Framework financial regulation: Community bodies (Art. 185 Regulation (EC, Euratom) 1605 /2002)

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Overall, the Court welcomes, in its Opinion No 11/2002, the proposal for a draft framework financial regulation. It recalls that it had asked for such a common framework specific to the various Community bodies. The Opinion makes clear that the Commission is at liberty, concerning the draft framework regulation submitted to the Court for appraisal, to introduce original financial provisions that are specific to the management needs of the Community satellite bodies. The Court reminds the Commission, however, that in its Opinion No 2/2001 on the draft Financial Regulation applicable to the general budget of the European Communities it set out three principles on the basis of which it had founded its appraisal of the text. These principles are as follows: - the Community budgetary system should apply the existing budgetary principles and should tolerate only those exceptions that are indispensable; - the budgetary system should be as simple as possible; - the budget, in terms of both estimates and implementation, and the financial statements, should reflect the reality of the operations and financial situations of the Communities. The Court sees no reason for not adhering to these three principles in its drafting of an opinion on the text submitted to it for appraisal. Nevertheless, the Court states that, in the current context, 'existing budgetary principles' must be understood to mean the principles on which the EC Financial Regulation is based, as well as those on which the Community satellite bodies' own financial regulations are also currently based. These principles are as follows: the principle of the unity of the financial instrument; of the annual nature of the budget; of the unit of account used to draw up the budget; of the universality of the revenue entered in the budget to cover all payment appropriations; of equilibrium; of specification of the appropriations; of sound financial management; of transparency of the actual budget, its accounts and any action connected with its implementation. In the Court's judgement, the Community satellite bodies, which were set up to manage Community public services, are subject to the constraints that are specific to public entities. As independent economic entities, they must certainly act in accordance with the principles of unity and efficiency in their management. However, by virtue of their very nature, they must adhere to the budgetary principles set out in the preceding paragraph. In order to ensure the unity and efficiency of their management, some exceptions to the budgetary principles may be indispensable. In order for these exceptions to be legitimate, however, they must satisfy the following requirements: a) meet compelling managerial needs specific to the Community satellite bodies; b) be proportionate to the objective pursued without infringing the budgetary principle to which an exception is being made any more than is strictly necessary. The Court also finds that many provisions of the draft framework financial regulation either faithfully reflect or copy similar provisions contained in the EC Financial Regulation. With regard to these provisions, the Court considers that if it had appraisedtheir relevance in detail, it would have risked creating more confusion, rather than clarifying the Community financial legislation. It has therefore preferred to limit itself to making the comments that were most strictly necessary in their regard such as on budgetary principles, implementation of the budget, internal auditor and on the presentation of the accounts and accounting.