

**CONFERENCE
OF THE REPRESENTATIVES
OF THE GOVERNMENTS
OF THE MEMBER STATES**

Brussels, 3 September 2007

CIG 8/07

COVER NOTE

from: Presidency of the IGC

to: Delegations

Subject: **IGC 2007**

Letter from the European Court of Auditors, dated 16 July 2007

Attached will be found the letter from the European Court of Auditors, received on 20 July 2007.



Hubert WEBER
PRESIDENT
EUROPEAN
COURT OF AUDITORS

SECRETARIAT DU CONSEIL DE L'UNION EUROPEENNE
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Mr José Sócrates,
President of the Council of the EU
Justus Lipsius Building,
175 Rue de la Loi
B-1048 BRUXELLES

Dear President,

The Court of Auditors followed with interest the work of the European Council held in Brussels on 21 and 22 June 2007 and has carefully studied the mandate for the forthcoming Intergovernmental Conference (IGC) set out in the Presidency Conclusions of 23 June (11177/07).

We note in particular the importance given by the European Council to the need to "maintain and develop the European Union's ... accountability to the citizen" (paragraph 2 of the Conclusions). With regard to financial accountability, that of course was the reason why the Member States, by the Treaty of Maastricht, included the Court of Auditors among the institutions responsible for carrying out the tasks entrusted to the Community. The institutional role of the Court was further strengthened by the Treaty of Amsterdam.

We were therefore surprised and perplexed when the text of the Treaty establishing a Constitution for Europe (TCE), adopted by the IGC in 2004, removed the Court of Auditors from the Union's institutional framework (Chapter I of Title IV) and included it among the "Other Institutions and advisory bodies" (Chapter II of Title IV). The Court was not consulted about that change.

Although that change may be more one of form than of substance we consider that it gives a clear impression that the role of ensuring financial accountability has been diminished, sending an unfortunate message to taxpayers and auditees alike, and that this may well give rise to practical problems for the Court in carrying out its mandate.

It also appears to exclude the Court of Auditors from the scope of paragraph (2) of Article I-19 which makes explicit the principle of conferred powers and the obligation of mutual

12, rue Alcide De Gasperi
L-1615 Luxembourg

Phone number (352) 4398-45951
Fax number (352) 4398-46957
E-mail: hubert.weber@eca.eu.int

cooperation. Moreover, although Article I-19 no longer refers to a "*single* institutional framework" we consider that to refer in one place to "The Union's institutions" (heading of that article) and elsewhere to "Other Institutions" does not correspond to the aims of improving the clarity and simplicity of the Treaties which were promulgated by the declarations of Nice and Laeken. Finally this arrangement of the relevant provisions gives rise to the inclusion of the first sentence of Article I-31 which is otiose.

For those reasons the Court wishes to submit to the IGC, through your good offices, a proposal for re-drafting Articles I-19 and I-31 (see Annex I). We do not consider that such amendments will disturb the institutional balance decided by the European Council or by the 2004 IGC. On the contrary that balance will be re-inforced by emphasising the importance of the financial accountability of the institutions.

In addition to the issue of the institutional position of the Court of Auditors we consider that the requirement on the Court to "*ensure* good financial management" (Article I-31(2), in English and several other language versions) is impossible to fulfil and may have arisen as a result of a mistranslation since it does not correspond to the French version. I attach a table showing the relevant wording in each of the official languages (Annexe II) and would be grateful if you would bring the matter to the attention of the IGC draughtsmen and that of the lawyer-linguists of the Council. We would suggest that the existing wording of the first sentence of Article 248(2) EC be followed (see Annex I).

There is another unfortunate drafting error in Article III-406 which provides that the expenditure of the institutions shall be set out in separate sections of the budget. In this context the Court of Auditors is omitted from the list and there is no other provision relating to its expenditure.

The Court is at your disposal for any additional assistance that you or the IGC may require in this regard and hopes that you will submit our considerations to the IGC and support them.

Yours faithfully,



Hubert Weber

Annex I

TEXT COMPARISON BETWEEN THE TREATY ESTABLISHING A CONSTITUTION FOR EUROPE AND THE PROPOSAL FOR A RE-DRAFTING

	Proposal for re-drafting
<p><i>Article I-19</i></p> <p style="text-align: center;">The Union's institutions</p> <p>1. The Union shall have an institutional framework which shall aim to:</p> <ul style="list-style-type: none"> — promote its values, — advance its objectives, — serve its interests, those of its citizens and those of the Member States, — ensure the consistency, effectiveness and continuity of its policies and actions. <p>This institutional framework comprises:</p> <ul style="list-style-type: none"> — The European Parliament, — The European Council, — The Council of Ministers (hereinafter referred to as the 'Council'), — The European Commission (hereinafter referred to as the 'Commission'), — The Court of Justice of the European Union. <p>2. Each institution shall act within the limits of the powers conferred on it in the Constitution, and in conformity with the procedures and conditions set out in it. The institutions shall practise mutual sincere cooperation.</p> <p><i>Article I-31</i></p>	<p><i>Article I-19</i></p> <p style="text-align: center;">The Union's institutions</p> <p>1. The Union shall have an institutional framework which shall aim to:</p> <ul style="list-style-type: none"> — promote its values, — advance its objectives, — serve its interests, those of its citizens and those of the Member States, — ensure the consistency, effectiveness and continuity of its policies and actions. <p>This institutional framework comprises:</p> <ul style="list-style-type: none"> — The European Parliament, — The European Council, — The Council of Ministers (hereinafter referred to as the 'Council'), — The European Commission (hereinafter referred to as the 'Commission'), — The Court of Justice of the European Union,^f — The Court of Auditors. <p>2. Each institution shall act within the limits of the powers conferred on it in the Constitution, and in conformity with the procedures and conditions set out in it. The institutions shall practise mutual sincere cooperation.</p> <p><i>Article I-31 Article I- 30*</i></p>

<p style="text-align: center;">The Court of Auditors</p> <p>1. The Court of Auditors is an institution. It shall carry out the Union's audit.</p> <p>2. It shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.</p> <p>3. It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest.</p>	<p style="text-align: center;">The Court of Auditors</p> <p>1. The Court of Auditors is an institution. It shall carry out the Union's audit.</p> <p>2. It shall examine the accounts of all Union revenue and expenditure, and shall <u>examine whether the ensure good financial management has been sound</u>.</p> <p>3. It shall consist of one national of each Member State. Its members shall be completely independent in the performance of their duties, in the Union's general interest.</p>
<p style="text-align: center;"><i>Article III-406</i></p> <p>In accordance with the conditions laid down by the European law referred to in Article III-412, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.</p> <p>Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided in accordance with the European law referred to in Article III-412.</p> <p>The expenditure of:</p> <ul style="list-style-type: none"> — the European Parliament, — the European Council and the Council, — the Commission, and — the Court of Justice of the European Union <p>shall be set out in separate sections of the budget, without prejudice to special arrangements for certain common items of expenditure.</p>	<p style="text-align: center;"><i>Article III-406</i></p> <p>In accordance with the conditions laid down by the European law referred to in Article III-412, any appropriations, other than those relating to staff expenditure, that are unexpended at the end of the financial year may be carried forward to the next financial year only.</p> <p>Appropriations shall be classified under different chapters grouping items of expenditure according to their nature or purpose and subdivided in accordance with the European law referred to in Article III-412.</p> <p>The expenditure of:</p> <ul style="list-style-type: none"> — the European Parliament, — the European Council and the Council, — the Commission, and — the Court of Justice of the European Union, <u>and</u> — <u>the Court of Auditors</u> <p>shall be set out in separate sections of the budget, without prejudice to special arrangements for certain common items of expenditure.</p>

*Article I-31 should be moved to Chapter I related to the Institutional framework and therefore should become Article I-30. Reference to Article I-31 in Article III-128 should not be maintained.

ARTICLE I-31(2) TCE

ANNEXE II (

	Text Art. 31(2) TCE	Comments	Proposed text
BG	„Тя проверява отчетите за всички приходи и разходи на Съюза и осигурява добро финансово управление.“	Here, the term "осигурява" is the translation of the English word "ensures" or of the French word "assure".	„Тя проверява отчетите за всички приходи и разходи на Съюза и се уверява в доброто финансово управление.“
ES	The Spanish version reads: "El Tribunal de Cuentas examinará las cuentas de la totalidad de los ingresos y gastos de la Unión y garantizará una buena gestión financiera."	Here, the term "garantizará" is closer to the English. It should be replaced by "se asegurará".	"El Tribunal de Cuentas examinará las cuentas de la totalidad de los ingresos y gastos de la Unión y se asegurará de la buena gestión financiera."
CS	Účetní dvůr Přezkoumává účetnictví všech příjmů a výdajů Unie a přesvědčuje se o řádnosti finančního řízení.	The Czech translation corresponds to the French meaning, i.e. the sentence implies that the Court carries out control to obtain assurance that the financial management is sound.	
DA	Den reviderer regnskaberne for alle Unionens indtægter og udgifter og sikrer sig, at den økonomiske forvaltning har været forsvarlig.	La traduction danoise suit la version française.	
DE	Er prüft die Rechnung über alle Einnahmen und Ausgaben der Union und überzeugt sich von der Wirtschaftlichkeit der Haushaltsführung.	The German verb "sich überzeugen" corresponds to the French verb "s'assurer" and an alternative wording is not suggested.	

ARTICLE I-31(2) TCE

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ET	Kontrollikoda Kontrollikoda vaatab läbi kõik liidu tulude ja kulude raamatupidamiskontod ning tagab hea finantshalduse.	The Estonian translation follows the English version. The verb "tagama" means "ensure". The correct translation would be: Kontrollikoda vaatab läbi kõik liidu tulude ja kulude raamatupidamiskontod ning kontrollib , kas finantshaldus on olnud usaldusväärne.	Retranslation into English: ... and checks that the financial management has been sound.
EL	Το Ελεγκτικό Συνέδριο εξετάζει τους λογαριασμούς του συνόλου των εσόδων και των δαπανών της Ένωσης και εξακριβώνει τη χρηστή δημοσιονομική διαχείριση.	The greek verb "εξακριβώνω" used in Article I-31(2) case corresponds more to the French verb "s'assurer"; it has the meaning of "ascertain" or "verify" or "check up". Therefore no alternative to this particular wording is suggested.	
EN	... shall examine the accounts of all Union revenue and expenditure, and shall ensure good financial management.	It looks like a mistranslation. The following is suggested:	shall examine whether the financial management has been sound
FR	Elle examine les comptes de la totalité des recettes et des dépenses de l'Union et s'assure de la bonne gestion financière.	Au paragraphe 2, le verbe "s'assurer" signifie clairement "devenir sûr (de, que)", c'est-à-dire, en l'occurrence, contrôler, vérifier que les principes de la bonne gestion financière ont été respectés. La version française ne pose donc aucun problème.	
GA	Scrúdaídh sí na cuntaí ar ioncam agus ar chaitéachas uile an Aontais, agus áiríteoidh sí an dea-bhainistíocht airgeadais.	The relevant term, "áiríteoidh" very definitely means "shall ensure" and this involves more than a mere checking or verification.	fiosróidh

ARTICLE I-31(2) TCE

ANNEXE II I

IT	Essa esamina i conti di tutte le entrate e le spese dell'Unione ed accerta la sana gestione finanziaria."	This term is correct and corresponds to the French " s'assure ". It implies that control is carried out in order to establish whether financial management is actually sound.	
LV	Tā pārbauda visu Savienības ieņēmumu un izdevumu pārskatus un nodrošina labu finanšu vadību.	According to unofficial sources, the Constitutional Treaty was translated into Latvian from English (the underlined parts expressly reveal it and concerning I-31(3), underlined part, the LV version is faithful neither to EN nor FR text.) As a result, the Latvian version of „s'assure” has the same meaning as in English, in other words, the Latvian version is not correct if compared to the French. The right verb to render the idea of „s'assure” would be „pārliecinās”. As the suggested verb needs a different grammatical construction, the whole part of the sentence should be changed.	The new paragraph would read: "Tā pārbauda visu Savienības ieņēmumu un izdevumu pārskatus un pārliecinās, vai finanses tiek labi pārvaldītas."
LT	Jie tikrina visų Sąjungos pajamų ir išlaidų sąskaitas bei užtikrina patikimą finansų valdymą.	In the authentic Lithuanian version of the Constitutional Treaty, the word „s'assure” has the same meaning as in English. The correct translation of the verb „s'assure” would be „įsitikinti”. As the suggested verb needs a different grammatical construction, the part of the sentence should be changed.	„Jie tikrina visų Sąjungos pajamų ir išlaidų sąskaitas bei įsitikina, ar finansų valdymas yra patikimas“.
HU	A Számvevőszék megvizsgálja az Unió valamennyi bevételre és kiadásra vonatkozó elszámolását, valamint figyelemmel kíséri a pénzgazdálkodás hatékonyságát és eredményességét.	Telle que publiée, la traduction hongroise ne reflète ni la version française ni la version anglaise. La locution verbale figyelemmel kíséri („ <i>suivre avec attention</i> ”) traduit d'habitude plutôt des idées telles que monitoring ou suivi , activités moins contraignantes que soit to ensure soit s'assurer .	A Számvevőszék megvizsgálja az Unió valamennyi bevételre és kiadásra vonatkozó elszámolását, valamint megbizonyosodik a pénzgazdálkodás hatékonyságáról és eredményességéről. où le verbe megbizonyosodik (dont la rection est différente, d'où un changement de désinences) correspond bien aux verbes s'assurer, sich überzeugen .

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MT	... u għandha ukoll <u>tiżgura</u> amministrazzjoni finanzjarja tajba.'	This corresponds to the English translation in that it puts the burden of ensuring good financial management on the Court.	u għandha tassigura ruħha li l-amministrazzjoni finanzjarja hija tajba.
NL	"2. De Rekenkamer onderzoekt de rekeningen van alle ontvangsten en uitgaven van de Unie <u>en gaat na of een goed financieel beheer is gevoerd.</u> "	La signification du verbe "nagaan" est très proche de l'expression française "vérifier", ce qui paraît un tout petit peu plus faible que le verbe "s'assurer". Néanmoins la version NL est tout à fait acceptable.	
PL	"Trybunał Obrachunkowy kontroluje rachunki wszystkich dochodów i wydatków Unii oraz <u>zapewnia</u> należyte zarządzanie finansami."	The Polish version corresponds to the English text, hence it should be corrected . The verb " <u>zapewnia</u> " in this context is an exact equivalent of the verb " <u>ensures</u> ". Clearly, a correction to the Polish version is necessary. However, the required modification will entail a change of the whole phrase.	"Trybunał Obrachunkowy kontroluje rachunki wszystkich dochodów i wydatków Unii oraz <u>upewnia się co do należytego zarządzania finansami.</u> "* * <i>the underlined part of the sentence stays the same, while the changed fragment is marked in bold.</i>

PT	O Tribunal de Contas examina as contas da totalidade das receitas e despesas da União e <u>garante</u> a boa gestão financeira."	If compared to other Romance languages, the sentence uses the same verb as in ES <u>garantizará</u> , which is somewhat similar to the EN <u>ensure</u> and a different verb from IT <u>accerta</u> , which seems closer to FR <u>s'assure</u> de. However, this is not the only time that the PT verb <u>garantir</u> is used in EU documents with this meaning. Of course nobody knows which language is the translation of which although FR might be technically considered as the source language. So, there is no strong reason to change PT <u>garante</u> specially if EN <u>ensure</u> is kept.	If an alternative wording is looked for, the only possibility would be "certifica-se da boa gestão financeira".
RO	„Ea examinează conturile tuturilor veniturilor și cheltuielilor Uniunii și <u>asigură</u> buna gestiune financiară”.	Here, the term "asigură" is the translation of the English word "ensures" or of the French word "assure".	In order to render the French nuance, the Romanian version should be "se asigură de" or "veghează la"
SK	Dvor audítorov Skúma účty všetkých príjmov a výdavkov Únie a <u>zabezpečuje</u> správne finančné hospodárenie."	La version slovaque contient la même erreur que la version EN. Donc, l'expression "... a <u>zabezpečuje</u> (ensure) <u>správne finančné hospodárenie</u> ." devrait être remplacée par: En conséquence grammaticale de ce changement il faut changer aussi la fin de phrase.	"...a <u>uisťuje sa</u> (s' assure) o <u>riadnom finančnom hospodárení</u> (de la bonne gestion financière)."

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SL	<p>Računsko sodišče Opravilja revizijo vseh prihodkov in odhodkov Unije in skrbi za dobro finančno poslovanje.</p>	<p>The Slovenian wording (marked in bold) is maybe closest to the meaning of "to take care of", however it does not express that the Court has to ensure that the financial management is sound, as it is used in its imperfective form. It is not as strong as "to ensure", but it does imply more responsibility for a good financial management and not just verifying the financial management. Given that we do issue recommendations and that the discharge is based on our work, the Slovenian verb seems appropriate.</p>	
FI	<p>Tilintarkastustuomioistuim Tilintarkastustuomioistuim <u>tarkastaa</u> unionin kaikkia tuloja ja menoja koskevat tilit ja sen, että varainhoito on ollut moitteetonta.</p>	<p>In the Finnish version there is only one verb (tarkastaa = to audit/check) in this sentence and it relates both to accounts and to financial management.</p>	<p>2. The Court of Auditors <u>audits</u> the accounts related to all the revenue and all the expenditure of the Union and [<u>checks</u>] that the financial management has been sound.</p>
SV	<p>Revisionsrätten Den skall granska räkenskaperna över unionens samtliga inkomster och utgifter och <u>förvissa sig om</u> att den ekonomiska förvaltningen varit sund.</p>	<p>The wording <i>förvissa sig om</i> corresponds to the French <i>s'assurer</i>.</p>	