

Bi-Annual Management Report DG INFSO

01 July 2009 – 31 December 2009



European Commission
Information Society and Media



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1. Introduction

This Bi-annual Management Report (BMR) covers the period from 1 July until 31 December 2009 and is accompanied by a set of Annexes containing more detailed information. The BMR reports on issues identified in the agreed Working Methods between Mrs Reding's Cabinet and DG INFSO,¹ in line with the Code of Conduct on relations between Cabinets and Services.

As was the case last year, and in order to avoid repetition, the BMR refers – where appropriate - to DG INFSO's Annual Activity Report 2009 and presents only the information which is complementary to it.

Several chapters in this BMR include references to the topics discussed at the "Internal Control Coordination Group" (ICC Group²), the coordination forum established in order to ensure *inter alia* an effective follow-up to DG INFSO's yearly High Level Risk Assessment (HLRA) exercise. The ICC Group is chaired by the INFSO General Affairs Director and composed of permanent correspondents from all Directorates.

A dedicated INFSO.S intranet-page includes all related documents:
http://intra.infso.cec.eu.int/S/IC_coord_group/pages/meetings_2009.htm

¹ VH/af D(2005)456 of 23.02.05 and VH/af D(2006) 0834 of 10.04.06 + annex, cf. points 2.6, 2.7 and 2.8

² The mandate of the ICC Group is to assist INFSO's Senior Management to effectively prepare, coordinate, monitor and follow up all important internal control related issues of the DG, such as:

- compliance and effectiveness of the implementation of the Internal Control Standards (ICS)
- follow-up of internal audit recommendations
- follow-up of risk management action plans
- planning and follow-up of financial audits results implementation
- coordination of issues related to the ECA, OLAF, Ombudsman, DPO
- other important internal control related issue which needs coordination across the DG

2. Status of the Work Programme

The Cabinet is regularly informed, in meetings with the DG, on the state of play relating to the implementation of the Rolling Work Programme.

3. Implementation of the 2009 Budget

The detailed results of DG INFSO's budget implementation on 31.12.09 are documented and commented on in DG INFSO's Annual Activity Report 2009 (see AAR 2009 Annex 3) covering the full year 2009.

3.1. Payment times

Statistics for 2009 show further consolidation of the positive trend in payments processing recorded in the past years. A record performance of 93.32% was attached in terms of underlying value of payments carried out within contractual time-limits, and 90.59% in terms of number of transactions.

Table 1: % 2005-2009 payments within contractual time-limits (value)

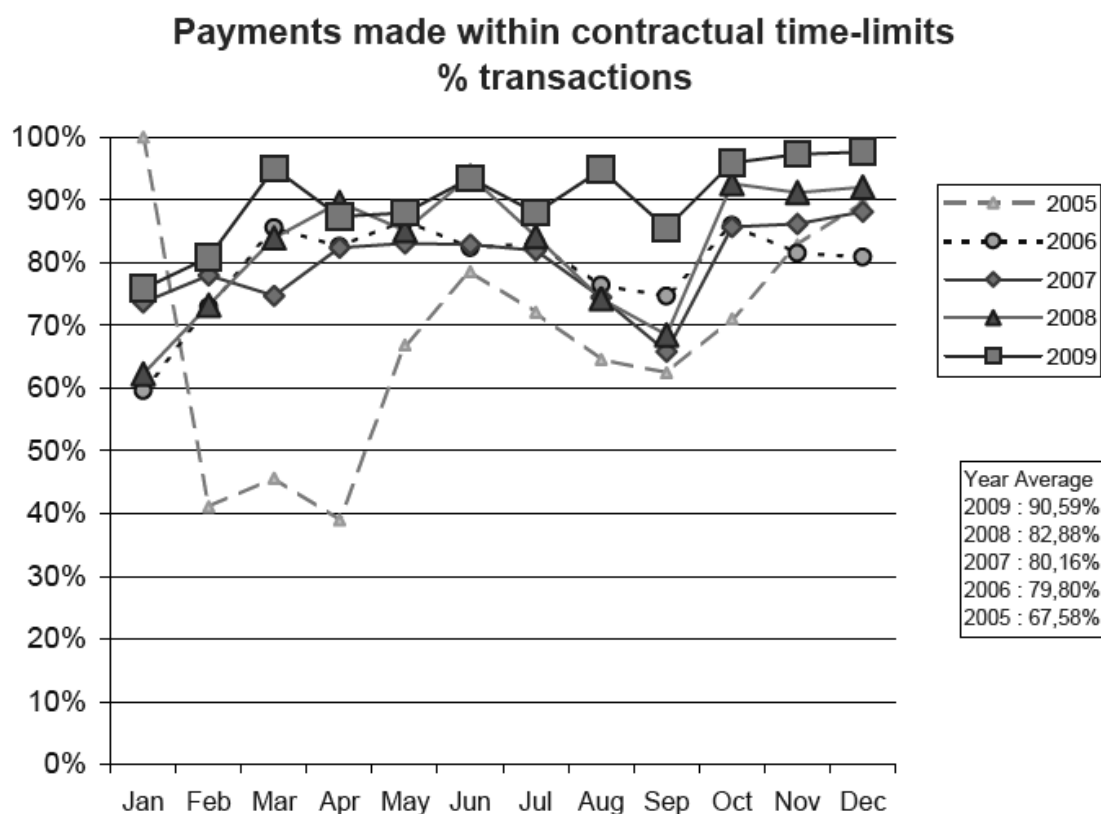
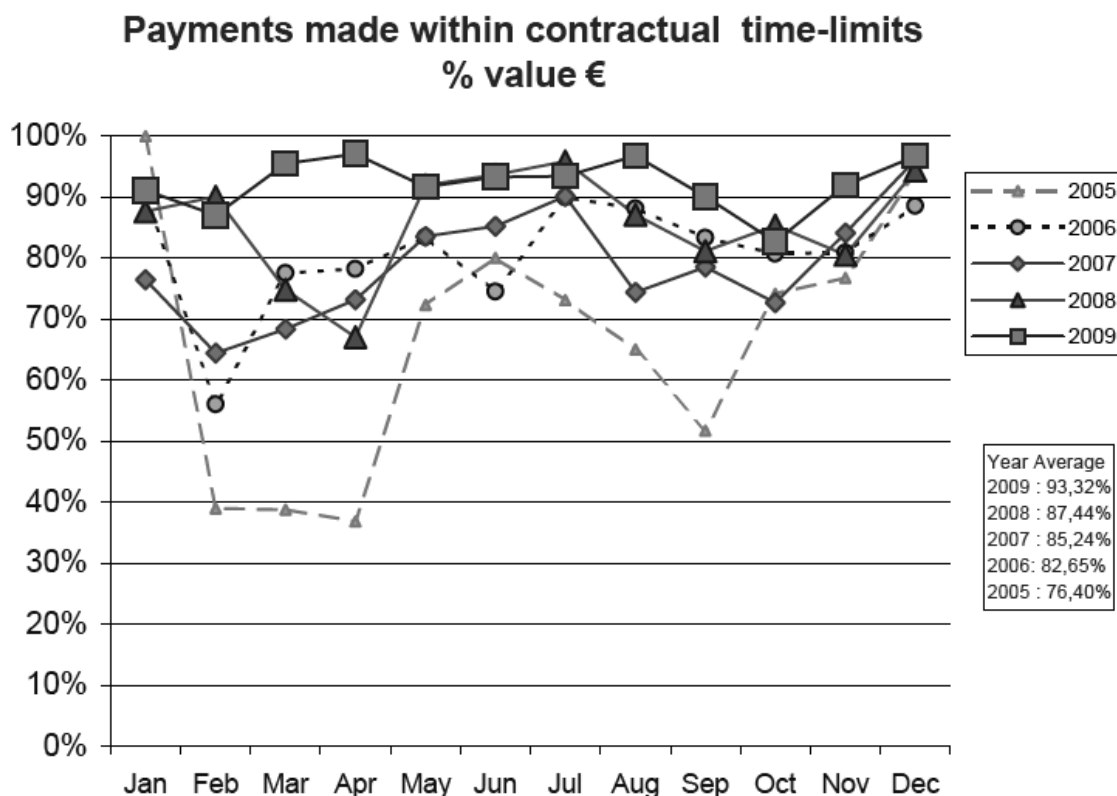


Table 2: % 2005-2009 payments within contractual time-limits (number)



This positive trend is reflected in the breakdown by type of transaction (table 3). Payment times improved in 2009 with respect to previous years for almost each type of transaction, with significant improvements for the most important items of expenditure. Payment times relating to projects, representing most of DG INFSO's appropriations, were further improved in 2009. These better results have been achieved through enhanced training/awareness-raising efforts, and experience reached in handling transactions through local applications developed in house for the automatic processing of cost claims. In 2009, 84.26% of project payments were carried out within contractual time-limits, compared to 82.4% in 2008, 76.6% in 2007, 70.7% in 2006, 66.3% in 2005, and 61.2% in 2004. This steady improvement was also the result of continuous investment in IT tools to support payments, an effort which was sustained in 2009 with the priority to develop local applications for the automation of FP7 payments.

Significant improvement was also recorded in meetings payments. As anticipated in past BMRs, the poor performance in meetings payments was tackled through a review of payment procedures concerning the area of underperformance identified, i.e. payments authorised by PMO. This led to a streamlined procedure for the submission of payment files to PMO, and awareness raising actions targeted to meeting secretaries. These actions led to great improvement in PMO payment times for DG INFSO experts, which are now in line with DG INFSO payment times for meetings paid by the research budget. Further improvements are expected in 2010 as the new procedure will be applied to a full calendar year.

The only areas where deteriorations in performance were recorded are manually-handled transactions for external staff and service contracts. For external staff, the impact of lengthy iterations between the various

organisational entities involved in managing interim staff payments (DG HR and DG INFSO) was apparent in explaining the delays. This problem was solved in the interservice consultation for the internal rules 2010, where DG HR was entrusted to carry out all payments to interim staff. This improvement is expected to lead to much faster processing times in 2010. For services and studies, INFSO.R.2 will analyse the areas of underperformance in the course of the first semester 2010, in view of identifying possible organisational or structural causes, and implementing corrective measures in cooperation with the DG INFSO services concerned.

The table below details performance by type of transaction over the last 3 years

Table 3: %2007-2009 payments within contractual time-limits (number) by type of transaction³.

Type of transaction	2009			2008			2007		
	% payments within contractual time-limits	Number of payments	Value €	% payments within contractual time-limits	Number of payments	Value €	% payments within contractual time-limits	Number of payments	Value €
External Staff	85,07 %	1.128	8.031.303	99,53 %	1.261	7.606.396	93,30 %	404	4.843.739
Missions	99,13 %	3.760	1.431.831	98,24 %	3.786	1.436.066	95,95 %	1.516	571.825
Services and studies	89,53 %	1.180	25.180.917	92,07 %	1.231	34.597.544	85,65 %	1.247	19.257.763
Experts (Evaluations and Reviews)	94,82 %	5.104	14.150.630	89,17 %	3.844	10.485.037	83,77 %	4.145	12.642.706
Projects	84,26 %	1.365	983.912.706	82,41 %	1.368	1.194.007.431	76,59 %	1.145	766.056.138
Meetings	76,95 %	1.826	1.051.537	39,86 %	1.102	723.460	38,75 %	756	445.436
Grants	93,98 %	78	3.353.700	80,00 %	66	3.187.078	100,00 %	10	22.598.666

3.2. Status of Recovery Orders

During the second semester of 2009 DG INFSO continued to focus on issuing new and following up existing open recovery orders.

As usual, the main reason for the establishment of new recovery orders during the second half of 2009 was the implementation of audit results (101 cases). In addition, 10 recovery orders were issued following the recovery of pre-financing amounts after final payments, 7 for liquidated damages, 2 for bankruptcy, 9 for contract termination, and 14 for other reasons.

On 01.07.2009, the balance due from 130 open recovery orders totalled €16.6 million. During the second semester of 2009, the newly established recovery orders added €15.9 million. However, recovery orders worth €9.4 million were cashed/compensated and €0.4 million were waived during the second semester. Consequently, the balance on 31.12.09 stood at 175 open recovery orders totalling €22.79 million.

Of the open recovery orders, those issued following liquidation due to bankruptcy represent an important category. This category of recovery orders usually remains open for a long time, although in most cases they lead to a waiver decision (once the liquidation is definitively closed and it is confirmed that it will not be possible to recover) due in part to the fact that the Commission is an unsecured creditor. 17 cases totalling €2.1 million are expected to be waived in the future, of the 26 total worth €5.1 million.

³ **External staff** = ENDs, Interim staff, **Projects** = FP7 and non-research projects, **Meetings** = Groups of experts and committees, **Grants** = MEDIA Antennae and desks

All details are provided in ***Annex A1***.

4. Changes to the Financial Circuits

During the second semester of 2009, changes to the financial circuits concerned updates to take into account developments in the availability of local IT tools to manage financial transactions. The financial circuit for authorising recovery orders was amended to differentiate between recovery orders for audit implementation and those for liquidated damages.

The complementary verification performed by INFSO.R.2 was cancelled for the issuance of such recovery orders in FP6 and FP7, but it was maintained for all the other cases. The same simplification may be applied to other programmes whenever the iFlow becomes available to do so.

5. Risk Management

5.1 Follow-up of DG INFSO's 2008-2009 High Level Risk Assessment (HLRA) exercise

The monitoring of the DG's important risks for 2009 reveals that the exposure to most of those risks has remained under control and/or has decreased – including for the three 'critical risks⁴ mentioned in the 2009 Annual Management Plan (AMP). The Telecom Regulation's policy risk has decreased following the adoption of the package. The Spectrum Policy risk has also decreased. The financial/reputational risk related to Errors in ICT cost claims was kept under control but nevertheless remains higher than the accepted materiality level (cf. recurrent AAR reservation).

For more details, see Part 1 of the "Annual review and recommendations from the Internal Control Coordinator (ICC) – "2009 ICC Package"" (*Annex B1*).

5.2 DG INFSO's new High Level Risk Assessment (HLRA) exercise (2009-2010)

At the end of 2009, in line with the DG's 2010 Management Plan (MP) process, DG INFSO carried out its annual High-Level Risk Assessment (HLRA) exercise. Its 8 main risks identified and assessed for 2010 are:

- FP & CIP Management (action plan for a few aspects)
- Media International preparatory action (activity/risk to be transferred to DG EAC)
- eCommunications framework implementation (reinforced monitoring)
- Spectrum Programme establishment and management (reinforced monitoring)
- Errors in FP6 cost claims (reinforced monitoring)
- Supervision of DG-external entities (reinforced monitoring)
- Art. 7 & 7a procedures (continued line management)
- eFP7 IT-tools (continued line management)

None of the risks identified and assessed during the HLRA-exercise 2009-2010 are considered to have sufficient political/reputational exposure to be considered as 'critical risks' for DG INFSO (cf. INFSO's 2010 MP annex 4).

However, the 8 main risks listed above will be followed up and/or monitored during 2010 via the ICC Group at DG-wide level.

⁴ definition by DG BUDG = "A risk should be considered "critical" and reported in the Annual Management Plan (AMP) if it can:

- (a) jeopardise the realisation of major policy objectives;
- (b) cause serious damage to the Commission's partners (Member States, companies, citizens, etc.);
- (c) result in critical intervention at a political level (Council/Parliament) regarding the Commission's performance;
- (d) result in the infringement of laws and regulations;
- (e) result in material financial loss;
- (f) put the safety of the Commission's staff at risk; or
- (g) in any way seriously damage the Commission's image and reputation."

The other risks, i.e. those below the HLRA main risks level threshold, will be addressed by 'continued line management' from the individual Directorate(s) concerned and reported on in their twice-annual DMRs.

For more details, see "Final results of DG INFSO's "High-Level Risk Assessment" exercise 2009-2010 & its follow-up during 2010" (***Annex B2***).

6. Internal Control & Internal Control Standards

6.1.State-of-play of the implementation of the Internal Control Standards (ICS)

DG INFSO's annual analysis of the state of the internal control system (including its compliance with the ICS requirements), the continuous enhancement of the effectiveness of its control arrangements in place (including the priority ICS-themes during 2009), and the subsequent recommendations for further improvements identified by the DG's Internal Control Coordinator (ICC) are addressed in the Annual Activity Report 2009 (see AAR 2009 chapter 2.2).

Overall, DG INFSO has implemented the ICS requirements. There are no *critical or major* ICS-related weaknesses which would lead to an AAR reservation. However, in terms of continuing the increase of effectiveness of some ICS, some areas of improvement may be considered. At DG-level, three Priority ICS for 2010 have been selected (cf. INFSO's 2010 MP annex 2: exceptions recording, management supervision, and document management). At line management level, seven other ICC-recommendations have been suggested. The Priority ICS listed above will be followed up and/or monitored during 2010 via the ICC Group at DG-wide level.

For more details, see Part 3 of the "Annual review and recommendations from the Internal Control Coordinator (ICC) – "2009 ICC Package"" (**Annex B1**).

6.2. Reporting by Directors as Authorising Officers by Sub-Delegation (DMRs)

The INFSO Directors as Authorising Officers by Sub-Delegation have reported reasonable assurance that risks are under control and that suitable controls are in place and working as intended. They have not raised any 'new' (*i.e. beyond the DG's recurrent reservation on the errors in cost claims*) issues to be considered in the context of the declaration by the Director-General (see AAR 2009 chapter 3.1 and the corresponding DMRs).

No overruling occurred in 2009. Further to that only minor exceptions considered of a limited relevance and non-systemic nature have been reported. By end-2008/early-2009, most of DG INFSO's non-management functions had been de-sensitised subject to mitigating measures (mostly already) in place (at the time). Directors reported on the status of the mitigating measures (still) in place at the end of 2009.

For more details, see Annex B to the "Annual review and recommendations from the Internal Control Coordinator (ICC) – "2009 ICC Package"" (**Annex B1**).

7. Status Report on External Financial Audits up to 31 December 2009

For a detailed status report on DG INFSO's external financial audits in 2009, see the "External Audits Synthesis Report 2009" in the Annual Activity Report 2009 (see AAR 2009 Appendix 2 and the related comments (see AAR 2009 chapter 2 and 3)).

8. Relations with the European Court of Auditors

8.1. Declaration of Assurance (DAS) 2008 – Discharge procedure

The Court published its 2008 Annual Report on 10.11.2009. The Report still contains criticisms towards the management of the Research Framework Programmes. As in previous years, it stresses for FP6 the material level of errors in the costs declared by beneficiaries and the lack of reliability of audit certificates as a control tool. It also indicates that the Commission did not impose the full extent of sanctions available during the course of FP6. Besides these traditional criticisms, the Court issued positive messages regarding, in particular, the simplification of the funding rules for research projects in FP7 and the "considerable improvement" in making timely payments in 2008. The assessment of supervisory and control systems for internal policies is considered by the Court to be partially satisfactory, as was the case for 2007. The Court considers that for 2008 the error range for internal policies is between 2 and 5%, which equally qualifies as being partially satisfactory. Compared to previous years, the Court notes a decrease in the estimated error rate for the policy group Research, energy and transport.

The 2008 discharge procedure continued with the hearing of Commissioner Potočník by CONT⁵ end-January 2010 and the adoption of the CONT discharge report is planned for mid-March, with the vote on the 2008 discharge in the April plenary session of the European Parliament.

8.2. Declaration of Assurance (DAS) 2009 – Transaction audits

DG INFSO received for DAS 2009, over the whole year 2009 and January 2010, eleven requests from the Court of Auditors (ECA) for documents supporting twenty one transactions to be audited. Five of these requests, concerning ten transactions, were received in the second half of 2009. The documentation was supplied within the deadlines.

During the second half of 2009, the ECA carried out eight on-the-spot financial audits on the participation of legal entities in contracts managed by DG INFSO. DG INFSO representatives accompanied the Court for seven of these controls.

On 22.10.2009 and 14.12.2009, the ECA issued two letters of preliminary findings relating in total to fourteen transactions (out of the 21 transactions tested under DAS 2009), of which ten were audited on-the-spot by the Court. The documents mention that four of these transactions were affected by an error. The average error rate for the 14 transactions amounts to 2,64% of the costs declared by the beneficiary. The Commission's replies to the Court's letters were sent respectively on 01.12.2009 and 20.01.2010.

⁵ CONT is the new acronym to be used for the CoCoBU – the European Parliament's Committee on Budgetary Control

8.3. ECA Special Reports

• Performance Audit: "Executive Agencies"

The aim of the ECA's audit was to assess whether the delegation of management tasks to the Executive Agencies had proved to be a successful option for implementing the European budget. The ECA issued a draft special report on 14 May 2009, which was subject to a contradictory procedure on 29 June.

The ECA published its final special report on 19 November 2009. This report was presented and discussed at the CONT in January 2010.

In its conclusions the ECA considered that:

- The initiative of setting up the Executive Agencies was mainly driven by constraints on employment within the Commission.
- The cost-benefit analyses supporting the decision to create the agencies took little account of non-financial aspects.
- There are cost savings stemming from the prevalence of lower paid contract staff.
- Qualitative improvements took place concerning time for contracting, time for approval of reports, payment delays, simplification and external communication/dissemination of results.
- The Commission's supervision of the agencies' work was limited.

• Performance Audit: "The adequacy and effectiveness of selected FP6 instruments on the achievement of Community RTD Objectives"

The aim of the audit was to examine to what extent the "Networks of Excellence" and the "Integrated Projects" had contributed to achieve the research policy objectives set by the Treaty as well as their own specific objectives.

The ECA issued a draft special report on 25 February 2009, which was subject to a contradictory procedure on 5 May.

The ECA published its final special report on 14 October 2009, which was presented and discussed at the CONT on 3 December 2009.

In its conclusions the ECA considered that:

- The audited FP6 instruments were successful in promoting research collaboration and projects of a reasonable quality. However they operated in the absence of explicit intervention logic.
- The specific objectives of the new instruments were only partially achieved.
- The Commission's management revealed some weaknesses, in particular at the beginning of the implementation of FP6.
- Compared to FP5, FP6 did not succeed in generating a significant increase in terms of participants' RTD investment.

- **Performance Audit: "Impact assessment in the EU institutions: do they support decision making?"**

The aim of the ECA audit is to assess the efficiency of the impact assessment system in view of improving legislation.

Besides the SG who coordinates this audit, the other DGs involved are TREN, EMPL, REGIO, RTD and the JRC.

The ECA issued a second statement of preliminary findings on 7 September 2009. The ECA gave an overall positive assessment, mentioning that "Within the European Union, the Commission's IA system, both in terms of its design and the way in which it has been implemented, can be considered to be an example of good practice". The ECA identifies however some areas where there is room for improvement, e.g. the need for more transparency as to how the Commission decides which policy initiatives are targeted for IAs, or the need to reinforce the quantification and monetisation of expected outcomes, including for alternative policy options.

On 11 February 2010, the ECA adopted the draft of Preliminary Observations related to this audit under the title: "Impact Assessment in the EU institutions: do they support decision making?" The first interservice meeting to co-ordinate the preparation of the contradictory procedure took place on 23 February, where it was concluded that this report of the Preliminary Observations is more balanced and positive than the initial Statements of Preliminary Findings.

- **Performance Audit: "e-Government":**

The aim of the Court's audit is to assess the effectiveness, efficiency and economy of the e-Government projects co-financed by the ERDF.

Twenty-eight projects were selected in four Member States (FR, IT, SP and PL). It is expected that the ECA will communicate its conclusions to the Commission, through a statement of preliminary audit findings, in May/June 2010.

9. Relations with the Internal Audit Service (IAS)

At the end of 2009, the progress on implementation of IAS recommendations addressed to DG INFSO was reported to the IAS (and onward to the Audit Progress Committee - APC) via the (twice annual) update of the AMS IssueTrack database. The situation related to the DG's four currently 'open' IAS audits was the following:

- 2008 audit on ethics: 1 recommendation partially open
- 2008 audit on recoveries: 1 recommendation partially open
- 2008 audit on Research IT systems: 7 of the 14 recommendations still open
- 2009 audit on FP7 controls (design): most recent audit and action plan; so 8 of the 11 recommendations still open.

DG INFSO has no 'open' *critical* IAS recommendations. However, a number of *very important* IAS recommendations are overdue more than six months (with new target dates even further in 2010), which will trigger an APC-reminder and a letter between Commissioners:

- Ethics: 1 Very Important REC-1 "Adaptation of the Commission's ethics framework to the DG-specific environment": 2 sub-actions implemented; 3 sub-actions revised to be completed by June 2010 (resulting in 12 months delay; partly related to a dependency on DG HR)
- Recoveries: 1 Very Important REC-4 "Timing to effectively close a Recovery Order": partially implemented; second phase of a iFlow-development is revised to be completed by April 2010 (resulting in 9 months delay)
- Research IT Systems: *inter alia* 2 Very Important RECs-8-9 mainly related to "IT Security" issues: partially implemented and/or postponed (related in part to the need for DG HR's Security Directorate to have our Information Security Plan re-analysed and re-written per Information System); now planned to be completed by mid-2010 (resulting in 12 months delay⁶)
- FP7 controls (design): no Very Important recommendations overdue more than 6 months, but end-June 2010 will be a critical deadline for several ones.

For more details, see Part 2 of the "Annual review and recommendations from the Internal Control Coordinator (ICC) – "2009 ICC Package"" (**Annex B1**).

⁶ Given the delayed implementation of the action plan in the context of the "Research IT Systems" audit, DG INFSO has asked the IAS to postpone their follow-up audit, at least for the IT Security aspects.

10. Audits Performed by DG INFSO's Internal Audit Capability and Related Matters

During the second semester of 2009, the Internal Audit Capability (IAC) of DG INFSO finalised the audit on "FP7 project reviews". The follow-up audit on "legacy of open commitments from previous programmes" was also finalised on 17.12.2009.

The audit on "Non-FP Research Programmes" was launched during the reporting period and is still in progress. Furthermore, three follow-up audits on "Ethics", "Contract negotiation and preparation process in the FP 7" and "Administrative and financial support from DG INFSO Operational Sectors and Administration and Finance Units" were launched during the second semester of 2009 and are still in progress at the end of the reporting period.

The Director General asked the IAC for its written advice on specific cases and the IAC provided subsequently the Director General with written documents, stating the IAC's position.

A joint risk assessment on DG INFSO audit universe has been performed together by the IAS and the IAC, following a common methodology proposed by the IAS. The Commission's standard risk typology has been used to ensure that the most common risk aspects are covered.

The risk assessment of auditable entities within the audit universe has been conducted by assessing the impact/likelihood of risks to determine their significance. The risk assessment has taken account of the Final Results of DG INFSO's "High-Level Risk Assessment".

The audit universe was defined in coordination with the IAS and constitutes the starting point for the preparation of the co-ordinated (IAS/IAC) annual work-plan for 2010 as well as the strategic audit plan 2010-2012. The audit universe consists of auditable entities linked to DG INFSO's processes subdivided into the following two categories:

- (1) Processes of a financial/budgetary nature, and
- (2) Processes of a non-financial nature.

Although the audit universe is a list of all the possible audits that could be performed, the focus of the coordinated plan will be on auditing areas with high inherent risks.

The IAC issued its annual opinion 2009 on the state of control within DG INFSO on 12.02.2010

From the IAS's Opinion on the state of control within DG INFSO the IAC considers that, among others, the following issues should be duly taken into account:

- The need to reinforce the overall reporting and monitoring on operations of DG INFSO
- The follow-up of audit are not yet finalised at the end of 2009, which have shown that not all accepted recommendations have been implemented.
- The need to better document procedures with DG INFSO in order to mitigate the risk of discontinuity of the service.

See **Annex C1** for a status Overview and **Annex C2** for the IAC's 2009 opinion.

11. State of Play on OLAF Files

The status of OLAF files, both open and under evaluation, was analysed and updated during a meeting with OLAF held on 18 December 2009. Annex III (Limited Distribution) describes the ongoing cases, including the new cases transmitted during 2009.

During 2009, fourteen new files were communicated to OLAF, of which thirteen resulting directly from the audit work carried out by Unit 02. This is an exceptionally high number of new cases, detected by the work of the External Audit Unit. It highlights the impact of the use of new audit methodologies and tools.

In 2009, DG INFSO carried out an analysis of the anti-fraud-related elements in its internal control system and of the developments in the area of ex-post controls. This analysis resulted in a document on DG INFSO's anti-fraud control strategy. It was transmitted to OLAF in February 2009 and received positive feedback from OLAF in June 2009. The document is under revision in the light of the outcome of the recent risk-based audits files and the measures taken by the DG in the improvement of ex-ante controls.

In this context, it is also worth mentioning that several "fraud-proofing" measures were taken by DG INFSO during 2009 and major efforts are still ongoing. In particular, major efforts were undertaken in the development of a new approach for risk-based audits, in the use of new tools for data-mining and detection of plagiarism, and in the setting up of ad-hoc groups for the review of ex-ante control procedures, with a view to detecting fraud at the earliest possible stage.

These efforts were facilitated by a dramatically improved collaboration between DG INFSO-02 and OLAF, which has proven extremely fruitful also in terms of effective progress and follow up of the open cases.

The cooperation between OLAF and INFSO received a lot of attention and visibility through the presentations of the COCOON case and the throughout the Commission, and at the European Court of Auditors.

See **Annex D1** for more details

12. State of Play on European Ombudsman Files

During the reporting period, one new complaint, one proposal for a friendly solution, one further request for information and one informal request (telephone procedure) were received by DG INFSO as "chef de file". One complaint was closed by the Ombudsman with no instance of maladministration. In addition, DG INFSO was associated to one further request for information where DG EMPL is chef de file, and to one complaint which was closed by the Ombudsman with further remarks to be answered by the SG as chef de file.

See ***Annex E1*** for the full status report.

13. Relations with the Education, Audiovisual and Culture Executive Agency (EACEA) – MEDIA Programme and with ARTEMIS and ENIAC Joint Undertakings

13.1. DG INFSO's Supervision of the EACEA for "MEDIA" management

As mentioned in the Annual Activity Report 2009 (see AAR 2009 chapter 2.1), in accordance with Article 15 of the EACEA's "Act of Delegation", DG INFSO is one of the parent DGs co-responsible for the Commission's supervision of the EACEA.

During 2009, the EACEA issued its quarterly management reports. Four meetings of the Agency's Management Board ("Steering Committee") took place. The EACEA's 2009 AAR and BMR will be forwarded to the Cabinet once the final versions are received.

In 2009, both the final report of the ECA's performance audit on Executive Agencies (see 8.3) and the final report of the EACEA's mid-term evaluation were published.

13.2. DG INFSO and ARTEMIS & ENIAC Joint Undertakings

- In October 2009, a DG INFSO Working Group assessed the ARTEMIS Joint Undertaking's readiness for financial autonomy. On 26.10.2009 DG INFSO's Director-General granted ARTEMIS autonomy on a 'conditional' basis subject to the completion of the implementation of a number of internal control related aspects.

For more details, see "Granting autonomy to the ARTEMIS Joint Undertaking" (*Annex F1*).

- The ENIAC Joint Undertaking was finalising its recruitments and key documents at the end of 2009. ENIAC has requested autonomy by March 2010.

14. Declaration and Reservations

This part is documented and covered in the Annual Activity Report 2009 (see AAR 2009 Chapter 3).

15. Annexes

Annex A - Implementation of 2009 budget

A1: Overview Status of Recovery orders

Annex B – Risk Management

B1: Annual review and recommendations from the Internal Control Coordinator (ICC) – "2009 ICC Package"

B2: Final results of DG INFSO's "High-Level Risk Assessment" exercise 2009-2010.

Annex C – Audits Performed by DG INFSO's Internal Audit Capacity and related matters

C1: Status overview

C2: IAC's annual opinion 2009

Annex D - State of play on OLAF files

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Annex F – Relations with the Education, Audiovisual and Cultural Executive Agency (EACEA) - MEDIA Programme and with ARTEMIS and ENIAC Joint Undertakings

F1: Granting autonomy to the ARTEMIS Joint Undertaking

LIMITED

Bi-Annual Management Report DG INFSO

01 JULY 2009 – 31 DECEMBER 2009

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Annex D - State of play on OLAF files

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Annex E - State of play on European Ombudsman files

E1: Status overview

Annex F - Relations with the Education, Audiovisual and Cultural Executive Agency (EACEA) – MEDIA Programme and with ARTEMIS and ENIAC Joint Undertakings

F1: Granting autonomy to the ARTEMIS Joint Undertaking

Annex A – Implementation of 2009 budget

- A1: Overview Status of Recovery Orders

Recovery Type	Balance 30/06/2009		New RO		Cashed or compensated	Waived	Cancelled 2009	Balance 31/12/2009		Estimated amounts / nbr to be waived in the future	
	Nr	amount	Nr	amount				Nr	amount		
ECA Audit	4	586.098	0	0	0			4	586.098	3	240.801
Financial Audit	56	4.548.938	101	7.898.198	3.142.069	22.863	0	91	9.282.204		
Final Payment	32	3.083.386	10	481.956	316.089	394.000	855	30	2.854.398	6	305.523
Liquidated Damages	0	0	7	105.641	7.550	0	0	4	98.091		
Liquidation/bankruptcy	17	2.143.027	2	352.187	0	0	0	19	2.495.214	18	2.143.028
Contract Termination	5	3.089.628	9	733.976	1.574	0	0	13	3.822.031	1	2.367.521
Other/divers	16	3.201.384	14	6.413.724	5.956.155	0	0	14	3.658.953		
Grand Total	130	16.652.461	143	15.985.682	9.423.437	416.863	855	175	22.796.989	28	5.056.873

* there is a difference in the final year balance for 2009 in comparison with the previous report due to the fact that during the year some recoveries were partially paid, waived or cancelled. Consequently, the final year balance was adapted accordingly.

Attribution by service - open recovery		
	Nr	amount
INFSO	13	1.539.564

DG BUDG	69	5.772.718
Legal Service (1)	72	13.033.099
Sub total	141	18.805.817
Liquidator (2)	21	2.451.608
Total	175	22.796.989

- 1 Procedure for forced recovery in progress
- 2 File to be followed-up with liquidator

Annex B – Risk Management

- B1: Annual review and recommendations from the Internal Control Coordinator (ICC) – "2009 ICC Package"
- B2: Final results of DG INFSO's "High-Level Risk Assessment" exercise 2009-2010.



EUROPEAN COMMISSION
Information Society and Media Directorate-General
General Affairs
The Director – The Internal Control Coordinator

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**NOTE FOR THE ATTENTION OF MR F. COLASANTI,
DIRECTOR GENERAL DG INFSO**

Subject: Annual review and recommendations from the Internal Control Coordinator (ICC) – "2009 ICC Package"

Each year, the Internal Control Coordinator (ICC) is required to report on the state of the Directorate General's (DG) internal control arrangements and to provide advice and recommendations to the Director General¹. The report is a major element for the assurance building process described in Part 2 of the Annual Activity Report (AAR).

The annual review and recommendations in this report are based on several sources of information². After an initial desk review by Unit S2, the other horizontal units that are 'chefs-de-file' for the implementation of Internal Control Standards (ICS) within DG INFSO were interviewed. This resulted in the 'top-down' assessment of the DG's internal control status during 2009, with respect to both the compliance and the effectiveness of the control arrangements in place. The 'bottom-up' information on internal control issues received from chapters 2-6 of the 2009 Directorates' Management Reports (DMRs) was reviewed for confirmation or any counter-indications. Finally, the IAC's Annual Opinion was taken into account.

In order to have **one overall "2009 ICC Package"**, I use this occasion to report on the work done by the ICC Group in 2009, to comment on the status of open IAS recommendations, and to summarise the final results of the 2009-2010 High-Level Risk Assessment (HLRA) exercise. Therefore, the report contains five parts:

- Part 1: ICC Group progress monitoring in 2009;
- Part 2: IAS recommendations and follow-up in 2009;
- Part 3: 2009 ICS review (compliance and effectiveness);
- Part 4: 2009 HLRA exercise and main risks for 2010;
- Conclusion on Internal Control in 2009 & ICC recommendations for 2010.

¹ Communication to the Commission: "Clarification of the responsibilities of the key actors in the domain of internal audit and internal control in the Commission", SEC(2003)59 of 21.01.2003

² In its audit of the AAR Assurance Process, the IAS has mentioned DG INFSO's Internal Control assessment process and documentation as a good practice.

The **overall conclusion** is that there are no *critical or major* ICS-related weaknesses that would lead to a reservation in DG INFSO's AAR. The monitoring of the DG's important risks, including the three 'critical risks' mentioned in the INFSO 2009 Annual Management Plan (AMP), reveals that exposure to those risks remained under control and/or has decreased. The DG's internal control effectiveness can be considered satisfactory; suitable controls are in place and working as intended. *With the exception of the issues related to the DG's recurrent reservation on the frequency of errors in FP6 cost claims*, there are no 'new' control issues affecting the assurance building process and/or the AAR Declaration. However, more clarification on the risk-based audits has been addressed in the AAR.

For 2010, eight main risks have been identified but none are considered to be critical risks. For further improving the DG's internal control effectiveness, **three DG-wide ICS priorities** have been identified for 2010 (i.e. exceptions recording/reporting, management supervision, document management) and these have been included in the provisional 2010 Management Plan. The eight risks and three ICS priorities will be followed up at DG-level via the ICC Group. In addition, **seven other recommendations** are to be considered at line management level by the Directorate(s) concerned.



Megan Richards

Encl.: - DG INFSO's 2009 ICC Report - Annual review and recommendations from the Internal Control Coordinator
 - Annex A: DG INFSO's 2009 ICS review – synthesis
 - Annex B: Overview of information from DG INFSO's 2009 DMRs (chapters 2-6)

c.c.: A. Peltomäki, Z. Stančič, INFSO Directors, F. Sendra Palmer, F. Dezeure, Assistants;
 DG INFSO's ICS 'chefs-de-file' units R1, R2, R3, R4, R0-LSO, S1, S2, S3, C3.

DG INFSO 2009 ICC Report

2009 Annual review and recommendations **from the Internal Control Coordinator**

Part 1: ICC Group progress monitoring in 2009

During 2009, there have been two ICC Group progress monitoring meetings (26 March & 1 October). At the end of 2009, based on the priorities established for that year, the situation was:

a) HLRA action plan (1 risk)

- Consequences of the financial-economic crisis on ICT programme participants (e.g. cash flow): three INFSO Working Groups were set up to assess and review project negotiation, project review and payment procedures (in order to simplify and/or speed up some aspects), as well as to implement and apply measures to offset and improve project management that arose from the results of ex-post audits and other ex-post controls.

b) HLRA reinforced monitoring (6 risks, of which 3 (*) critical risks)

- MEDIA Mundus: the programme was adopted in September 2009; the risk was eliminated
- (*) Telecom Regulation: following the inter-institutional negotiations during 2009, the package was adopted in December 2009; the risk has decreased to policy implementation now
- (*) Spectrum Policy: following adoption of the Review and developments in digital dividend policy during 2009 the risk has decreased and is no longer critical
- PPPs: the 'Artemis' JU became autonomous in October 2009, the 'ENIAC' JU will become autonomous in early 2010; the risk has been reduced regarding autonomy but continues concerning Member State financial contributions that are central to implementation
- European: was re-configured successfully in April 2009; the risk concerning access has been eliminated
- (*) Errors in ICT cost claims: the reinforced ex-post audit strategy and related data-mining tools identified improvements to ex-ante controls. To that end, three INFSO Working Groups were set up (see above); conclusions/recommendations have been / are being considered for adjusting the DG's procedures on project negotiation, project reviews and payments. The risk is stable, but remains high (cf. recurrent HLRA risk and AAR reservation)

c) ICS priorities (5 topics) (see also Part 3.b below)

- Sensitive functions policy: action(s) implemented and effectiveness increased; most non-management functions have been de-sensitised, subject to periodic verification of the mitigating measures)
- Business Continuity Plan (BCP): action(s) implemented and effectiveness partially increased; the BCP has been enhanced with further improvements; however testing of awareness, communication cascade, and actual readiness remains to be addressed in 2010
- Data Protection: action(s) implemented and effectiveness increased; data protection has become a standard and well-known process, although subject to continuous improvement
- Ethical values: action(s) implemented and effectiveness partially increased; the ethics-related awareness in the DG has been further increased via different channels and initiatives. The establishment of the practical DG-specific ethical guide will be finalised once DG HR has published the overall corporate ethics principles
- Document management: action(s) partially implemented, to be continued; the remaining aspects will now be tackled in the context of the switch-over to Ares (in June 2010) – this ICS topic is kept as Priority ICS for 2010 as well (see below)

d) other ICC recommendations (2 extra recommendations)

- Follow-up of open recommendations: action(s) implemented and effectiveness increased (e.g. periodic overview table of 'all' recommendations); but weaknesses detected in both the de-central follow-up and the central monitoring of IAS/IAC recommendations – this topic is included in the overall Management Supervision ICS selected as Priority ICS for 2010 (see below)
- Exceptions recording/reporting: action(s) implemented but to be continued; the analysis reveals a need to better clarify and/or better harmonise procedures across the DG – this topic is selected as Priority ICS for 2010 (see below)

Monitoring of the DG's important risks for 2009 reveals that exposure to most of the risks identified remained under control and/or decreased. This includes the 3 'critical risks' (*) mentioned in the INFSO 2009 AMP. The Telecom Regulation's policy risk decreased following the adoption of the policy package. The Spectrum Policy risk decreased and the financial/reputational risk related to errors in ICT cost claims was kept under control but remains high (cf. recurrent AAR reservation).

Also, most of the ICS priority topics addressed during 2009 are now sufficiently improved to keep them under the usual continued line management by the Directorate(s) concerned during 2010. However, the aspects related to exceptions recording/reporting, management supervision and document management will be kept under a DG-wide focus and treated as Priority ICS during 2010.

For the HLRA exercise 2009-2010, the new Priority ICS and other ICC recommendations, see Parts 3 & 4, plus Conclusion, below.

Part 2: IAS recommendations and follow-up in 2009

During 2009, the implementation of IAS recommendations addressed at DG INFSO has been reported to the IAS (and to the APC) via the twice annual update of the AMS IssueTrack database. At the end of 2009, the situation relating to the four currently 'open' IAS audits was:

- a) 2008 audit on ethics: 1 recommendation partially open
- b) 2008 audit on recoveries: 1 recommendation partially open
- c) 2008 audit on Research IT systems: 7 of 14 recommendations open
- d) 2009 audit on FP7 controls (design): most recent audit & action plan; 8 of 11 recommendations open

DG INFSO has no 'open' *critical* IAS recommendations. However, a number of *very important* IAS recommendations are overdue by more than 6 months (new target dates for completion have been proposed for later in 2010), which will trigger an APC-reminder and a letter between Commissioners:

- Ethics: 1 Very Important REC-1 "Adaptation of the Commission's ethics framework to the DG-specific environment": 2 sub-actions implemented; 3 sub-actions to be completed now by June 2010 (12 months delay; partly related to dependency on preliminary actions required from DG HR)
- Recoveries: 1 Very Important REC-4 "Timing to effectively close a Recovery Order": partially implemented; second phase of an iFlow-development is to be completed now by April 2010 (9 months delay)
- Research IT Systems: inter alia 2 Very Important RECs-8-9 mainly related to "IT Security" issues: partially implemented and/or postponed (*inter alia* related to the need for DG HR's Security Directorate to have the DG INFSO Information Security Plan re-analysed and re-written per Information System); now planned to be completed by mid-2010 (12 months delay) – *DG INFSO has asked the IAS to postpone their follow-up audit, at least for the IT Security aspects*

- FP7 controls (design): no Very Important recommendations overdue more than 6 months but end-June 2010 will be a critical deadline for several.

The need to strengthen the decentralised follow-up and the central monitoring of 'open' IAS/IAC recommendations to avoid recommendations becoming overdue is one of the reasons for including overall Management Supervision as a Priority ICS for 2010 (see Part 3, plus Conclusion, below).

Part 3: 2009 ICS review (compliance and effectiveness)

At the end of 2009, the annual year-end self-assessment of compliance with and effective implementation of the Commission's Internal Control Standards (ICS) was carried out. After a 'top-down' review (desk review by S2 + interviews with the central Chef-de-File units), a 'bottom-up' cross-check (via the AOSDs' DMRs), and the submission of the independent Opinion of the internal auditor, the analysis and synthesis lead to the following picture:

a) compliance with requirements and general effectiveness of all 16 ICS

In order to have a framework for assessing DG INFSO's compliance with the ICS requirements as well as the effectiveness of the internal control arrangements in place, DG BUDG's "*Guidelines on assessing the effectiveness of the Internal Control System*" have been used – see **Annex A**.

The main conclusion of the self-assessment is that DG INFSO has implemented the ICS requirements and that there are no *critical or major* ICS-related weaknesses that would lead to an AAR reservation. However, in terms of continuing the increase of effectiveness of some ICS, some areas of improvement are needed:

- DG-wide ICS priority areas

During 2010, efforts to further strengthen the internal control system should continue in the areas of:

- Part of ICS-8 Exceptions Recording/reporting: ensuring more standardisation among directorates in the recording/reporting of exceptions: (cf. differences in numbers and type of (minor) exceptions recorded/reported)
- ICS-9 Management Supervision: ensuring more effective management supervision of decentralised responsibilities (e.g. *via a somewhat more formalised status monitoring and analysis – e.g. once a month at the Directorate's management meeting*) combined with more frequent and/or closer monitoring at the ICC Group (e.g. *quarterly instead of twice annual frequency, more detailed reporting on specific topics/aspects identified, etc*) – e.g. more proactive supervision in some areas, follow-up of open audit recommendations, analysis of signalled internal control weaknesses, recording of exceptions, investments of time and resources in document management aspects, control of agencies/JTIs, etc. (e.g. re-considering some good practices offered by other DGs and BUDG - e.g. 'surveillance' for some areas ?)
- ICS-11 Document Management: finalising the remaining document management aspects (e.g. filing/closing/retrieving and retention/access/readability) particularly in the context of DG INFSO's switch-over to ARES in June 2010. This may need to be accompanied by additional monitoring by management (e.g. via reporting back via DMRs, ICC Group, etc.).

- Actions to be considered/finalised by Continued Line Management

In order to increase effectiveness of the ICS in general, seven other suggestions for improvement are to be considered at the level of Continued Line Management:

- ICS-1 Mission Statements: The new College's mandates and priorities will be the occasion to review all mission statements in early 2010.
- ICS-2 Ethical Values: Once the practical DG-specific ethics guidance will be established (subject to DG HR's 'corporate principles' guidance), it may be useful to review compliance and to ensure full understanding and effectiveness by means of periodic assessment.

- ICS-3 Staffing: The only unfulfilled recruitment target is for EUR-2 AD-Research posts.
- ICS-4 Staff Development: The management of staff development might be improved if achieving some HRM-related targets could be monitored at DG-central level (e.g. more detailed analysis of the DG's training statistics per Directorate/Unit).
- ICS-3 & -5 Staff Allocation & Objectives: The DG's resources (re)deployment in function of (re)prioritised ABM-objectives may benefit from a (DG-wide) re-sizing/allocation exercise.
- ICS-10 Business Continuity: The BCP's overall effectiveness may benefit from the actual testing of staff awareness, cascade communication and some scenario simulations.
- ICS-12 Information (Systems) and Communication: The DG's IT Security will benefit from the finalisation of the IAS-related action plan (last elements to be finalised during 2010); the DG's internal communication will be further improved by taking into account the results from the recent survey on internal communication.

b) extra info on improvement of the effectiveness of the DG's 5 specific 2009 Priority ICS during 2009 (see Part 1.c above)

c) bottom-up indications from the Directors (AOSDs)

An overview of the information on internal control issues received from the Directors, as Authorising Officers by Sub-Delegation (AOSDs), via their individual 2009 Directorate Management Report (DMR), is provided in **Annex B**.

INFSO Directors report reasonable assurance that risks are under control and that suitable controls are in place and working as intended. They have not raised any 'new' (i.e. beyond the DG's recurrent reservation on the errors in cost claims) issues to be considered in the context of the AAR declaration by the Director General.

No overruling occurred in 2009. Further to that only minor exceptions of a limited relevance and non-systemic nature have been reported. End-2008/early-2009, most of DG INFSO's non-management functions were de-sensitised subject to mitigating measures (mostly already) in place (at the time). Directors reported on the status of the mitigating measures in place at the end of 2009.

Overall, only a few minor internal control weaknesses have been signalled concerning: objectives setting, recruitment & staffing, business continuity & back-ups, document management & filing. A more important weakness has been detected in the Appointment Letters (AL) financial circuit, which may have to be modified (giving the Operational Sector (OS) the technical possibility to follow AL2 payments in real time would improve the supervision of the respect of payment delays). Due to an error in the workflow, a financial commitment was not finalised before signing the corresponding contract. Although the error was corrected in early 2010 (and measures to avoid this type of errors have been implemented), part of the 2009 budget of DG SANCO cross-sub-delegated to DG INFSO for this particular purpose, was not implemented. On the other hand, deviations such as allowing beneficiaries the use of non-interest-bearing bank accounts appear to have not been recorded/reported as exceptions.

In the comments and suggestions on DG INFSO's current working methods, some Directors have identified a number of topics and issues. It is suggested to discuss these at the INFSO Directors meeting in order to identify changes that can improve operations.

d) independent views from the internal auditors

- IAC Opinion ³

³ "IAC's annual opinion 2009", INFSO-01 206498 of 12.02.2010

During 2009, DG INFSO's IAC has completed three new audits and performed also a limited review on general accounting in DG INFSO. Based on the results of these audits, the IAC made *very important* observations in the following areas:

i) Audit on Procurement and Appointment Letters:

- (a) Cross-checking data from EC databases
- (b) Responsibilities of the operational and financial agents and authorising officers
- (c) Quality of information and rules on Appointment Letters (AL)
- (d) Management of studies
- (e) Publication of reports on the Europa website
- (f) Conflict of interest regarding procurement (studies)

ii) Audit on DG INFSO's monitoring activities over the EACEA:

- (a) Internal coordination arrangements within DG INFSO to supervise and monitor the EACEA
- (b) In particular, as regards expert advice on IT matters

iii) Audit on FP7 Project Reviews:

- (a) Satisfactory actions on problematic projects
- (b) Management supervision and written track of the follow-up of problematic projects
- (c) Compliance with the principles of economy, efficiency and effectiveness
- (d) Indicators of potential fraud

The IAC issued its annual opinion on the state of control within DG INFSO on 12th February 2010 and made *no critical recommendations*. As regards the adequacy of the internal control system in place, however, the IAC considers that among others the following issues should be duly taken into account:

- The need to reinforce the overall reporting and monitoring on operations of DG INFSO.
- The follow-up audits (although not yet finalised at the end of 2009), which have shown that not all accepted recommendations have been implemented.
- The need to better document procedures with DG INFSO in order to mitigate the risk of discontinuity of operations.

Related to the Internal Control Standards, the IAC's findings indicate very important weaknesses, in particular in the areas of design of procedures and recording of exceptions (ICS-8 processes and procedures), proactive supervision and follow-up of audit recommendations (ICS-9 management supervision), management scoreboards for monitoring and availability of scientific information (ICS-12 information and communication), and follow-up of AL payment limits (ICS-13 accounting and financial reporting). Action plans have been or are being drafted to address the IAC recommendations.

From the IAC Opinion 2009, it appears that, based on the results of the audits carried out during 2009, the internal control system in place provides *reasonable assurance* regarding the achievement of the business objectives set up for the processes audited, except for those issues identified in their audit findings and recommendations mentioned above. The IAC is not aware of critical or major weaknesses in the internal control system which might lead to a potential AAR reservation (except for the recurrent existing reservation on the frequency of errors in FP6 cost claims).

- IAS findings

In 2009, the IAS issued no 'critical' recommendations to DG INFSO. *However, delays in the follow-up of 'open' IAS recommendations were noted (see Part 2 above).*

e) overall ICS self-assessment conclusion

Overall, DG INFSO has implemented the ICS requirements. There are no *critical or major* ICS-related weaknesses that would lead to an AAR reservation. However, in terms of continuing the increase of effectiveness of some ICS, some areas of improvement have to be considered. At DG-level, three Priority ICS were selected for 2010 (cf. INFSO's 2010 MP annex 2 = exceptions recording, management

supervision, document management). At line management level, seven other ICC-recommendations are being suggested. (see Conclusion).

Part 4: 2009 HLRA exercise and main risks for 2010

At the end of 2009, DG INFSO carried out its annual High-Level Risk Assessment (HLRA) exercise ⁽⁴⁾ in the context of preparation for the (provisional) 2010 Management Plan. Eight risks were identified and assessed for 2010:

- FP & CIP Management (action plan for some aspects)
- Media International preparatory action (*activity/risk to be transferred to DG EAC*)
- eCommunications regulatory framework implementation (reinforced monitoring)
- Spectrum Programme establishment and management (reinforced monitoring)
- errors in FP6 cost claims (reinforced monitoring)
- supervision of DG-external entities (reinforced monitoring)
- Art. 7 & 7a procedures (continued line management)
- eFP7 IT-tools (continued line management)

None of the risks identified and assessed during the HLRA-exercise 2009-2010 are considered to have sufficient political/reputational exposure to be considered as 'critical risks' for DG INFSO (cf. INFSO's provisional 2010 MP annex 4). However, the risks listed above will be followed up and/or monitored during 2010 via the ICC Group at DG-wide level (see Conclusion). Other risks, i.e. those below the HLRA risk-level threshold, will be addressed by 'continued line management' from the individual Directorate(s) concerned and will be reported in their twice-annual DMRs.

Conclusion on Internal Control in 2009 & ICC recommendations for 2010

DG INFSO has implemented the ICS requirements. There are no *critical or major* ICS-related weaknesses that would lead to an AAR reservation. The monitoring of risks, including the three 'critical risks' from the INFSO 2009 AMP, reveals that exposure remained under control and/or has decreased. For 2010, eight main risks were identified, but none of them was considered to be a *critical risk* for the (provisional) 2010 Management Plan.

As far as the overall state of ICS effectiveness in DG INFSO (assessment of the effective implementation of all 16 ICS at 31.12.09) is concerned, based on the detailed analysis and the overall synthesis results, we can conclude the following:

In general terms, for the majority of the ICS and their underlying requirements, DG INFSO services comply with the three assessment criteria for effectiveness; i.e. (a) staff have the required knowledge and skills, (b) systems and procedures are designed and implemented to manage the key risks effectively, and (c) no instances of ineffective controls have exposed the DG to its key risks. Consequently, the **overall effectiveness can be considered satisfactory**; the majority of the controls are working as intended (subject to some improvements which can be dealt with by the usual continued line management). For a few ICS, the effectiveness of existing controls could be further increased. DG-wide priority improvements should address some issues that have only been solved partially during 2009 and/or some newly detected potential weaknesses:

- Part of ICS-8 Exceptions Recording/reporting: ensuring more standardisation among directorates in the recording/reporting of exceptions;
- ICS-9 Management Supervision: ensuring more effective management supervision of decentralised responsibilities combined with more frequent and/or closer monitoring at the ICC Group – e.g. more proactive supervision in some areas, follow-up of open audit

⁴ "Final results of DG INFSO's "High-Level Risk Assessment" exercise 2009-2010 & its follow-up during 2010", INFSO-S2 155574 of 22.12.2009.

recommendations, analysis of signalled internal control weaknesses, recording of exceptions, investments of time and resources in document management aspects, control of agencies/JTIs, etc.

- ICS-11 Document Management: finalising the remaining document management aspects particularly in the context of DG INFSO's switch-over to ARES.

Taking into account the progress made, the efforts to be continued, and the most recent status of review results, these ICS areas have been selected as DG INFSO's three ICS priorities for 2010. In order to increase effectiveness of the ICS in general, seven other suggestions for improvement are to be considered at the level of Continued Line Management.

DG INFSO's eight main risks and three ICS priorities will be followed up during 2010 via the ICC Group at DG-wide level. The DG's other risks and the ICC's other recommendations are to be followed up at line management level by the Directorate(s) concerned.

Annex "A" to DG INFSO's "ICC Package" (end-2009)

DG INFSO's 2009 ICS review – synthesis

In order to have a framework for assessing DG INFSO's compliance with the ICS baseline requirements as well as the effectiveness of the internal control arrangements in place, the guidelines by DG BUDG containing sets of analytic questions per ICS have been used.

The detailed notes (working document of 60 pages) are available on Unit S2's intranet-page related to ICS-15¹. This document provides an overview of that analysis. The presentation follows DG BUDG's instructions (see BudgWeb-link to "Guidelines on assessing the effectiveness of the Internal Control System²").

The three assessment criteria for the six building blocks of the 16 ICS are illustrated below:

Level of Control	Assessment criteria		
	Experience of the operation of the control system	Capacity (staff)	Capacity (systems & procedures)
Major improvement needed	More than one instance of inadequate / ineffective controls that exposed the DG to its key risks.	Insufficient knowledge and skills are available in a significant number of areas to manage the key risks effectively.	System controls / procedures do not exist to manage the key risks.
Improvement needed	One instance of inadequate / ineffective controls that exposed the DG to its key risks.	Insufficient knowledge and skills are available in limited a number of areas to manage the key risks effectively.	System controls / procedures to manage the key risks exist, but improvement is needed in some limited areas.
Minor/no improvement needed	No previous instances of inadequate / ineffective controls that exposed the DG to its key risks.	Sufficient knowledge and skills are available to manage the key risks effectively.	System controls / procedures are designed, implemented to manage the key risks.

Each of the 16 ICS has been assessed on each of the 6 ICS categories, and an overall opinion has been developed as a general conclusion.

¹ See INFSO-S2's intranet-page on ICS-15: http://intra.infso.cec.eu.int/index.htm?url=/ICS/16_ics/ics2008_15.htm

² See BudgWeb-link to "Guidelines on assessing the effectiveness of the Internal Control System": http://www.cc.cec/budg/man/icrm/doc/services/guidelines/doc_081110_icsystemeffectivenessmeasureguidelines_en.pdf

BUILDING BLOCK 1: MISSION AND VALUES (ICS 1-2)

Summary of the situation:

In 2009, DG INFSO's mission statements were up to date and applicable (given the multi-annual working environment).

No cases of unethical behaviour by INFSO staff had been identified and/or reported. During 2009, new initiatives in terms of communication and awareness-raising were initiated (e.g. website, reminder, seminars).

Level of Control	Assessment criteria		
	Experience of the operation of the control system	Capacity (staff)	Capacity (systems & procedures)
Major improvement needed	N/A	N/A	N/A
Improvement needed	N/A	The knowledge and awareness by staff will be enhanced once the DG-specific guidance becomes available.	- Ethical guidance could be further clarified in the DG-specific guide.
Minor/no improvement needed	The new College's mandates and priorities will be the occasion to review all mission statements in early 2010.	N/A	N/A

Conclusion:

The new College's mandates and priorities will be the occasion to review all mission statements in early 2010.

The only aspect from the IAS/IAC 'ethics' action plans to be finalised in 2010 is to make the ethics guidance more practical and DG-specific (this requires prior establishment of the 'corporate principles' guidance by DG HR).

BUILDING BLOCK 2: HUMAN RESOURCES (ICS 3-4)

Summary of the situation:

No control issues related to recruitment, allocation, mobility and development of staff have been identified and/or reported.

Contract Agents turnover has been somewhat mitigated by the creation of a 'pool of replacement staff' for financial agents and secretaries for short-term absences.

The target for average number of training days has been met. Individualised invitations/reminders are sent out for compulsory/conditional training courses.

Level of Control	Assessment criteria		
	Experience of the operation of the control system	Capacity (staff)	Capacity (systems & procedures)
Major improvement needed	N/A	N/A	N/A
Improvement needed	N/A	N/A	N/A
Minor/no improvement needed	No instances of inadequate / ineffective controls that exposed the DG to key	Sufficient knowledge and skills are available to manage the key risks	- Recruitment: remaining target for EUR-2 AD-Research posts - Development: quid systematic

	risks.		effectively.		analysis of staff training stats and related conclusions for DG policy?
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Conclusion:

The only unfulfilled recruitment target is for EUR-2 AD-Research posts.

While there have been no material control failures in the period, the management of staff development might be improved if achieving some HRM-related targets could be monitored at DG-central level (e.g. more detailed analysis of the DG's training statistics per Directorate/Unit).

BUILDING BLOCK 3: PLANNING AND RISK MANAGEMENT PROCESSES (ICS 5-6)

Summary of the situation:

No control issues concerning the ABM-related procedures, including the HLRA exercise and its follow-up (cf. ICC Group progress monitoring), have been identified and/or reported.

Level of Control	Assessment criteria		
	Experience of the operation of the control system	Capacity (staff)	Capacity (systems & procedures)
Major improvement needed	N/A	N/A	N/A
Improvement needed	N/A	N/A	N/A
Minor/no improvement needed	No instances of inadequate / ineffective controls that exposed the DG to key risks.	Sufficient knowledge and skills are available to manage the key risks effectively.	Resources (re)deployment in function of ABM-objectives (<i>in part dependant on changes to the new college's mandate etc</i>): quid a DG-wide re-sizing/re-allocation exercise?

Conclusion:

While there have been no material control failures in the period, the DG's resources (re)deployment in function of (re)prioritised ABM-objectives may benefit from a (DG-wide) re-sizing/allocation exercise (see also ICS-3) – in part in view in particular of the changes in the new College's mandates and priorities.

BUILDING BLOCK 4: OPERATIONS AND CONTROL ACTIVITIES (ICS 7-11)

Summary of the situation:

During 2009, implementation of the sensitive functions policy was finalised (including updates on mitigating measures). The number of derogations from compulsory mobility remains low.

The recording/reporting of exceptions made from standard procedures remain affected by potential weaknesses (indications of 'non-standardised understanding or application').

Supervision by management of some aspects may be reinforced - *inter alia* for more pro-active supervision, follow-up of open audit recommendations, analysis of signalled internal control weaknesses, recording of exceptions, investing time/resources in document management, controlling semi-independent bodies, etc.

During 2009, the BCP has been updated. The BCP's overall effectiveness may benefit from the actual testing of staff awareness, cascade communication and some scenario simulations.

During 2009, the remaining aspects of document management (e.g. filing/closing/retrieving and retention/access/readability) have been solved partially (cf. ARES switch-over in June 2010).

Level of Control	Assessment criteria		
	Experience of the operation of the control system	Capacity (staff)	Capacity (systems & procedures)
Major improvement needed	N/A	N/A	N/A
Improvement needed	<ul style="list-style-type: none"> - Quid need for more consistency and scrutiny of recorded exceptions? - Quid need for more integrated and formalised follow-up for open recommendations? - Quid effectiveness of the document management systems and related procedures? 	<ul style="list-style-type: none"> - Quid effectiveness of the document management systems and related procedures? 	<ul style="list-style-type: none"> - Quid need for more consistency and scrutiny of recorded exceptions? - Quid need for more integrated and formalised follow-up for open recommendations? - Quid effectiveness of the document management systems and related procedures?
Minor/no improvement needed	The BCP's effectiveness may benefit from actual testing.	N/A	N/A

Conclusion:

During 2010, efforts to further strengthen the internal control system should continue in the areas of recording/reporting of exceptions, management supervision, and document management.

The following areas may be further improved:

- ensuring more standardisation among directorates in the context of recording/reporting exceptions: (cf. differences in numbers of (minor) exceptions recorded/reported³)
- ensuring more effective management supervision of decentralised responsibilities (*e.g. via a somewhat more formalised status monitoring and analysis – e.g. once a month at the Directorate's management meeting*) combined with more frequent and/or closer monitoring at the ICC Group (*e.g. quarterly instead of twice annual frequency, more detailed reporting on specific topics/aspects identified, etc*) – e.g. more proactive supervision in some areas, follow-up of open audit recommendations, analysis of signalled internal control weaknesses, recording of exceptions, investments of time and resources in document management aspects, control of agencies/JTIs, etc. (e.g. re-considering some good practices offered by other DGs and BUDG - e.g. 'surveillance' for some areas ?)
- finalising the remaining document management aspects (e.g. filing/closing/retrieving and retention/access/readability) particularly in the context of DG INFSO's switch-over to ARES in June 2010. This may need to be accompanied by additional monitoring by management (e.g. via reporting back via DMRs, ICC Group, etc.)

Consequences:

³ While one ICT Directorate reports tens of cases of "extension of expired FDI" and "COS" ('Couverture des Obligations Substantes' = initiation of new commitments for existing payment obligations), others report none or a few.

ICS-8-part on exceptions recording/reporting flagged as an ICS priority for 2010.

ICS-9 on management supervision flagged as an ICS priority for 2010.

ICS-11 on document management has been continued as an ICS priority for 2010.

BUILDING BLOCK 5: INFORMATION AND FINANCIAL REPORTING (ICS 12-13)

Summary of the situation:

In terms of internal information and communication, a 2009 DG-wide survey of staff satisfaction on internal communication has provided some ideas for further improvements.

For IT Security, some elements from an IAS action plan remain to be finalised.

For accounting and financial reporting, no control issues have been identified and/or reported.

	Assessment criteria		
Level of Control	Experience of the operation of the control system	Capacity (staff)	Capacity (systems & procedures)
Major improvement needed	N/A	N/A	N/A
Improvement needed	N/A	N/A	For IT Security, some elements from an IAS action plan remain to be finalised.
Minor/no improvement needed	No instances of inadequate / ineffective controls that exposed the DG to key risks.	A survey of staff satisfaction about internal communication has provided some ideas for further improvements.	N/A

Conclusion: While there have been no material control failures in the period, the internal control system will benefit from the finalisation of the IAS-related action plan for IT Security (last elements to be finalised during 2010) and from the suggestions provided by the survey of staff satisfaction about internal communication.

BUILDING BLOCK 6: EVALUATION AND AUDIT (ICS 14-16)

Summary of the situation:

No control issues related to the evaluation unit, the ICC's annual ICS review or the IAC unit have been identified and/or reported.

	Assessment criteria		
Level of Control	Experience of the operation of the control system	Capacity (staff)	Capacity (systems & procedures)
Major improvement needed	N/A	N/A	N/A
Improvement needed	N/A	N/A	N/A
Minor/no improvement needed	No instances of inadequate / ineffective controls that exposed the DG to key risks.	Sufficient knowledge and skills are available to manage the key risks effectively.	System controls / procedures are designed, implemented to manage the key risks.

Conclusion: no remarks

OVERALL SITUATION: BUILDING BLOCKS 1-6

Summary of the situation:

Based on the six building blocks of the 16 ICS, the state of ICS effectiveness in DG INFSO end-2009 can be summarized as follows:

INFSO 2009 ICS review

Building Block	Assessment of the level of control (Major improvement needed/Improvement needed/ Minor/no improvement needed)	Argumentation	Conclusions
Mission and values 1. Mission 2. Ethical and Organisational Values	Improvement needed	See IAC and IAS audits on ethics + related action plan	-> finalisation of remaining aspects (DG-specific guidance on ethics) <i>PS: The new College's mandates and priorities will be the occasion to review all mission statements.</i>
Human Resources 3. Staff Allocation and Mobility 4. Staff Evaluation and Development	Minor/no improvement needed	Controls working as intended, only minor issues	(none) <i>PS:</i> - Recruitment target for EUR-2 AD-Research posts - Development: systematic analysis of staff training stats?
Planning and Risk Management Processes 5. Objectives and Performance Indicators 6. Risk Management Process	Minor/no improvement needed	Controls working as intended, only minor issues	(none) <i>PS: resources (re)deployment in function of ABM-objectives: quid a DG-wide re-sizing/allocation exercise?</i>
Operations and Control Activities 7. Operational Structure 8. Processes and Procedures 9. Management Supervision 10. Business Continuity 11. Document Management	Improvement needed	Issues related to document management solved only partially Potential weaknesses remain related to exceptions recording/reporting and management supervision	Continued and new ICS priorities for: - exceptions recording/reporting (part of ICS-8) - management supervision (ICS-9) - document management (ICS-11) <i>PS: the BCP's effectiveness may benefit from actual testing.</i>
Information and	Improvement needed	See IAS audit on IT Security aspects +	-> finalisation of remaining aspects (IT

Financial Reporting 12. Information and Communication 13. Accounting and Financial Reporting		related action plan	Security) <i>PS: a staff satisfaction survey about internal communication has provided some ideas for further improvements.</i>
Evaluation and Audit 14. Evaluation of Activities 15. Assessment of Internal Control Systems 16. Internal Audit Capability	Minor/no improvement needed	Controls working as intended	(none)

General conclusion on DG INFSO's ICS effectiveness in 2009

There are no ICS requirements for which DG INFSO is not formally compliant. There are no *critical or major* ICS-related weaknesses that would lead to an AAR reservation. On the overall state of ICS effectiveness in DG INFSO (assessment of the effective implementation of all 16 ICS at 31.12.09), based on the detailed analysis and the overall synthesis results, we can conclude the following:

1. In general terms, for the majority of the ICS and their underlying requirements, DG INFSO services comply with the three assessment criteria for effectiveness; i.e. (a) staff have the required knowledge and skills, (b) systems and procedures are designed and implemented to manage the key risks effectively, and (c) no instances of ineffective controls have exposed the DG to its key risks. Consequently, the **overall effectiveness can be considered satisfactory**; the majority of the controls are working as intended (subject to some improvements which can be dealt with by the usual continued line management). For a few ICS, the effectiveness of existing controls could be further increased. DG-wide priority improvements should address some issues that have only been solved partially during 2009 and/or some newly detected potential weaknesses:

- Part of ICS-8 Exceptions Recording/reporting: ensuring more standardisation among directorates in the recording/reporting of exceptions;
- ICS-9 Management Supervision: ensuring more effective management supervision of decentralised responsibilities combined with more frequent and/or closer monitoring at the ICC Group – e.g. more proactive supervision in some areas, follow-up of open audit recommendations, analysis of signalled internal control weaknesses, recording of exceptions, investments of time and resources in document management aspects, control of agencies/JTIs, etc.
- ICS-11 Document Management: finalising the remaining document management aspects particularly in the context of DG INFSO's switch-over to ARES.

Taking into account the progress made, the efforts to be continued, and the most recent status of review results, these three ICS areas have been selected as ICS priorities for 2010.

2. In order to increase effectiveness of the ICS in general, seven other suggestions for improvement are to be considered at the level of Continued Line Management:

- ICS-1 Mission Statements: The new College's mandates and priorities will be the occasion to review all mission statements in early 2010.
- ICS-2 Ethical Values: Once the practical DG-specific ethics guidance will be established (subject to DG HR's 'corporate principles' guidance), it may be useful to review compliance and to ensure full understanding and effectiveness by means of periodic assessment.
- ICS-3 Staffing: The only unfulfilled recruitment target is for EUR-2 AD-Research posts.
- ICS-4 Staff Development: The management of staff development might be improved if achieving some HRM-related targets could be monitored at DG-central level (e.g. more detailed analysis of the DG's training statistics per Directorate/Unit).
- ICS-3 & -5 Staff Allocation & Objectives: The DG's resources (re)deployment in function of (re)prioritised ABM-objectives may benefit from a (DG-wide) re-sizing/allocation exercise.
- ICS-10 Business Continuity: The BCP's overall effectiveness may benefit from the actual testing of staff awareness, cascade communication and some scenario simulations.
- ICS-12 Information (Systems) and Communication: The DG's IT Security will benefit from the finalisation of the IAS-related action plan (last elements to be finalised during 2010); the DG's internal communication will be further improved by taking into account the results from the recent survey on internal communication.

Information on internal control from the 2009 Directors' Management Reports (DMRs)

A full overview of the information on internal control issues received from the Directors, as Authorising Officers by Sub-Delegation (AOSDs), via their individual 2009 Directorate Management Report (DMR), is provided in the detailed Sub-Annexes B-a-b-c (set of 2 tables, plus an addendum for Unit 02). These are available on Unit S2's intranet-page related to ICS-15¹. This document provides an overview.

The internal control issues addressed in the 2009 DMRs can be summarized as follows:

- Beyond the main risks addressed in the annual High-Level Risk Assessment (HLRA) exercise, the **risks identified** at Directorate's level have been **kept under control** and/or have been further reduced through risk management measures by continued line management.
- In terms of "**reputational events**" which may have occurred during 2009, Directors have mentioned :
 - expert's conflict of interests: the discovery of a non-disclosed conflict of interest by an expert participating in the evaluation of proposals in the ICT Call 5 selection phase (p.m.: in the meantime measures have been taken to avoid such situations)
 - audit extrapolation: complaints from the research community and related interest groups, plus political pressure, about the extrapolation of audit results – i.e. the time- and labour-intensive revision of many financial statements (in the interim, a Commission communication on simplification was adopted on 15.12.2009 to address many of these cases)
 - rising number of contestations of audit results, litigation and complaints to the European Ombudsman as a result of the increased number of audits and the increased focus on risk-based audits (which typically result in higher than usual error rates and recovery amounts)
 - liquidated damages: although the application of liquidated damages is explicitly foreseen in the FP6 research contracts, participants to whom it is applied tend to raise complaints (including vis-à-vis other institutions)

Taking into account the Commission's significance criteria for assessing potential "reputational events" (i.e. nature, breadth of awareness and/or duration), **the INFSO 2009 Declaration Group has discussed those events** and considers that the reputational damage was not significant in 2009. Furthermore, most of the above-mentioned 'events' are related to risks that are inherent to the policy initiatives taken and/or the programmes managed.

Although not related to 2009, some 'potential' reputational issues have been signalled for 2010: the repercussions from risk-based audits of FP6 and FP7 participants, and potential funding and operational issues related to the Joint Undertakings.

- The supervision and control arrangements in place have been further improved. The internal control systems have been applied, and the Directors state that they have **reasonable assurance that suitable controls are in place and working as intended.**

¹ See INFSO-S2's intranet-page on ICS-15: http://intra.infso.cec.eu.int/index.htm?url=/ICS/16_ics/ics2008_15.htm

- Exceptions 2009

No overruling occurred in 2009.

Further to that **only minor exceptions** considered of a limited relevance and non-systemic nature have been reported. They have been properly documented in the related file and logged through the appropriate administrative/financial IT tools as requested.

They include: extension of expired FDI, initiation of new commitments for existing payment obligations ('Couverture des Obligations Subsistantes' - COS) including for covering 'saisine a posteriori', late counter-signature of Appointment Letters (expert has started) or public procurement procedures (event has started) or mission orders (mission is underway or finalised), submission of a procurement invitation to negotiate without prior approval by the AOSD, early publication of a contract notice without prior visa by R2, (retro-active) extension of procurement contracts, corrected and/or late payments of AL and FP7 interest, additional payments (audit in favour of contractor, payment of employees of bankrupt beneficiaries after court case), AL with clause missing or not amended to the allocate extra days, local payment of expenditure at a conference, books not purchased via the library.

Taking into account the scope of DG INFSO's exceptions mentioned above, it can be concluded that this source of information does not lead to concerns that procedures and/or controls are not suitable or not working as intended.

On the other hand, deviations such as allowing beneficiaries the use of non-interest-bearing bank accounts appear to have not been recorded/reported as exceptions.

Consequently, for some categories of minor exceptions, it would be useful to analyse whether there is need for more consistency among directorates and/or for more scrutiny/surveillance of the exceptions to determine whether the differences noted in treatment by different directorates² are an indication that the current procedures require revision. This will be done in the context of the INFSO 2010 Priority ICS-8.

- **Sensitive functions:** derogations and mitigating controls in 2009

For ICS-3/ICS-7 on staff allocation, sensitive functions and mobility, in 2009 DG INFSO requested **three derogations** to allow staff to remain in sensitive functions longer than five years (for three HoUs; twice for continuity of operations in the interest of the service and once for continuation during a short period until retirement).

End-2008/early-2009, most DG INFSO's non-management functions were de-sensitised subject to mitigating measures. Directors reported on the **status of the mitigating measures** in place at the end of 2009. Such regular periodic verification, which will be done twice a year, is conditional for allowing those functions to remain non-sensitive.

- Overall, only a few **minor internal control weaknesses** have been signalled, concerning objectives setting (ICS-1), recruitment & staffing (ICS-3), business continuity & back-ups (ICS-10), document management & filing (ICS-12).

Nevertheless, a more important weakness has been signalled in **the Appointment Letters (AL) financial circuit, which may have to be modified**: as the Operational Sector (OS) does not have the technical possibility to follow AL2 payments in real time, supervision of the respect of payment delays is weakened.

² For example, while one ICT Directorate reports tens of cases of "expired FDI extension" and/or "COS", others report none or few.

Due to an error in the workflow, a financial commitment was not finalised before signing the corresponding contract. Although the error was corrected in early 2010 (and measures to avoid this type of errors have been implemented), **part of the 2009 budget of DG SANCO, cross-sub-delegated to DG INFSO for this particular purpose was not implemented**. A report by INFSO to SANCO on the use of the cross-subdelegated budget has been established for SANCO's assurance and AAR Declaration purposes.

- Regarding "significant delays" in the implementation of action plans, DG INFSO has four very important IAS **recommendations overdue** more than 6 months. However the Directorate concerned - as auditee for the 2008 IAS' ethics, recovery orders and IT systems audits - has now stated that those recommendations will be implemented by June 2010 (i.e. in some cases re-adjusted from December 2010 reported earlier).
- Suggestions from the Directors on **potential ICS priorities** for 2010 included: mission statements (ICS-1), ethical values (ICS-2), staff allocation & mobility (ICS-3), procedures & processes (ICS-8), management supervision (ICS-9), business continuity (ICS-10), document management (ICS-11), information systems & communication (ICS-12). These suggestions have been taken into account for determining the INFSO 2010 ICS priorities and/or other ICC recommendations.
- In the context of the 2009 Annual Activity Report (AAR) process, Directors (as Authorising Officers by Sub-Delegation) have reported **no comments** on the follow-up of previous AAR reservations nor have they raised any **new issues to be considered** by the Declaration Group in the context of the declaration by the Director General (as Authorising Officer by Delegation) – **except** related to the **recurrent reservation** on the frequency of errors in FP6 cost claims:
 - The (cumulative) residual error rate in FP6 projects has not dropped below 2%, and based on the current information is not likely to drop below 2% even if the audit coverage were to be significantly increased. (Also there is no cost/benefit advantage to increasing the number of non-risk-based FP6 audits as the marginal cost of carrying out the audits exceeds the average recovery generated.)
 - The results of the risk-based audits and the COCOON case indicate a significant risk for the existence of organised networks of beneficiaries that systematically overcharge costs and/or use false pretences to obtain EU funding. Traditional ex-ante and ex-post controls do not identify these organised networks; additional investigative techniques are required.
- A few Directors have provided **comments and suggestions on DG INFSO's current working methods**. Given their importance, it is suggested to discuss them at Senior Management level - e.g. in the INFSO Directors meeting - to identify changes that can improve operations

However, it as to be said that, at the March 2009 meeting of the ICC Group, representatives have been asked to provide confirmation from each Directorate whether these issues were a more general concern among the (majority of INFSO Directors) or not; none have confirmed this...

These include: the need for more coordination and consistency among ICT directorates (including for ICT project life-cycle matters such as project reviews and IT tools such as PPM), the need to increase the linkages between the External Audits Unit 02, the OS/AFUs and the operational services (in order to maximise the benefit of the audit work on the safeguarding of the Commission's financial interests), the need for more horizontal coordination of and assistance on audit results implementation (e.g. audit results are being contested more and more), the need for more focused IAC audits that add value in essential areas and/or simplify processes (plus repository), the need to re-balance research staff allocation (including contract staff, while taking into account the related training and mobility issues), the high volume of demand-led work (Cabinet requests and ISC) often to the detriment of other, planned important work.

Given the importance of these topics, it is suggested to discuss them at Senior Management level in INFSO Directors or ICT Directors meetings to identify changes that can improve operations.



EUROPEAN COMMISSION
Information Society and Media Directorate-General

The Director General

Brussels, **22 DEC. 2009**
INFSO-S2/GV/jh D (2009) 155574

NOTE FOR THE ATTENTION OF THE INFSO DIRECTORS

Subject: Final results of DG INFSO's "High-Level Risk Assessment" exercise 2009-2010 & its follow-up during 2010

References:

- *Launch of DG INFSO's "High-Level Risk Assessment" exercise 2009-2010, INFSO-S D(2009)143526 of 14.10.09;*
- *Discussion of the results at the INFSO Directors Meeting of 07.12.09 (document INFSO-S2 D(2009)152656 of 04.12.09)*

Please find enclosed the 'risk register' document containing the final results of DG INFSO's "High-Level Risk Assessment" exercise 2009-2010.

This exercise, conducted in line with the DG's 2010 Management Plan (MP) process, was pre-launched at the INFSO Directors meeting of 05.10.09. Its intermediate results were discussed at the INFSO Directors meeting of 07.12.09 and some additional comments have been received until 18.12.09.

The risks submitted as draft for DG INFSO's list of main risks for 2010 have been assessed as follows:

- None of the risks identified are considered to have sufficient political/reputational exposure to be considered as 'critical risks' for DG INFSO in 2010:

No 'critical risks' for DG INFSO's 2010 MP annex 4 (¹)

¹ In terms of DG INFSO's priorities for increasing the effectiveness of the implementation of the Commission's Internal Control Standards (ICS) during 2010, 3 control topics (exceptions recording/reporting, management supervision, document management) have been listed in DG INFSO's 2010 MP annex 2.

- One of the risks identified is considered to have scope for further risk reduction:

FP & CIP Management (= C5 and the ICT directorates' AFUs)

Mitigation actions by the unit(s) in charge appear feasible and are considered appropriate; the Directors concerned are requested and hereby mandated to elaborate a (concise and coherent) "action plan" (based on the outline already indicated) and dedicate the appropriate attention and resources to its implementation.

Progress during 2010 will be followed up at DG-wide level; a first progress status will be requested in due time for the next "Internal Control Coordination Group (ICC Group)" meeting (planned for Spring).

- For five risks identified, there appears to be no significant scope for further risk reduction:

MEDIA International preparatory action (cut in budget) (= A2 ²)

eCommunications framework implementation (= B2/B3)

Spectrum Programme establishment and management (= B4)

errors in FP6 cost claims (= 02+ICTDirs).

supervision of DG-external entities (= S0+R0+Dirs)

These risks will continue to be monitored at DG-wide level; in the context of the ICC Group (see above), at the same time directorates concerned will be requested to report on the status of these risks under "reinforced monitoring".

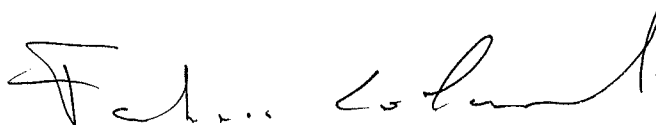
- Two other risks have been assessed as being below the HLRA's "main risks" level threshold:

Art. 7 & 7a procedures (= B5)

eFP7 IT-tools (= R3+ITSC)

These risks – together with any other risk(s) that would appear at directorate level – will remain to be addressed at the level of the individual directorate(s) concerned; they are requested to continue their current "line management". Unless these risks increase significantly during 2010, which would require addressing them at an INFSO Directors meeting, Directors are to report on the status of those risks in their mid-term and year-end DMRs only.

Thank you for your cooperation.



Fabio Colasanti

Encl.: List of DG INFSO's main risks for 2010 ("risk register"; final version)

c.c.: A. Peltomaki, Z. Stančič, F. Sendra Palmer, F. Dezeure, Assistants;
E. Forti, T. Hallantie, A. Rauch, G. Veldeman, C. Farcas.

² Early 2010, this activity and its risk are to be transferred to DG EAC

DG INFSO 2010 Management Plan – "annex 4" = Main risks associated with the DG's objectives, reflecting [also] any critical [and/or] cross-cutting risks

DG INFSO's 2009-2010 High-Level Risk Assessment (HLRA) - DG INFSO's "main risks" for 2010 *final version – 22.12.09*
incl. "critical risks"(*) for annex to DG INFSO 2010 Management Plan (MP)

As foreseen in the Commission-wide risk management framework (aiming at a coherent application of ICS-6), DG INFSO's 2009-2010 High Level Risk Assessment (HLRA) exercise has covered all the DG's 2010 MP objectives. As in previous years (cf. INFSO's fairly stable multi-annual programming environment, particularly in research/innovation areas), the exercise was organised along the lines of the ABB-structure, which arranges the "activities" of DG INFSO's policy areas into **6 clusters**:

- *i2010 - Audiovisual Policy and MEDIA Programme (Dir. A) – "A. P. & MEDIA";*
- *i2010 - Electronic Communications Policy and Network Security (Dirs. B, A) – "ECP & NS";*
- *i2010 - ICT Cooperation (Dirs. C, D, E, F, G, H) – "ICT";*
- *i2010 - ICT Capacities - Research Infrastructures (Dir. F) – "Infra";*
- *i2010 - Content & Services (Dirs. C, H mainly) – "Take-Up/ CIP";*
- *Resources and Support (Dirs. R, S) – "SUPP" [combination of the administrative budget chapters].*

After the launch of the exercise at the DG INFSO Directors meeting (plus note 143526 of 14.10.09), the process was based on **bottom-up inputs** from the INFSO Directorates, which have been consolidated by the "Management Support" Unit INFSO-S2 and discussed with DG INFSO's "Internal Control Coordinator" ("ICC"). Out of the risks reported, a **consolidated set of the DG's main risks** (pre-assessed residual risk level of 5 or above) had been pre-selected.

This intermediate list of pre-assessed risks (ref. document: 152656 of 04.12.09) was **discussed by DG INFSO's Senior Management** (cf. INFSO Directors Meeting of 07.12.09). As a result of that review, it was agreed to concentrate on risks relating to policy implementation (rather than on risks relating to attaining desired policy preferences per se) and on non-compliance risks. From the list of main risks initially identified, **no risks are considered to have sufficient political/reputational exposure to be considered as "critical risks" (*) for DG INFSO for inclusion in the annex to the DG INFSO 2010 MP.** However, although none of the risks were considered to be of a "critical" nature, the residual risks identified will again be followed up via the DG's "ICC Group" or by the Directorate concerned (including senior management where appropriate). In function of (i) political/reputational importance, (ii) residual risk level and (iii) scope for further risk reduction actions by DG INFSO during 2010, the **appropriate risk management mode** is applied: (a) dedicated action plan; (b) reinforced monitoring; or (c) continued line management. As in previous years, the relevant risk management mandates will be assigned to and elaborated by the unit(s) in charge of the relevant activity/objective.

Finally, as required for the MP as well, DG INFSO agreed on **3 "key" ICS themes** on which it will focus its 2010 improvement actions towards increased effectiveness of the controls put in place (see pre-selection on last page – will be integrated in the upcoming "annual recommendations from the Internal Control Coordinator").

References:

- *"Towards an effective and coherent risk management in the Commission services", SEC(2005)1327 of 20.10.05*
- *"Launch of DG INFSO's "High-Level Risk Assessment" exercise 2009-2010", INFSO-S D(2009)143526 of 14.10.09*
- *"Finalisation of DG INFSO's "High-Level Risk Assessment" exercise 2009-2010 at the INFSO Directors Meeting", INFSO-S2 D(2009)152656 of 04.12.09*
- *"Final results of DG INFSO's "High-Level Risk Assessment" exercise 2009-2010 & its follow-up during 2010", INFSO-S2 D(2009)155574 of 22.12.09*

(*) *In the Commission, a risk should be considered "critical" if it can: endanger the realisation of a major policy objective; cause serious damage to the Commission's partners (Member States, companies, citizens, etc.); result in critical intervention at political level (Council/Parliament) regarding the Commission's performance; result in infringement of laws and regulations; result in material financial loss; put the safety of the Commission's staff at stake; or in any way seriously impact the Commission's image and reputation.*

DG INFSO's HLRA 2009-2010 – consolidated list of main risks after discussion at Directors meeting (07 DEC 2009)

Cluster & Risk Nr (+ ref. "risk register") + Dir(s) responsible	Risk description potential consequences and root causes	Risk type Commission's risk typology	Main existing controls or mitigating factors List of existing controls	Residual risk level 'net' residual risk level = L + I = ? (0->5) + (0->5) = 0->10 <i>For the assessment metrics, see below the table</i>	Action scope Potential for additional action by INFSO during 2010, if any <i>Outline only; to be further elaborated later (e.g. via ICC Group)</i>	Risk response Either: - To be reduced (=action plan) <i>or</i> - Accepted (=reinforced monitoring) <i>or</i> - continued line management (within the Directorate concerned)
Cluster 1 = "i2010 - Audiovisual Policy and MEDIA Programme"						
1 A.P. & Media – 1 <i>Audiovisual Policy & MEDIA Programme</i> DIR A	MEDIA International - Preparatory Action (*) Expectation gaps and reputation/credibility issues, related to the inter-institutional agreement, caused by budget cuts to 2010 commitment credits for the Preparatory Action's 3rd year (CULT 5M€; COBU 1M€). <i>(*) activity and risk are to be transferred to DG EAC, early 2010 (cf. final version of MP)</i>	Risks related to the external environment: • other EU Institutions Risks related to planning, processes and systems: • operational processes • budget processes	Continuous close follow-up; extra actions if/as needed	MEDIUM: 3 + 2 = 5 Cf. <u>damage to the Commission's reputation</u> : 1. Expectations of stakeholders for 2010 funding would not be met. 2. Commission commitment to international cooperation and the implementation of the UNESCO Convention on Cultural Diversity will be reduced in 2010. 3. Mitigating factor is that MEDIA Mundus Programme has been adopted for 2011-2013.	- Continuous close follow-up - Extra actions if/as needed (e.g. communication to limit damage that the EP's budget cut may have on the Commission's reputation) Limited scope for action that would change the EP decision. But in 2011, new programme takes over anyway.	ACCEPTED (=reinforced monitoring)
Cluster 2 = "i2010 - Electronic Communications Policy and Network Security"						
2 ECP&NS – 1 <i>Electr. Comm.</i>	E-COMMUNICATION FRAMEWORK Implementation risk of non-compliance: poor	Risks related to the external environment: • MS	Continuous close follow-up; extra actions if/as needed	MEDIUM: 3 + 2 = 5	- Continuous close follow-up - Extra actions if/as needed <i>(e.g. possible reinforcement of human resources in future re sole responsibility of</i>	ACCEPTED (=reinforced monitoring)

<p><i>Policy & Network Security</i></p> <p>DIR B</p>	<p>implementation of the new Electronic Communication Framework package, <u>due to</u> potential delays in the MS' legal transposition of the new provisions, in the successful establishment of the BEREC office, in the Commission's procedures for assessing the NRAs' proposals related to regulatory market definitions, market power findings and remedies – included the related human resources needed</p>	<p>decisions</p> <p>Risks related to planning, processes and systems:</p> <ul style="list-style-type: none"> • internal decisions • operational processes <p>Risks related to people and the organisation:</p> <ul style="list-style-type: none"> • human resources 			<p><i>competition aspects of Article 7 infringements)</i></p>	
<p>3</p> <p>ECP&NS – 2</p> <p><i>Electr. Comm. Policy & Network Security</i></p> <p>DIR B</p>	<p>SPECTRUM MANAGEMENT</p> <p>1. Spectrum policy: risk of Commission not being able to deliver quality measures in a timely manner, <u>due to</u> MS' reluctance to accept a meaningful strategic policy programme following completion of the review coupled with the EP's desire for a more direct role in policy formulation and greater scrutiny of implementing measures.</p> <p>2. Concrete radio spectrum policy measures (such as harmonisation) paralysed <u>due to</u>:</p> <ul style="list-style-type: none"> • inter-institutional negotiations on comitology; 	<p>Risks related to the external environment:</p> <ul style="list-style-type: none"> • MS decisions • EU Institutions <p>Risks related to planning, processes and systems:</p> <ul style="list-style-type: none"> • internal decisions <p>Risks related to people and the organisation:</p> <ul style="list-style-type: none"> • human resources 	<p>Continuous close follow-up; extra actions if/as needed</p>	<p>MEDIUM: 3 + 3 = 6</p>	<p>While the Commission convinced the EP to maintain the current procedures for technical harmonisation measures, the comitology regime will be altered (cf. Lisbon Treaty).</p> <p>New GSM-Directive: e.g. close monitoring of the MS' 6-months transposition period (?)</p> <p>Quid the consequences for the RSPG + RSC-comitology (?) => see "delegated powers / new comitology decision": "<i>the current comitology system should continue to operate for several months or years in parallel with the new one</i>"</p> <p>Remark: <i>since new policy will be decided under Lisbon Treaty, is this still applicable ?</i></p>	<p>ACCEPTED</p> <p>(=reinforced monitoring)</p>

	<ul style="list-style-type: none"> new comitology procedures being unduly burdensome and time-consuming. 					
4 ECP&NS – 3 <i>Electr. Comm. Policy & Network Security</i> DIR B	ART. 7 & 7a PROCEDURES Risk of not delivering the newly re-organised Commission's Recommendations and/or Decisions in response to the notifications of the NRAs' proposals related to regulatory market definitions, market power findings and remedies within the legal binding deadlines (in accordance with Articles 7 & 7a of the Framework Directive 2009) <u>due</u> to strain on human resources.	Risks related to planning, processes and systems: <ul style="list-style-type: none"> internal decisions Risks related to people and the organisation: <ul style="list-style-type: none"> human resources 	Continuous close follow-up; extra actions if/as needed	LOW (below 5)	- Continuous close follow-up - Extra actions if/as needed (e.g. beware of resources implications)	OUT OF HLRA SCOPE (= continued line management)
Clusters 3, 4 and 5 = "i2010 - ICT Cooperation" (FP6, FP7), "i2010 - ICT Capacities - Research Infrastructures" (FP6, FP7) & "i2010 - Content & Services" (CIP)						
5 ICT – 1 <i>ICT – Research Cooperration</i> all ICT Dirs	FP & CIP PROGRAMME MANAGEMENT a) operational risks related to INFSO's FP Management 1. FP7 Simplification Reputational risk <u>due to</u> inability to meet stakeholders' expectations for major changes as a result of the 2010 FP7 simplification exercise (e.g. the handling of average personnel costs)	Risks related to planning, processes and systems: <ul style="list-style-type: none"> internal decisions operational processes Risks related to people and the organisation: <ul style="list-style-type: none"> human resources 	Suggestions for simplification within current legal framework to be continued	MEDIUM: 3 + 3 = 6	(preparing for lowering the stakeholders' expectations)	TO BE REDUCED (=action plan) actions to offset stakeholders' disappointment in outcome

	<p>2. Errors in FP7 cost claims</p> <p>Risk of extension of similar problems from FP6 audit strategy to FP7, <u>due to</u> :</p> <ul style="list-style-type: none"> - complexity of rules; - expectations of simplification in the application of FP7 rules not being met. 	<ul style="list-style-type: none"> • internal organisation <p>Risks related to legality and regularity:</p> <ul style="list-style-type: none"> • complexity of rule base 	<p>'Common' FP7 audit strategy</p>	<p>MEDIUM: 2 + 3 = 5</p>	<p>(implementation of FP7 audit strategy)</p>	<p>TO BE REDUCED</p> <p>(=action plan)</p> <p>actions to communicate why errors continue to exist and defensive points</p>
	<p>3. Fraud in FP6-FP7 projects</p> <p>Financial and/or reputational risks, <u>due to</u> the detection of fraud and/or surfacing of non-detected fraud cases:</p> <ul style="list-style-type: none"> - Projects to be terminated - Recovery orders to be cancelled - Negative publicity and Court cases - Criticism and/or over-reacting in terms of 'controls' 		<p>Recently strengthened "vigilance" in the operational Directorates:</p> <ul style="list-style-type: none"> - thorough better assessment of participants' capacities - new approach to project reviews - reinforced monitoring of problem projects - suspension of payments - termination of participants - faster issuing of recovery orders <p>Communication 'campaign' to prevent negative repercussions</p>	<p>MEDIUM: 2 + 3 = 5</p>	<p>New 'more vigilant' approach and efforts initiated in 2009 (as mentioned) are to be continued, generalised and strengthened during 2010</p> <p>Communication 'campaign' in a pro-active way</p>	<p>TO BE REDUCED</p> <p>(= action plan)</p> <ul style="list-style-type: none"> - Continued efforts from 2009, as mentioned - See below: Action Plan from IAC audit on Project reviews + start of 3rd WG
	<p>4. FP7 Evaluation and Review of projects (and to lesser extent FP6)</p> <p>- Reputational risk of potential conflicts of interest; not ensuring full compliance with all rules in project evaluations</p>		<p>Review of guidelines and implementation of evaluation process</p>	<p>MEDIUM: 2 + 3 = 5</p>	<p>- IAC audit Action Plan, via OS/AFU</p> <p>and/or =</p> <p>- 3rd of the 3 WGs – on Reviews – to start soon</p>	<p>TO BE REDUCED</p> <p>(= action plan)</p> <ul style="list-style-type: none"> - see minutes of Directors' meeting 07.12.09 : review handbook and appointment letters (clarify the evaluator's independency and the

	<p>- Operational, financial and/or reputational risks of selecting and/or not terminating underperforming projects in time, due to:</p> <ul style="list-style-type: none"> - tendency to try to find solutions for problematic projects - need to treat problematic projects at senior level; - anti-fraud stance during the project cycle to be further reinforced; <ul style="list-style-type: none"> – Limited incentive to propose termination; – Complexity and effort involved for the Commission to close an underperforming project. 		<p>Review of guidelines and implementation of project review process</p>	<p>MEDIUM: 2 + 3 = 5</p>	<ol style="list-style-type: none"> 1. make sure that actions are not sub-critical 2. make sure that negotiations, management and budget execution from Commission is timely 3. manage high turnover of POs and financial officers 	<p>interpretation of potential conflicts of interests)</p> <p>TO BE REDUCED</p> <p>(= action plan)</p> <ul style="list-style-type: none"> - See Action Plan from IAC audit - See start of 3rd WG
	<p>b) operational risks related to INFSO's CIP Management</p>		<p>extra actions if/as needed / close follow-up with ICT Committee / close monitoring by AFU in payment execution</p>	<p>MEDIUM: 2 +2 = 4</p>		<p>ACCEPTED</p> <p>(=reinforced monitoring)</p> <ul style="list-style-type: none"> - Continuous close follow-up / Extra actions if/as needed? - Regular meetings with AFUs / continuous monitoring and reporting by HoUs

<p>6</p> <p>ICT – 2</p> <p><i>ICT – Research Cooperration</i></p> <p>UNIT 02 for all ICT Dirs</p>	<p>FP6 - ERRORS IN ICT COST CLAIMS</p> <p>Despite the promising results of the FP6 audit strategy (which may limit the <u>financial</u> impact of errors in cost claims under FP6 (and likewise FP7)), it could remain necessary to maintain an AAR reservation on the frequency of errors in cost claims by beneficiaries for <u>reputational</u> reasons, <u>due to</u>:</p> <ul style="list-style-type: none"> - the potential fallout from the risk-based audits on-the-spot (out of the ordinary negative results of a few cases of 'fraud' and/or 'intentional errors'); - limited results and difficulties with implementation and/or extrapolation of (disputed) financial audit results – including court and ombudsman cases; - the catch-22-situation related to the "extrapolation" part of the audit strategy (required by ECA, criticised by EP), which might limit the 'budget cleaning effect' of the audit strategy considerably. 	<p>Risks related to the external environment:</p> <ul style="list-style-type: none"> • EU partners: project participants • EU Institutions <p>Risks related to planning, processes and systems:</p> <ul style="list-style-type: none"> • internal decisions • operational processes <p>Risks related to legality and regularity:</p> <ul style="list-style-type: none"> • complexity of rule base 	<ul style="list-style-type: none"> - ABM SG reporting - FP6 audit strategy - inter-institutional agreement on "extrapolation" <p>+ (beyond FP6):</p> <ul style="list-style-type: none"> - FP7 certification of methodologies - FP7 audit strategy - TRE discussions 	<p>MEDIUM: 2 + 3 = 5 (cf. recurrent AAR reservation)</p>	<ul style="list-style-type: none"> - Risk-based part of FP6 and FP7 audit strategy - Continuous close follow-up - Extra actions if/as needed? e.g.: - Ensure implementation and extrapolation of audit results (cf. follow-up audits and potential liquidated damages) - Pro-actively communicating on new possibilities for detecting cases (which should be seen as a good thing) - TRE discussions leading to an inter-institutional understanding - Commission communication on flat rate approach to "extrapolation" to be agreed Budgetary authority to be informed and to agree. 	<p>ACCEPTED (=reinforced monitoring)</p>
<p>Cluster 6 = "Resources and Support"</p>						
<p>7</p> <p>SUPP – 1</p> <p><i>Resources & Support</i></p>	<p>External entities</p> <p>JUs: functioning of ENIAC and ARTEMIS</p> <p>Future Internet - PPP</p>	<p>Risks related to the external environment:</p> <ul style="list-style-type: none"> • MS decisions 	<p>Close and intensive follow-up by supervision at senior and middle management level to monitor the progress and review as needed.</p>	<p>MEDIUM: 3 + 2 = 5</p>	<p>Accept risks, but be/make aware of them</p>	<p>ACCEPTED (=reinforced monitoring)</p>

DIR R & S with all Dirs	<p>1. ENIAC - Risk of delays in the operational start due to difficulties to agree on staff implementing rules and to recruit personnel</p> <p>2. JUs - Non-execution of EC budget contribution, <u>due to</u> lack of funding commitment of Member States in the current economic climate</p> <p>3. Reputation risk for DG INFSO associated with the JU operations when fully autonomous, i.e. set-up of internal controls and financial operations + horizontal "supervision" and "scrutiny" aspects</p>	<ul style="list-style-type: none"> • EU partners <p>Risks related to planning, processes and systems:</p> <ul style="list-style-type: none"> • internal decisions • operational processes <p>Risks related to people and the organisation:</p> <ul style="list-style-type: none"> • human resources • internal organisation <p>Risks related to legality and regularity:</p> <ul style="list-style-type: none"> • complexity of rule base 	<p>Mid-term reviews and other reporting (to Council, EP) as requested by the underlying legal basis.</p> <p>Audits as foreseen in legal basis and contracts.</p>			
<p>8</p> <p>SUPP – 2</p> <p><i>Resources & Support</i></p> <p>DIR R + IT Steering Committee</p>	<p>IT TOOLS FOR eFP7</p> <p>Despite progress over the last 2 years, there is a risk of potential further delays in the deployment of efficient and user-friendly RDGs ‘common’ INFSO IT tools, due to the complexity of the IT architecture, the IT governance structure and the business processes.</p>	<p>Risks related to planning, processes and systems:</p> <ul style="list-style-type: none"> • operational processes • IT systems <p>Risks related to people and the organisation:</p> <ul style="list-style-type: none"> • internal 	<p>- INFSO IT Steering Committee (IT SC), RDGs IT Supervisory Board (ITSB), RDGs IT Project Steering Committee (ITPSC), RDGs IT Stakeholders Group (ITPSG), Local and Joint Schema Directeurs, IT Disaster Recovery Plan.</p> <p>- Secondment of INFSO staff to DIGIT</p>	<p>LOW (below 5)</p>	<p>INFSO and Research family governance structures in place.</p> <p>Close monitoring by INFSO IT SC and senior management.</p> <p>Close operational monitoring at weekly AFUs meetings.</p> <p><i>See also Action Plan related to the IAS audit on Research IT Systems.</i></p>	<p>OUT OF HLRA SCOPE</p> <p>(= continued line management)</p>

		organisation	- Involvement of local IT units (e.g. INFISO-R3) in the development and deployment of common IT solutions.			
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PS: (other)"human resources" related concerns raised by (one or more) Directorate(s) in the margin of this HLRA exercise:

Risk of lowered staff commitment, due to:

- Transition period to new INFISO management.

Risk of units becoming sub-critical in size, due to an overall lack of human resources

Risk of lower efficiency and lack of continuity, due to:

- The loss/turnover of qualified staff (in particular temporary staff) and of the associated operational knowledge;
- Reliance on Contractual Agents (CA), who can only stay for a maximum of 3 years and who are attracted by other offers before the end of the three year limit;
- Difficulties in recruiting certain profiles of staff, in particular for financial tasks, due to the lack of suitable candidates in reserve lists or in CAST 27 lists.

Risk assessment metrics for likelihood and impact

Approach: risk level = sum of likelihood and impact, both factors being rated on a scale from 5 (high) to 1 (low) [or 0 (none)].

$$\text{Risk level} = \text{Likelihood} + \text{Impact}$$

Common likelihood and impact metrics have been elaborated for the whole of DG INFSO.

Likelihood	Description	In figures
1	Almost never happens	<5%
2	Rarely occurs	5-15%
3	Regularly occurs	15-30%
4	Often occurs	30-70%
5	Will certainly occur	>70%

Impact	Reputational	On objectives
1	Limited to internal reputation	Inefficiencies only
2	Minor impact with one client of DG INFSO	Achievement of an operational objective delayed
3	Major impact with DG INFSO clients	Achievement of an operational objective threatened
4	Formal inquiry from the parliament	Strategic objective endangered
5	Negative headlines in international press Major stakeholder impact	DG INFSO Mission in danger

Impact = highest value between “reputational” and “on objectives (=operational)”

"Pre-selection (*) of ICS for which DG INFSO wishes to place emphasis on evaluating the effectiveness of the controls put in place"

(*) without prejudice to the results of the actual "annual ICS Review at 31 DEC" exercise and to the content of the subsequent "annual recommendations from the ICC" note

ICS + reason for prioritisation by INFSO in 2010	Brief description of the ICS context
<p>ICS-8. Processes and Procedures</p> <p>The DG's processes and procedures used for the implementation and control of its activities are effective and efficient, adequately documented and compliant with applicable provisions. They include arrangements to ensure segregation of duties and to track and give prior approval to control overrides or deviations from policies and procedures.</p> <p><i>INFSO 2010: Horizontal monitoring of exceptions recorded/reported indicates that there may be need to re-clarify the DG-wide guidance, and/or to re-harmonise the practices across the INFSO Directorates.</i></p>	<p>Processes and procedures include arrangements to track and give prior approval to control overrides or deviations from policies and procedures</p> <ul style="list-style-type: none"> A method is in place to ensure that all instances of overriding of controls or deviations from established processes and procedures are documented in exception reports, justified, duly approved before action is taken and logged centrally.
<p>ICS-9. Management Supervision</p> <p>Management supervision is performed to ensure that the implementation of activities is running efficiently and effectively while complying with applicable provisions.</p> <p><i>INFSO 2010: In the context of recent IAS and IAC findings in terms of some non-optimal supervision processes at DG INFSO at the one hand, and given the demonstration by a few DGs of good supervision practices and the availability of new (training) initiatives by BUDG on the other hand, it is a good occasion for INFSO managers to re-consider revisiting and/or renewing some of their supervision practices and/or tools.</i></p>	<p>Management supervision for ensuring that activities are running efficiently and effectively, while complying with applicable provisions.</p> <p>Management at all levels supervise the activities they are responsible for and keep track of main issues identified.</p> <p>Management supervision covers both legality and regularity aspects and operational performance (i.e. achievement of MP objectives).</p> <p>The supervision of activities involving potentially critical risks is adequately documented.</p> <p>Management monitors the implementation of accepted ECA/IAS/IAC audit recommendations and related action plans.</p> <p>At least twice a year and at any time deemed appropriate, the Director-General informs the responsible Commissioner of any potentially significant issues related to internal control and audit and OLAF investigations as well as material budgetary and financial issues that might have an impact on his/her position in the College or on the sound management of appropriations or which could hamper the attainment of the objectives set.</p> <ul style="list-style-type: none"> Are the supervisory activities sufficiently focused on high-risk areas? The following situations would typically

	<p>warrant an increased level of supervision: - Complex operations; - Transactions of high monetary value; - Low control consciousness among staff; - Lack of experienced or skilled personnel; - Reorganisation or significant modification of operating activities; New or revamped IT systems; -Potential conflicts of interest or influence from external parties; - Activities of a politically sensitive nature; - Activities impacting significantly on the working conditions of staff (health, safety, security).</p> <ul style="list-style-type: none"> • Is there systematic follow-up of significant issues identified through the supervisory activities? • If implementing bodies are responsible for carrying out actions (e.g. Member States or agencies), has appropriate supervision or follow-up been established by the responsible Commission service? • Is the supervision of operational performance based on the DG's MP objectives and related performance indicators? Are these objectives and indicators useful in practice? If not, why? • Do management have satisfactory evidence that key controls in place are operating as intended in practice (for example via the results of supervisory activities, audits, investigations and other relevant sources of information)? • Are all reported internal control weaknesses properly analysed and addressed where necessary?
<p>ICS-11. Document Management</p> <p>Appropriate processes and procedures are in place to ensure that the DG's document management is secure, efficient (in particular as regards retrieving appropriate information) and complies with applicable legislation.</p> <p><i>INFSO 2010: Given that 2010 will be the year for the ARES-switchover for DG INFSO, "document management" will be a key management theme.</i></p>	<p>Document management to be secure, efficient and compliant with applicable legislation</p> <p>Document management systems and related procedures comply with relevant compulsory security measures, provisions on document management and rules on protection of personal data.</p> <p>In particular, every document that fulfils the conditions laid down in the implementing rules needs to be registered, filed in at least one official file (each file being attached to a heading of the Filing Plan), and preserved by appropriate use of the Commission's registration and filing systems, mainly ADONIS (ARES) and NOMCOM.</p> <ul style="list-style-type: none"> • Are documents adequately protected against destruction, theft, fire, etc.? • Are the procedures for registration sufficiently known? Are they applied in practice? • Are the procedures for filing sufficiently known? • In general, is the time spent on finding documents reasonable? • Are applicable rules (Commission and DG-specific) regarding handling of sensitive documents sufficiently known and applied in practice? • Are adequate measures taken to ensure the readability of documents in the future, especially when the DG owns the repository system? • Are management and staff sufficiently aware of applicable retention periods for documents? Are retention periods respected in practice?

Annex C – Audits performed by DG INFSO's Internal Audit Capacity and Related Matters

- C1: Status Overview
- C2: IAC's annual opinion 2009

Audits Performed by DG INFSO's Internal Audit Unit and Related Matters

Status Overview

Audits finalised in the reporting period

Audit on FP7 project reviews

- **Objective**

The overall objective of this audit was to provide an opinion on the management of FP7 project reviews within DG INFSO, intended to give reasonable assurance that the internal control system in place, as applied by the Directorates involved in the process of project reviews, is adequate and effective.

In this regard, the specific objectives of the audit, addressing the risks associated with the project review process were as follows:

- to assess how the project review process evaluates the scientific/technical achievements of the projects versus the objectives of the projects specified in the EC grant agreements and other relevant documents such as guidance notes
- to assess the project review process in terms of effectiveness, efficiency (sound financial management) and to identify good practices
- to check compliance with applicable rules and regulations
- to evaluate the potential for the occurrence of fraud and how DG INFSO manages fraud risk
- to make recommendations for any useful measure on the basis of observed weakness.

- **Scope**

The scope of the audit covered the internal controls put in place by DG INFSO concerning the activities performed by the actors involved in the project review process.

The audit has considered project reviews for FP7, some of them with review meetings and other without them. The Directorates concerned by those projects were Directorates A, D, E, F, G, H. The activities of ARTEMIS and ENIAC (Joint-undertakings) were not included in the scope of the audit.

The scientific and technical aspects of the projects have been taken into account as part of the objectives of the project review. However, the auditors did not assess the scientific and technical judgments, which would have required a specific methodology and assistance from external scientific experts.

- **IAC's Conclusion**

Based on the results of our audit as described in the objectives and scope of the audit engagement, we believe that the internal control system in place gives reasonable assurance¹ regarding the achievement of the business objectives set up for the FP7 project review process in DG INFSO, except for the following very important issues:

- **1.- Adequate response from INFSO to problematic projects**

Several cumulative factors contribute to the difficulties faced by DG INFSO to take satisfactory actions on problematic projects. Among those factors are (i) complexity to calculate the amount of costs to be rejected in a consistent way, (ii) difficulty to identify problematic projects with the existing rating, (iii) initial resistance from DG INFSO staff to be critical with projects that were successfully evaluated, (iv) pressure to spend the whole budget and to reduce the average of payment delays, (v) representativeness of certain coordinators in the European ICT industry, (vi) cumbersome procedures to terminate projects linked to a lack of guidance on how to practically proceed to terminate or suspend projects and (vii) need to define what "reinforced monitoring" means concretely.

The existing risk is that DG INFSO does not always take satisfactory measures to deal with project reviews that identify major weaknesses. ICT Directorates should identify problematic cases, flag them and support a strict approach towards those problematic projects.

- **2.- Supervision of project reviews**

Review reports are not always systematically read by the management of DG INFSO and unit meetings are only occasionally dedicated to follow-up project reviews. Discussions between Management and Project Officers on the preparation of review meetings also take place only occasionally. Therefore, management supervision is more of a reactive nature (i.e. Project Officers inform the management when a problem on a project review arises). However, no proactive supervision is systematically performed by the management. Furthermore, there is no systematic written track on the follow-up of problematic projects.

The current risk is twofold; it relates to the non-identification of projects needing further actions from DG INFSO as well as to the lack of written evidence on the decisions taken by the management, regarding the follow-up of problematic projects. Such information on problematic projects may be needed in particular by newcomers or by other staff not knowing the history of the project. Therefore, ICT Directorates should implement a more proactive

¹ Even an effective internal control system, no matter how well designed and operated, has inherent limitations – including the possibility of the circumvention or overriding of controls – and therefore can provide only reasonable assurance to management regarding the achievement of the business objectives and not absolute assurance

supervision on project review and should keep timely written track of the conclusions taken by the management.

- **3.- Principles of economy, efficiency and effectiveness (3E)**

Both Project Officers and external independent reviewers confirmed the difficulty to assess the 3E principle with the available information and raised serious concerns on the compliance of the checks done by DG INFSO with the 3E principle. The auditors verified that not always the compliance with the 3E principle is justified. In approximately half of the projects that were tested by the auditors, doubts or negative remarks on the respect of the 3E principle had been expressed during the project review. Furthermore, in approximately 1/3 of the projects tested, the auditors did not find conclusive evidence on how the doubts or negative remarks expressed by the reviewers on the 3E principle were solved. ICT Directorates confirmed that DG INFSO performs no further checks on the 3E principles at a later stage.

The existing risk is that DG INFSO does not satisfactorily verify economy, efficiency and effectiveness of the costs claimed by beneficiaries. Therefore, ICT Directorates, with the help of Directorate R, should improve the quality of the checks performed by DG INFSO to ensure compliance with the 3E principles. For example, by providing more detailed guidance to the independent external reviewers and to the Project Officers on the information to be verified and on the criteria to be used when assessing the 3E principle and/or by complementing with/performing those checks at another stage of the payment process.

- **4.- Fraud prevention and detection in Project Reviews**

The current project review process has not been designed to prevent or detect fraud. However, most of the Project Officers consider that potential fraudulent behaviour could be flagged during the project review. Furthermore, about 1 out of 10 independent external reviewers have been confronted with situations where beneficiaries seemed to act fraudulently. Evident lack of commitment and/or underperformance of some beneficiaries as well as extensive text literally reproduced from public sources, without any reference to the original source, may be considered as indicators of fraud. Those indicators were found in fraudulent cases in the past. However, DG INFSO is not identifying them as indicators of potential fraud and therefore no specific follow up is performed on projects where those indicators exist.

There is a risk of fraud not being flagged during project reviews and therefore not being followed up during the project cycle and not being addressed before the final payment is done. ICT Directors, with the help of Unit 02, should integrate the project review phase in DG INFSO's strategy for fraud prevention, detection and correction. Such integration would include defining potential fraud indicators likely to be noticed during the project review and subsequent flagging of projects at risk as soon as possible in the project life.

- **Current state of play**

Limited

Limited

In the ICT Directors' meeting dated 12 January 2010 it was agreed and stated in the minutes to set up a Working Group on Project Reviews. This working group will draft a common action plan to implement the recommendations of the final Audit Report on FP7 Project Reviews. The above mentioned working group has committed itself to agree on a common Action Plan by March 2010.

Follow-up on the legacy of open commitments from previous programmes

- **Objective and scope**

The main objective was to determine the adequacy, effectiveness, and timeliness of the actions taken by management on the findings reported in the original audit.

- **IAC's Conclusion**

Based on the results of our follow-up audit as described in the objectives and scope, we assess that all accepted recommendations from the Audit on the legacy of open commitments from previous programmes have been adequately and effectively implemented.

- **Current state of play**

No further follow-up.

Audits in progress, started in second half of 2009

Audit on non-FP Research Programmes

- **Background**

The purpose of this audit is to review the non-FP Research Programmes of DG INFSO, in order to provide reasonable assurance that the internal control system applied in the programmes is adequate and effective.

- **Present status**

The draft observations table, based on the fieldwork performed, will be discussed with representatives of all directorates at the end of February or March 2010. The final report will be sent to the Director General during the first semester of 2010.

Follow-up audit on administrative and financial support from DG INFSO Operational Sectors and Administration & Finance Units:

➤ **Background**

The main objective was to determine the adequacy, effectiveness, and timeliness of the actions taken by management on the findings reported in the original audit.

➤ **Present status**

The final report was finalised on 3 February 2010.

Follow-up Report of Internal audit on Ethics

➤ **Background**

The main objective was to determine the adequacy, effectiveness, and timeliness of the actions taken by management on the findings reported in the original audit.

➤ **Present status**

The draft report was finalised on 5thh February 2010 and has been sent to the Directors involved by the audit, for comments, before sending the final report to the Director General.

Follow-up audit report on Contract negotiation and preparation process in the FP 7 IST programme

➤ **Background**

The main objective was to determine the adequacy, effectiveness, and timeliness of the actions taken by management on the findings reported in the original audit.

➤ **Present status**

The draft report is being finalised and sent to the Directors involved by the audit, for comments, before sending the final report to the Director General.

Consultancy and other activities

At the request of the Director General, the IAC provides him with advice at several occasions, on DG INFSO related issues.

The Head of Unit (IAC) held frequent meetings during the second semester of 2009 with the Director-General, to brief him on the state of play of the audit engagements, on the problems encountered and on the status of the implementation of the recommendations.

Limited

Limited

Representatives of the IAC attended also the weekly Directors' meeting as well as other management meetings (ICT Directors' meetings, AFUs/OS meetings, Internal Control Coordination Group, AAR Declaration Group, etc.).

The IAC gave assistance to IAS' audit activities in DG INFSO, either as contact point or by participating in meetings during the second semester of the year 2009, in particular as regards the joint risk assessment performed together by the IAS and the IAC, which will be the basis for their co-ordinated Strategic Audit Plan for the years 2010 to 2012.

The IAC is member of the AAR Declaration Group, responsible for the preparation of the AAR. In this regard, an annual activity report on the activities performed by the IAC during 2009 was sent to the Director-General on 29.01.2010 and to the IAS.

Furthermore, the IAC expressed its annual opinion on the internal control system in place within DG INFSO, based on the nature and the scope of its work during the year 2009. Such an annual opinion was sent to the Director General on 12 February 2010.

With this annual report the IAC contributes to the preparation of the Annual Activity Report (AAR) of DG INFSO and it is one of the elements of information to assist the Director General in the formulation of the Annual Declaration, which is annexed to the AAR.

The IAC has also sent its Work plan for 2010 to the Director General on 11.02.2010, for his approval.



EUROPEAN COMMISSION
Information Society and Media Directorate-General

Internal audit

Brussels, 12th February 2010
INFSO-01/FSP/D(2010)/206498

Limited

**Note to MR. FABIO COLASANTI
DIRECTOR GENERAL DG INFSO**

Subject: IAC's annual opinion 2009

Dear Director General,

Following our Charter, the IAC shall be accountable to the Director-General. The IAC shall express an opinion on the state of control within DG INFSO, based on the nature and the scope of the IAC work during the year.

The "legal basis" for the IAC annual opinion is Communication SEC (2003)59 on *"Clarification of the responsibilities of the key actors in the domain of internal audit and internal control in the Commission"*. Also the Standards of the Institute of Internal Auditors (IIA) require the internal audit activity to evaluate the adequacy and effectiveness of controls.

During the year 2009, the IAC of DG INFSO has completed three audits. They covered Procurement and Appointment Letters, DG INFSO monitoring activities over EACEA and the FP7 Project Review process. As regards the audit on DG INFSO monitoring activities over EACEA, the responsibility over EACEA is expected to be transferred from DG INFSO to DG EAC during the first semester of 2010. Therefore, even if the present opinion refers to 2009, such event remains relevant with regard to the present assessment.

DG INFSO - IAC's opinion on the state of control

Note: This opinion on the state of control is provided as a contribution to the preparation of the 2009 AAR. It does not constitute an opinion on the AAR process in general or on the document itself.

Opinion on state of control

I believe that:

Based on the results of our audits as described in the objectives and scope of the engagements carried out by the IAC of DG INFSO during 2009, the internal control system in place in DG INFSO **provides reasonable¹ assurance** regarding the achievement of the business objectives set up for the processes audited, **except for** the following issues:

Audit on Procurement and Appointment Letters

- Project officers cross-checks data from EMI database with internet and other sources of information and verify conflicts of interest from scratch, given that the system does not allow for registering the results of those cross-checks in EMI database. Such a procedure is inefficient and entails a risk of errors and undetected conflicts of interest.
- The operational and financial initiating/verifying agents and authorising officers (AOs) in iFlow may differ from the ones registered in ABAC/SI2 (differences were found in 18 out of 53 cases). Those cases entail a risk of dilution and/or confusion as regards their responsibilities.
- The IT tool for Appointment Letters (AL) does not provide reports for monitoring purposes. Although MIS application produces reports on AL, they are not reliable. Therefore, some units update excel-sheets to follow the status of their AL. Furthermore, no accurate rules exist on when and how to remind the experts of the 30-days-limit and units use different practices to send informal reminders. The time limits to restrict payment of old AL commitments are not fixed and no clear rules exist on when the expert should be informed on the expiration of the reimbursement claim.
- Studies may not always fulfil the expectations of DG INFSO and no efficient tools are available to check if their content corresponds to new developments in a particular scientific field or if it refers to information that was already publicly available or even to information already published before by DG INFSO or by other DGs.

¹ Even an effective internal control system, no matter how well designed and operated, has inherent limitations – including the possibility of the circumvention or overriding of controls – and therefore can provide only *reasonable assurance* to management regarding the achievement of the business objectives and not *absolute assurance*.

- The publication of reports in Europa website is not complete because the units concerned do not make it systematically. Some units publish reports in their own intranet INFSO and others in Europa website. Although DG INFSO has issued about 60-70 studies per year during the last years, the unit responsible does not receive systematically all the reports once they are finalised because some units forget to send them. Therefore, SMART database for studies is not updated and no reliable and complete overall information on studies is available.
- There are cases where the same project officer is responsible for tasks that imply an inherent conflict of interest; he/she is responsible for drafting the tender specifications and is also a member of the evaluation committee. Furthermore, he/she is responsible for assessing the quality of the study.

Audit on DG INFSO monitoring activities over EACEA

- The internal coordination arrangements within DG INFSO for an adequate exercise of the supervision and monitoring responsibility over EACEA, are outdated and incomplete. An agreement on a clear internal distribution of supervision responsibilities is therefore needed.
- In particular, DG INFSO should find a solution on how to provide expert advice to the Member of the EACEA Steering Committee representing DG INFSO on IT matters related to EACEA's MEDIA programme operations.

Audit on FP7 Project Reviews

- Several cumulative factors contribute to the difficulties faced by DG INFSO to take satisfactory actions on problematic projects. Among those factors are (i) complexity to calculate the amount of costs to be rejected in a consistent way, (ii) difficulty to identify problematic projects with the existing rating, (iii) initial resistance from DG INFSO staff to be critical with projects that were successfully evaluated, (iv) pressure to spend the whole budget and to reduce the average of payment delays, (v) representativeness of certain coordinators in the European ICT industry, (vi) cumbersome procedures to terminate projects linked to a lack of guidance on how to practically proceed to terminate or suspend projects and (vii) need to define what 'reinforced monitoring' means concretely.
- Review reports are not systematically read by the management of DG INFSO and unit meetings are only occasionally dedicated to follow-up project reviews. Discussions between Management and Project Officers on the preparation of review meetings also take place only occasionally. Therefore, management supervision is more of a reactive nature (i.e. Project Officers inform the management when a problem on a project review arises). However, no proactive supervision is systematically performed by the management. Furthermore, there is no systematic written track on the follow-up of problematic projects.
- Both Project Officers and external independent reviewers confirmed the difficulty to assess the compliance of eligible costs with the principles of economy, efficiency and effectiveness (3E principle), with the available information. They raised serious concerns on the evidence provided by the checks done by DG INFSO to ensure compliance with the 3E principle. The auditors verified that not always the compliance with the 3E principle is justified. In approximately half of the projects that were tested by the auditors, doubts or negative remarks on the

respect of the 3E principle had been expressed during the project review. Furthermore, in approximately one third of the projects tested, the auditors did not find conclusive evidence on how the doubts or negative remarks expressed by the reviewers on the 3E principle were solved. ICT Directorates confirmed that DG INFSO performs no further checks on the 3E principles at a later stage.

- The current project review process has not been designed to prevent or detect fraud. However, most of the Project Officers consider that potential fraudulent behaviour could be flagged during the project review. Furthermore, about 1 out of 10 independent external reviewers have been confronted with situations where beneficiaries seemed to act fraudulently. Evident lack of commitment and/or underperformance of some beneficiaries as well as extensive text literally reproduced from public sources, without any reference to the original source, may be considered as indicators of fraud. Those indicators were found in fraudulent cases in the past. However, DG INFSO is not identifying them as indicators of potential fraud and therefore no specific follow up is performed on projects where those indicators exist.

The above observations are the result of the audit work performed, which is documented in the IT tool Audit Management System (AMS). Such audit work included mainly reviews of the system documentation, interviews with key personnel, flowcharts or narratives of the processes, description of the internal control systems, risk assessments, design and performance of test (compliance testing of controls and substantive testing) and meetings to discuss the Observations and Recommendations Matrix ("Observations table").

Basis for the opinion on the state of control

The above opinion is provided as a contribution to the preparation of the 2009 Annual Activity Report as required by SEC(2003)59². It is based on the individual audit opinions arising from assurance work carried out in 2008/2009 and for which at least a draft report has been issued in 2009. These assignments were specified in the IAC Annual Audit Plan and approved by the Director-General on 16th February 2009.

Other comments

In addition to the opinion given above, and taking into account the coverage of the activities and processes in DG INFSO, I declare that I am not aware of anything not reported here which may constitute a major weakness in the internal control system or may lead to a potential reservation in the AAR, except for the residual error rate observed by ex-post controls in Framework Programmes (errors in ICT cost claims), which is higher than the control objective.

² Communication to the Commission: Clarification of the responsibilities of the key actors in the domain of internal audit and internal control in the Commission, 21 January 2003.

As regards the adequacy of the internal control system in place, however, the following issues should be duly taken into account:

- The increasing risk of fraud, in particular in Research Framework Programmes and how DG INFSO manages fraud risk.
- The occurrence of errors related to sub-contracting in Research Framework Programmes.
- The very important weaknesses related to the selection of proposals in a non-research programme, as well as the non-compliance with the rules.
- The need to better document procedures within DG INFSO, in particular those which are particularly complex, in order to mitigate the risk of discontinuity of the service.
- The need to reinforce the overall reporting and monitoring on operations of DG INFSO.
- The follow-up audits not yet finalised at the end of 2009, which have shown that not all accepted recommendations have been implemented.
- The need to initiate a reflexion in order to agree on a more logic and systematic allocation of posts within DG INFSO, as well as on organisational changes, in particular taking into account the expected novelties in Research Framework Programmes as well as the accrued contribution of DG INFSO on Policy matters.



Fernando Sendra-Palmer
Head of Unit 01 (IAC)

Annex D - State of play on OLAF files

- D1: Status overview

State of play of OLAF files up to 31.12.09

OLAF Reference	Origin	Current Olaf status	Comments

OLAF Reference	Origin	Current Olaf status	Comments

OLAF Reference	Origin	Current Olaf status	Comments

OLAF Reference	Origin	Current Olaf status	Comments

OLAF Reference	Origin	Current Olaf status	Comments

OLAF Reference	Origin	Current Olaf status	Comments

Annex E – State of play on European Ombudsman files

- E1: Status overview

State of play on European Ombudsman files
Status overview

Limited

DG INFSO "Chef de file"

Name of the complaint	Date of reception of the complaint	Background	Steps taken	Next steps
N° 2009/1719	10.08.2009	This complaint concerns a failure to reply to the complainant's e-mail of 23.03.2009 addressed to the Commission	Commission's reply sent to the complainant: 23.09.2009 Commission's reply sent to the Ombudsman: 09.10.2009 The Ombudsman's office repeats its request asking the Commission to complete the answer to the complainant, especially taking into account article 6(2) of Regulation 1049/2001: 27.10.2009 DG INFSO replied to the Ombudsman: 30.10.2009 (a further e-mail was sent to the complainant on 09.10.2009 clarifying that the Commission did not hold any of the documents requested by the complainant).	Ombudsman's closing decision: 20.11.2009 (No instance of maladministration: The Ombudsman considered that the Commission took the necessary steps to settle the matter)

State of play on European Ombudsman files
Status overview

Limited

N° 2008/3373	22.12.2008	<p>This complaint relates to the earlier complaint 2008/2291 which was closed with no follow-up by the Ombudsman.</p> <p>The complainant alleged that the Commission acted unfairly by not accepting the complainant's costs related to salaries it paid to employees, that the Commission unilaterally changed contracts by transferring funds from different budget lines and that it failed to reply in substance (and not only formally) to his letter of 13.08.2008.</p> <p>The complainant claims that the Commission should waive some of its recovery orders.</p>	<p>Commission's opinion sent to the Ombudsman: 15.05.2009</p> <p>Proposal of the European Ombudsman for a friendly solution: 19.10.2009</p> <p>Reply sent by DG INFSO via empowerment procedure: 02.12.2009</p> <p>Commission's reply sent to the Ombudsman: 15.01.2010</p>	European Ombudsman's closing decision: awaiting (between 6 months & 1 year)

State of play on European Ombudsman files
Status overview

Limited

State of play on European Ombudsman files
Status overview

Limited

DG INFSO associated

Name of the complaint	Date of reception of the complaint	Background	Steps taken	Next steps
N° 2720/2009 /GG	26.10.2009	The Ombudsman asked the Commission to answer letters from the complainant dated 25.10.2009 and 29.07.2009. These letters concern the possible harmful effects of the waves produced by .	The SG encountered difficulties regarding the attribution of this complaint. Finally it was decided that the SG will be "chef de file" to reply to the complainant with collaboration of DGs INFSO/SANCO/JLS): 28.01.2010 DG INFSO sent its input: 01.02.2010 Reply sent to the complainant by SG.G.3: 04.02.2010	European Ombudsman's closing decision: awaiting (between 6 months & 1 year).
N° 2781/2008	02.12.2008	The complainant alleges that the Commission failed to provide valid and adequate grounds for the refusal of access to the documents that he requested under Regulation 1049/2001. The complainant claims that the Commission should grant access to the documents requested, without, if necessary, revealing the identities of the individual experts.	Attribution to DG INFSO: 02.12.2008. SG G3's draft reply sent on 27.01.2009 DG INFSO's agreement with annotations sent on 10.02.2009 Legal Service's agreement asked by SG G3 on 11.02.2009 SG agreement with annotations received on 23.02.2009 SG G3 agreement received on 23.02.2009 Commission's reply sent to the Ombudsman: 19.03.2009.	European Ombudsman's closing decision: awaiting (between 6 months & 1 year).
N°2403/2008/OV	24.07.2008	On 24.07.2008 a 3 rd complaint was sent by the complainant to the Ombudsman. This 3 rd complaint is the follow up of the 2 earlier ones for failure to deal, both as regards the procedure and the substance (only pending replies have been yet received by the complainant),	3 rd complaint sent to the Ombudsman: 24.07.2008 Transmission of this 3 rd complaint by the Ombudsman to the Commission: 11.09.2008 reply received through the EU-Pilot mechanism on 18.09.2008. Proposed reply on the substance (based on	European Ombudsman's closing decision: awaiting (between 6 months & 1 year).

State of play on European Ombudsman files
Status overview

Limited

		with the initial complaint of 26.09.2007.	<p>the feedback) from F. Colasanti to the complainant sent for comments to the involved DGs and the Ombudsman's related correspondents within the DGs (deadline: 10 working days): 14.10.2008</p> <p>Reminder sent by DIR A to DG EMPL and LS on 31.10.08.</p> <p>Reattribution by the SG to DG EMPL 11.11.2008</p> <p>DG EMPL's suggestion to re-attribution to DG INFSO as chef de file (which is rejected by DG INFSO): 13.11.08</p> <p>Note by DG INFSO sent to DG EMPL: 10.12.2008</p> <p>DG INFSO's holding reply sent to 11.12.2008</p> <p>Commission's opinion sent to the Ombudsman: 06.02.2009.</p> <p>Date of the Ombudsman's further request for info: 28.10.2009</p> <p>Reattribution to DG EMPL as chef de file: 29.10.2009</p> <p>DG INFSO input sent: 18.12.2009</p> <p>DG INFSO's agreement with annotations sent on 11.01.2010</p> <p>Reply sent to Ombudsman: 01.02.2010</p> <p>Translation sent: 08.02.2010</p>	
N° 488/2007/PB	24.09.2007	The complainant alleges that the Commission failed to give valid and adequate grounds for its rejections of his confirmatory application for full access to the documents requested.	<p>Date of the Ombudsman's sending to the Commission: 24.09.2007</p> <p>Attribution to Cabinet Barroso (SecGen): 31.05.2007</p> <p>SecGen asking for DG INFSO contribution: 22.08.2007</p> <p>DG INFSO forwarded its contribution to</p>	Commission's reply to be sent on: 30.04.2010

State of play on European Ombudsman files
Status overview

Limited

			<p>SG-E3: 30.08.2007</p> <p>Comments of the Commission sent to the Ombudsman by SG-E3: 01.10.2007</p> <p>Ombudsman's proposal for a friendly solution sent to the Commission on 24.09.2008</p> <p>SG /E/3 (Transparency, Relations with Stakeholders and External Organisations)-asked whether it would be possible to re-consult the representatives of the Member States concerned to see if they maintain their opposition to the disclosure of documents/data provided by them: 25.09.2008</p> <p>Consultation of the ERG</p> <p>Extension of the Ombudsman's deadline for answer: 31.01.2009</p> <p>DG INFSO's draft reply sent to the SecGen on 09.01.09</p> <p>SecGen's comments on the DG INFSO's draft reply: 20.01.2009</p> <p>Legal Service's comments: 05.02.09</p> <p>SecGen's amended draft reply : 09.02.2009</p> <p>DG INFSO's approval of the amended draft reply: 16.02.09</p> <p>Commission's reply sent to the Ombudsman: 19.03.2009</p> <p>Commission's translated reply sent to the Ombudsman: 30.03.2009</p> <p>SecGen asking for DG INFSO contribution: 16.07.2009</p> <p>DG INFSO forwarded its contribution to SG-E3: 16.07.2009</p> <p>Commission's reply sent to the</p>	
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State of play on European Ombudsman files
Status overview

Limited

			<p>Ombudsman: 15.09.2009 Commission's translated reply sent to the Ombudsman: 24.09.2009 European Ombudsman's closing decision sent to the Commission on 03.11.2009: No Instance of Maladministration but further remarks. The Ombudsman considers that the factual outcome of his friendly solution proposal may be considered satisfactory but he nevertheless asked for 2 further clarifications: 1) whether Article 4(5) of Regulation 1049/2001 applied to the private undertakings or whether the Commission consulted the private undertakings indirectly by contacting the national authorities, AND 2) whether refusals to provide access to a document with reference to confidentiality requests should be supported by a concrete reference</p>	
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***Annex F – Relations with the Education, Audiovisual and Cultural
Executive Agency (EACEA) – MEDIA Programme and with
ARTEMIS and ENIAC Joint Undertakings***

- F1: Granting autonomy to the ARTEMIS Joint Undertaking



EUROPEAN COMMISSION
Information Society and Media Directorate-General

The Director General

Brussels, **26 X 2009**
DG INFSO/S2/GV/cf – D (2009) 145800

Mr. Eric Schutz
ARTEMIS JU Executive Director
COV 2 14/046
B- 10 49 Brussels

Subject: Granting autonomy to the ARTEMIS Joint Undertaking

Reference: Your letter requesting ARTEMIS' autonomy (16.10.09 – our ref. A/09/645419)

Dear Mr Schutz,

Further to your letter requesting me to grant autonomy to the ARTEMIS Joint Undertaking, I would like to inform you that I have taken into account:

- the annex to your letter, in which you describe the status of the implementation of the various measures requested;
- the assessment report from a DG INFSO Working Group, chaired by Mr Rauch, which has been mandated to examine ('independently' from Mr Van der Pyl and Mr Cotta's staff) whether ARTEMIS has the operational capacity actually in place to be able to implement its budget (see report in annex).

As you know, this assessment is done against a set of 18 criteria for financial autonomy, commonly agreed upon by DG INFSO and DG RTD for all JUs. ***Our assessment is that, generally, the ARTEMIS JU has the operational capacity actually in place to be able to implement its budget, subject however to the immediate implementation of a number of strong recommendations and to reporting back on their implementation within 2 months:***

- *The ARTEMIS Governing Board to adopt its adjusted "Internal Control Framework (ICF)", based on an appropriate overall Risk Assessment;*
- *The Delegations for all financial actors, the Job Descriptions & Objectives for all staff and the SLA with EPSO to be formalised;*
- *The required training and appropriate backup for the Legal Officer to be ensured, for her role as Verifying Agent in some financial circuits;*

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11.
Office: BU25 06/183. Telephone: direct line (32-2) 295.58.57. Fax: (32-2) 295.61.98.

E-mail: geert.veldeman@ec.europa.eu

- *The understanding by all staff of the ARTEMIS procedures, roles and financial circuits to be ensured, especially in deputising, backup and/or continuity situations;*
- *The risks related to the JU's budget to be managed, through overall programme planning (ensuring that annual budgetary allocation guarantees the implementation of the overall budget through 2013), periodic cash flow forecasts (in order for INFISO to be able to foresee the budgetary needs of ARTEMIS, thus enabling budgetary adjustments during the year if required), risk analysis (with particular focus on the impact on budget execution of late contribution from member/associated states);*
- *In the context of the (signed) "General Financing Agreement (GFA)", now the annual financing agreement and the payment request should be formalised. Furthermore, an agreement with DG BUDG is to be concluded in order to comply with the provisions of Article 6 thereof (on the exclusion of candidates).*
- *A stable settlement of the ICT equipment renewal and maintenance scheme to be pursued, and MoUs with the various partners (REA, RTD, DIGIT) to be concluded;*
- *In the context of the (signed) "General Financing Agreement (GFA)", now the annual financing agreement and the payment request should be formalised. Furthermore, an agreement with DG BUDG is to be concluded in order to comply with the provisions of Article 6 thereof (on the exclusion of candidates).*

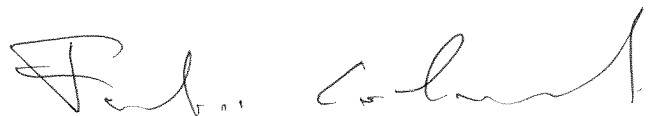
Consequently, I grant ARTEMIS its financial autonomy 'conditionally', i.e. 'favourably subject to the implementation of the recommendations and reporting back within 2 months'. I have signed the Commission's General Financing Agreement with ARTEMIS (also annexed).

Your staff is welcome to contact my colleagues for assistance during the finalisation of the implementation at ARTEMIS of those remaining aspects (see detailed table annexed to their assessment report). Your contact person remains Mr Armand Rauch, Head of Unit INFISO-S2 "Management Support".

In the meantime, I have asked Mr Van der Pyl to arrange the appropriate "handover" from the interim Executive Director to the current Executive Director. Although a good 'coaching' period has taken place, it is now important – both for DG INFISO and ARTEMIS – to have a clear cut-off for reporting and accountability purposes as well. After that, the appropriate 'reporting and supervision' arrangements should be put in place.

Finally, I would like to take this opportunity to thank you for your renewed commitment to make ARTEMIS work and wish you all the best in this endeavour.

Yours sincerely,



Fabio Colasanti

Annexes: - Assessment Report from DG INFSO's "AEAWG" + detailed table (the 18 autonomy criteria assessed for ARTEMIS);
- signed "General Financing Agreement" (GFA)

c.c.: A. Peltomäki, Z. Stančič, Assistants;
T. Van der Pyl, A. Bucher, M. Richards;
F. Sendra Palmer, F. Dezeure, J. Cotta, C. Dubs, A. Burgueño-Arjona, H. De Sadeleer, Z. Bahovec, A. Rauch, G. Veldeman, C. Farcas, J.-F. Buggenhout;
P. Mériguet (DG BUDG)



EUROPEAN COMMISSION
Information Society and Media Directorate-General

General Affairs
Management Support

Brussels, 26 OCT. 2009
INFSO-S2/GV/cf D (2009) 145203

**NOTE FOR THE ATTENTION OF MR Z. STANČIČ,
DG INFSO DEPUTY DIRECTOR GENERAL**

Subject: *Assessment Report from DG INFSO's "AEAWG" ("ARTEMIS and ENIAC Joint Undertakings 'Autonomy' Working Group")*

References: - *AEAWG-mandate (note 140245, meeting 05.10.09), plus GFA-model article n° 8*
- *Mr E. Schutz's letter requesting ARTEMIS' autonomy (16.10.09, ref A/09/645419)*

Further to the meeting at which you have mandated the "AEAWG" (see above), Unit INFSO-S2 has set up a working group to assess the readiness for autonomy of the ARTEMIS and ENIAC JUs, in an 'independent' way and against a set of 18 criteria commonly agreed upon by DG INFSO and DG RTD. Given the premature state of preparation of the ENIAC JU, the Working Group has concentrated on the assessment of ARTEMIS. The assessment of ENIAC's readiness will be done at a later stage.

Assessment and limitations

Given the diversity of the 18 autonomy criteria to be assessed, colleagues from the units R1, R2, R4, S2, S4, O2 have been involved. G0 has provided support in terms of access to documents and setting up meetings with ARTEMIS staff. The Working Group has met 3 times (on 05, 16 and 21.10.09).

Depending on the topic(s) involved for each criterion, the colleagues have examined the legal bases, reviewed the ARTEMIS documents available, visited the COV2-premises and/or conducted interviews with some of ARTEMIS' key staff (on 09 and 16.10.09: Messrs E. Schutz, Executive Director; J.-P. Contreras-Solis, Head of Administration & Accounting Officer; A. Foster, Program Manager; and A. Vecchio, Program Officer – the Legal Officer was not present yet).

It is useful to note that some of those ARTEMIS documents have been prepared and/or commented by the same DG INFSO staff members during the ARTEMIS interim phase, and that some of the ARTEMIS staff were INFSO staff previously. The examinations and interviews made are not 'exhaustive'. Furthermore, our assignment excludes an assessment of the Commission's interim management in the past, of its handover requirements at present and of its supervision arrangements for the future. Finally, our assessment conclusion should not be confused with an audit opinion aimed at providing 'assurance', or with a provision offering 'discharge'.

On 21.10.09, the Working Group has been attributed the ARTEMIS Executive Director's letter requesting autonomy. Once notified of the reception of the letter, the Working Group should

deliver its assessment report (findings and recommendations) within 5 working days. We have proceeded nevertheless and are ready to report.

Conclusions and recommendations

Within the scope and limitations of the AEA WG's mandate, and complementary to the ARTEMIS' Executive Director's self-assessment and justifications, we have examined the ARTEMIS JU's readiness for autonomy.

Checked against the 18 agreed-upon criteria for financial autonomy, our overall assessment is that, generally, the ARTEMIS JU has the operational capacity actually in place to be able to implement its budget, subject however to the immediate implementation of a number of strong recommendations and to reporting back on their implementation within 2 months.

For a detailed assessment per criterion, see the table in annex. The main aspects to be finalised are:

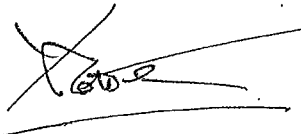
- *The ARTEMIS Governing Board to adopt its adjusted "Internal Control Framework (ICF)", based on an appropriate overall Risk Assessment;*
- *The Delegations for all financial actors, the Job Descriptions & Objectives for all staff and the SLA with EPSO to be formalised;*
- *The required training and appropriate backup for the Legal Officer to be ensured, for her role as Verifying Agent in some financial circuits;*
- *The understanding by all staff of the ARTEMIS procedures, roles and financial circuits to be ensured, especially in deputising, backup and/or continuity situations;*
- *The risks related to the JU's budget to be managed, through overall programme planning (ensuring that annual budgetary allocation guarantees the implementation of the overall budget through 2013), periodic cash flow forecasts (in order for INFISO to be able to foresee the budgetary needs of ARTEMIS, thus enabling budgetary adjustments during the year if required), risk analysis (with particular focus on the impact on budget execution of late contribution from member/associated states);*
- *A stable settlement of the ICT equipment renewal and maintenance scheme to be pursued, and MoUs with the various partners (REA, RTD, DIGIT) to be concluded;*
- *In the context of the (signed) "General Financing Agreement (GFA)", now the annual financing agreement and the payment request should be formalised. Furthermore, an agreement with DG BUDG is to be concluded in order to comply with the provisions of Article 6 thereof (on the exclusion of candidates).*

Therefore, we suggest (a) replying to Mr E. Schutz's letter requesting ARTEMIS' autonomy 'conditionally' (i.e. "favourably subject to the implementation of the recommendations and reporting back within 2 months") and (b) signing the General Financing Agreement with ARTEMIS.

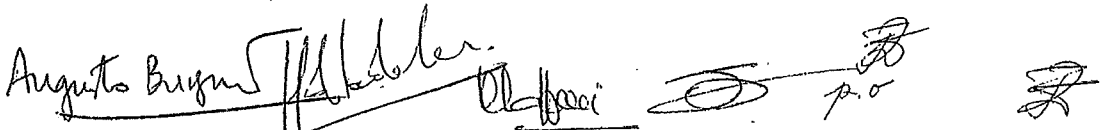
In the margin of our assessment work, we have received confirmation that the ARTEMIS Executive Director has not yet received an appropriate handover file from the interim Executive

Director. Although it appears that good 'coaching' has taken place, it is our view that in terms of a clear cut-off for reporting and accountability purposes, it would be beneficial to both DG INFSO and ARTEMIS to have a formal overall handover as soon as possible. After that, the appropriate 'reporting and supervision' arrangements should be put in place.

Finally, I would like to take this opportunity to thank all colleagues involved for their availability (at such short notice) and cooperation.


Armand Rauch

co-signed by the other AEA WG-members – each related to the aspects covered:


A. Burgueño H. De Sadeleer M.-C. Laffineur X. Jorelle G. Veldeman C. Farcas

Annex: Table - the 18 autonomy criteria assessed for ARTEMIS

c.c.: F. Colasanti, A. Peltomäki, Assistants;
T. Van der Pyl, A. Bucher, M. Richards;
F. Sendra Palmer, F. Dezeure, C. Dubs, A. Burgueño-Arjona, H. De Sadeleer, Z. Bahovec, R. Buehrle, M.-C. Laffineur, C. Gauci, X. Jorelle, C. Farcas, G. Veldeman, J.-F. Buggenhout.

ANNEX to note S2-145203

JUs' AUTONOMY CRITERIA + ASSESSMENT FOR ARTEMIS

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
1. Bodies					
Governing Board		YES	<p>The Governing Board is composed of regularly appointed founding members' representatives: The Community, represented by the Commission, ARTEMIS Member-States and ARTEMISIA association, in accordance with Articles 3 and 6.1(b) of the Joint Undertaking's Statutes annexed in the ARTEMIS Regulation ;</p> <p>The Terms of Reference and Rules of Procedure of the Governing Board (ARTEMIS GB-22-08) have been adopted on the 22nd February 2008 in accordance with Articles 6.2(l) and 6.3 of the Joint Undertaking's Statutes;</p> <p>Voting rights have been distributed in accordance with Article 6.1(c, d, e and f) of the Joint Undertaking's Statutes in the above mentioned decision of the Governing Board (Point 1.5).</p>	YES	None

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
Executive Director	on interim or permanent basis	YES	<p>A vacancy decision (COM/2008/10060) has been published in the Official Journal of the European Union (OJ C130A, 28.05.2008, p. 1.) in accordance with Article 7.2 of the Joint Undertaking's Statutes;</p> <p>ARTEMIS Joint Undertaking's Executive Director has been appointed by the Governing Board in the decision ARTEMIS-GB-10-09 adopted on 18th June 2009;</p> <p>Internal Rules of the Joint Undertaking empower the Executive Director for implementing the decisions of the Governing Board and the Joint Undertaking's budget as authorising officer (Articles 2 and 33 of the Joint Undertaking's Financial Rules, ARTEMIS-GB-55-08);</p> <p>Internal rules of the Joint Undertaking ensure continuity of the function for the Executive Director (Article 34 of the Joint Undertaking's Financial Rules, ARTEMIS-GB-55-08).</p>	YES	None
Public Authorities Board	applies to ARTEMIS and ENIAC only	NO	Not needed for autonomy	not applicable	not applicable
Industry & Research Committee	applies to ARTEMIS and ENIAC only	NO	Not needed for autonomy	not applicable	not applicable
Member States Representatives Group	applies to FCH, IMI and Clean Sky only	NO	Not applicable	not applicable	not applicable
2. Financial Rules	adopted and implemented by competent staff at least in the following aspects:	YES to a degree	The Financial Rules of the ARTEMIS JU were adopted on 30/05/08 by the Governing Board (Decision GB-13/08), and on 18/12/08 the Governing Board adopted the amended version (Decision 55/08).	YES	none
appropriate accounting and budget implementation system	ABAC/SAP as provided by DG BUDG is such a system. It includes budget and general accounting, as well as property inventories (Chapters 1, 2 and 3 of Title VIII of the Financial Rules)	YES	ABAC has been implemented by DG BUDG on 23/10/2009.	YES	none

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
budget of the Joint Undertaking	the budget, based on the submission to the budgetary authority, should have the structure required by the Financial Rules and be entered into ABAC by DG BUDG in this structure.	YES	The budget follows the structure required by the Financial Rules and has been entered in ABAC by DG BUDG in this structure	YES	<ul style="list-style-type: none"> - Overall programme planning: to ensure that annual budgetary allocation guarantees the implementation of the overall budget through 2013 - Periodic cash flow forecasts: in order for INFSO to be able to foresee the budgetary needs of ARTEMIS, thus enabling budgetary adjustments during the year if required - Risk analysis, with particular focus on the impact on budget execution of late contribution from member/associated states
financial circuit	documented and validated with all actors notified	YES	The financial circuits are documented and validated with all actors notified.	YES	none

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
3. Description of governance structure	implementation of organisational structure and internal management and control systems on the basis of equivalent standards of the Commission (SEC(2007)1341, Working Group H conclusions RTD D(2008)560100 and 596396, see sheet "ICS" for details)	YES	<p>Internal Control Framework (ICF) based on an overall Risk Assessment (RA) + ICS-7, ICS-8, ICS-12</p> <p>→Governing Board's decision GB-50/08 on minimum control standards (see ICS-8)</p> <p>→<i>Tailored ICF (including overall RA with IC implications/considerations) not drafted yet (cf. AAR 2008 par. 3.7), but will now be presented at the first post-autonomy GB</i></p> <p>Planning doc for ICS-deployment has been drafted (see also criterion 5 below)</p> <p>→ Written internal rules : documented financial circuits (FC), based on segregation of duties (in MoP) <i>No written/'accepted' delegations yet</i></p> <p>→ Documented procedures (MoP) Doc on exceptions recording/reporting (No doc on supervision and surveillance yet)</p> <p>→(mini) Management Scoreboard (MScB) exists Now only informal management reporting Idem for two-way internal comm. cascade ICC is appointed; 'channel' for reporting internal control weaknesses is foreseen (ICW - in MoP)</p>	YES, subject to implementing asap the following strong recommendations →	<ul style="list-style-type: none"> - Adopt RA-based ICF - Formalise Delegations - Make 'known' to all staff the procedures, roles and FCs, especially when not 'embedded' in paper or electronic workflows, and with special attention to situations of deputising, backup, continuity <p><i>E.g. the F.C. (OI/FI, VA, AO) mentioned during the interviews are NOT as in the MoP and include the AccO (which is unacceptable, see MoP 3.3)</i></p>

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
4. Action Plan	Action Plan for the building up of internal capacity according to the task the JU is going to take over in the first year of activity, including full implementation of ICF	YES	Operational development during first year + (gradual) deployment of an adjusted RA-based ICF ('tailored' to the JU) See ICS Implementation Plan: gradual deployment of tailored ICS by DEC 2010 (see AAR 2008 par. 3.7, see MoP introduction)	YES	None (if the work in progress is continued)
5. Staff and Staff Implementing Rules	see sheet "SR IR" for details, Commission rules can be applied by analogy and anticipation without formal adoption	NO, except for ICS-3 related elements	Most important Staff implementing rules adopted by the Governing Board adopted on 18/03/2008: - By analogy - Middle management - Temporary agents - Contractual agents	YES	None
Accounting Officer		YES	Head of Administration & Finances nominated by the Governing Board as Accountant on 29/09/2009	YES	None

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
other staff	sufficient staff to ensure segregation of duties of initiation and ex-ante verification and to secure the performance of support functions in relation to the workload and AIP; recruitment of remaining staff in Action Plan (line 13)	YES to a degree	<p>Parts of ICS-3 Staff allocation + 33# I.R. to the Staff Regulations</p> <p>→ no formal Job Descriptions (>< avis de vacance or SPP-info) and Objectives yet</p> <p>→ sufficient and competent staffing for all roles, delegations, continuity, etc but the Legal Officer (also VA-role) has just arrived (19.10.09) – quid pre-conditional training and back-up person (not the Head of Administration = Accounting Officer!)</p> <p>→ roles, tasks, responsibilities and function characteristics are clearly defined (e.g. PM v PO) but situation may be less clear for non-ex-INFISO JU-staff</p> <p>→ 'croissance x 3', vacancies and recruitment are considered OK (2010 will be a reference year)</p> <p>→ no excessive/unacceptable 'cumuls' (when Legal Officer will be in place)</p> <p>- Forecast of Recruitment of the staff after the autonomy, within the limits of the SPP - Organisation of the recruitment procedures by the JU</p>	<p>YES, subject to implementing asap the following strong recommendations</p> <p>→</p> <p>YES</p>	<p>Parts of ICS-3 Staff allocation</p> <p>- Formalise Job Descriptions & Objectives (ASAP, in order to be able to evaluate staff after their probation period)</p> <p>- Finalise conditional training for Legal Officer (VA)</p> <p>- Foresee correct back-up for Legal Officer (VA)</p> <p>None</p>

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
6. Physical infrastructure	furnished office space including IT equipment with maintenance contracts in place	YES	<p>ICT Aspects</p> <p>RTD.R.4 is in charge of IT equipment and SW, Telephony, Internet access, e-mail (access through BT / Belgacom); maintenance contracts in place;</p> <p>Support: one dedicated expert staff (contracted by RTD) available on site permanently for Artemis and Eniac; contract will stay operational until next year (extension granted by DG BUDG (analogy with Executive Agencies)</p> <p>The transfer of IT assets is being discussed with ARTEMIS, RTD and DIGIT.</p> <p>Intranet: hosted and updated by Artemisia (association of industrials)</p> <p>Business Continuity: missing acces through VPN for accessing IT installations in remote (not granted by ADMIN.DS and DIGIT)</p> <ul style="list-style-type: none"> - Delivery of Office furnitures - Equipment of meeting rooms - Security/Safety measures (fire detection system, badge readers, X-ray scanner for visitors, etc) 	<p>ICT Aspects</p> <p>YES</p> <p>ICT Infrastructure in place and functioning well (functionalities, performances)</p> <p>Apart from missing remote access functionalities, Artemis complies with the criteria.</p> <p>YES</p>	<p>ICT Aspects</p> <p>Pursue a stable settlement of the ICT equipment renewal and maintenance scheme</p> <p>None</p>

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
7. Service-level agreements	<p>This concerns both signature <u>and</u> having internal procedures and delegation of tasks to staff for implementation.</p> <p>Contract partners and services:</p> <p>DG BUDG: ABAC and training</p> <p>DG ADMIN: Medical Service, application of PPI, social policy, health, safety and security (USHT, DS), training</p> <p>DIGIT: sTESTA</p> <p>PMO: calculation of salaries, health and accident insurance, pensions, leaving and unemployment allowances, determination of rights upon employment, expert and mission reimbursements</p> <p>EPSO: use of contract agent databases, possibility to organise selection procedures on behalf of the JU on demand, advice services</p> <p>DGT: translations</p> <p>OPOCE: publications</p> <p>REA: temporary housing and related services</p> <p>RTD/INFISO: training, use of IT project management systems</p>	<p>YES to DG BUDG, ADMIN, DIGIT, PMO, REA (whether formally signed or implemented by anticipation)</p>	<p><i>ICT aspects</i></p> <p>MoU being finalised with REA for free access to FP7 REA applications; discussions taking place with RTD for using NEF and CPM; see detailed annex on the use of Information Systems by ARTEMIS.</p> <p>DG BUDG: ABAC and training</p> <p>- ADMIN: training, medical service, application PPI</p> <p>- PMO: Salary, allowances,...</p> <p>- EPSO: according to JU, no SLA foreseen</p> <p>- REA: temporary housing and services</p>	<p><i>ICT aspects</i></p> <p>YES</p> <p>Artemis complies well with the criteria</p> <p>YES: SLA on ABAC and ABAC training signed on 15/06/09 by José COTTA</p> <p>YES, SLA signed except with EPSO (subject of the following strong recommendation)</p>	<p><i>ICT aspects</i></p> <p>Finalise the conclusion of MoUs with the various partners (REA, RTD, DIGIT).</p> <p>None</p> <p>Signature of a SLA with EPSO (Mandatory in accordance with art. 5,1 of Implementing rules on contractual agents)</p>

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
8. Bank Account	While the legal representative (Executive Director or a person empowered by him/her) concludes the contract with the bank, it is the Accounting Officer who opens the bank account. The costs for the opening and management of a bank account being estimated below 5,000 € for the whole life of the Joint Undertaking, a negotiated procurement procedure with only one tenderer (one bank) is sufficient. If costs were below 60,000 €, a negotiated procedure with three tenderers would be required.	YES	Creation checked	YES	None
9a. Legal Entities File	RTD/INFSO requests and ABC key in ABAC. Form for public entities with address and Regulation to be used	YES	Created : 6000307763	YES	None
9b. Bank Account File		YES	Three bank accounts have been opened in ING Bank : - one for payments : 375-1047820-08 - two for incomes : 375-1047821-09 for Third parties (Industry) and 375-1047822-10 for EC The corresponding bank accounts are: 0002400941 for IBAN BE63375104782008 0002400859 for IBAN BE52375104782109 0002400869 for IBAN BE41375104782210	YES	None

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
10. General Financing Agreement		YES	A model General Financing Agreement between the Commission and the Joint Undertakings has been adopted by Commission Decision C/2009/5136; The Executive Director of ARTEMIS Joint Undertaking returned the General Financing Agreement based from the above-mentioned model duly completed and signed together with the request for the Joint Undertaking's autonomy.	YES	The JU should soon conclude an agreement with DG BUDG to comply with the provisions of Article 6 thereof ("exclusion"). Later, an "ex-post control strategy" (cf. GFA Article 7) should be developed. The General Financing Agreement can be signed by DG INFSO Director-General to enter into force as soon as possible thus finalizing autonomy process.
Annual Financing Agreement for the year of autonomy		YES	The amounts of commitment and payment credits to be inscribed in the budget of the ARTEMIS JU have been established. The annual financing agreement will be set up based on those amounts.	YES	- formalisation of the annual financing agreement
Framework Financing Agreement with other members	Other members acceded to Statutes and are hence obliged to contribute to running costs.	NO if the EC contribution to running costs gives enough time; depends on risk	EC contribution to running costs covers the total amount of running costs for 2009. Forecasts for 2010 are satisfying as well (cf. Annual Implementation Plan and Annual budget Plan for 2009; ARTEMIS-GB-21-08).	YES	None
Annual funding for running costs agreed with other members		NO if the EC contribution to running costs gives enough time; depends on risk	See above	YES	None
11. Eligible payment request for the period following the day of capacity	Ideally, the payment should be executed immediately after the day of capacity. The next date of payment by the JU will be in one month at the latest: payment of salaries.	YES	The amounts of commitment and payment credits to be inscribed in the budget of the ARTEMIS JU have been established. The eligible payment request for the period following the day of autonomy will be prepared based on those amounts.	YES	- formalisation of the payment request

Criterion	Content and specifications	Essential for JU's capacity to implement its budget?	Synthesis of performed checks for ARTEMIS	Assessment of ARTEMIS' compliance with the criteria	Strong Recommendation (to be implemented during the first months - reporting back by the end of 2009)
12. Annual Implementation Plan	While the AIP is the JU's financing decision for operational expenditure, a financing decision is not necessary for implementing running costs.	NO - INFSO YES - RTD	Not needed for autonomy	not applicable	not applicable
13. Anti-fraud measures	acceding to the Interinstitutional Agreement of 25 May 1999 between the EP, the Council and the Commission concerning internal investigations by the European Anti-fraud Office (OLAF) (OJ L 136, 31.5.1999, p. 15) and adopting an internal decision following the model annexed to the agreement	NO	Not needed for autonomy	not applicable	not applicable
14. Access to the Commission's database on persons in the situation of exclusion from tenders and grants	Access to the database may help for the financial viability check and selection criteria. It is foreseen in the General Financing Agreement and the Financial Rules.	NO	Not needed for autonomy	not applicable	not applicable
15. Transfer of open commitments	During a payment moratorium of two weeks, open commitments (identifying beneficiaries, pre-financings, interim payments, RALs) shall be transferred manually to the JU budget by DG BUDG	YES	Transfer has been completed on 23/10. DG BUDG has formally granted financial autonomy to the JU.	YES	none
16. Transfer of assets	A detailed overview of assets available should be made.	NO	Not needed for autonomy	not applicable	not applicable
Transfer of archives	A detailed repertory of transferred paper and electronic documents should be made.	NO	Not needed for autonomy	not applicable	not applicable
17. Host Agreement	Belgium would apply the PPI directly through internal "circulaires".	NO	Not needed for autonomy	not applicable	not applicable
18. Insurance	required by Article 20/21/23 Statutes	NO	Not needed for autonomy	not applicable	not applicable

**GENERAL FINANCING AGREEMENT BETWEEN THE EUROPEAN
COMMISSION AND THE *ARTEMIS* JOINT UNDERTAKING**
on the financial participation of the European Community ("the Community contribution") in
that Joint Undertaking

The Commission, acting on behalf of the European Communities,

and

the *ARTEMIS* Joint Undertaking

Having regard to Council Regulation (EC) No 74/2008 of 20 December 2007 (*hereinafter "the Regulation"*) setting up the *ARTEMIS* Joint Undertaking (*hereinafter "the Joint Undertaking"*), in particular its Article 5(2) and the Statutes annexed thereto (*hereinafter "the Statutes"*),

Having regard to the Financial rules of the Joint Undertaking adopted by the Governing Board on 30 May 2008 (*hereinafter "the Financial rules"*) and in particular Articles 15 and 50 thereof,

HAVE AGREED AS FOLLOWS:

Article 1

Subject

This agreement determines the modalities and conditions applicable to the Community contribution to be provided annually to the Joint Undertaking and other items defining mutual rights and obligations as considered appropriate by the parties.

Article 2

Amount and origin of Community contribution

- (1) In accordance with Article 5 of the Regulation, the Community contribution shall be paid by the Commission from the appropriations in the general budget of the European Communities ("general budget") allocated to the "*Information and Communication Technologies*" theme of the Specific Programme "Cooperation" implementing the Seventh Framework Programme of the European Community on research, technological development and demonstration activities (2007-2013) (*hereinafter "Seventh Framework Programme"*).
- (2) The maximum Community contribution shall amount to 420 million, of which a maximum of *EUR 10 million* shall be for running costs.
- (3) The Community contribution shall be committed and paid by the Commission to the Joint Undertaking from the following dedicated budget lines of the general budget:
 - *Research or R&D Activities: 09 04 01 02 Cooperation – Information and Communication Technologies - ARTEMIS Joint Undertaking*
 - *Running costs: 09 04 01 03 Cooperation – Information and Communication Technologies – Support expenditure for ARTEMIS Joint Undertaking*

Article 3

Information on the budgetary procedure

The Commission shall inform the Joint Undertaking, no later than 30 June, about the amount of the Community contribution, in terms of both commitment and payment appropriations, which it intends to propose and about the number of staff it considers the Joint Undertaking needs.

Article 4

Community contribution – commitment appropriations

- (1) As early as possible after the adoption of the general budget, the Commission shall make the necessary annual budgetary commitments in favour of the Joint Undertaking.
- (2) The Commission shall inform the Joint Undertaking of the detail of the commitments referred to in paragraph 1, including the amount, the date and reference number as well as the final date for implementation. This communication by the Commission shall constitute the annual financing agreement upon acceptance by the Joint Undertaking accompanied by an updated quarterly estimate of payments and receipts identifying the indicative dates of submission of payment requests.

Article 5

Payment of the Community contribution

- (1) The payment of the Community contribution shall be guided by the principle of rigorous cash management of the Joint Undertaking in order to ensure that its cash balances are limited to duly justified requirements.
- (2) The payment of the Community contribution shall be based on a payment request submitted by the Joint Undertaking which shall include:
 - (a) a cash-flow forecast for running costs and operational costs, covering the period of the payment request;
 - (b) if possible, a reference to the commitment(s) in the general budget to which the payment relates;
- (3) In compliance with the principle established in paragraph 1, the amount foreseen for running costs shall be paid to the Joint Undertaking in up to two instalments and the amount foreseen for operational costs shall be paid to the Joint Undertaking in no more than four instalments in line with the operational needs of the Joint Undertaking.
- (4) The payment shall be qualified as pre-financing which shall be cleared upon acceptance by the Commission of the following documents submitted by the Joint Undertaking:
 - (a) Annual Activity Report and the Budgetary Implementation Report;
 - (b) a specific report on the use of the pre-financing payment submitted by 31 of January to the Commission.

- (5) The Commission shall pay the Community contribution within no more than forty-five calendar days from the date on which the admissible payment request is received by the Commission, to:

ARTEMIS JU
COV2 14/060
1049 Brussels
Belgium

On the following bank account of the Joint Undertaking:

Name and address of the bank: ING BELGIUM NV/SA, BRUSSELS
60, COURS SAINT MICHEL
BRUSSELS

Name of account holder: ARTEMIS JOINT UNDERTAKING

Account number: IBAN_ONLY

IBAN: BE41375104782210

SWIFT code: BBRUBEBB

ABAC legal entity key (LEF): 6000307763

ABAC bank account key (BAF): 0002400869

Further details, including the late-payment interest, shall be governed by Article 106(1), (4) and (5) of the Implementing Rules of the Financial Regulation.

- (6) The Commission may suspend at any time the payments to the Joint Undertaking in case:
- (a) severe financial irregularities including cases of fraud, corruption or any illegal activity detrimental to the Communities' financial interests were uncovered in the financial management of the Joint Undertaking by the Commission's authorising officer or detected by the Court of Auditors, the special financial irregularities panel set up by the Commission or the functionally independent panel of the Joint Undertaking or joint panel established by several Community bodies, as referred to in Article 47(4) of the Financial Rules, and the European Anti-Fraud Office;
 - (b) the Commission established serious system weaknesses in the Internal Control Framework of the JU;
 - (c) the Commission established that Joint Undertaking repeatedly severely breaches the Regulation or the Statutes;
 - (d) information required by this agreement were not provided on time.
- (7) The Commission may waive the suspension referred to in paragraph 6 on a case-by-case basis if the Joint Undertaking addresses adequately the cases identified above, subject to the conditions agreed with the Commission, such as an action plan containing remedies and deadlines.
- (8) The suspension of payments shall comply with the principle of proportionality and shall take into account the existing legal commitments of the Joint Undertaking.

Article 6

Communications on candidates in situations of exclusion

- (1) The Joint Undertaking shall have access to the information contained in the central database referred to in Article 95 of the Financial Regulation and may take it into account, as appropriate and under its own responsibility, for assessing whether a tenderer or applicant is in one of the situations referred to in 82 and 83 of the Financial Rules.
- (2) The Joint Undertaking shall transmit to the Commission, in the format agreed with the latter, information identifying the economic operators and applicants that are in one of the situations referred to in 82 and 83 of the Financial Rules, and, if applicable, the grounds for exclusion and the duration of the period of exclusion.
- (3) The Joint Undertaking shall also transmit information concerning persons with powers of representation, decision making or control over economic operators which are legal entities, when these persons have found themselves in one of the situations referred to in 82 and 83 of the Financial Rules.
- (4) The Joint Undertaking shall designate the persons authorised to communicate to and receive from the Commission the information contained in the database. The designated persons shall address the information as soon as possible to the accounting officer of the Commission, and request, as appropriate, entry, modification or removal of data in the database.
- (5) The Joint Undertaking shall certify to the Commission that the information communicated was established and transmitted in accordance with the principles set out in Regulation (EC) No 45/2001 and in Directive 95/46/EC. In particular, the Joint Undertaking shall inform in advance all economic operators or persons referred to in paragraph 3 that their data may be included in the database and communicated by the Commission to the designated persons referred to in paragraph 4. They shall update, where appropriate, the information transmitted, following rectification or erasure or any modification of data.

Article 7

Ex-post audit of beneficiaries

- (1) (The Joint Undertaking shall, in its competent board, adopt its Ex-Post Audit Strategy with the aim of providing reasonable assurance on the legality and regularity of the underlying transactions and shall forward the adopted Ex-Post Audit Strategy to the Commission.
- (2) The Ex-Post Audit Strategy shall be established according to internationally accepted auditing standards (i.e. International Standards on Auditing (ISA) established by the International Federation of Accountants (IFAC), or equivalent), taking account of any relevant guideline issued by the Commission on the application of those standards, and communicated to the Joint Undertaking.
- (3) The Ex-Post Audit Strategy shall be based on examination of procedures and of a sample of transactions for all or a sample of beneficiaries and shall, in particular, adequately reflect the risks involved. The checks shall in particular cover compliance

with the relevant eligibility criteria for the costs declared, and with applicable rules. The Executive Director shall report to the Governing Board on its implementation.

Where the Regulation allows audits to be carried out by Member States on the Joint Undertaking's behalf, the Ex-Post Audit Strategy shall take this into account.

- (4) The Commission shall communicate to the Joint Undertaking its own Ex-Post Audit Strategy common to the implementation of the Framework Programme which the Joint Undertaking shall take into account in order to achieve an appropriate level of harmonisation. The Commission may also, at the Joint Undertaking's request, provide assistance and support in the establishment and implementation of the Ex-Post Audit Strategy of the Joint Undertaking.
- (5) The Annual Activity Report shall contain sufficient information on the implementation of the Ex-Post Audit Strategy.

Article 8

Joint Undertaking's capacity to implement its own budget

The Commission shall in common accord with the Joint Undertaking determine the day on which the Joint Undertaking gains the capacity to implement its budget. An overview identifying the execution of the Community contribution by the Commission in line with Article 16 of the Regulation shall be drawn up by the Commission and sent to the Joint Undertaking. From that day, the Commission shall make no commitments and execute no payments for the activities of the Joint Undertaking save on the Joint Undertaking's request and on the basis of this agreement.

Article 9

Communications

The contact points for communications in the implementation of this agreement shall be the following:

For the Joint Undertaking:

*ARTEMIS JU
COV2 14/060
1049 Brussels
Belgium*

For the Commission:

*DG INFSO
BU 25 06/183
BE-1049 BXL
[address]*

Article 10

Supplementary information

- (1) The Commission may request the Joint Undertaking to provide any supplementary documentation and information related to or relevant for the implementation of this agreement or of the Seventh Framework Programme, such as for the Commission's reporting required by the Regulation and other legislation, the reporting on budgetary implementation, questions from the European Parliament and the National Contact Points.

- (2) By 31 August each year, the Joint Undertaking shall provide an update of the estimate of cash payments and receipts and the overview of corresponding payment requests it intends to introduce by the end of that year, in order to give the Commission the opportunity to review its general need for payment appropriations in the context of the Global Transfer.
- (3) The Joint Undertaking shall inform the Commission without delay of any significant developments in the risk management, control and audit issues covered in the report referred to in *Article 40* of the Financial Rules.

Article 11

Amendments

Any amendments to this agreement shall be done in writing.

Article 12

Applicable law and competent court

- (1) This agreement shall be governed by Community law, in particular by the EC Financial Regulation, with regard to the Financial Rules of the Joint Undertaking.
- (2) The parties may bring legal proceedings regarding the application of the provisions of this agreement before the Court of First Instance of the European Communities and, in the event of appeal, the Court of Justice of the European Communities.

Article 13

Application

This agreement shall apply as from the day when it has been signed by both parties.

Done at Brussels, October 17th, 2009

For the Joint Undertaking

For the European Commission



Eric Schutz
Executive Director

The Director-General