

Annual Report of the Court of Auditors concerning the financial year 1987

Caption: Whereas, in accordance with the principle of financial autonomy enjoyed by the European Investment Bank (EIB), the European Court of Auditors 'has never attempted in any way to audit operations carried out by the European Investment Bank (EIB) from its own resources', EIB management of Community funds nonetheless raises the problem of auditing by the Court.

Source: Official Journal of the European Communities (OJEC). 12.12.1988, n° C 316. [s.l.].

Copyright: All rights of reproduction, public communication, adaptation, distribution or dissemination via Internet, internal network or any other means are strictly reserved in all countries.

The documents available on this Web site are the exclusive property of their authors or right holders.

Requests for authorisation are to be addressed to the authors or right holders concerned.

Further information may be obtained by referring to the legal notice and the terms and conditions of use regarding this site.

URL: http://www.cvce.eu/obj/annual_report_of_the_court_of_auditors_concerning_the_financial_year_1987-en-8a3f5153-b647-42f3-af08-de530e850274.html

Publication date: 22/10/2012

Annual Report of the Court of Auditors concerning the financial year 1987

[...]

Part one

General Budget of the European Communities

[...]

The implications of shared management

[...]

Problems connected with the agency role assigned to the EIB

1.38. The Court has never attempted in anyway to audit operations carried out by the European Investment Bank (EIB) from its own resources. The Court has nevertheless been obliged to observe that greater and greater obstacles have been put in the way of the exercise of its audit prerogatives, as defined in the Treaties, over the Community resources used under the Commission's responsibility to finance operations in which the EIB is, in one way or another, involved (EIB management of funds as the Commission's agent, interest subsidies, cofinancing, etc.).

1.39. The most substantial, in terms of volume, of the resources that are managed by the EIB are borrowed on the financial markets by the Commission and redistributed by it, with the help of the EIB. In its annual report on the financial year 1986 ⁽¹⁾, the Court noted that when it 'came to carry out its audit of NCI loan transactions for the financial year 1985 it turned out that the information and documents requested from the Commission and supplied by it were not adequate for the Court to be able to express an opinion as to the extent to which the objectives set out by the Council of Ministers in its Decisions had been achieved'. These repeated observations have led the Court to be especially vigilant as regards the way in which the Commission fulfils its obligations as manager of the funds in question and, consequently, the procedure by which it exercises its own powers of control.

1.40. In a letter to the President of the Court of Auditors dated 29 April 1988, the President of the Commission was concerned to reaffirm that 'the Commission has in no way changed its position of principle regarding the Court of Auditors' powers over operations managed by the EIB' and said that the Commission considered that the wording of Article 10 of Decision 87/182/EEC concerning NCI IV 'could not be interpreted as limiting the rights vested in the Court by the Treaties'. In this letter, as in past replies to the Court's observations on the financial years 1985 ⁽²⁾ and 1986 ⁽³⁾, the Commission gave reason for the Court to assume that the specific procedures permitting it to exercise its right of audit would finally be adopted shortly by the parties involved.

1.41. The Court must reiterate that, as its right to audit cannot be challenged on legal grounds and is not in fact challenged by the institutions concerned, its intentions were purely constructive when it suggested that a concerted effort be made to find procedures for exercising its prerogatives, particularly as regards on-the-spot visits, to take account, on the one hand, of the overlap between the Commission's and the EIB's interventions and, on the other, of the EIB's concern not to appear to the outside world to be subject, as such, to the Court's audit. The procedures referred to by the Court in the previous paragraph are inspired by the agreement reached with the Commission on the audits carried out in the field of ECSC lending and borrowing activities, according to which the Court may accompany the Commission when the latter carries out autonomous on-the-spot visits.

1.42. The fact, however, is that the Court was obliged to observe during audit visits in October and November 1987 that the EIB had approached beneficiaries of NCI loans managed by the Bank on behalf of the Community in order to prevent the Court from exercising its audit prerogatives on the spot. The

argument put forward was that, as the funds in question were being managed by the EIB as the Commission's agent, the beneficiaries could not permit an audit visit from the Court without having received prior 'audit authority' from the Bank (see paragraphs 11.7 to 11.19).

1.43. The budget appropriations under Chapter 96, 'Cooperation with Mediterranean countries', constitute another category of Community resources managed in part by the EIB. Here again, the Court's right to carry out on-the-spot audits was unexpectedly stymied in 1987. In fact, the Cypriot national authorities - referring explicitly to EIB pressure - refused to allow the Court to make an on-the-spot audit of the share of the projects financed by budgetary appropriations. The Commission, for its part, failed to inform this recipient of Community funds of its obligations as regards auditing under the agreements reached with the Community. It would appear that the reason for this refusal is the fact that the EIB co-finances a proportion of the projects concerned from its own resources (see paragraph 9.6).

1.44. Arguments such as these, when used to oppose the Court's right to carry out an audit, are all the more unacceptable as they could, by extension, lead to large areas of the Community budget being excluded from any audit by the Court and could, thus, seriously call into question the powers conferred by the Treaties on the discharge authority. In addition, the Court must stress that the EIB's attitude in the specific cases that have just been mentioned is all the more incomprehensible as no difficulty of this kind has ever been put in the way of the Court's carrying out audits of operations co-financed and managed by international financial institutions.

1.45. The preceding factors adequately highlight the responsibility which the Commission bears by making it more and more difficult, as it has been doing for several years, for the budgetary and political authorities to obtain the results of audits which would allow them to assess, in full knowledge of the facts, the use made of the very large sums which they authorize each year.

Final observation on shared management

1.46. [...] With regard to operations financed from Community resources in which the EIB is involved to varying extents, the Court is justified in fearing that, due to a lack of watchful action on the part of the Commission, its task as higher external audit authority will gradually become meaningless, if not impossible.

(¹) OJ C 336, 15.12.1987, paragraph 14.26.

(²) OJ C 321, 15.12.1986, reply to paragraphs 73 - 74.

(³) OJ C 336, 15.12.1987, reply to paragraphs 14.27 - 14.30.