

Consultative powers of the European Court of Auditors

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The opinion of the Court of Auditors must be sought by the Council before the adoption of legislative provisions with financial implications (Article 279 of the EC Treaty and Article 183 of the EAEC Treaty; see also Article 78 of the ECSC Treaty, which expired on 23 July 2002). This mandatory consultation of the Court of Auditors applies in three instances: when the Council decides on financial regulations, when the budget revenue provided under the arrangements relating to the Community's own resources is made available to the Commission, and when the Council lays down rules concerning the responsibility of financial controllers, authorising officers and accounting officers. Following the Amsterdam reform, Article 280(4) of the EC Treaty also provides for the mandatory consultation of the Court before the adoption of any legislation in the fields of the prevention of and the fight against fraud.

Furthermore, the Court of Auditors may deliver an opinion at the request of one of the other institutions of the Community (the second subparagraph of Article 248(4) of the EC Treaty and the second subparagraph of Article 160c(4) of the EAEC Treaty; see also the second subparagraph of Article 45c(4) of the ECSC Treaty). These optional opinions may be published in the Official Journal of the European Union, by a decision of the Court after consulting the institution which requested the opinion or the institution concerned by the Court's analysis. However, some opinions are 'private documents': they are not published and may not be consulted.

The opinion of the Court of Auditors is never binding.