Financial Regulation applicable to the general budget of the European Union

2010/0154(COD) - 21/10/2010 - Court of Auditors: opinion, report

COURT OF AUDITORS OPINION No 6/2010 on a proposal for a regulation of the European Parliament and of the Council on the Financial Regulation applicable to the general budget of the European Union.

The Commission's proposal contains a large number of detailed proposed changes to the articles of the Financial Regulation.

The Court states that improving the financial management of the European Union and the arrangements for holding the Commission to account for its management of funds is an important task. Changes to the Financial Regulation can play a role in this — and the proposed amendments include many desirable changes that will take this process further.

But, as the Court has pointed out elsewhere, improving the quality of EU spending requires **simplification of, and other improvements to, sectoral legislation** together with other steps to support, encourage and require sound action by managers in the Commission, the other institutions, and the Member States. Complex legislation is unlikely to produce the improved performance sought by all EU stakeholders.

The Court lays down the following **observations and recommendations**:

- the Commission has described this proposal as going beyond the normal scope of triennial revision. But in practice, the changes proposed are **less ambitious than portrayed**. For example, the explanatory memorandum talks of switching the regime of grants from one based on inputs to one based on outputs. In practice, while there are some innovations such as provision for the award of prizes, the proposals fall short of this aspiration;

- the Commission's proposal on **external assigned revenue** is soundly based, but it appears unnecessary to maintain a category of internally assigned revenue;

- the Commission makes proposals on a **tolerable risk of error**. The Court notes that considerable uncertainty surrounds the definition and application of the concept of tolerable risk; and that the Commission proposal appears to use the concept of tolerable risk solely as a basis for judging what level of irregular payment of funds should be regarded as acceptable ex post. The Court suggests that the Parliament and Council consider whether the Financial Regulations should require the Commission to improve its screening of spending proposals at the time they are put forward, and to improve its diagnosis of the causes of error. The Financial Regulation should not seek to restrict the responsibility of the Court to decide on an appropriate level of materiality;

- the Commission's proposal on **management modes** involves a significant requirement for a management declaration on the use of all funds whose management is shared with Member States. However the proposals raise issues of cost, practicality and responsibility which require careful consideration;

- the Court recommends that the Implementing Regulation should take account of earlier comments by the Court in respect of fiduciary accounts;

- the inclusion in the Financial Regulation of a **specific legal basis for the use of financial instruments is appropriate**. However, the Court notes that the proposed addition to the Financial Regulation does not tackle the issue of ownership. It is not clear whether the Commission expects to record all financial instruments in the balance sheet of the European Union;

- substantial parts of the proposals on **external audit** would constrain the ability of the Court to carry out its Treaty responsibilities effectively. The Court therefore recommends the Parliament and Council to reject the greater part of these proposals;

- the Commission proposes the creation of **European trust funds**. The Court draws the attention of the Parliament and Council to issues of administration, accountability and audit raised by this proposal;

- the provision on the '**light model Financial Regulation**' for the proposed special public-private partnership bodies does not explicitly require consultation of the Court. The Court considers that it is important that this document should in no way restrict the capacity of the Court to audit the use of EU funds;

- the Court recommends the further strengthening of the provision on **prefinancing**, together with management action to reduce an excessive build-up of uncleared items;

- the proposals involve some simplification to the **arrangements for preparing and presenting the accounts**. The Court recommends that in addition the Commission's commitment to preparing financial statements in accordance with the internationally accepted standards be restated and clarified;

- the Court recommends the clarification of the Commission's proposal for the **audit of the agencies** in order to maximise the contribution which this proposal might make to overall assurance on the legality and regularity of expenditure;

- the Court suggests a review of **reporting requirements**.

Taken as a whole, the proposals contained in the recast of the Financial Regulation will provide opportunities for the Commission to improve transparency and financial management. Simplification of sectoral legislation remains however an important route to a significant improvement in performance.