the burden associated with a long retention period of documents. Like for the clearance of accounts, the rolling closure is subject to further checks and cannot therefore represent a final closure of operations. However, the rolling closure may potentially bring some benefits for the Cohesion area as national checks and audits will have to take place at an earlier stage, hence permitting better preventive control arrangements. The fact that any irregularity detected subsequent to the presentation of the annual accounts will lead automatically to a net financial correction (Article 137(6) of the draft general Regulation) is the consequence of the increased Member States' responsibilities and reliance on their reimbursement claims.

34. As discussed above, the Cohesion scheme is set out as a multiannual process. Full compliance of expenditure is not sought by the Commission annually but several years later and ultimately at the stage of the closure of operational programmes. Financial corrections mechanisms are the key instrument for this purpose. They are to be applied first and foremost by Member States themselves. When the latter fail to correct irregularities, the Commission may on its own impose financial corrections on the Member States.

35. Recent Court audits confirm what was noted previously (1). Despite a lengthy administrative process, there is no assurance that financial corrections mechanisms compensate in an adequate manner the errors uncovered, and that all material issues are resolved at the closure of the operational programmes. There is equally no evidence that financial corrections mechanisms translate into lasting systems' improvements as to avoid errors uncovered to occur again. One of the reasons is their limited financial impact (thus a limited incentive on Member States to improve systems' performance) since most of the 'irregular' expenditure is substituted by a buffer of national spending. However, this does not make the underlying transactions any less illegal/irregular and their effect is to shift the cost of the (disallowed) illegal/irregular transactions from the EU budget to national budgets. In the end, final recipients may feel no effect whatsoever.

36. The effectiveness of these mechanisms depends on the incentive they provide to recover irregular payments from final recipients and to bring about improvements in the supervisory and control systems. For errors detected in individual transactions where the final recipient is at fault, the initiation of recovery proceedings is expected (2). The Commission should therefore clear irregularities only when the Member State has at least initiated such a procedure.

37. There is finally a need to assess the realism of the intention to apply financial corrections where the shortfall in the achievement of milestones or targets is significant (recital 18, Article 20(4)). The Commission may not be able to assess the reliability of the data provided by Member States and may not dispose of independent information sources (see paragraph 39). It also remains to define what a 'significant' shortfall in the achievement of milestones or targets is.

Monitoring and evaluation

38. According to the draft general Regulation (Article 24), each funded programme shall define priorities setting out specific objectives. Each priority shall set out indicators to assess progress of programme implementation towards achievement of objectives as the basis for monitoring, evaluation and review of performance (financial indicators relating to expenditure allocated; output indicators relating to the operations supported; result indicators relating to the priority). These indicators will include mainly outputs but also some intermediate results. For each priority axis, managing authorities shall carry out at least one evaluation on the effects and effectiveness of interventions during the programming period.

39. As a result, the draft general Regulation requires the Member States to produce a significant amount of data for monitoring and evaluating the programmes (Articles 41 to 50 of the draft general Regulation). Courts' audits (3) have shown serious deficiencies in relation to the relevance and reliability of the information presented by the Member States to the Commission. Therefore, the aim of making EU funds conditional upon results would require significant improvements as these data could trigger the EU disbursements and should as a result be subject to verification and control procedures. The more so as in accordance with the Treaty (Article 318 TFEU) the Commission has the obligation to establish annually an evaluation report on the Union's finances based on the results achieved. The Commission should therefore consider how far is possible to ensure that the data produced by the Member States in relation to the monitoring, evaluation and performance of programmes have an acceptable quality level in terms of relevance, comparability and reliability.


(2) Member States have an obligation of recovering undue payments (see Article 4 of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, 23.12.1995, p. 1) and Article 53b(2)(c) of the Financial Regulation).

Simplified and streamlined eligibility rules

40. The draft general Regulation provides for the harmonisation of eligibility rules with other EU financial support instruments. At the same time, the general principle introduced in the current 2007-13 period by which eligibility rules are specified at national level (and possibly for each operational programme) is maintained (see recital 39). Experience suggests that these two principles may sometimes conflict.

41. The Court also notes that the use of simplified cost options is to be continued. This is appropriate since it may help in some cases to reduce the administrative burden for beneficiaries and as well as the possibilities for errors.

42. The draft general Regulation provides for the use of electronic data management and requires Member States to set up systems by the end of 2014 to enable beneficiaries and final recipients to submit all information by way of electronic data exchange. To make this proposal operational a number of technical aspects and specifications will need to be agreed within Member States and regions, but also between the different Commission’s Directorates-General and national authorities. Also, the type of non-financial monitoring data that will need to be reported still needs to be determined.

Community-led local development

43. The Court also considers useful the provision in the draft general Regulation whereby the functions of the Managing and Certifying Authorities can be merged (Article 113(3)). This may strengthen accountability by assigning responsibility for financial management and control to one authority and reduce the national administrative burden and the control burden of beneficiaries. Retaining the audit authority and its main functions as an independent audit body guarantees in principle the required segregation of responsibilities.

Financial instruments

46. Financial instruments are a form of intervention which can, in principle, leverage in private funding and ensure the re-use of resources for future recipients. The Commission proposes to encourage and enhance their use in the next programming period as an alternative to non-reimbursable grants.

47. The draft general Regulation provides for an ex ante assessment specific to financial instruments, the possibility to have financial instruments set up at Union level, and the increase of the EU co-financing rate up to 100 % at the ‘priority axis’ level (Articles 32, 33 and 110).

48. The Court notes that financial instruments present risks and problems (1), for example, in the accounting of the use of EU funds, their supervision, the ownership of the financial instruments, the capacity of Commission services to manage relatively complex financial instruments.

49. Recent audit work by the Court cast significant doubt on the suitability of the 2000-06 and the 2007-13 ERDF regulatory framework within which financial instruments have been or are being implemented. In particular, the Court identified the following main weaknesses: the insufficiency of leverage and fund revolving provisions, the possibility to commit excessive allocations to financial instruments, the possibility for unjustified recourse to preferential private sector treatment, the unclear eligibility conditions for working capital. In addition, the scattering effects of using multiple operational programmes within one Member State may lead to the creation of funds without sufficient critical mass which contributes to delays. The current draft general Regulation does not address these weaknesses in a satisfactory way.

50. The Court also draws attention to the risk of enlarging the number of fields in which financial instruments can be implemented without ensuring that appropriate monitoring and supervisory control systems are in place. The Parliament and Council might also wish to satisfy themselves whether the draft Regulation limits the support to only relatively conventional forms of financial instruments (equity participations, loans, guarantees), and will not permit support for less transparent financial instruments such as derivative or structured financial instruments.

(1) European Court of Auditors, 2010 Annual Report, paragraphs 1.30 to 1.32 and 4.30 to 4.36; Opinion No 6/2010, paragraphs 43 to 47.
### PART II

**Detailed comments to the Commission’s proposal**

<table>
<thead>
<tr>
<th>Article</th>
<th>Observation</th>
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<tbody>
<tr>
<td>Recital 41</td>
<td>It would add legal certainty if the draft general Regulation listed the specific provisions on State aid regarding financial instruments.</td>
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<td>Recital 87</td>
<td>The Court recommends to change the text as follows ‘…In order that the level of auditing by the Commission is proportionate to the risk, the Commission should be able to reduce its audit work in relation to operational programmes where there are no significant deficiencies and where the audit authority can be relied on.’</td>
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<td>Article 4(5)</td>
<td>It is not clear from the regulation how the principle of proportionality should be applied and how proportionality should be assessed.</td>
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<td>Article 4(9)</td>
<td>This provision, limited to effectiveness, is redundant and contradictory with Article 4(8) which refers to Article 73 of the Financial Regulation, and therefore also to the principles of economy and efficiency. In any event, the stages of ‘planning’ and ‘implementing’ should be added to monitoring, reporting and evaluation.</td>
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<tr>
<td>Article 8</td>
<td>This Article introduces the ‘polluter pays’ principle in the secondary legislation. However, for example in agriculture, the application of the principle suffers from weaknesses in the supervisory and control systems (lack of relevant controls, reductions of subsidies calculated as a proportion of aid rather than as a proportion of the impact on the environment) as well as in the actual enforcement of the reductions of payments. The Court recommends reinforcing this principle by ensuring its application in the relevant parts of the fund-specific regulations as well as in the programmes of the Member States.</td>
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<td>Article 24(3), Article 40(2)(h)</td>
<td>The indicators required will be over and on top of the SMART indicators specific to financial instruments. Given the combination of such indicators with numerous but general operational programme indicators for grants, there is another argument why financial instruments should preferably be co-financed from one single operational programme.</td>
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<tr>
<td>Articles 28 to 31</td>
<td>The ‘Community-led local development’ could be an important mechanism to create and upgrade local institutional capability towards result oriented implementation. While recital 21 of the draft Regulation states that ‘to better mobilise local potential it is necessary to facilitate community-led local development … Responsibility … should be given to Local Action Groups (LAGs) representing the interests of the community… ’, most rural (and urban) areas already have structures that represent the interests of the local community, i.e. communes, councils or other local government structures. These have advantages over LAGs in that they are representative of the local population; they are democratically accountable and have already established administrations with the capacity to manage budgets. Attention should be paid to ensure that the LEADER approach offers a real added-value over the alternative of channelling the funding for local development strategies through these existing bodies.</td>
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<tr>
<td>Articles 32 to 40</td>
<td>The term ‘financial instrument’ should be defined. The term is commonly used in the financial industry to designate securities or contracts providing their holder (or owner) with a claim. Such instruments are typically loans, guarantees, equity or quasi-equity investments or participations or other risk-bearing instruments. A similar definition is used in the proposal for amendment of the Financial Regulation (Article 130). However, Article 33 of the draft general Regulation does not refer to the above mentioned instruments, but to vehicles that provide financial instruments, i.e. fund of funds and funds. The Regulation should further clarify whether and under which conditions the provision of working capital is eligible for support and whether there should be a ceiling for management costs borne by the EU.</td>
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<td>Article</td>
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<td>Article 32</td>
<td>Article 32 provides that an intervention may be justified not just by market failures but also in ‘sub-optimal investment situations’. Without further precisions, this could lead to support for poorly justified financial instruments. The circumstances in which EU support for financial instruments may be available should be more narrowly defined in the draft general Regulation. For financial instruments strict rules have to be imposed: — on the use of the bank accounts on which the CSF resources are deposited, and — on the relevant accounting and reporting requirements. In particular, one bank account should be open for each financial instrument, where all in-and outflows (initial contributions, loans granted, payment linked to guaranteed defaulted borrowers, premia, interests, returned resources, management fees) are respectively deposited/withdrawn. A separate accounting for the financial instruments should be kept, which should be reconciled with the bank account. Annual financial statements for the financial instruments should be prepared and audited. Failing to lay down these constraints entails the risk that, under the proposed legal framework, (a) financial instruments are used to circumvent the obligation of national co-financing and that (b) the auditors are unable to detect this breach of the EU regulation.</td>
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<td>Article 32(2)</td>
<td>When final recipients are also beneficiaries of grants from various public sources (CSF funds, other EU grants, national/regional grants), the requirement to maintain separate records creates an additional complication, as the information reported would miss out on the actual level of public support received. In order to ensure completeness, the Annual Implementation Reports should report on a consolidated basis on the different sources of financing used for financial instruments in the programme area.</td>
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<td>Article 33(3)</td>
<td>Article 33(3)(b) leaves the door open to funding vehicles not regulated by future implementing acts under Article 143.</td>
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<td>Article 33(4)(a) and (c)</td>
<td>There is a risk of supporting Managing Authorities without significant experience in financial services. In addition to that, under Article 33(4)(a), a Managing Authority may recapitalise public banks or funds overloaded with liabilities as long as new investment vehicles are set up without any funding of new SMEs or SMEs particularly at risk.</td>
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<td>(b)(i)</td>
<td>‘EIB’ and not ‘European Investment Bank’ as only the former is a defined term and should comprise the EIF.</td>
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<td>Article 35</td>
<td>This Article allows declaring expenditure paid or expected to be paid to the financial instruments over a predefined period of maximum 2 years. It is unclear whether this means that the request for payment can include payments not yet incurred. In addition, Article 35(3) requires an adjustment of the eligible expenditure presented to take account of the difference between amounts paid to the financial instruments and by these instruments to the final recipients. It is not clear whether this requirement only refers to the disclosure of the adjustment or also to the adjustment of the total eligible expenditure recorded.</td>
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<tr>
<td>Articles 36(1), 55(2) and 114(4)</td>
<td>The capping of management costs per type of vehicle (fund of funds and other funds per type of financial instrument) should be regulated. As in the 2007-13 general Regulation, the Proposal is ambiguous regarding guarantees. Provided that a sound financing gap assessment has been prepared, guaranteed amounts of portfolio guarantees should be eligible expenditure. Article 36(1) is unclear whether portfolio guarantees committed during the eligibility period would be eligible even if the underlying instruments (e.g. loans) are issued after closure of the programming period.</td>
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<td>Article</td>
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<td>Article 36(2)</td>
<td>Given the delays observed during operational programming, in the case of Venture Capital funds, the extension of the period for eligible expenditure should be longer (e.g. 10 years), which, in combination with the respect of pari passu and leverage requirements, would help EU funds delivering increased legacy funding.</td>
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<td>Articles 37 and 39</td>
<td>As under the 2007-13 Regulation, it is unclear whether interest and other gains attributable to EU support paid to financial instruments should be used for the same type of financial instruments and for how long after closure (revolving nature of interest and capital gains). As per Article 39, legacy funding (including gains and other earnings) may be used to fund grant schemes, therefore limiting the revolving effect.</td>
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| Article 38(1) and (2) | In its Communication on the financial rules applicable to the EU Budget, the Commission indicates the need to increase the leverage of EU funds as the rationale to use financial instruments. However, this Article fails to address sound financial management issues:  
— It adds the distinction between capital resources paid back and other resources, which would imply technical difficulties in determining the amount to set aside to pay for the management costs.  
— The re-use ‘in accordance with the aims of the programme(s)’ gives no legal certainty that the public sector sets funds aside.  
— The preferential remuneration of investors is foreseen as a standard, without being balanced by leverage or other requirements. Preferential treatment of investors in case of fund liquidation has not been addressed.  
— The pari passu principle, applied under the Multiannual programme for enterprises and entrepreneurship (MAP) and the Competitiveness and Innovation Framework Programme (CIP) (for equity instruments) has not been referred to. It leaves the EU funds subject to any kind of preferential treatment. Alternatively, the Commission could refer to the alignment of interest principle. Without further clarification, the EU legacy funding foreseen for future SMEs is at risk.  
In addition, resources returned to and revenues earned by the financial instruments should not be re-directed elsewhere before the closure of the operational programme, as it is proposed in Article 38(1) and 38(2): such resources should return to the relevant financial instruments. |
| Article 38(3) | The period during which records pertaining to the re-use of resources have to be kept and may be audited is not defined. |
| Article 39 | Article 39 defines to re-use of financial instrument resources attributable for CSF Funds (10 years after the closure of the programme). It is still not clear however how this will be monitored.  
Whilst the definition of the minimum revolving period of 10 years is welcomed, it does not take into account the specificities of the different types of financial instruments and is not detailed in terms of leverage ratios and indicators.  
The possibility to recycle in the form of grants after closure of the programme has not been specified.  
After the closure of the programme (2022) and in the case of equity funds benefiting from legacy funding follow-on investments have been made impossible. |
<p>| Article 40(2)(b) and (g) | The wording used in (b), ‘description of the financial instrument and implementation arrangements’, is imprecise (Article 44(2) of Commission Regulation (EC) No 1828/2006 contains more adequate wording), and in (g) confuses the reader with a ‘multiplier effect’, which is not defined. Recital 22 correctly refers to the ‘leverage effect’, not the ‘multiplier effect’. Furthermore, the multiplier effect strongly differs between equity, loan and guarantee instruments, a fact not recognised in this draft general Regulation. |</p>
<table>
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<tr>
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<th>Observation</th>
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<tr>
<td>Article 44</td>
<td>The Member States shall submit a final report on the implementation of the programme by 30 September 2023 for the ERDF, ESF and CF and an annual implementation report for the EAFRD and EMFF. It is not clear why this distinction is made between the structural funds on one hand and the EAFRD and EMFF on the other hand.</td>
</tr>
<tr>
<td>Articles 51 and 52</td>
<td>The Court takes the view that technical assistance should support the generation and upgrading of 'local lasting institutional capability' which goes beyond the generation and implementation of a single project or the carrying out of related operations with the help of external expertise.</td>
</tr>
<tr>
<td>Article 56</td>
<td>This Article introduces new forms of support, such as prize and repayable assistance. No definition however, especially for prize, is provided. The conditions for repayable assistance should be more detailed, for example for State aid schemes.</td>
</tr>
<tr>
<td>Article 57</td>
<td>It is unclear at which level the possible methods are to be defined and monitored. It would not be acceptable that the calculation method is established by the beneficiaries. It is unclear whether the simplified cost method can be used for cost categories which were subject to procurement.</td>
</tr>
<tr>
<td>Article 58</td>
<td>The acceptable direct and indirect costs are to be clarified.</td>
</tr>
<tr>
<td>Article 59</td>
<td>The ‘period of support for the operation’ in Article 59(2)(c) and the ‘permitted higher percentage’ in Article 59(3)(b) needs to be defined.</td>
</tr>
<tr>
<td>Article 60(2)(b)</td>
<td>It is unclear why a different approach is followed between the two groups of funds.</td>
</tr>
<tr>
<td>Article 60(2)(d)</td>
<td>The sort of agreements envisaged needs to be clarified.</td>
</tr>
<tr>
<td>Article 61(1)</td>
<td>Article 61(1) should clarify that it is in any event the Member State that should reimburse EU funds, regardless whether it has recovered the funds from final recipients.</td>
</tr>
<tr>
<td>Article 63(2)</td>
<td>It would be useful to make reference also to the principles laid down in Article 62.</td>
</tr>
<tr>
<td>Article 64</td>
<td>Reference should be made to the criteria set by the Commission (Article 117(1)).</td>
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<tr>
<td>Article 76</td>
<td>It is unclear what is meant by veracity of the annual accounts.</td>
</tr>
<tr>
<td>Article 77</td>
<td>Article 77(2) seems to suggest that financial corrections will be applied only to compliance issues. This would be inconsistent with Article 20(4). Article 77(4) of the draft general Regulation stipulates that the criteria and the procedures for applying financial corrections shall be laid down in the Fund-specific rules, but the Fund Regulations are silent in this respect.</td>
</tr>
<tr>
<td>Article 84(4) and (5)</td>
<td>It is unclear how these amounts will be divided up by Member State.</td>
</tr>
<tr>
<td>Article 90</td>
<td>There is no conceptual or legal argument why financial instruments could not be considered as major projects if their combined size exceeds 50 million euro. On the contrary, there is a lost opportunity here, as recognition as a ‘major project’ could be a way to promote the creation of fund of funds with sufficient critical mass, considering the legal certainty a Member State obtains after applying for a ‘major project’.</td>
</tr>
<tr>
<td>Articles 91 and 92</td>
<td>The funding gap issue is not resolved; it is unclear whether the funding gap needs to be applied for interim payments.</td>
</tr>
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Article 97(1)
It should be provided that the Commission definitively participates in the steering committees.

Article 100
This Article overlaps with Article 43.

Article 110(7)
The Court advises the Commission to further define the framework of the 100 % co-financing option for financial instruments and to address the risks:
— that CSF funds crowd out EU funds managed centrally by the Commission, and
— that the combined legacy funding of CSF and other EU funds remains subject to de-commitments.

Article 117(4)
The Commission should be in a position to request the report and the opinion of the independent audit body and the description of the management and control system for all operational programmes, independently from the amount of EU support.

Article 130
The Court recommends specifying an additional date at which the Annual Management Declaration needs to be produced to make the proposed timetable work.

Article 131
There are several uncertainties about this proposed procedure, for instance with regard to the deduction of revenues for already completed projects. The arrangements for ERDF/CF and the ESF should be aligned, i.e. for ESF the rolling closure should also apply to ‘operations’ and the related expenditure rather than just ‘expenditure’.

Article 132
This provision limits the Court’s powers and leaves solely to the Commission the possibility to ask for an extension of the availability period.

With the new electronic systems to be used it is important to clarify what form of documents can be accepted as audit evidence (i.e. use of certification of conformity of documents at national level — point 5, and security standard of electronic documents — point 6).

Article 137(2)
The Court recommends specifying that the examination should not only be subject to the agreement of the Commission but also that the latter has responsibility for verifying the nature and extent of the examination undertaken and the appropriateness of the conclusions drawn.

Article 140
The Court notes that there is no evidence that operations whose eligible expenditure is below 100 000 euro are less error prone than other operations. The Regulation should clarify how proportional controls will affect the sampling to be done by the audit authorities.

This Opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 15 December 2011.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President
9. European Court of Auditors - Opinion No 9/2012

Opinion No 9/2012

(pursuant to the second subparagraph of Article 287(4) of the Treaty on the Functioning of the European Union)

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THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union (TEU), in particular Articles 4, 5, and 17 and the Treaty on the Functioning of the European Union (TFEU), in particular Articles 174 to 178, 287(4), second subparagraph, 317, 318 and 322 thereof;


Having regard to the Parliament’s request for an opinion, which reached the Court on 12 November 2012;

Having regard to the proposal for an amended Regulation presented by the Commission²;


____________________

³ http://eca.europa.eu
⁴ OJ C 47, 17.2.2012.
Whereas, pursuant to Article 5 TEU, the Union takes action in areas which do not fall within its exclusive competence only if and insofar as the objectives of the proposed action, by reason of the scale or effects, can be better achieved at Union level;

Whereas following Article 174 TFEU, in order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion;

Whereas the Commission shall execute the budget and manage programmes (Article 17(1) TEU), it shall implement the budget in cooperation with the Member States on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management and Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management (Article 317 TFEU),

HAS ADOPTED THE FOLLOWING OPINION:

INTRODUCTION

1. The Commission’s amended proposal for a Regulation laying down common provisions on the ERDF, the ESF, the CF, the EAFRD and the EMFF and general provisions on cohesion policy funds deals essentially with the adoption of the Common Strategic Framework (CSF).

2. While this opinion is limited to the Commission’s amended proposal, the Court would like to refer in general to its Opinion No 7/2011.

General observations

3. The Commission’s amended proposal modifies the scope of the CSF and splits its elements between a new annex (Annex I) to the Common Provisions Regulation and a Commission delegated act. This risks to add further complexity to the policy.
4. The Court observes that the aim of the CSF continues to be providing clear strategic direction to the programming process at the level of Member States and the regions (see Recital 14 and Articles 2(2) and 10 of the amended proposal). However, in contrast with the original Commission proposal, the CSF would not any longer translate the objectives of the Union into key actions for the Funds. Instead, the Legislator would delegate to the Commission the setting, for each thematic objective, of indicative actions of high European added value and corresponding principles for delivery, and of priorities for cooperation (see Articles 11 and 12 of the amended proposal). In line with its previous Opinion (see paragraph 8 of Opinion No 7/2011), the Court considers that this represents in reality a key and decisive element of the future Cohesion scheme. As a result, it should be considered an essential element of EU legislation that, according to Article 290 TFEU, cannot be the subject of a delegation of power.

5. The Court would also like to recall its recommendation to articulate the concept of European added value in a suitable political declaration or in EU legislation in order to provide guidance to the EU's political authorities to be used when choosing expenditure priorities (see paragraph 18 of Opinion No 1/2010). The approval of the legal framework for the 2014-20 period provides a favourable opportunity for doing this. Such a clarification seems even more important if the intention to delegate to the Commission the identification of actions of high European added value is confirmed. In this respect the Court observes that the definition given by the amended proposal (see Article 2(4) of the amended proposal) is not sufficiently clear as to the underlying criteria which would permit the selection of actions making ‘a significant contribution to the achievement of the targets and objectives of the Union strategy for smart, sustainable and inclusive growth and which shall act as a reference point in the preparation of programmes’.

6. Moreover, in line with the subsidiarity principle, all EU actions should be conceived with the objective of providing EU added value. The reference to an
‘indicative’ list of actions (Article 12 of the amended proposal) seems to suggest that the requirement to deliver EU added value is merely optional.

This Opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 13 December 2012.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President
10. European Court of Auditors - Opinion No 2/2013

on the amended proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006
Opinion No 2/2013

(pursuant to Article 287(4))

on the amended proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006
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THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union (TEU), in particular Articles 4, 5, and 17 and the Treaty on the Functioning of the European Union (TFEU), in particular Articles 174 to 178, 287(4), second subparagraph, 317, 318 and 322 thereof,

Having regard to the Commission’s amended proposal of 22 April 2013 ¹,

Having regard to the European Parliament’s request for an opinion, received by the Court on 3 June 2013,

Having regard to Opinion No 7/2011 of the Court on the proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1083/2006 ²,

Having regard to Opinion No 9/2012 of the Court on a previous amended proposal for a Regulation of the European Parliament and of the Council laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund covered by the Common Strategic Framework and laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Council Regulation (EC) No 1083/2006 ³,

Whereas:

(1) The Commission’s amended proposal of 22 April 2013 for a regulation laying down common provisions on the European Regional Development Fund (ERDF), the European Social Fund (ESF), the Cohesion Fund (CF), the European Agricultural Fund for Rural Development (EAFRD) and the European Maritime and Fisheries Fund (EMFF) aims to apply the management and control systems set up under cohesion policy to the EMFF, instead of applying the systems for the EAFRD, as set out in the Commission’s original proposal ⁴.

(2) The Commission’s amended proposal of 22 April 2013 does not introduce significant changes to the management and control systems outlined in the original proposal, but rather proposes to align the EMFF governance structure with that of cohesion policy, instead of with the EAFRD.

(3) The Court’s Opinion No 7/2011 already gave a detailed opinion on the proposals, including those relating to management and control systems, and Opinion No 9/2012 gave an opinion on the previous amended proposal.

HAS ADOPTED THE FOLLOWING OPINION:

**General observations**

1. The Court wishes to maintain the general observations made in Part 1 of its Opinion No 7/2011, which are not currently reflected in the Commission’s amended proposal of 22 April 2013, and draws particular attention to paragraphs 22 to 37 of that opinion. These relate to the common management and control arrangements for the regulation, which, after the amended proposal, would now also apply to the EMFF.

2. The Court also notes that the detailed recommendations it made in Part II of Opinion No 7/2011 and the general observations made in Opinion No 9/2012, are not currently reflected in the Commission’s amended proposal of 22 April 2013 but ought to be considered.

**Detailed comments**

3. Paragraph 7 of the Court’s Opinion No 7/2011 noted that the proposal created a distinction between ‘common’ provisions (applicable to all five Common Strategic Framework (CSF) Funds) and ‘general’ provisions (applicable only to some of them: ERDF, ESF and CF). This led to an incoherent legislative framework and raised the question of whether it would be preferable to limit the general Regulation to those provisions which are applicable to all five Funds (the ‘common provisions’) and to include other provisions (‘general provisions’) in Fund-specific regulations.

4. The amended proposal however creates another category of general provisions, applicable to all funds except the EAFRD: Part II of the proposal is applicable to all CSF funds; Part III is applicable to the ERDF, the ESF and the CF; most of Part IV is applicable to the ERDF, the ESF, the CF and the EMFF, but not the EAFRD; and some of Part IV is only applicable to the ERDF, the ESF and the CF.
5. Article 117(4) of the amended proposal introduces a provision that in cases where the total amount of support from the EMFF to an operational programme exceeds 100 000 000 euro, the Commission may request the report and the opinion of the independent audit body and the description of the management and control system. As already noted in Part II of the Court’s Opinion No 7/2011, the Commission should be empowered to request this information for all operational programmes, independently from the amount of EU support.

6. Article 140(1) of the amended proposal introduces a provision that EMFF operations for which the total eligible expenditure does not exceed 50 000 euro shall not be subject to more than one audit by the audit authority or the Commission prior to closure of all expenditure concerned under Article 131. As already noted in Part II of the Court’s Opinion No 7/2011, there is no evidence that operations whose eligible expenditure is below 50 000 euro are less error prone than other operations, and the Regulation should clarify how proportional controls will affect the sampling to be done by the audit authorities.

This Opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 18 July 2013.

For the Court of Auditors

Vítor Manuel da SILVA CALDEIRA
President