



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 28.2.2008
SEC(2008) 269

COMMISSION STAFF WORKING DOCUMENT

Annex to the

REPORT FROM THE COMMISSION

Member States' replies to the Court of Auditors' 2006 Annual Report

{COM(2008)112 final}

The European Court of Auditors (ECA) published its *Annual Report on the implementation of the budget concerning the financial year 2006* (2006 Annual Report) on 13 November 2007¹. In the report, the ECA presented its Statement of Assurance (DAS) and the supporting information, including observations concerning management in Member States.

As obliged by the Financial Regulation², the Commission sent a letter to each Member State immediately, informing them of the ECA's observations as well as the errors attributed by the ECA to their country. The Commission also asked Member States to fill in a questionnaire, which focused on Member States' follow-up of the ECA's findings.

This Commission Staff Working Document accompanies the summary report on Member States' replies to the Court of Auditors' 2006 Annual Report and presents Member States' replies to the questionnaire in more detail. **Contributions from Member States have been shortened in some cases.**

The questionnaire contained 3 parts.

Part A highlighted the four most common errors with financial impact found in structural actions: 1) ineligible expenditure, 2) over-declaration, 3) over-reimbursement, and 4) essential documents not available to the ECA. Member States were invited to reply to a series of questions focusing on main reasons for these errors occurring, and action taken by Member States to avoid recurrence, *cf. Annex*.

Part B offered Member States the opportunity to make any general remarks on the 2006 Annual Report or general issues relating to the discharge procedure.

Part C contained a list of all observations in the 2006 Annual Report relating to the specific Member States as well as a list of DAS errors attributed by the ECA to the Member State. For each observation/error, the Member State was invited to indicate: 1) if action had been or would be taken, 2) the timing of any action taken, and 3) the content of action taken or (if no action) the reason for not taking action.

Member States were invited to submit their replies by 14 December 2007.

The Commission received replies from all Member States except Cyprus, *cf. table 1*. Some Member States did not reply to all parts of the questionnaire or only replied partially – in some cases because they did not wish to make any general comments (part B) or they did not find the horizontal questions on structural actions particularly relevant to their country (part A). The tight deadline may also have posed a problem to some Member States. Where appropriate, the Commission sent reminders to Member States. Further replies may therefore be forthcoming.

¹ The report was published in the Official Journal C 273 of 15.11.2007. It is available on the ECA website: www.eca.eu.

² Article 143(6) in The Financial Regulation applicable to the general budget of the European Communities, Council Regulation (EC, Euratom) No 1605/2002 of 25.6.2002 as amended by Council Regulation (EC, Euratom) No 1995/2006 of 13.12.2006.

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

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

A detailed overview of general comments made by Member States (part B) is provided in *table 2* whereas Member States' reactions to specific observations made by the ECA in the 2006 Annual Report (part C) is presented in *table 3*.

TABLE 2. GENERAL REMARKS

Member State	Reply
Czech Republic	<p>We would ask that Member States be sent only those findings by the European Court of Auditors which refer to actual shortcomings by the Member State. We consider it impractical for Member States to be asked to issue statements on items of the Annual Report which only establish a certain fact.</p> <p>Where the Annual Report is concerned, we consider that the description of the subject of Court audits should also contain the total volume of monitored and erroneous operations expressed in EUR, and not just the number of projects or operational programmes, as is the case, for example, in the chapter on the Structural Funds. Without these data it is unclear how the Court came to the conclusion that "a minimum of 12% of the total amount paid to structural policy projects in the 2006 financial year should not be paid". It is also not entirely clear whether, in the event of a breach of the rules for public procurement, the entire payment for the project is considered to be ineligible, or whether account is taken of the extent to which the rules are breached. Where the scale for assessing checks is concerned, the report lacks details of the characteristics of individual levels (satisfactory, partially satisfactory and unsatisfactory).</p>
Denmark	<p><i>General comments on the 2006 Annual Report</i></p> <p>Denmark is satisfied that the Court of Auditors – with certain reservations – again considers that the EU’s accounts give a true picture of the Communities’ revenue and expenditure and its financial situation. It is reassuring that this part of the Court’s statement of assurance is, on the whole, still considered positive.</p> <p>However, it is clearly unsatisfactory that the Court of Auditors has, for the 13th year running, given a negative statement of assurance about the legality and regularity of underlying payments for most areas of expenditure in the EU budget because of substantive errors in over 2% of payments. There is no question of the situation being unchanging and thus static since the Court of Auditors also recognises in its 2006 Annual Report that there has been continued progress in the financial management and internal control of the EU budget. In 2006 this mainly concerned improvements in the control systems at the Commission and in the agricultural sector.</p> <p>In the current situation Denmark considers that the most important contribution to continued progress in the financial management and internal control of the EU budget should come from the following measures:</p> <ul style="list-style-type: none"> • Continued implementation of the Commission’s Action Plan towards an Integrated Internal Control Framework currently comprising 35 actions, some of which have been implemented. The Commission expects to present its final report on implementation of the action plan in

spring 2008. Denmark considers it essential for the Council to scrutinise and follow up the Commission's forthcoming progress report on the action plan and come to practical conclusions which could contribute to further progress in the sector.

- The Court again states that information on the recovery of Community entitlements is inadequate. Denmark has long called for better information on recovered and outstanding entitlements broken down by collection agency, budget sector, financial year, etc. There is a clear need for producing an overview of the monitoring and presentation of recovery at Community level (including OLAF). Comprehensive and reliable information in this sector is essential for estimating the amount the EU loses as a result of errors and irregularities affecting the EU budget. Hopefully, it will also prove easier to establish a link between the Court's annual DAS perspective and the Commission's multiannual approach to the use of control, correction and penalty mechanisms based on the actual duration of the programmes and aid schemes.
- Continued discussion of the Court's (and the Commission's) inspection methods: Treatment and evaluation of errors; a possible differentiation of the Court's maximum materiality level of 2% and the corresponding percentage error considered acceptable; the Court's use of work by other independent auditors, including cooperation between the Court and the supreme national audit bodies; follow-up to the Commission's conference in autumn 2007 on "tolerable risks" and the percentage errors acceptable in different budget sectors.

General comments on the discharge procedure

The Council's discharge procedure should be supported by an extended and more regular treatment of questions of financial management, etc, throughout the year.

The Council – and thus the Member States – should involve themselves more with the sound financial management of the EU budget, i.e. both the regularity as well as the effectiveness and efficiency of budget implementation. The Council's Budget Committee in particular should deal more regularly with issues in connection with the financial management, control and evaluation of budget implementation. In the current situation this calls for discussion of the Commission's action plan and recovery issues (see above).

In future the Council's Budget Committee should also discuss the following annual documents:

- The Court of Auditors' most important special reports which typically deal with the extent to which EU citizens get "value for money". The special reports are now discussed only by the appropriate sectoral committee, which does not appear satisfactory.
- The Commission's synthesis management report containing, for instance, lists of the statements of assurance of the individual Directors-General in their areas of responsibility (with detailed reservations).

	<ul style="list-style-type: none"> The Commission's report on the Member States' replies to the Court of Auditors' Annual Report.
Estonia	<p>The control sample was compiled by the European Court of Auditors on the basis of aid payments in 2005, the accuracy of which was checked during on-the-spot inspections in June 2006. We would draw your attention to the fact that the boundaries of applicants' fields and the cultivation boundary may differ from year to year depending on whether a new crop is sown or whether grasslands are mown or grazed within different limits, while at the same time different climate conditions are experienced in individual years (e.g. amount of rainfall) and this affects the field's moisture levels. The differences highlighted in the European Court of Auditors' report with regard to the areas applied for and determined in the case of the four applicants inspected may be due largely to year-on-year differences in the local situation, which is dealt with in more detail in the following explanations per applicant. On the basis of the above we consider that where the accuracy of the area of the fields applied for (on the basis of the 2005 application) is checked on the spot in the following year (2006), there is no absolute certainty about the accuracy of the information thereby obtained, because the actual situation in 2006 may be very different from that in 2005. As a result the Estonian authorities are of the view that the conclusions drawn [by the ECA in 3 specific cases in Estonia] are not substantiated on the basis of these inspections. We therefore consider that it is not possible on the basis of these inspections to draw one general conclusion concerning the performance of the Estonian inspection system.</p>
France	<p>The French authorities would point out that the audit used by the Court of Auditors as a basis for drawing up its annual report for 2006 is still at the adversarial stage and that the Court has yet to deliver its final conclusions.</p> <p>The French authorities also note that the Court's findings relate to two regions in the case of the ESF Objective 3 programme and concern either one-off questions or points that have already been covered by Government instructions and recommendations issued by the Structural Funds-CICC, the body responsible for programme closure, which performed audits on each programme and in each region.</p>
Germany	<p>For the 13th time running, the European Court of Auditors has failed to deliver a Statement of Assurance pursuant to Article 248 of the EC Treaty. Nor does it look likely that, with the procedure used thus far, it will be possible to deliver a Statement of Assurance in the medium or long term. In Germany's view, this shows that the provisions of Article 248(1) of the EC Treaty are unworkable.</p> <p>We welcome the ECA's efforts to explain its methodology, particularly the "The DAS Methodology" brochure on the website. Nevertheless, the methodology actually used by the ECA remains difficult to understand.</p> <p>The ECA's conclusion that 12% of the total amount reimbursed to Structural Policies projects should not have been reimbursed remains incomprehensible.</p>
Greece	<p>1) Our Department would highlight Point 1.42, in which the ECA states that "complicated or unclear eligibility criteria or complex legal requirements can have a considerable impact on the legality and regularity of transactions", with reference to expenditure for rural development, structural operations</p>

	<p>and internal policies.</p> <p>We have repeatedly stressed that that we agree with the ECA's findings and feel that the ECA's observations should be taken into account to simplify the Community framework governing the completion and funding of expenditure in the abovementioned fields.</p> <p>2) In Point 3.13 the ECA points out that implementing the year n+2 rule resulted in a low level of de-commitments. The Commission's reply states that the objective of the n+2 rule is to boost implementation. A low rate of cancellation indicates that the rule is working as intended.</p> <p>We agree with the Commission's reply, and would point out as in previous ECA reports that the objective of the year n+2 rule is not to de-commit/save funds, but to manage them correctly and effectively and to reward and support those projects which are being carried out correctly, in the framework of sound financial management, and which achieve their objectives.</p> <p>3) We would point out that the general picture given by the ECA's observations is that the situation regarding expenditure from the Community budget has clearly improved in comparison to previous ECA observations, and that the Institutions and Member States are cooperating and taking corrective measures to deal with any errors detected.</p>
Hungary	<p>It is regrettable that for the 2006 financial year the European Court of Auditors was once more not able to issue the declaration of assurance for the implementation of the European Union budget without reservations.</p> <p>We consider it important to arrive at a situation where the Court is able to issue a positive declaration of assurance in respect of the implementation of the EU budget, as this would certify that the public money has been used properly. To this end, Hungary has been supporting and would like to be involved in the further development of a Union-level integrated internal control framework, some elements of which could help make the utilisation of Union resources more transparent, efficient and in conformity with the rules.</p> <p>The Court of Auditors report states that in the field of structural measures, both Member State control systems and Commission supervision have limited effects. For this reason over-declaration remains sometimes unnoticed and this leads to a significant error rate in community payments.</p> <p>The Court of Auditors should encourage the Commission to give better methodological guidance and should pay particular attention to the verification of the content of information guides.</p> <p>In the field of structural measures, internal policies and agriculture, we would still find it useful to have a collection of inadequacies which have been detected by the Commission and the Court of Auditors in their audits. This information, when made available to all Member States in a systematic form, could help Member States set up efficient and effective control and monitoring systems.</p>

Ireland	<p>1. With regard to Chapter 2 – Statement of Assurance - Para 2.16 (footnote 17)</p> <p><i>“In relation to the European Regional Development Fund and the European Cohesion Fund the Court makes reference to the activity report prepared by the Director General for Regional Policy where it is stated that “the opinion was qualified in relation to material deficiencies affecting key elements of the systems” in nine countries, which included Ireland.”</i></p> <p>The statement above is a direct quotation from the 2006 activity report prepared by the Director General for Regional Policy. No reference is made in either the 2006 activity report or the 2006 ECA report as to what exactly is meant by <i>“material deficiencies”</i>.</p> <p>In the 2006 DG Regio Activity report Ireland is classified in the category of <i>“reasonable assurance with limitations”</i>, with the <i>“material deficiencies”</i> of a <i>“medium risk”</i>. The report emphasises that the identification of medium or high risk does not necessarily signify the existence of irregularities in expenditure declared.</p> <p>In 2006 DG Regio carried out three audits in Ireland in conjunction with ERDF:</p> <p>Systems Audit Southern and Eastern (S&E) Regional OP 19th – 23rd June</p> <p>Project Audit Southern and eastern Regional OP 24th – 28th July</p> <p>Project Audit Economic Social Infrastructure (ESI) OP 6th – 10th Nov</p> <p>Ireland has received Commission audit reports for the two S&E OP audits carried out but no audit report has been received to date for the ESI OP audit.</p> <p>It is Ireland’s contention that many of the matters raised in the S&E Region audit findings would benefit from a better understanding of the cascade system in Ireland. In the light of this Ireland met with DG Regio on 6th September 2007 to provide a better understanding of the Irish financial management and control systems. On 30th October the Department of Finance wrote to the Director General of DG Regio setting out the arrangements currently in place with a view to ensuring that the Commission would be given reasonable assurance that the systems in Ireland are performing effectively.</p> <p>Although by no means an exhaustive list of the initiatives undertaken over the course of the 2000-2006 programming period, the initiatives set out in the letter demonstrated that the different levels of the financial management system in Ireland are proactive in the administration of the programmes and are committed to ensuring compliance with the Commission’s financial management and control requirements. The measures outlined also provide a robust assurance as to the veracity and durability of Ireland’s financial management and control framework. The letter also outlined other initiatives that</p>
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have taken place in the Irish system over recent years, including the main elements of the Value for Money framework and important developments in the Public Procurement process.

2. With regard to point **5.23** on the Consolidation of Entitlements, Ireland has made detailed submissions to the Court setting out why it was perfectly valid, under the provisions of Article 7 of Commission Regulation (EC) No. 795/2004, to allow consolidation of entitlements where a farmer is no longer leasing land that he had during the reference period. The Court is suggesting that the provisions of Article 45 of Council Regulation 1782/2003 do not allow for consolidation in such circumstances. However the Commission Legal Services have a different opinion as they introduced a provision in the Commission Regulation specifically referring to farmers who, for a variety of reasons, held more entitlements than hectares of land. Also no additional entitlements are granted in cases of consolidation. Ireland maintains its position.

3. With regard to point **5.29** it is accepted by both the Commission and the Court of Auditors, that Article 42.9 of Council Regulation (EC) No 1782/2003, was a discretionary provision and it was a matter for individual Member States to decide whether they were going to implement the provision or not. After consultation with all of the stakeholders it was decided by the Irish Authorities not to implement this discretionary provision. It would have created a huge administrative burden and would not have made any significant additional contribution to the amount of monies available for distribution to farmers. The implementation of this provision would in the view of the Irish Authorities have impacted negatively on the very successful implementation of the Single Payment Scheme in Ireland. In addition, the vast majority of land transfers were between family members.

4. With regard to point **5.32** on the transfer of a holding between family members, Ireland believes these findings to be incorrect and invalid. This case related to a father, who validly established entitlements in accordance with the provisions of Article 33.1, Article 37.1 and Article 43 of Council Regulation (EC) No 1782/2003. The father farmed in 2000 and 2001 and established 88.35 entitlements. The eligible lands declared by the applicant during 2000 and 2001 were totalled and divided by 3 in accordance with the provisions of Article 37.1, in order to establish the number of entitlements established by him. Similarly, the payments received in 2000 and 2001 were totalled and divided by 3 to establish the reference amount, which was €49,269.69. This gave the farmer 88.35 entitlements at €557.65. The son (new entrant) commenced farming in his own right in 2002. His entitlements were correctly established in accordance with the provisions of Article 37.2 of Council Regulation (EC) No 1782/2003. The son subsequently received 129.08 entitlements based on the land he declared in 2002. In early 2005, the father transferred by way of Private Contract Clause (lease agreement in accordance with the provisions of Article 27 of Commission Regulation (EC) No 795/2004) 28.7 entitlements to his son. The father is still farming, has claimed his entitlements, and has been paid on the retained entitlements in respect of 2005, 2006, and 2007 Scheme Years. At no stage did the father transfer all of his land and entitlements to his son. In the first instance, the Irish Authorities correctly applied the provisions of the EU Regulations in relation to the processing of these cases. In fact, the procedures followed were confirmed during discussions with the Commission Services in 2004. The Court of Auditor's view that a new entrant to farming during the reference period (Article 37.2) cannot also avail of leased in entitlements is clearly at odds with the relevant EU regulations. The finding of the Court of Auditors that such an outcome could apply to a "simple transfer" between family members after the reference period is also incorrect. The provisions of Article 37.2 only applied to New Entrants during the reference period. The finding that the father transferred all the entitlements to his son is incorrect as he is still farming.

5. With regard to point 5.37 on the delay in establishing entitlements, Ireland understands that many Member States found themselves in a similar situation. Ireland contends that the provisions of Article 12 of Commission Regulation 795/2004 refer, in particular, to the **definitive establishment of payment entitlements based on the average number of hectares declared during the reference period.**

Under the provisions of Article 6 of Commission Regulation (EC) No 795/2004, a farmer, who did not own any payment entitlements, could be granted entitlements from the National Reserve up to **the level of eligible hectares he or she declared on the Single Payment application in 2005.** If the farmer held payment entitlements, he or she could also be granted additional entitlements from the National Reserve in respect of the number of hectares for which he or she did not hold payment entitlements. In addition, a farmer could have the value of the entitlements he or she held topped-up with an allocation from the National Reserve.

Applicants who received additional payment entitlements, or had their entitlements topped-up from the National Reserve, **were not disadvantaged in any way by the late allocation of entitlements. The European Commission agrees with this view and notes that only farmers in England suffered a disadvantage.**

6. With regard to **Annex 5.2**

Point 1 - Ireland does not accept the Court's findings with regard to claim registration and control of same.

Point 3 - Ireland does not accept the Court's findings that there was incorrect calculation of payment where area determined was not sufficient for all entitlements declared. Farmers applying for the Single Payment Scheme in Ireland must have at least one eligible hectare of land for each payment entitlement held. Where there is insufficient land declared the payment is reduced accordingly.

Point 5 - Ireland does not agree that Consolidation cannot be applied in the case where land that was rented/leased by an applicant during the reference period is no longer available to him/her.

Point 7 - Ireland accepts that there were delays in transmitting data to the Commission for the scheme years 2005. This was the first year of implementation of the Single Payment Scheme in Ireland necessitating, as it did, major administrative and IT upheaval. Ireland regrets the delay in providing the various returns to the Commission and has taken action to address this problem since 2006.

Point 8 - In selecting farmers for on-farm inspection in 2005 Ireland main concern was to select cases in order that inspections could start as early as possible during the year. In carrying out the initial risk analysis we took account of farmers on the database who had applied for schemes in the previous year. The sample was then topped up, where necessary, by including new farmers in the selection who had applied for the first time in the current scheme year. Ireland notes that the Commission is now proposing to amend regulation 796/2004 so as to allow Member States to do exactly what

	<p>Ireland did in the year in question.</p> <p>Point 9 - Ireland does not accept the Courts assertion that there are weaknesses in the quality control and/or the training system in place in Ireland.</p> <p>Point 10 - Ireland accepts that there were difficulties surrounding the tolerance system applied during on-the-spot checks but we contend that this did not result in any risk to the fund. This is because most farmers in Ireland are/were farming very extensively and had more than sufficient land to meet the stocking density requirements under the old coupled schemes. This particular issue (tolerances to be applied) has been discussed with officials from the Commission during 2006 and 2007. Ireland has taken all necessary action to correct any deficiencies.</p>
Latvia	<p>The findings and conclusions referred to in the European Court of Auditors' 2006 Annual Report which concern Latvia were carefully considered and will be taken into account in the following audits and controls. However, on the basis of the information provided by the Ministry of Agriculture, the Ministry does not agree with the error indicated by the Court in relation to the European Court of Auditors' 2006 Annual Report, Paragraph 9.22 regarding the Sub-programme 1.2 "Afforestation of agricultural areas" and notes that on 26 March this year the State Audit Office sent to the Court explanations regarding the referred to situation</p>
Poland	<p>The key elements of the audit in the Member States set out in graph 6.2 and the classification of control systems (Annex 6.1) do not take account of the specific features of the systems in individual countries. Components of this system were presented by the Managing Authority in the description of the management and control system sent to the Commission. The report indicates that daily supervision of operations connected with projects are the task of the Managing Authority. However, this Managing Authority, on the basis of the legislation and the contracts concluded, entrusted this task to the Implementing Bodies, which were not considered in graph 6.2 or Annex 6.1. The Commission's answer concerning the findings of point 6.32 [is] that the Managing Authority was assessed chiefly on the basis of formal aspects such as poor documentation. We would point out that there were no cases of any documents being missing in connection with the ECA audit at the Managing Authority and the Agency for the Restructuring and Modernisation of Agriculture (ARMA).</p>
Slovakia	<p>Comments of the Slovak Republic:</p> <p>Comments of the Slovak Republic on the particular points of the 2006 Annual Report regarding the Slovak Republic are given in Annex I to letter ref. BUDG/01/JS/TS/ca D(2007) 10022. The Slovak Republic has no comments to make on the other parts of the 2006 Annual Report or on general issues relating to the discharge procedure.</p>
Slovenia	<p><u>Agriculture:</u></p> <p><i>Chapter 5 The common agricultural policy</i></p>

	<p>Paragraph 5.3</p> <p>Table 5.3 and Graph 5.3: IACS inspections for suckler cow premium – Results of on-the-spot checks in 2005 (payment year 2006)</p> <p>The data for Slovenia in the table and graph show a high proportion of farmers with lower payments after on-the-spot checks were carried out (5.2 or 5.3%). After analysing the IACS statistics, the European Commission (Directorate for Agriculture and Rural Development) arrived at similar figures and sent a letter to the paying agency – Agency of the Republic of Slovenia for Agricultural Markets and Rural Development – on 25 January 2007 (AGR 002351), asking Slovenia to confirm and explain the data derived from that analysis.</p> <p>The Agency of the Republic of Slovenia for Agricultural Markets and Rural Development ("AKTRP") replied to the Directorate for Agriculture and Rural Development on 20 February 2007. It pointed out that the reasons for the high level of irregularities detected on farms were to be found in the age and level of education of the Slovenian population employed in farming. Analysis by AKTRP has shown that, in 2005, the average age of farm managers was 56 years (42% were 60 years old or more) and that their level of education was relatively low (according to figures from the Slovenian Statistical Office, in 2005 10% of farm managers had not completed basic education, 43% had only a basic education, 6.6% of farm managers had training in agriculture and 72% of farm managers had only practical experience of farming). Slovenia is striving hard to improve educational structures and is investing heavily in education with the help of the Farmers Advisory Service, but it will take some time before visible change occurs in this sector. The table also shows that the proportion of errors in 2005 was lower than that in 2004.</p> <p><u>Structural action:</u></p> <p>In its annual report for 2006 the European Court of Auditors gives each Member State the opportunity to examine the main shortcomings, errors and problems that arise in the implementation of structural policies. Because of the transparency and public nature of the data, each Member State is able to focus beforehand on certain bottlenecks and problems in implementation.</p> <p>Slovenia has already responded to the shortcomings reported, seeking to disprove the findings which, in the Court of Auditors' view, have had a financial impact on the EU budget. Slovenia then carried out a financial correction under Article 39(1) and (2) of Regulation No 1260/1999.</p> <p>Within its sphere of responsibilities, the managing authority will be more active in supervising implementation of the management and control system for Structural Fund resources and start immediately on the tasks conferred on it in response to the needs arising from certain flaws in the system for implementing the Structural Funds.</p>
United	The UK are disappointed with the 2006 annual report and discharge procedure. Many issues that the UK considered open and not agreed have been

Kingdom	<p>publicised within the report, drawing unnecessary and incorrect adverse publicity.</p> <p>Additionally, the report itself is factually inaccurate in places concerning Wales and the UK would expect a higher degree of accuracy from a European wide publication. The UK feel it is inappropriate to publish the report without, at the very least, making the final report available to interested parties in advance of publication. The UK are also concerned that at paragraph 5.27 of the report the ECA made an observation based purely on the names of companies without any further investigation. The UK would suggest that in future the ECA avoid these headlining observations until all the facts have been established. With regard to the [railway company] this claimant was subject to a physical inspection in June 2005 this claim was verified. The UK would also like to point that there would be no reason for any paying agency to reject a claim based solely on the trading title.</p> <p>The UK welcomes the ECA's acknowledgement of the improvement in the accuracy of the Agricultural spend.</p> <p>The UK acknowledges that IACS is an effective tool for agricultural expenditure and would support initiatives to look at the feasibility of extending this to other areas.</p> <p>The UK recognise that protocols dictate that the ECA letters must be sent via the national audit authorities, however the UK Authorities would find it helpful if in future the correspondence concerning UK paying agencies could also be copied to the UK Co-ordinating Body thereby speeding up the circulation process.</p> <p>In respect of paragraph 4.18, Since the ECA audit was undertaken the UK authorities have carried out a comprehensive review of the triggers held within the CHIEF system. We have put great effort into improving the efficiency of the targeting and we feel that we have achieved the correct balance between intervention and facilitation. Our resources are targeted and deployed effectively and our overall success rate is based on quality as opposed to quantity. By making sure these triggers are effective we have ensured that our business partners carry out interventions on a risk-based approach and the free-flow of legitimate trade remains uninterrupted. Our Public Service Agreement published in the Departmental plan reflects the steady increase in positive interventions uncovered. In Aug 06 356 Physical checks were carried out and a 23% intervention target was achieved. However, in Aug 07 fewer physical checks were performed but the intervention target had risen to 29%.</p> <p>The UK has taken part in a recent Community Profile activity and results of interventions uncovered were highlighted in a positive manner by the Commission. We are looking to deliver a Customs Operational Strategy in 08/09 which will aid our risk priorities within the UK.</p> <p>The Scottish Government is currently contesting a number of the findings of the audit mission into the Objective 3 audit and as such we find it unusual that a report which is currently in draft form is mentioned in the Report.</p> <p>Welcome ECA's statement of assurance that EDF accounts for 2006 reliably reflect actual revenue and expenditure and that underlying transactions are</p>
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legal and regular.

Welcome steps European Commission is planning to take to address issues highlighted by ECA.

TABLE 3. SPECIFIC OBSERVATIONS IN THE 2006 ANNUAL REPORT

Paragraph	Observation in the 2006 Annual Report	Member State reply
CHAPTER 2 – COMMISSION INTERNAL CONTROL FRAMEWORK		

<p>2.16</p>	<p>The Court also questions whether the overall assessment of the Director-General for Regional Policy in respect of the European Regional Development Fund (ERDF) and the Cohesion Fund is compatible with the qualifications which he makes on the functioning of management and control systems in 10 and 9 Member States respectively (17). The same situation exists for the Directorate-General for Employment, Social Affairs and Equal Opportunities (18). Furthermore, the Court notes that the annual activity report of the latter states that an ‘audit opinion’ was not formulated on 17,5 % of the expenditure concerning the programming period 2000-2006 for the European Social Fund (ESF); the Director-General based his assurance on management representations.</p> <p>(17) For ERDF, the analysis of the annual activity report of Directorate- General for Regional Policy reveals that ‘the opinion was qualified in relation to material deficiencies affecting key elements of the system’ for Czech Republic, Greece, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Slovakia and Spain. Moreover for Slovenia it was qualified because of a scope limitation. As regards the Cohesion Fund, ‘the opinion was qualified in relation to material deficiencies affecting key elements of the system’ in Czech Republic, Hungary, Ireland, Latvia, Lithuania, Poland, Portugal, Slovakia and Spain. Furthermore, concerning the closure of programming period 1994 to 1999 no precise information is given on the level of irregularities identified and the financial correction procedures launched.</p> <p>(18) For the European Social Fund (ESF), the analysis of the annual activity report of Directorate-General for Employment, Social Affairs and Equal Opportunities reveals that, in the DG’s view, national/regional systems covering 73,39 % of 2006</p>	<p>Czech Republic Action was taken in July 2006 and is still ongoing. Content of action: stabilisation of employees.</p> <p>Ireland referred to its general comments (see table 2 above).</p> <p>Luxembourg Action started in 2006 and is continuous. Content of action: monitoring of beneficiaries' public contracts</p> <p>Netherlands referred to its ERDF national action plan</p> <p>Poland referred to its replies to part A in the questionnaire concerning horizontal questions on structural actions.</p> <p>Slovakia Action is always taken after the particular audit mission, which identifies deficiencies. The completion of a particular action depends on the nature of the findings of the European Commission.</p> <p>The content of action: removal of shortcomings identified in the audit missions performed by the European Commission in 2006 and adoption of preventive measures to protect the financial interests of the Community and the Slovak Republic.</p> <p>Given the general nature of the statement in point 2.16 of the 2006 Annual Report, it is not possible to specify the precise start and end of actions. The European Commission is kept informed of the measures adopted by the Slovak Republic in a follow-up to the shortcomings identified by the Commission's audit missions within the set deadlines.</p> <p>Spain Action was taken in 2005. Content of action: effort by auditor to make up delays. Delay corrected.</p>
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	payments provided reasonable assurance with limitations.	
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Table 2.1

Slovenia Action is under way/partly completed in accordance with action plan. Content of action: more expert staff for control units in Ministries (in particular at the Ministry of Labour, Family and Social Affairs), ongoing implementation of controls, additional implementation of ex post controls in certain key cases, managing authority to supervise implementation of above-mentioned controls. Establishment of audit trail with the help of IT system.

Sweden Action was taken in February 2007 and completed in December 2007. Content of action: A number of measures have been adopted in accordance with an action plan drawn up by the administrative and payment authorities:

1. In spring 2007 the AA introduced training and more effective processing support.
2. Procedural tasks underwent a re-distribution in February 2007 so as to prevent one and the same person from processing the file and performing financial control under Article 4. The involvement of several people in the processing of a file means that a "two pairs of eyes principle" has been introduced.
3. The AA regards the COM's recommendations as a procedural method which affords greater transparency and equal treatment in the selection process and will implement them as far as possible in the 2007-2013 programming period.
4. In April 2007 the performance of inspections was assigned to a special project designed to address the shortcomings pointed out as regards Article 4 inspections in particular.
5. Information measures have been taken to counter the use of correction fluid (e.g. tipp-ex).

6. On the COM's recommendation, a project has been scrutinised under a special arrangement by the Article 10 body. The report was sent to the COM in August 2007.

7. Costs attributed to retroactive decisions are deducted from the application that the payment authority is to send to the COM in December 2007 concerning measure 1:1 in Objective 3. It is thought that the financial correction will amount to around SEK 10 million at the most.

COM has hitherto approved the measures under points 1-5. As regards point 4, we understand that COM is planning a follow-up visit.

United Kingdom Action was taken in February 2006 and completed in December 2007. Content of action: increased levels of on-site monitoring, strengthened management and control environment, revised guidance and residual risk strategies. Action applies to the temporary suspension of some ERDF programmes in England.

CHAPTER 3 – BUDGETARY MANAGEMENT

3.5

The budgetary outturn for 2006 is given in Diagrams III and IV of Annex I, and shows the following:

— utilisation rates for both commitments and payments — at 99 % and 96 % respectively — were identical to 2005;

— for structural operations the 3,3 billion euro reduction in payment appropriations (which exceeded the budgetary increase in this area for the year) resulted in a final utilisation rate of 99 %. This would have been 90 % without the amending budget. This reduction was mainly due to the holding back of payment claims in Spain and payments to the United Kingdom as a result of weaknesses in their management and control system-;

— 2,7 billion euro of unused payment appropriations were not cancelled but carried over from 2006 to 2007, the same level as was carried over from 2005 to 2006;

— the budgetary surplus for the year was 1,9 billion euro, less than in 2005 (2,4 billion euro).

United Kingdom Action was taken in February 2006 and completed in December 2007.. See above for action taken in relation to the suspension of ERDF payments by the Commission.

Other comments: the Commission withheld payments in all regions except the South West in October 2006, formally suspended 6 regions in April 2007. The UK has worked closely with the Commission to address their concerns through an intensive programme of work.

CHAPTER 4 – REVENUE

4.5	<p>4.5. This included a review of the organisation of customs supervision and of the national systems for accounting for traditional own resources in six Member States (3) and evaluation of the supervisory role of the joint committees (ACOR (4), Customs Code Committee (5)).</p> <p>(3) Belgium, France, Italy, Hungary, Slovakia, United Kingdom; in addition the traditional own resources accounting system of Finland was reviewed.</p> <p>(4) Advisory Committee on Own Resources, referred to in Article 20 of Council Regulation (EC, Euratom) No 1150/2000 (OJ L 130, 31.5.2000, p. 1), as amended by Regulation (EC, Euratom) No 2028/2004 (OJ L 352, 27.11.2004, p. 1). The Committee consists of representatives of the Member States and of the Commission, and provides the liaison between the Commission and the Member States on own resources matters. It examines questions concerning the implementation of the own resources system, as well as the estimates of own resources.</p> <p>(5) Articles 247 to 249 of Council Regulation (EEC) No 2913/92 (OJ L 302, 19.10.1992, p. 1).</p>	<p>Hungary Action was taken in 2007 and will be completed in 2008. Content of action: The accounting system used for traditional own resources will be reformed and national instructions will be reviewed.</p>
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<p>4.11</p>	<p>As in previous years the Court's audit and the Commission's inspection visits detected recurrent bookkeeping problems affecting B accounts. Late or inaccurate entries, omissions and erroneous cancellations were found in a number of Member States (11). In two of these (12), unchallenged customs debts covered by securities had systematically been recorded in the B accounts, even though the parts covered by the security should have been made available. Furthermore the payment of a balance of 22,7 million euro by Germany is still under discussion with the Commission (13).</p> <p>(11) Belgium, France, Italy, Hungary, Slovakia, Finland and United Kingdom. (12) Belgium and United Kingdom. (13) See Annex 4.1 — Follow-up of recent Court's observations.</p>	<p>Belgium Action was taken in November 2007. Content of action: Drawing up of an internal note containing procedure.</p> <p>Finland Action was taken in June 2007. Content of action: The deviations in B account entries identified in the 2006 DAS will be addressed by developing instructions and operating models.</p> <p>France referred to its formal reply sent to the ECA.</p> <p>Germany referred to its reply to Annex 4.1 (see below).</p> <p>Slovakia and Italy provided a detailed reply to specific DAS errors identified by the ECA on this issue.</p> <p>Hungary Action was taken in 2007. Content of action: The accounting system used for traditional own resources will be reformed and national instructions will be reviewed.</p> <p>United Kingdom Action has been taken. Content of action: Own Resources made available on 21 May 2007 (£1,423,047.32).</p>
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4.12	<p>Member States must also forward to the Commission annually estimates of the totals for entitlements that are unlikely to be recovered (14). In four of the Member States visited (15) there are no written instructions for producing these estimates, which might affect their quality, as well as the consistency of the methods followed year on year.</p> <p>(14) Article 6(4)(b) of Regulation (EC, Euratom) No 2028/2004. (15) Belgium, Slovakia, Finland and United Kingdom.</p>	<p>Belgium Action has been taken. Content of action: Drawing up of an internal note containing procedure.</p> <p>Finland Action was taken in June 2007. Content of action: The deficiency discovered in documentation has been addressed, and new internal instructions on the estimate of all entitlements contained in a separate account for which recovery has become unlikely have been compiled.</p> <p>Slovakia and Italy provided a detailed reply to specific DAS errors identified by the ECA on this issue.</p> <p>United Kingdom Action will be taken.</p>
4.17	<p>On-the-spot audits by the Court confirmed that overall the audited supervisory and control systems for customs and for traditional own resources accounting were functioning satisfactorily in the six Member States (19) that were visited. Nevertheless some weaknesses were found.</p> <p>(19) Belgium, France, Italy, Hungary, Slovakia, United Kingdom.</p>	<p>Belgium Action was taken in June 2007. Content of action: Implementation of Ministerial Decision of 26/03/2007 establishing the branch offices of the Single Customs and Excise Office.</p> <p>France Checks on firms are carried out among other things in accordance with the priorities set in the national audit plan, which itself is based on risk analyses. In this particular case, the absence of checks reflects a low level of risks in relation to these firms.</p> <p>Italy provided a detailed reply to a specific DAS error identified by the ECA on this issue.</p> <p>Slovakia provided a detailed reply to a two specific DAS errors identified by the ECA on this issue.</p> <p>United Kingdom Action is not foreseen.</p>

4.18	<p>Community regulations do not usually prescribe any particular methods, and they do not set the level of customs control to be exercised. Nevertheless, Member States must implement checks that provide adequate protection for the Communities' financial interests (20). However, the audits detected some weaknesses in the area of checks carried out by Member States. In one Member State (21), for example, the frequency with which the IT system triggered physical checks on imported goods was very low compared to other Member States (22), of the order of 1 in 7 000 (0,014 %). In another Member State (23), ex post checks on traders applying simplified procedures (24) were carried out with intervals of more than three years, even though the period of limitation for traditional own resources that have been evaded is three years.</p> <p>(20) Article 2(1) 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 Articles 17 and 18 of Regulation (EC, Euratom) No 2028/2004.</p> <p>(21) United Kingdom.</p> <p>(22) The Court's audit revealed rates of physical checks in other Member States of at least 0,3 %.</p> <p>(23) France.</p> <p>(24) Provided for by Article 76 of Regulation (EEC) No 2913/92 — because formalities and procedures are reduced, these procedures are high-risk.</p>	<p>France Checks on firms are carried out among other things in accordance with the priorities set in the national audit plan, which itself is based on risk analyses. In this particular case, the absence of checks reflects a low level of risks in relation to these firms.</p> <p>United Kingdom Action is on-going. Content of action was not specified.</p>
4.27	<p>Member States were supposed to submit their updated or new GNI inventories to the Commission by 31 December 2006. Following initial analysis, on-the-spot control missions would be undertaken by the Commission starting in 2007. Six Member States (33) had not transmitted their complete, new or updated</p>	<p>France The GNI inventory was sent to Eurostat on 4 July 2007.</p> <p>Spain On 30 June 2007 the Spanish GNI Inventory had not been transferred to the Commission. However, this inventory was sent to the Statistical Office of the European Communities (EUROSTAT) on 24 October 2007.</p>

	<p>GNI inventories by the end of June 2007.</p> <p>(33) Spain, France, Italy, Cyprus, Luxembourg and United Kingdom.</p>	<p>United Kingdom Action was completed in July 2007. The UK had already commenced re-writing its inventory ahead of the December 2006 deadline. However, a number of problems meant that this was not completed on time. A copy of the inventory was sent to Eurostat on 27 July 2007. Eurostat was kept fully informed of the delays and revised delivery time for the UK, through the GNI Committee.</p>
<p>Table 4.2</p>		<p>Austria Action was taken in the 2007 inspection report. Most of our own reservations lifted; Commission's suggestions acted on.</p>
		<p>France The action has been taken. The reservations outstanding prompted changes in the calculation method in the 2006 statement, which were also spelled out in the reply to the Commission inspection report.</p>
		<p>Germany Action was taken after the Commission's inspection in October 2006. Germany took measures and provided a comprehensive report in its observations on the Commission's inspection report. The purpose of the measures is to create the necessary conditions for the Commission formally to withdraw the reservations during its next inspection in 2008. There are very constructive contacts with the Commission so that it can take decisions on remaining reservations with the help of the additional information requested.</p>
		<p>Ireland Action was taken. Ireland would hope that most of these reservations would be lifted during the control visit next April.</p>
		<p>Slovakia. Action was taken in 2006 and should help clarify the calculation of the Slovak harmonised VAT own resources base.</p>
		<p>Sweden Action will be completed in February 2008. SE is currently drafting its reply to the question concerning VAT reservations. (According to Table 4.2, the number of VAT reservations at 31 December 2006 was 11). SE will reply to the COM's report on the inspection visits concerning 2004 and</p>

	2005 in February 2008.
Table 4.3	<p>Austria Action was taken in 2005 and completed in March 2006. Report submitted. Figures shown in table are correct.</p> <p>France The Commission has now lifted all of the reservations it had entered in connection with the inventory of France's GNI for the 95 base.</p> <p>Germany By 31.12.2006 there were no longer any GNI specific reservations for Germany.</p> <p>Ireland Action was taken. The four outstanding GNI Reservations were placed on the Irish GNI Inventory in September 2004. The follow up work to ensure the removal of the Reservations was completed in September 2007. This involved improving the methodologies used to compile the estimates for rent of dwellings, cross border compensation of employees, unrecorded trade flows and insurance holding gains and losses. The improved methodologies in these areas were subsequently documented and submitted to Eurostat for technical assessment. Ireland has complied with all of Eurostat's requests for information on these reservations and understands that these will be lifted in due course.</p>
Annex 4.1	<p>Germany Action was taken in 2006. The Commission was informed of the measures by letter of 15.02.2007. In May 2007 Germany made additional information available to the Commission during an inspection visit. The Commission has not yet responded to this comprehensive information. The action should clarify the €22.7 million balance. The inspection conducted by the Court of Auditors in 2006 did not cover the €22.7 million balance</p>
CHAPTER 5 – THE COMMON AGRICULTURAL POLICY	

5.9	<p>According to these statistics (see Table 5.2 and Graph 5.2), for all Member States together, 28,9 % (40 % in previous year) of the area applications checked in 2005 and giving rise to payment in the financial year 2006 contained errors. These errors represent 1,4 % of the area verified by the paying agencies. For EU-15 this latter percentage decreased from 2,0 % in 2004 to 1,2 % in 2005. The decrease in the error rate is linked to the introduction of the SPS in 10 Member States of EU-15 (6), where the error rate has dropped to 0,7 %; in the other five the error rate is still 1,8 % and is the same in the new Member States.</p> <p>(6) Austria, Belgium, Denmark, Germany, Ireland, Italy, Luxembourg, Portugal, Sweden and the United Kingdom.</p>	<p>Austria No measures necessary, as Austria has introduced the single payment scheme.</p> <p>Germany The Court of Auditors itself notes that in the agricultural sector, where expenditure totalled €49.8 million in 2006, only just over 2% of the measures checked by the IACS (70% of agricultural spending contained errors). This means that the threshold value for the issue of a statement of assurance has almost been reached in this area. The Court also welcomes the fact that a positive trend (the overall error rate has clearly fallen since last year) can be identified in this CAP sector, which encompasses all direct payments. This shows that the efforts made by nearly all the Member States to establish an integrated control system and in connection with the corresponding controls have been successful. These efforts are being pursued further.</p>
5.11	<p>For the fifth consecutive year the Director General's declaration contains a reservation concerning insufficient implementation of the IACS in Greece. For 2006 the Court has confirmed continuing failure to implement key controls, namely: claims handling, inspection procedures, animal database integrity and the Land Parcel Identification System. Some 850 million euro per year is paid to farmers under these unsatisfactory control conditions. For the period 1996-2005 the Commission has imposed corrections totalling 479 million euro, equivalent to some 6 % of the expenditure declared. Corrections have also been made for dried grapes.</p>	<p>Greece We do not share the Commission's opinion regarding implementation of IACS, however, the Commission and Greece have agreed on an action plan, which is being strictly followed and is being monitored by the Commission.</p>
5.12	<p>The dried grapes aid scheme requires growers to produce a minimum quantity of dried grapes per hectare (i.e. they have to achieve a minimum yield). Nearly all the aid (about 115 million euro p.a.) is paid in Greece.</p>	<p>Greece We do not share the Commission's opinion. The Greek authorities take the view that the reductions in the mini-mum yield are correct because they are based on adequate data obtained during the various checks</p>

<p>5.13</p>	<p>The Court's DAS audits in recent years as well as a specific audit in 2006 have established that since 1999 the Greek national authorities have incorrectly applied reductions in the minimum yield requirements for both sultanas and currants covering the great majority of the dried grapes area. Only in 2002/03, a year in which severe weather affected much of Greece, were these based on insurance agency assessments of the damage and were in accordance with the rules. In other years most of the reductions were decided by the national authorities, for reasons not linked to natural disasters (7). This has resulted in payments being made to growers who did not meet the minimum yield requirements (in particular for sultanas — some 50 % of total production) and who were not affected by a natural disaster.</p> <p>(7) Reasons for refunds given in Ministerial decisions: 'poor soil conditions', 'the altitude of the parcels', 'the cultivation mode and mode for drying', 'the plant health status of the vineyards', 'the age of the vineyards leading to easy affection by viruses and soil fatigue', 'replantation were not done with the appropriate plants for the soil and weather conditions of the region', 'sultanas grown on plants affected by viruses due to the utilisation of non-certified plants during replantation'.</p>	<p>Greece We do not share the Commission's opinion. The Greek authorities take the view that the reductions in the minimum yield are not incorrect because they are based on adequate data obtained during the various checks.</p>
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<p>5.18</p>	<p>The Court has audited the systems for establishing entitlements in the 10 Member States (11) which introduced the SPS in 2005 (payments in 2006, budgetary ceiling 15 088 million euro (12), 27 % of total agricultural expenditure) (13). The objectives of the audit were to assess whether:</p> <p>(a) the national provisions adopted by the Member States comply with EU legislation and whether the entitlements have been correctly calculated;</p> <p>(b) the Member States have set up adequate administrative procedures and a reliable internal control for the correct, complete and accurate establishment and management of payment entitlements;</p> <p>(c) the Members States have implemented a reliable management and control system for processing SPS claims (14).</p> <p>(11) The calculation and allocation of entitlements was audited in: Austria, Belgium (Flanders), Denmark, Germany (Bavaria), Ireland, Italy (AGEA), Luxembourg, Portugal, Sweden, United Kingdom (England, Scotland and Northern Ireland).</p> <p>(12) See Annex V of Commission Regulation (EC) No 118/2005 (OJ L 24, 27.1.2005, p. 15).</p> <p>(13) The Court has not audited Cross Compliance — the farmer’s respect of the various standards covering environmental, public, plant and animal health, etc.</p> <p>(14) This aspect was audited in Austria, Belgium (Wallonia), Denmark, Germany (Brandenburg), Ireland, Italy and the</p>	<p>Austria No measures necessary, as Austria has been audited by the Court.</p> <p>Germany In its final opinion of 26.01.2007, the Court made no substantive criticisms as a result of the inspection in Bavaria for the calculation and allocation of single payment entitlements. There are thus no further measures to be set in train.</p>
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United Kingdom (Wales).

5.20	<p>Community legislation requires that land declared for SPS must be at the claimants' disposal for a minimum period of 10 months each year. Contrary to this, in the United Kingdom entitlements were allocated under SPS and aid was paid to landlords, not engaged in farming, who let out their land for most of the year and who do not therefore meet the requirement. In Northern Ireland, for example, more than 176 000 entitlements (worth 13,8 million euro) were allocated to such landlords (15).</p> <p>(15) The value of entitlements allocated to landlords will substantially increase over time (see paragraph 5.28).</p>	<p>United Kingdom No action foreseen. The UK disagrees with the ECA findings and the approach adopted is consistent with the regulations.</p>
5.21	<p>The United Kingdom authorities consider that, depending on the terms of the letting agreement, landlords may qualify for SPS and/or rural development aid for land let to and farmed by the lessee. According to EU law however, only the farmer, i.e. the person disposing of the land and exercising an agricultural activity on the land is entitled to SPS payments and rural development aid.</p>	<p>United Kingdom No action foreseen. The UK disagrees with the ECA findings and the approach adopted is consistent with the regulations.</p>

<p>5.23</p>	<p>Some Member States/countries (Austria, Ireland, Wales and Scotland) did not comply with EU legislation. They extended this provision to all cases (16) where a farmer in 2005 had fewer hectares than entitlements. Consolidation was granted in order to have the farmer's reference amount concentrated on a number of entitlements equal to the number of hectares held, and consequently to allow the farmer to activate all his entitlements. Wales and Scotland applied this irregular type of consolidation only in the first year of SPS whereas it continues in Austria and Ireland. In 2005, more than 200 000 hectares were consolidated in this way. The impact is estimated at 60 million euro per year (17).</p> <p>(16) Especially cases where rental agreements were not renewed.</p> <p>(17) The Court estimated the financial impact using the average value of entitlements in the Member States concerned.</p>	<p>Austria No action was taken. The new rules are to be applied to applications made from 2008. The draft is still in the general appraisal procedure. The changes should apply to applications made from 2008. Claims for consolidation where Alpine and other pastures are managed by two or more farmers will be possible only if the applicant himself does not reduce the number of animals driven to pasture. This makes it clear that the reduction in Alpine or other pasture is not influenced by the applicant and he is entitled to consolidation only if he is assigned less land than was previously the case as a result of the activities of other farmers (for example, they drive more animals to pasture than before).</p> <p>Ireland Please see reply at Part B.</p> <p>United Kingdom No action foreseen. The UK disagrees with the ECA findings. In the UK consolidation was not applied systematically. Consolidation was granted only where specific eligibility criteria was not met, and farmers were required to provide written evidence to prove that they were eligible.</p>
<p>5.24</p>	<p>In Northern Ireland and England, which apply the hybrid model, a consolidation effect arose when contrary to Community provisions (18) farmers were allowed to restrict allocation of entitlements to part of the eligible area declared in their 2005 claim. This enabled farmers to have their historical reference amount spread over fewer hectares, i.e. they were allocated fewer entitlements with higher values, and allowed landlords to claim entitlements in their own name for land let to farmers.</p> <p>(18) Article 59(4) of Regulation (EC) No 1782/2003 provides that under the regional model the number of entitlements per farmer shall be equal to the number of hectares he declares [...] the first year of application of the single payment scheme.</p>	<p>United Kingdom No action foreseen. The UK disagrees with the ECA findings and the approach adopted is consistent with the regulations.</p>

5.27	<p>Table 5.4 shows that the number of direct aid beneficiaries has increased significantly. Especially under the regional model, where all grassland and land used for fruit and vegetables became eligible, the SPS has led to a substantial increase in the number of hectares in respect of which direct aid is paid and beneficiaries. The Court has also noted among them railway companies (England), horse riding/breeding clubs (Germany and Sweden) and golf/leisure clubs and city councils (Denmark and England).</p>	<p>Germany As regards the new single payment scheme, the Court draws attention to a number of implementation-related issues which it regards as problematic.</p> <p>It points out that in countries with a hybrid model (such as Germany) many new owners have been included in the scheme that are not concerned with farming in the strict sense. In the case of Germany it refers specifically to riding clubs and horse breeding clubs only. Given that – particularly in the UK - many large landowners have been assigned payment entitlements (although the land concerned is actually farmed by tenant farmers), it proposes a redistribution of direct payments to the latter group, which in dynamic hybrid models (such as those in place in Germany and the UK) will increase still further in future as a result of alignment to regionally uniform values.</p> <p>The following should be noted in this connection:</p> <p>The definition of an eligible owner is very broad under EC law, which is geared to the production unit. Moreover, in decoupling, Germany consciously opted for a hybrid model, which means that, as a matter of principle, all farmland meeting the relevant EC conditions was eligible. In particular, a grassland premium was introduced for the first time, to eliminate previous disadvantages and, above all, to foster extensive grassland areas. As no specific type of farming is demanded, this benefits all those in charge of grassland areas, regardless of whether they keep dairy cattle, beef cattle or horses. The important factor is that the area concerned should be maintained in decent agricultural and environmental condition.</p> <p>As a result of these circumstances, above all, the number of grant beneficiaries has grown, which, however, is acceptable under the support conditions in place and is politically consonant with the future development of direct payments into a standard acreage premium for the preservation of a</p>
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		<p>cultivated landscape.</p> <p>Owing to the broad interpretation of the term "owner" and the inclusion of nearly all agricultural areas, municipalities, riding clubs or nature protection associations can be beneficiaries in individual cases. However, no legal objections can be raised to this side effect of the agricultural reform. Golf courses, however, are not eligible in Germany, which means that golf clubs do not normally receive any direct payments.</p> <p>Given that when payment entitlements were allocated in Germany it was the tenants working the land who were allotted payment entitlements on 17 May 2005, not the landowners (who, incidentally, were by no means mainly "big landowners"), the redistribution in favour of "big landowners" advanced by the Court of Auditors is inappropriate in the case of Germany. This is why no further measures are being taken.</p> <p>United Kingdom No action foreseen. The UK disagrees with the ECA findings and the approach adopted is consistent with the regulations.</p>
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<p>5.28</p>	<p>Entitlements allocated to landlords, not engaged in farming, are, under the hybrid model, solely based on the flat-rate regional element of SPS. Under the dynamic version of the model, whilst the value of such entitlements starts low, by the end of the dynamic phase these entitlements will have a much higher value: all entitlements will end up with the same value. There will be a significant redistribution effect on EU direct aid away from those actually farming and towards landowners, who will see the value of their entitlements multiplied by four in Denmark and Germany and tenfold in England. In England, the flat-rate element of entitlements was worth 28,20 euro per hectar in 2005, whereas all entitlements will have a face value of some 280 euro per hectar in 2012 (20).</p> <p>(20) For severely disadvantaged areas land the figures are 25,59 euro and some 230 euro; for moorland they are 3,36 euro and some 30 euro.</p>	<p>Germany See reply to 5.27</p>
<p>5.29</p>	<p>Member States may apply the so-called windfall profit clause (21) whereby a farmer who had sold or leased for six years or more all or part of his holding after the reference period has the number of entitlements due to him on the basis of his aid during the reference period (22) reduced by up to 90 %. These deductions are credited to the national reserve. Only Belgium, Denmark, Italy, Luxembourg and Sweden chose to apply this clause (23). In the other Member States, farmers are allowed to keep all of their windfall entitlements. Windfall profits have not only increased the contribution rate borne by all farmers to the national reserve but also led to unequal treatment of farmers in the EU.</p>	<p>France Like many Member States, France chose - as it is authorised to do by Community legislation - not to apply the "windfall profit" clause, preferring to make widespread use of contractual clauses concluded between farmers with retroactive effect. There were three main reasons for choosing this arrangement: it is clearer for farmers, is simpler to administer and, above all, does not entail using the reserve. Nearly 300 000 clauses have been concluded in France during the transitional period; use of the reserve has therefore been avoided in all these cases.</p> <p>Consequently, France's choice did not give rise to an increase in the rate of contribution to the reserve or to unequal treatment between French farmers</p>

	<p>(21) Article 42(9) of Council Regulation (EC) No 1782/2003 and Article 10 of Commission Regulation (EC) No 795/2004 (OJ L 141, 30.4.2004, p. 1).</p> <p>(22) The windfall profit clause only applies to transfers prior to 15 May 2004. Transfers after that date and transfers free of charge fall outside its scope.</p> <p>(23) Spain and France applied this clause in 2006.</p>	
5.31	<p>EU legislation (24) allows Member States to allocate reference amounts from the national reserve to new farmers (25) who started their agricultural activity after the reference period. In Scotland several new farmers were given entitlements where the applicant did not meet the criteria of the new farmer scheme (26). In one case farmer A took over a holding in May 2004 for which the former farmer B had been allocated 602 entitlements worth 287 000 euro in 2005. Farmer A successfully applied under the new farmer scheme of the national reserve and received his entitlements worth 111 000 euro for which he was fully paid in 2005. Farmer B declared 410 (27) of his 602 entitlements with 410 hectares of rough grazing land rented more than 300 kilometers away in the Scottish Highlands (28) and on which he kept 85 sheep. For this new agricultural activity he was paid 182 000 euro in 2005. Farmers A and B were both legal entities that had jointly operated the holding in question until March 2004.</p> <p>(24) Article 42(3) of Regulation (EC) No 1782/2003. (25) See the farmer definition in paragraph 5.26. (26) See article 2(k) of Regulation (EC) No 795/2004 which provides that a new farmer may not have exercised any agricultural activity in his own name and at his own risk or</p>	<p>United Kingdom No action foreseen. The UK disagrees with the ECA findings and the approach adopted is consistent with the regulations.</p>

	<p>must not have had the control of a legal person exercising an agricultural activity in the five years preceding the start of the new agricultural activity.</p> <p>(27) 192 entitlements worth 115 000 euro have been transferred under the provisions of article 17 of Regulation (EC) No 795/2004 to farmer A's daughter and two other farmers in respect of land sold to them in 2003. These entitlements were transferred without applying the windfall profit clause.</p> <p>(28) The lessor of the land was a sheep keeper who owned more than 11 700 hectares of rough grazing land for which he was allocated comparatively low value entitlements of 20 euro each. In total he had leased more than 3 000 hectares to farmers in similar situations as farmer B.</p>	
5.32	<p>A simple transfer of a holding between family members during or after the reference period was sufficient to increase the number and values of entitlements allocated for the holding. In Ireland a farmer who stopped farming in 2002 leased his holding to his son. The father was allocated entitlements worth 38 000 euro on the basis of premia paid in 2000 and 2001. His son was approved as a new farmer and allocated entitlements worth 87 000 euro on the basis of premiums paid in 2002. In 2005 the father transferred his land and his entitlements free of charge to his son who ended up owning entitlements worth 125 000 euro. If the transfer had not occurred the holding would have been allocated entitlements worth 67 800 euro.</p>	<p>Ireland Please see reply at Part B.</p>
5.33	<p>Entitlements from the national reserve may be allocated to farmers who made investments in production capacity or purchased land. In Scotland, the allocation for investment was disproportionate to the investment made. For example, one farmer had invested in 1 802 hectares of land located in a severely disadvantaged area, but the investment allocation was</p>	<p>United Kingdom No action foreseen. The UK disagrees with the ECA findings and the approach adopted is consistent with the regulations.</p>

	calculated on the basis of the much higher regional average value for the other land. He received entitlements worth 417 966 euro. In Northern Ireland, a farmer was allocated entitlements worth 109 000 euro. After the reference period he transferred more than 600 cattle to the holding of a family member who was allocated 140 000 euro for the same animals under the investment scheme.	
5.34	By mid 2003, the features of the reform, including the existence of a scheme providing for allocations for investors, had become public knowledge. In the United Kingdom a 10 % increase in income was considered sufficient evidence of an investment. Paradoxically by increasing the number of cattle slaughtered during 2002 (i.e. destocking) farmers could meet this investment criterion. Consequently there was a general run on cattle premiums. For example, in Northern Ireland the number of animals claimed under the beef special premium and the slaughter premium schemes was more than 20 % higher in 2004 than the average for 2000-2002. As a consequence more than 82 % (10,5 million euro) of the allocations from the national reserve were made to investors. The same phenomenon was observed in Scotland and England (85 % (34,4 million euro) and 78 % (94 million euro) respectively). This run on premiums and the non-application of the windfall profit clause explain why the contribution rate to the national reserve was in excess of 3 %.	United Kingdom No action has been taken and no action in the future. The UK disagrees with the ECA findings and the approach adopted is consistent with the regulations.
5.36	In Scotland the system for identification and registration of payment entitlements is incomplete since it does not correctly record transfers of entitlements or monitor minimum activation obligations (29). In several Member States the payment calculation was incorrect in cases where the area established after control was not enough to activate all entitlements declared by the farmer.	United Kingdom Action was taken in June 2007 and will continue in the future. Analysis and design work has been completed to implement changes to the entitlement register. The enhanced functionality has yet to pass through user acceptance testing and it is anticipated that this will be completed with the new functionality in production and operational by mid February. Enhanced to provide the means for viewing the identification data. This extended function will take

	(29) A standard entitlement must be activated at least once every three years and National Reserve entitlements must be activated every year for the first five years.	the form of two screens that will allow a record of all entitlement activity for each individual entitlement, including its system generated identification number, to be viewed. One screen will display entitlements for a selected business and scheme year and the other will display entitlements when selected by number. Both screens will be included in the main system's menus. The "Entitlements by Business" screen will be used to list entitlements for a specific scheme year. The "Entitlements by Number" screen will be used to interrogate entitlements that have been split / transferred. Both screens will share specific details about individual entitlements (value, ownership, type, establishment, usage and claim) and can therefore be used to interrogate entitlement transactions. In order to maintain a link between entitlements when split, a new column will be added to the Entitlement Register to record the identification number of the originating entitlement.
5.37	In all Member States visited (except Portugal and Belgium) definitive entitlements were allocated wholly or partly after the legal deadline of 31 December 2005 (more than 8,3 billion euro in value terms). Some Member States were consequently unable to pay all farmers by the 30 June 2006 deadline. This was a particular problem in England.	United Kingdom No action foreseen. The UK accepts that definitive establishment took place after 31/12/2005.

<p>5.39</p>	<p>The main difference between SAPS and SPS is that under the former ‘entitlements’ are not established. A uniform amount is paid for each hectare of eligible land. In due course the eight Member States that apply SAPS (30) will be required to adopt SPS.</p> <p>(30) Cyprus, Czech Republic, Estonia, Latvia, Lithuania, Hungary, Poland, Slovakia.</p>	<p>Lithuania Action will be taken in 2008-2009 and will be completed in 2010. Currently the Member States, including Lithuania, are applying the Single Area Payment Scheme (SAPS). In accordance with the provisions of Article 143b(9) of Council Regulation (EC) No 1782/2003 (as amended by Council Regulation (EC) No 2012/2006), the Single Area Payment Scheme shall be available to any new Member State for a period of application until the end of 2010.</p> <p>Poland The action has been taken. ARMA has been working since November 2006 on transition to the SPS. The result of the action taken so far is the approval, in November 2007, of the IT development strategy for the ARMA for the years 2007-2013 with conversion plan.</p> <p>Under this document a project has been designed for preparing the ARMA IT system for transition to the SPS. According to the project timetable drawn up in the IT development strategy for the ARMA for the years 2007-2013 with conversion plan, based on the assumption that Poland will adopt the SPS from 2011, work to adapt the IACS system to transition to the SPS should be carried out from September 2008 to 2010. Drawing up the IT development strategy for the ARMA for the years 2007-2013 with conversion plan is a project for specific measures which the ARMA needs to take to adapt its IT system for Poland's transition to the SPS.</p> <p>Slovakia Action was taken and will continue in the future. Certain sub-measures have been adopted in the context of the transition to SPS as the Slovak Republic is preparing for the transition from SAPS to SPS; the measures included the implementation of the project of Reinforcement of the Agricultural Paying Agency in view of the reform of the CAP and the implementation of the single payment scheme (Transition Facility), whose activities include Action 2: Adjustment of the single area payment scheme to the new elements of the reformed CAP – in particular from the point of view of the implementation of the single payment scheme (SPS).</p>
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		Other action will be adopted e.g. in the area of law.
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5.40	<p>For 2006 the SAPS coverage was completed by visiting the remaining three New Member States that apply the scheme (Estonia, Cyprus and Latvia) (31) and three Member States for a second time (Lithuania, Hungary and Poland). In total 24 payments were tested at final beneficiary level.</p> <p>(31) The other five Member States were audited the previous year. See the Annual Report concerning the financial year 2005, paragraphs 5.12 to 5.20.</p>	<p>Lithuania No action foreseen. The report makes no specific comments or references to shortcomings. Lithuania is mentioned only in the descriptive part.</p> <p>Poland On 4 June 2007 the Polish authorities sent their reply to the ECA's finding. This letter said that the ECA's comment was not justified as controls have been carried out in Poland since 2004 using the method described in Common Technical Specification (CTS) as M5 (Polish: photo method) under which every holding is visited. A description of the method used and the relevant parts of the 2006 and 2007 CTS were annexed to the letter.</p> <p>The ECA replied that: "The formal error (on-the-spot inspections conducted following controls by the teledetection method not proven (...)) has been deleted as the requirement to prove such inspections is not clearly laid down in Article 71(1) of Regulation No 796/04."</p>
5.41	<p>In Estonia the four beneficiaries audited had been paid for a larger area than was measured on the spot (average 4,6 %) and the Estonian authorities were unable to substantiate the figure for the calculation of the reduction coefficient they applied (3,51 %) (32) In Cyprus, there are continuing weaknesses in the land registry system (it dates from 1926 and the changes to the natural borders of fields that have taken place since then are not reflected in it) which explains the two relatively large differences in area found (7,26 % and 18,7 %). In Hungary the reduction coefficient was wrongly calculated, leading to a systematic overpayment of 1,62 %.</p> <p>(32) If the total aid payable exceeds the national SAPS envelope the aid must be reduced proportionally.</p>	<p>Estonia Estonia has been implementing a unit-rate reduction coefficient but it is still unclear what is meant by the justification given in this observation of using the figure of 3.51% to calculate the reduction coefficient. No explanations regarding the use of the reduction coefficient were asked for in the correspondence following the audit.</p> <p>Hungary Action started in November 2006 and will continue until January 2008. Legislative amendments will be launched; stricter implementation rules for the determination of the reduction coefficient will be introduced.</p>
5.47	<p>In Hungary for the financially most important measure, agri-environment (72,6 million euro), the audit found shortcomings</p>	<p>Hungary has replied in a detailed letter to the findings relating to the</p>

	<p>in the control and management system. For example: on-the-spot checks were not performed throughout the year in 2005, but after the main harvest, (as a consequence many conditions were not verified at all); parcels could not always be reliably and individually identified; the condition of maximum livestocking density was not checked as part of IACS cross-checks (with animal databases).</p>	<p>agricultural and environmental management measures.</p>
<p>5.50</p>	<p>In 2006, the Commission carried out specific missions to eight Member States. 35 conformity audits (34) included a review of at least one post-payment check as part of the work carried out. The Commission also introduced at the end of December 2006 for certain measures, new, harmonised methods for examining aspects of the regulation in the context of conformity audits (35). This should be extended to all measures involved in order to ensure standardisation of approach and coverage. In 2006, no audits covering aspects of the regulation were carried out by the unit responsible for rural development conformity audits although it represents 16 % of potential irregularities reported by Member States. In the other areas, both horizontal and conformity audits were carried out.</p> <p>(34) To: Austria, Denmark, France, Germany, Ireland, Italy, the Netherlands and the United Kingdom.</p> <p>(35) See paragraph 5.38(b) of the Annual Report concerning the financial year 2005.</p>	<p>France Action started gradually from 2007. The French authorities replied to the Commission's requests regarding recovery in January 2007. The delays observed in France's case are being made good.</p> <p>Netherlands The related software query for accounting information has been adapted to comply with Regulation (EC) No 2390/1999. The Netherlands has carried out the required number of controls, despite the initial coding error.</p>

5.53	<p>Backlogs in the completion of post-payment checks for 2004/2005 and earlier persist in Germany (Niedersachsen), Italy (Ministero Politiche Agricole) and Spain (Andalucia) at the time of submission of annual reports by Member States as per 1 January 2007.</p>	<p>Germany Action was taken in 2004 (addition of one inspector) and in 2006 (addition of a further 5 inspectors). The objective was a quadrupling of staff numbers in order to eliminate all inspection backlogs by autumn 2008. Of the approximately 220 cases which were still open in September 2006, 140 have now been settled. Most of the remaining cases have reached a very advanced stage of processing</p> <p>Spain Action was taken in December 2005 and the situation is already under control. Speedier controls and contracting for delays. Work continues to be done to prevent delays</p>
5.55	<p>Member States are obliged to provide the Commission with data regarding expenditure and information on the EAGGF Guarantee Section for the purpose of the clearance of accounts as well for monitoring and forecasting (37). An analysis carried out by the Court on this data for 2004/05 shows that the information provided in respect of physical and substitution checks is not reliable. It was further noted that Greece has not submitted any data in this respect. In relation to the Netherlands, it was found that the definition of 'physical checks' applied by one paying agency included documentary checks, leading to a significant overstatement of the number of checks recorded.</p> <p>(37) Commission Regulation (EC) No 2390/1999 (OJ L 295, 16.11.1999, p. 1).</p>	<p>Greece Action was taken in 2005. Physical and substitution checks are entered in the computer system when the payment order is issued.</p> <p>Netherlands On 15 Nov. 2007 the Nederlandse Algemene Rekenkamer forwarded to the European Court of Auditors the letter concerned containing additional information on its findings pursuant to Regulation (EC) No 2390/1999. The European Commission responded positively on 29 November. The investigation has therefore been closed.</p>

5.60	<p>The Court visited seven certifying bodies to review their work (41). The main weaknesses found related to the scope and depth of the detailed testing, the work of delegated bodies, including on the spot controls and the check of completeness of debtors' accounts. These weaknesses should be resolved in order to provide a greater level of assurance which can be gained from the work of the certification bodies. In 2006 the Commission services made visits to the certifying bodies of four other paying agencies (42). Its overall conclusion was limited to the statement that 'the audit methodology of the certifying body appears to provide sufficient assurance for the clearance decision'.</p> <p>(41) DAF-Ireland, AGEA and AGREA-Italy, BIRB-Belgium, FAGA-Spain, ONIC-France and OPEKEPE-Greece. (42) ARBEA-Italy, IFADAP-Portugal, Ministère de l'Agriculture- Luxembourg and MVH-Hungary.</p>	<p>France Some actions were taken in June 2007 and others will be taken by the end of 2008. Content of action: Changes made to standard inspection sheets and validation test sheets. Certification that work has been supervised is now a requirement. A full audit guide will be produced in due course.</p> <p>Of the three types of weakness detected (scope and depth of testing, the work of delegated bodies, completeness of debtors' accounts), only the "scope and depth of testing" might concern France.</p> <p>Portugal The Portuguese authorities wish to stress the depth of the analysis carried out on the certification of accounts process of one of its paying agencies during the Commission mission in December 2006. The positive conclusion of the mission as regards certification work is therefore welcomed.</p>
5.65	<p>Agriculture and Rural Development expenditure under the Guarantee Fund is affected by errors which, although decreasing, remain material. IACS, where properly applied, is an effective control system for limiting the risk of error or irregular expenditure. However, this is not the case in Greece.</p>	<p>Greece We do not share the Commission's opinion regarding implementation of IACS, however, the Commission and Greece have agreed on an action plan, which is being strictly followed and is being monitored by the Commission.</p>
5.66	<p>5.66. The design and implementation of the SPS limits the risk of irregular payments to farmers. Nevertheless some Member States have failed to correctly apply certain key elements of the SPS: Austria, Ireland and the United Kingdom extended consolidation of entitlements beyond the provisions of the regulation (see paragraphs 5.22 to 5.24).</p>	<p>Austria Action will be taken. See reply to 5.23</p> <p>Ireland Matter responded to as part of response to 5.23.</p> <p>United Kingdom No action foreseen. The UK disagrees with the ECA findings and the approach adopted is consistent with the regulations.</p>
5.67	<p>The United Kingdom did not comply with Community legislation when allocating entitlements and paying SPS and rural development aid to landlords for land let to and farmed by</p>	<p>United Kingdom No action foreseen. The UK disagrees with the ECA findings and the approach adopted is consistent with the regulations.</p>

	the lessee farmers (see paragraphs 5.20 and 5.21).	
5.69	Among the new beneficiaries, the Court noted railway companies, horse riding/breeding clubs, golf/leisure clubs and city councils in the United Kingdom, Germany, Sweden and Denmark (see paragraphs 5.25 to 5.27). Allocation of entitlements to landowners that never exercised any agricultural activity and who only keep land in GAEC has led to substantial redistributive effects of EU aid away from farmers to landlords, particularly in the dynamic hybrid model (see paragraph 5.28). The United Kingdom authorities set inappropriate criteria for allocations of entitlements for investments from the national reserve (see paragraphs 5.33 and 5.34).	<p>Germany See reply to 5.27 and 5.28</p> <p>United Kingdom No action foreseen. The UK disagrees with the ECA findings and the approach adopted is consistent with the regulations.</p>
5.82	<p>In its previous Annual Report (60) the Court raised concerns about the reliability of the olive cultivation Geographical Information System. For the 2004/2005 marketing year the Court carried out a specific audit of the olive oil production aid scheme in the main producer Member States (Italy, Spain and Greece).</p> <p>(60) See paragraphs 5.25 to 5.27.</p>	<p>Greece Since 2006, Greece has been implementing the single payment scheme, under which the whole of the producer's holding and olive oil production are declared and printed in the cartographic base and therefore there is no doubt that the GIS is reliable.</p>

Table 5.1

France Figures validated.

Greece We agree with the amount given.

Portugal The Portuguese authorities disagree with putting qualified opinions, scope limitations or emphasis of matter in the same column, as if they were equivalent. An emphasis of matter does not alter the opinion expressed in the certificate, unlike in the two first cases. In INGA's case, the certifying body did not qualify its opinion, it only included an emphasis.

Slovenia referred to its general comments (part B of the questionnaire).

Sweden No action foreseen. Relates to 5.3, which states that the Court of Auditors scrutinised the supervision and inspection system and tested at random selected payments from the expenditure of 30 payment offices. The results are set out in Table 1 and Figure 5.2.

Table 5.2

Czech Republic The action is in continuing process. Results of on-the-spot checks are imported into LPIS after the opening of the checking procedure and used to update data in LPIS.

Greater awareness among applicants concerning the recommendation to declare in the grant application data corresponding to the current situation.

France Figures validated. For the sake of clarity, the words "partially or totally" should be added to the column heading "Inspected animals rejected".

Ireland Not negative finding. Statistics for Ireland comparable to EU average

Malta Action was taken and will continue in the future. Action started when the report of the Court of Auditors became official.

i) A Unit was established in the framework of the Paying Agency called the Centralised Authorising Function which, amongst other things, executes quality controls (including walk-through checks) on the process as from when the presentation of the application for the subsidy is originally made until the authorisation of the transfer of the subsidy to the bank account of the beneficiary.

ii. The Internal Audit and Investigations Directorate took and is still taking into consideration the findings of the European Court of Auditors in the Certification Audit that is currently being made.

Slovenia referred to its general comments (part B of the questionnaire).

Sweden No action foreseen. Relates to point 5.9

Table 5.3	<p>France Figures validated.</p> <p>Slovenia referred to its general comments (part B of the questionnaire).</p>
Table 5.4	<p>Sweden No action foreseen. Relates to point 5.27</p>
Annexe 5.1	<p>Germany Action was taken. See 5.53</p> <p>United Kingdom See 5.23 above</p>
Annexe 5.2	<p>Ireland referred to its general comments (part B of the questionnaire).</p> <p>United Kingdom UK commented on the following notes in Annex 5.2:</p> <p>Note 1. Action was taken and will continue to be taken. Content of action: Procurement of Sequential date stamps or enhanced receipting technology.</p> <p>Note 3. Action will be taken. The position is currently being clarified with the EC.</p> <p>Note 5. No action foreseen. See 5.23 above.</p> <p>Note 11. No action foreseen. The UK disagrees with the ECA findings.</p>

Graph 5.2

Czech Republic See table 5.2

Greece Action was taken in 2007. When carrying out checks for the second year of implementation of the single payment scheme, the percentage of on-the-spot checks on livestock and crops was increased compared with the first year of implementation, i.e. 2006.

Malta Action was taken and will continue in the future. Action started when the report of the Court of Auditors became official.

i) A Unit was established in the framework of the Paying Agency called the Centralised Authorising Function which, amongst other things, executes quality controls (including walk-through checks) on the process as from when the presentation of the application for the subsidy is originally made until the authorisation of the transfer of the subsidy to the bank account of the beneficiary.

ii. The Internal Audit and Investigations Directorate took and is still taking into consideration the findings of the European Court of Auditors in the Certification Audit that is currently being made.

Slovenia referred to its general comments (part B of the questionnaire).

Sweden No action foreseen. Relates to point 5.3

Graph 5.3

Greece action has been taken in 2007

Malta Action was taken and will continue in the future. Action started when the report of the Court of Auditors became official.

i) A Unit was established in the framework of the Paying Agency called the Centralised Authorising Function which, amongst other things, executes quality controls (including walk-through checks) on the process as from the presentation of the application for the subsidy is originally made until the authorisation of the transfer of the subsidy to the bank account of the beneficiary.

ii. The Internal Audit and Investigations Directorate took and is still taking into consideration the findings of the European Court of Auditors in the Certification Audit that is currently being made.

Slovenia referred to its general comments (part B of the questionnaire).

CHAPTER 6 – STRUCTURAL OPERATIONS

Annexe 6.1

Austria Action was taken and will continue until mid-2008. Measures to improve the quality of controls under Article 4 at the intermediate body in question had already begun before the Court's audit. Content of action: Improvement of system of controls under Article 4 and more intensive controls under Article 9. Follow-up checks under Article 10 are also planned.

Germany Action was taken. The measures had already been introduced in the run-up to the Court's inspection. Apart from that, there was a response shortly after the Court's inspection report became known. The managing authority instructed the intermediary bodies by order of 30.3.2006 to require project managers as of 01.07.2006 to provide lists of supporting documents relating to individual items of expenditure to confirm that resource had been used. A reorientation of inspection capacity is also planned, with the stepping up of inspections of current projects. In addition, a tried and tested tool - the auditing of project managers – is to be further developed and implemented accordingly.

The Independent Body steers and monitors controls carried out to international standards by KPMG, the private audit firm. KPMG's remit is limited in time to the end of the ESF programming phase. At the start of the new ESF programming phase, inspections will no longer be conducted by a private audit firm, but by the inspection authority's own staff. Staff capacity is currently being stepped up for this purpose. It is guaranteed that the closure statement will be properly drawn up in accordance with Article 38(1) of Regulation (EC) No\ 1260/1999.

From October 2004, the Independent Body has verified the management and control systems in place in accordance with Article 10 of Regulation (EC) No 438/2001. This inspection also encompassed the organisation of the management and control system prior to the inspection. This means that the content of the inspection report does not relate only to the period up to the end of the programme. In combination with the on-the-spot inspections in

accordance with Article 10 of Regulation (EC) No 438/2001, which cover far more than the necessary 5 per cent of eligible expenditure and also relate to projects carried out between 2000 and 2004, the Independent Body has a large enough body of data to be able to draw up a qualified closure statement in accordance with Article 38(1) of Regulation (EC) No 1260/1999.

The Independent Body has also carried out an additional inspection of the management and control systems in connection with the need to meet the targets set out in Regulation (EC) No 1159/2000.

Greece Taking account of replies already provided by the Greek Authorities to the ECA, we take the view that EDEL's system as the control body and the winding up body operates satisfactorily.

Poland Action was taken. During the audit the auditors were informed about a number of activities being performed by the Paying Authority in order to fulfil its function of certifying expenditure in accordance with Article 9 of Regulation 438/01. These activities include:

- approval of procedures contained in the Management and Control Procedures Manual of the Managing Authority (Ministry of Agriculture and Rural Development);
- formal and accounting checks on the certification and attestation of expenditure and applications for reimbursement from the Managing Authority, including checking data against the bank statements submitted and the documentation of all the operations carried out within the scope of the application, as well as verification of compliance with EU cofinancing levels;
- analysis of the results of verifications carried out by the Managing Authority in accordance with Article 4 of Regulation 438/01;

- analysis of the results of checks carried out in accordance with Article 10 of Regulation 438/01 by the Department of Certification and Attestation of EU funds;

- verification of information on irregularities submitted under Commission Regulation 1681/94.

Documentation confirming performance of these activities was presented to members of the audit team by Paying Authority staff.

During the audit the auditors were also informed about implementation of the procedure for the conduct of audit missions by the Paying Authority at the Managing Authorities and intermediate bodies. The purpose of these audits is for the Paying Authority to obtain reasonable assurance within the meaning of Articles 7 and 9 of Regulation 438/01 concerning the reliability of the data submitted to the Paying Authority by the Managing Authority and the application of the procedures contained in the management and control manuals of the individual authorities and bodies. The procedure for the conduct of audits by the Paying Authority was approved by the Managing Authority on 2 June 2006. The procedure was made available to the audit team.

The absence of a legal basis for conduct by the Paying Authority of the audits referred to above, and of an established procedure meant that the Managing Authority could not perform audit missions previously. However, after fulfilling the formal requirements the Paying Authority began conducting audits. Its first audit mission at the Managing Authority for the SOP 'Restructuring and Modernisation of the Food Sector and Development of Rural Areas, 2004-2006' was conducted in accordance with the Paying Authority's audit plan for 2007 on 28-20 June 2007.

Concerning evaluation of audit systems - audit authority:

During the ECA audit mission in Poland from 31.7.2007 to 11.8.2007, the audit authority presented the Court with a sample for examination and the 5% control programme for eligible expenditure under the Sectoral Operational Programme for Restructuring and Modernisation of the Food Sector and Development of Rural Areas to be carried out in the second half of 2006.

In accordance with the Audit Strategy for the Structural Funds/Cohesion Fund for the programming period 2004-2006, drawn up by the Department for Certification and Attestation of EU Funds (audit authority), the audit covered beneficiaries' applications for payments made by ARMA up to 31.12.2005.

The 5% sample for checking in 2006 contained 123 beneficiaries' applications for payment for a total amount of PLN 85 847 540.51, i.e. 19.47% of the population value (PLN 440 919 542.89) and 7.72% of all expenditure by ARMA up to 31.12.2005 (PLN 1 110 669 542.89). These payments relate to applications for intermediate payments sent to the European Commission by the Paying Authority up to 30.6.2006.

On 31 July - 11 August 2006 the ECA conducted an audit in Poland of expenditure of the EAGGF - Guidance Section. The bodies inspected included the Paying Authority Department of the Finance Ministry.

In the Paying Authority Department's opinion, the ECA opinion that the Managing Authority audit system in Poland operates at an unsatisfactory level is too severe.

In the opinion of the Finance Ministry's Department for Certification and Attestation of EU Funds, the ECA assessment of the authority's operation did not take account of its work in the second half of 2006.

Portugal While welcoming the ECA's positive opinion on the effectiveness

of Portugal's control system for the Accessibility and Transport programme, the national authorities are continuing to work on improving this system, also for other Structural Fund programmes.

Slovenia referred to its general comments (part B of the questionnaire).

Managing authority, paying authority and budget supervision office were given an unfavourable assessment, but it is difficult for Slovenia to comment on this fact, as it does not have at its disposal the final audit report of the European Court of Auditors, where our comments are evaluated.

United Kingdom Action was taken (ERDF UK) in May 2007 and will continue until January 2008. Action will be taken (ESF UK) when draft report is finalised.

CHAPTER 9 – PRE-ACCESSION STRATEGY

9.12	For the Phare Programme, the Court found one substantive error: in Slovakia, where an incorrect co-financing ratio was applied. In addition, some formal errors, such as non-compliance with tendering and contracting rules were found.	<p>Slovakia No action foreseen. As a result of the communication with the Commission during the period when the Slovak Republic was to submit its observations, the Commission received an explanation of why the co-financing rate was not observed; this explanation was accepted by the Commission in writing. It follows from the above that this is not a shortcoming and we insist that the entire point be removed. We are not aware of the fact either that the ECA found a non-compliance with any tendering rules.</p>
9.14	The Sapard transactions audited by the Court were affected by significant errors. The Court found projects where the beneficiaries of the community aid did not comply with their contractual obligations. In particular, a project audited in Romania was found to have been ineligible for EU financing for failure to adhere to the Commission's prescribed procurement rules and procedures. For certain projects, the checks actually carried out by the authorities during the on-the-spot visits were not clearly evidenced or they were not appropriate even leading to a payment for an investment that was not completely finalised.	<p>Romania Action was taken and will continue in the future.</p> <p><u>Regarding "failure to comply with rules and procedures on tendering":</u></p> <p>First action was taken in January 2005 and completed in April 2006. Content of action: Circular No 91/05.01.2005 on the written notification of beneficiaries on the suspension of decisions to approve on tendering procedures in the event of challenges. The Circular was issued to avoid a repeat of the deficiencies noted by the SAPARD Agency prior to the findings of the auditors of the European Court of Auditors.</p> <p>Second action will be taken in January 2008 and be completed in March 2008. Content of action: The Director-General of the Agency will order the Control and Antifraud Directorate to double-check the tendering procedure carried out by the beneficiary and check that the Agency staff's acts in compliance with its powers. We would like to point out that the Agency initially did not approve the tendering procedure carried out under the project to which the report of the European Court of Auditors refers; it was forced to issue the approval decision by decision of the Craiova Court of Appeal.</p> <p><u>Regarding the matter: "controls carried out by the authorities during on-the-</u></p>

		<p><u>spot checks were not clearly demonstrated or were not adequate":</u></p> <p>First action started on 9 February 2007 and was completed on 25 February 2007. Content of action: Following double-checks carried out under the project referred to by the 2006 report of the European Court of Auditors the deficiencies highlighted have been remedied.</p> <p>Second action started in December 2006 and will continue for the duration of the SAPARD programme. Content of action: Following a decision by the Agency, technical experts must provide details in the verification reports on the subject of the check and the evidence obtained by the experts.</p>
9.18	<p>The EC Delegations' ex ante control of the tendering and awarding of contracts under decentralised management has been an effective key control to ensure the legality and regularity of the underlying transactions. Regarding the Phare and Turkey programmes, the Court has observed in the tendering files a high frequency of corrective actions due to the Delegation's ex ante controls in Bulgaria, Romania and Turkey. This indicates that the national supervisory systems at the DIS institutions are still weak. Thanks to the maintaining of the ex ante control in the concerned delegations, these weaknesses had no serious negative financial consequences.</p>	<p>Romania Action was taken. In the post-EDIS period, continued efforts have been made to strengthen the capacity of existing ex-ante units within the Implementation Agencies. Progress achieved – particularly in the provision of an adequate and qualified staff and in ensuring an exchange of experience so that the errors detected will not be repeated by the other units within the system.</p> <p>In addition, an ex-ante verification system was set up at national level to ensure that national tendering procedures are implemented correctly in the post-accession period (Unit for coordination and verification of tenders).</p>

9.19	<p>In Romania two out of three Phare Implementing Agencies received EDIS accreditation in December 2006. In Bulgaria however, EDIS accreditation for Phare has been further delayed confirming the Court's finding that the national administration supervisory systems at the DIS institutions are weak.</p>	<p>Bulgaria Action was taken and will continue. Content of action: Accreditation of the Phare Implementing Agencies to operate under extended decentralisation was received on 29 June 2007.</p> <p>The implementation of the EC decision on the accreditation of the Phare Implementing Agencies to operate under extended decentralisation is being monitored continuously by both the EC and the National Authorising Officer.</p> <p>Romania The action has been taken. For the Phare programme, EDIS accreditation was also obtained for the Implementation Agency, Ministry of Employment, the Family and Equal Opportunities, by Commission Decision D/201988/2.4.2007.</p>
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9.21	<p>In 2006 (June for Romania and November for Bulgaria) the systems put in place for ISPA management allowed the Commission to waive the ex ante approval requirement. However, for some implementing agencies, the approval could not yet be given or was given subject to particular safeguarding conditions. In its Decision, the Commission included a number of issues to be followed up by the different bodies involved. The implementation of these issues was still ongoing at the end of 2006.</p>	<p>Bulgaria Action was taken after receiving the European Commission's audit report from the mission of 28 August – 1 September 2006. Content of action: Once a month an update on the state of play regarding implementing the recommendations from the European Commission's audit report from the mission of 28 August – 1 September 2006.</p> <p>An update on the state of play will continue to be sent regarding implementing the recommendations from the European Commission's audit report from the mission of 28 August – 1 September 2006.</p> <p>In February 2007 a follow-up audit was carried out to monitor the implementation by the Implementing Agency in the Ministry of Environment and Water, which showed considerable progress so that the auditors had "good reason to be confident that the unit audited fulfilled all the material requirements with regard to the minimum requirements for extended decentralisation and the relevant rules for contracting up until 16 February 2007.</p> <p>Romania Action was taken in June 2006 and will continue. The main aspects have been resolved and progress reports sent to DG REGIO on a monthly basis.</p> <p>Problems as yet unresolved continue to be monitored by the Romanian authorities and completion is monitored on a monthly basis at national level.</p> <p>The institutional system for the decentralised implementation of the ISPA programme is accredited by the European Commission on the basis of Decision E/2006/11.7-C(2006)2879/28.6.2006 for the ISPA programme.</p>
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<p>9.22 a)</p>	<p>The Court's audit in Latvia and Romania found that the Sapard administrative and control systems included the key concepts (10) but their functioning showed the following weaknesses:</p> <p>(a) changes in the accredited procedures in Romania (see also Bulgaria above in paragraph 9.15) and in the RDP (Rural Development Plan) in Latvia had not been given the necessary prior approval by the Commission;</p> <p>(10) Adequate separation of duties, proper authorisation of transactions, adequate documents and records, on the spot control (Physical control), independent checks.</p>	<p>Latvia No action foreseen. The Ministry of Agriculture (hereinafter – MA) does not agree with the error pointed out by the Court and considers that it has not failed to respect the conditions referred to in the SAPARD Sub-programme 1.2 "Afforestation of agricultural areas", since, in compliance with the European Community legislation, the implementation of the SAPARD programmes in the candidate countries was to begin in 2002, thus, in order to meet the objectives stated in the SAPARD programme, the restriction regarding the condition for aid providing that "the total area to be afforested must not exceed 50ha per aid applicant per calendar year" refers to the number of the concluded annual financial contracts. On 26 March 2007, the State Audit Office sent detailed explanations to the Court of Auditors.</p> <p>Romania Action was taken in October 2007 and will be completed in September 2008. From the date of receipt of notification of rejection by the European Commission, Instruction 104 has no longer been applied. Starting from 1 January 2007, in accordance with Commission Regulation (EC) No 248/2007 of 8 March 2007 on measures concerning the Multi-annual Financing Agreements and the Annual Financing Agreements concluded under the Sapard programme and the transition from Sapard to rural development, the Commission will be informed of any modifications in the implementation or paying arrangements of the SAPARD Agency.</p>
<p>9.22 b)</p>	<p>The Court's audit in Latvia and Romania found that the Sapard administrative and control systems included the key concepts (10) but their functioning showed the following weaknesses:</p> <p>(b) the insufficient accuracy and quality of the checks in one project in Romania did not allow the detection of errors that consequently were not corrected (see paragraph 9.14);</p> <p>(10) Adequate separation of duties, proper authorisation of</p>	<p>Romania Action was taken in December 2006 and will continue for the duration of the SAPARD programme. Following a decision of the Agency, the technical experts must provide the details in the on-the-spot check reports. (E.g.: measurements taken, checks carried out, etc.)</p>

	transactions, adequate documents and records, on the spot control (Physical control), independent checks.	
9.22 c)	<p>The Court's audit in Latvia and Romania found that the Sapard administrative and control systems included the key concepts (10) but their functioning showed the following weaknesses:</p> <p>(c) a price database to check that purchases had been made at reasonable prices which affect the eligible amount of a project was not yet in place in Romania. This point was already raised in 2005 annual report (point 9.17(c)).</p> <p>(10) Adequate separation of duties, proper authorisation of transactions, adequate documents and records, on the spot control (Physical control), independent checks.</p>	<p>Romania Action was taken in November 2005 and completed in April 2007. Content of action: Creation of database of prices for additional checking as to whether the prices are reasonable.</p> <p>As regards projects of private beneficiaries without a technical project, expenditure on consultancy services do not exceed 3% in the case of measure 3.1. The consultancy contract covers the drafting of the Feasibility Study, drafting of the finance application, the tendering files and the payment applications.</p>
9.25	<p>The Court recommends that the Commission: 9.25.</p> <p>(a) monitor closely the effective functioning of national supervisory and control systems, notably the preparation and management of tenders in Turkey, procurement under EDIS in Bulgaria and Romania and the timely delivery of national co-financing;</p>	<p>Romania Action was taken. For controls on tendering procedures, see the reply to point 9.18.</p> <p>As regards the timely granting of national co-financing, starting from the Phare 2004 total allocation, most co-financing from the State budget is allocated under the budget item of the Paying Authority in order to ensure that the amounts from all funding sources are available at the right time.</p>

ANNEX

Questions put to Member States concerning structural actions

<p>As in earlier years, the European Court of Auditors in 2006 found more errors within structural actions (Structural Funds/Cohesion Fund) than within agricultural policy, and a large share of these errors had very high error rates. The most common substantive errors found (i.e. errors with a financial impact) continued to be:</p> <p>A. <i>Ineligible expenditure</i>, i.e. payments were made even though the underlying costs were not eligible for reimbursement (including cases of disqualification because of non-compliance with tendering rules);</p> <p>B. <i>Over-declaration</i>, i.e. costs claimed were higher than actual costs incurred by the person/company claiming the reimbursement;</p> <p>C. <i>Over-reimbursement</i>, i.e. expenditure reimbursed at too high a rate, for example because of failure to take account of revenue in the co-financing rate;</p> <p>D. <i>Essential documents were not available</i> to the Court during its audit. If no documentation justifying a payment is available, then the payment can be considered to be 100 % in error.</p> <p>In order to build on the experience gained by Member States, the Commission invites you to reply to the following questions:</p>
<p>Question 1: On the basis of the results of your own controls/audits, what are the main reasons you find for the errors mentioned above?</p>
<p>Question 2: Have you taken or will you take action to prevent these errors?</p>
<p>If yes to question 2 Question 3a: What kind of action?</p>
<p>If yes to question 2 Question 3b: When did the action take place</p>
<p>If yes to question 2 Question 3c: What impact did the action have/is the action expected to have (e.g. impact on number of errors or impact on average error rate)?</p>
<p>Question 4: What do you find to be the most important reason(s) for breaches of public procurement rules leading to disqualification of expenditure from co-financing?</p> <p>(4a) Lack of knowledge about rules. (4b) Ambiguity in interpretation of rules. (4c) Deliberate intention to avoid the rules in order to save time. (4d) Deliberate intention to favour certain bidders.</p>
<p>Question 5: What do you find to be the most important reason(s) for over-reimbursement of expenditure due to failure to take account of revenue of other factors affecting co-financing rates?</p> <p>(5a) Lack of knowledge by implementing bodies. (5b) Ambiguity of rules applicable. (5c) Underestimation of revenue by beneficiaries. (5d) Desire to favour beneficiaries.</p>
<p>Question 6: What do you find to be the most important reason(s) for essential documents not being available to the ECA during audits?</p> <p>(6a) Documents were never archived. (6b) Documents were discarded because the retention period according to EU rules (as interpreted by the auditee) had expired. (6c) Documents were discarded by mistake. (6d) The auditee by mistake retained the documents only according to national and not EU rules. (6e) Documents still existed but the auditee was unclear which documents were required by the Court. (6f) The auditee was not able to find the documents due to archives not being properly organized. Documents have later been found. (6g) The auditee was not able to find the documents due to archives not being properly organized. Documents have still not been found.</p>