

Bi-Annual Management Report DG INFSO

01 January 2009 – 30 June 2009



European Commission
Information Society and Media

Table of contents

Table of contents	3
1. Introduction	5
2. Status of the Work Programme	7
3. Implementation of 2009 Budget	9
3.1. Commitments and Payments. Status of Implementation up to 30 June 2009	9
3.2. Payment Times	10
3.3. Status on Recovery Orders	14
4. Changes to the Financial Circuits	15
5. Risk Management: Follow-up of DG INFSO's High-Level Risk Assessment (HLRA) Exercise	17
6. Internal Control	19
6.1. Implementation of the Recommendations from the Internal Control Coordinator (ICC)	19
6.2. Reporting of Directors as Authorising Officers	19
by Sub-Delegation (DMRs)	19
7. Status Report on External Financial Audits up to 30 June 2009	21
7.1. Implementation of the ABM Action Plan	21
7.2. Initiation of New Audits	22
7.3. Status on Ongoing Files	23
7.4. Finalised Audits	23
7.5. Audit Results	24
7.6. Implementation of Audit Results	24
7.7. Audit of the Top Beneficiaries and MUS Beneficiaries	25
7.8. Risk Based Auditing	25
7.9. Certification policy in FP7	25
7.10. Lessons learnt through ex-post audits	25
7.11. Conclusion	26
8. Relations with the European Court of Auditors	29
8.1. Declaration of Assurance (DAS) 2007 – Recommendations	29
8.2. Court's Annual Report 2008	29
8.3. DAS 2009 – Audits Started or Ongoing	30
8.4. Court's Special Reports	30
9. Relations with the Internal Audit Service	33
9.1. IAS Audit of the Annual Activity Report (AAR) Assurance Process	33
9.2. Other IAS Related Issues	35
10. Audits Performed by DG INFSO's Internal Audit Capability and Related Matters	36
10.1. Overview of the Audits and Internal Organisation	36
10.2. Four Finalised Audits and one limited review	36
10.3. Two Audits in Progress	38
10.4. Consultancy	38
11. State of Play on OLAF's Files	39
12. State of Play on the European Ombudsman's Files	41
13. Relations with the Education, Audiovisual and Culture Executive Agency (EACEA)	43
13.1. INFSO's Supervision of the EACEA	43
13.2. EACEA's Management Reporting	43
14. Declaration and Reservations	45
15. Annexes	47

1. Introduction

This Bi-annual Management Report (BMR) covers the period from January 1, 2009 to June 30, 2009 and is accompanied by a set of Annexes containing more detailed information. It reports on issues identified in the agreed Working Methods between Mrs Reding's Cabinet and DG INFSO¹ - in line with the Code of Conduct on relations between Cabinets and Services.

Several chapters in this BMR include references to topics discussed at the "Internal Control Coordination Group" (ICC Group²), the coordination forum established in order to (inter alia) ensure an effective follow-up of 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 weekly meetings with the Director General, on the state of play relating to the implementation of the Rolling Work Programme.

3. Implementation of the 2009 Budget

Besides the state of play relating to the implementation of the budget for commitment and payment appropriations presented below, an overview is given for payment time indicators and the follow-up on recovery orders for the reference period.

3.1. Commitments and Payments: status of Implementation up to 30 June 2009

Table 1: Status of budget implementation on 30.06.2009: Commitments

	Budget Chapter	Planned	Actual
09.01	Administrative Expenditure	76,4%	82,4%
09.02	i2010 – Electronic Comm. and Network Security	40,7%	38,9%
09.03	i2010 – ICT Take-up	0,9%	0,2%
09.04	i2010 – Cooperation – ICTs	0,4%	1,7%
09.05	Capacities – Research Infrastructures	0%	0%
09.06	i2010 Audiovisual policy and Media programme	24,2%	24,8%
	Total :	6,6%	7,8%

[Re-assigned revenue or so called C4 credits excluded; 3rd country credits included]

As far as commitment appropriations are concerned, the overall implementation is slightly ahead of forecast. In accordance with the budget implementation plan, it is expected that research commitment appropriations will be mainly implemented in the second semester 2009 through global commitments for Call 4 and Call 5 of FP7 ICT Cooperation and Capacities - Research Infrastructure. An overall implementation rate of 100% or very close to 100% can be expected by the end of the year.

Table 2: Status on budget implementation on 30.06.2009: Payments

	Budget Chapter	Planned	Actual
09.01	Administrative Expenditure	35,0%	43,0%
09.02	i2010 – Electronic Comm. and Network Security	46,2%	65,9%
09.03	I2010 – ICT Take-up	40,4%	35,7%
09.04	i2010 – Cooperation – ICTs	49,5%	44,8%
09.05	Capacities – Research Infrastructures	14,0%	3,6%
09.06	i2010 Audiovisual policy and Media programme	24,2%	24,8%
	Total :	45,2%	41,7%

[Re-assigned revenue or so called C4 credits excluded; 3rd country credits included]

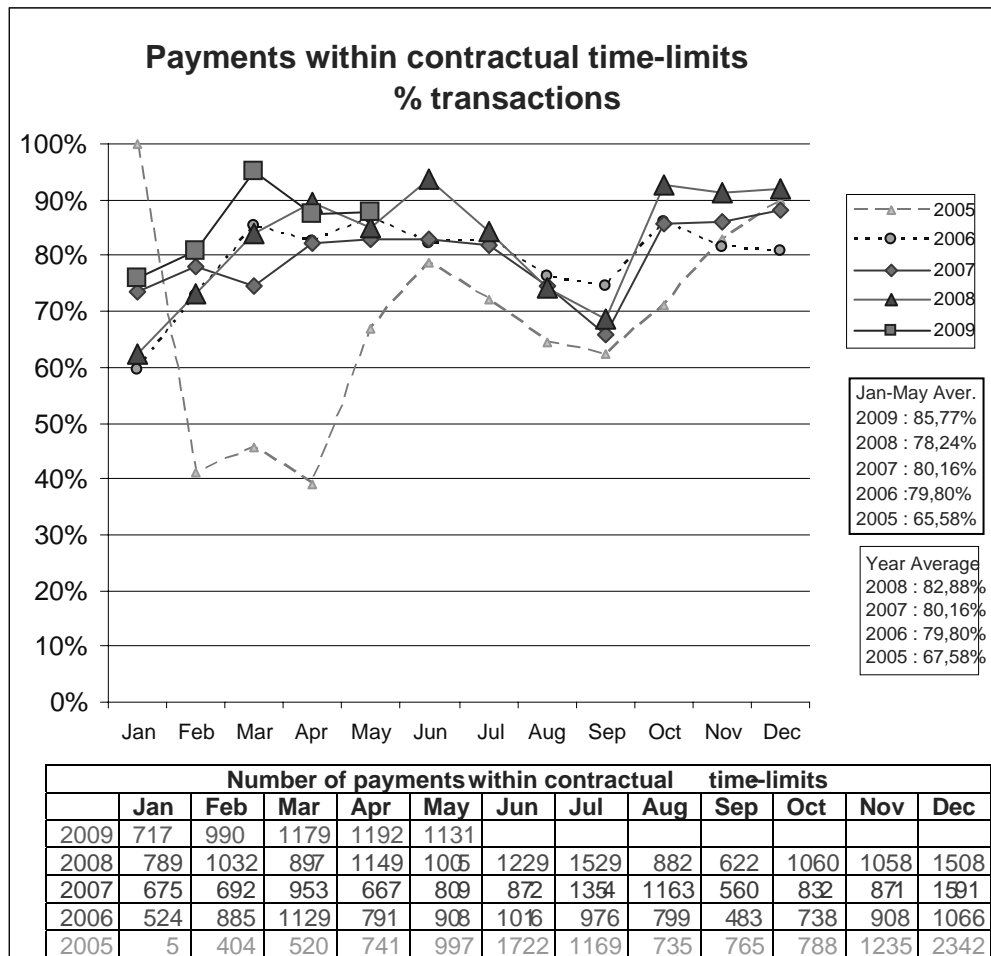
For payment appropriations, the average rate of implementation is slightly below forecast. This is mainly due to some delays in the processing of the first FP7-ICT interim payments, for which an acceleration is expected in the course of the second semester. Implementation rates of 100% or very close to 100% can be expected by the end of the year.

3.2. Payment Times

Performance in terms of average payment times over the first five³ months of 2009 shows a consolidation of the positive trend recorded in the last five years. Taking into consideration the number of payments carried out over the period January-May 2009, 85.77% were executed within contractual time-limits, whereas in 2008 this figure was 78.24%.

It appears that the established use of tools that monitor the late payments and interests due for projects was instrumental in improving payment times, and it is expected that the percentage of payments processed within contractual time-limits for the whole of 2009 will show an improvement over 2008.

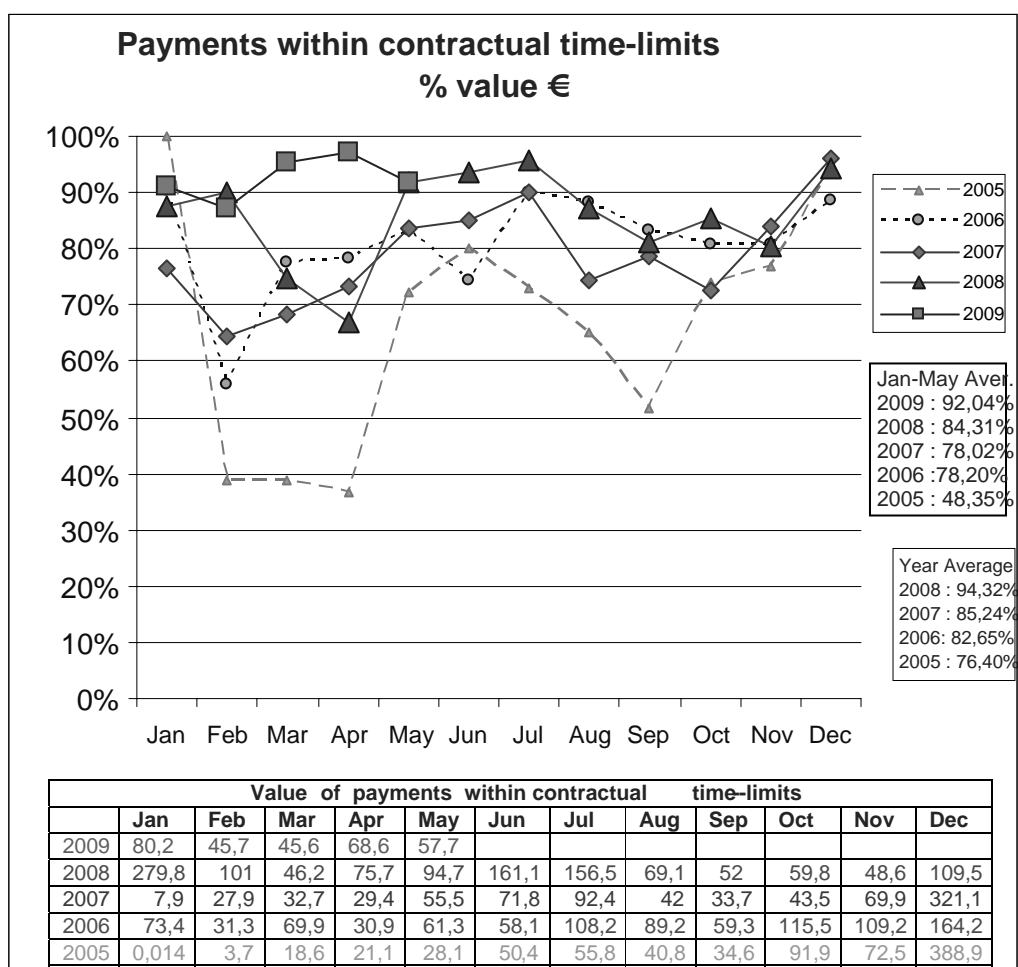
Table 3.1: Payment times (% and number of transactions paid within contractual time-limits)



A steady increase of the monetary value of payments carried out within contractual time-limits can also be recorded. During the period January-May 2009, an average of 92.04% of the total value of the payments carried out over the period was executed within contractual time-limits, whereas this figure was 84.31%, 78.02% and 78.20% over the same period in 2008, 2007 and 2006 respectively.

Given the current trend, it is expected that performance in terms of overall value of payments carried out within contractual time-limits for the whole of 2009 will also mark an improvement over 2008.

Table 3.2: Payment times (% and value of value paid within contractual time-limits)



The next table details performance by type of expenditure over the period January-May during the last 4 years.

It must be noted that data for 2009 are partially comparable with previous years because they refer to payments executed within the contractual time-limits to take into account different time-limits in accordance with the type of contractual obligation, whereas for statistics elaborated until 2008 the benchmark was payments executed within 45 days. This affects the following categories of transactions where the contractual time-limits are not equal to 45 days: External staff (30 days); Services and studies (30, 45, 60 days); Projects (45, 60, 90, 105 days).

This change in benchmark has particularly affected payments for external staff. In particular, 23,6% of the payments not executed within contractual time-limits are related to Interim staff paid on the research administrative budget. Whereas almost all the payments are executed within 45 days, further actions will be undertaken to improve payment times for this category of transactions in collaboration with DG ADMIN and the Human Resources unit.

A marked improvement has been recorded for critical categories of transactions such as project payments, for which the investment in IT tools and continuous financial training significantly reduced payment times in line with an established positive trend. Concerning the payment times relating to the reimbursement of meetings of expert groups and committees by the PMO, two factors contributed to reverse the negative trend recorded until 2008. On the one hand, there has been an improvement of the PMO's performance in terms of processing times for payment files for experts. On the other hand, specific training and awareness-raising actions targeting meeting secretaries have been carried out within DG INFSO. Further action within DG INFSO will include the simplification and streamlining of the submission procedure of payment files to the PMO. It is expected that strengthened internal monitoring and a simplified submission circuit to the PMO will lead to further substantial improvements in PMO payment times.

Table 4: Payment times – Performance by type of expenditure (May 2009 – Payments within contractual time-limits)

	January -May 2009*			January -May 2008			January -May 2007			January -May 2006		
Type of Transaction	% number of payments within contractual delays	Number of payments within contractual delays	Value (€) of payments within contractual delays	% number of payments within 45 days	Number of payments within 45 days	Value (€) of payments within 45 days	% number of payments within 45 days	Number of payments within 45 days	Value (€) of payments within 45 days	% number of payments within 45 days	Number of payments within 45 days	Value (€) of payments within 45 days
External staff**	76,40%	425	3.477.419	99,39%	490	3.091.923	88,8%	221	2.270.513	87,3%	276	2.128.266
Missions	98,85%	1.541	564.309	96,23%	1.431	511.439	97,0%	830	317.082	79,0%	1.288	395.853
Services & Studies	81,56%	407	11.026.137	88,19%	478	13.021.656	86,8%	387	6.997.366	82,0%	407	6.884.674
Experts**	93,17%	1.529	3.448.330	82,12%	1.552	3.812.545	84,8%	1.058	2.514.453	88,8%	1.294	3.270.749
Projects**	86,49%	415	274.114.268	79,43%	560	571.978.837	65,0%	322	140.911.175	67,6%	402	247.150.519
Meetings**	61,00%	596	327.934	29,64%	313	208.958	36,5%	337	196.616	61,7%	550	340.239
Grants**	100%	23	1.629.272	100%	23	1.641.219	-	-	-	50,0%	10	704.891

* Data for 2009 are partially comparable with previous years because they refer to payments executed within the contractual time-limits to take into account different time-limits in accordance with the type of contract, whereas for statistics elaborated until 2008 the benchmark was payments executed within 45 days. This affects categories of transactions where the contractual time limits are not equal to 45 days: External staff (30 days); Services and studies (30, 45, 60 days); Projects (45, 60, 90, 105 days)

** External staff = ENDS, Interim staff
 Experts = Evaluations and reviews
 Projects = FP7 and non-research projects
 Meetings = Groups of experts and committees
 Grants = MEDIA antennae and desks

3.3. Status on Recovery Orders

During the first semester of 2009, DG INFSO continued to focus on issuing new recovery orders and following-up existing ones.

A total of 93 new recovery orders were issued during the first half of 2009, of which a major part was a result of the implementation of audit results (60 audits leading to recovery orders, accounting for 64.5% of the new cases).

On 01.01.2009, the balance due from 109 open recovery orders totalled 20.7 M€. During the first semester of 2009, the 93 newly established recovery orders added 12.74 M€ to this amount. However, recovery orders worth 15.95 M€ were cashed/compensated, and 0.56 M€ were cancelled or waived. Consequently, the balance on 30.06.2009 stood at 130 open recovery orders totalling 16.39 M€.

In the stock of open recoveries, there are four important categories for which the open amount represents 12.44 M€ and 84.6% of the cases (financial audit is 28.20% of the total value; final payments are 16.42%; liquidation/bankruptcy is 13.41%; contract termination is 17.86%). In particular, the recovery orders issued following the liquidation of legal entities due to bankruptcy usually remain open for a long period, after which in most cases they lead to a decision to waive the recovery (once the liquidation is definitively closed, no means are available to recover the open amounts). Seventeen cases totalling 2.11 M€ and expected to be waived in the future belong to this category, out of a total of 26 cases worth 5.12 M€.

All details are provided in Annex A1.

Concerning the Media Programme, during the first semester of 2009, three recovery order files were received from the EACEA and managed by DG INFSO for submission to the College - which led to the waiving of 0.24 M €.

4. Changes to the Financial Circuits

As a result of the organisational changes which occurred during the reference period, the financial circuits for Directorate S have been adjusted, in agreement with Directorate R, to ensure that in the absence of a dedicated OS/AFU all financial transactions are correctly implemented. This involves the participation from unit R2 as financial verifying officer for all Directorate S transactions. Since its inception in late May 2009 this practice has worked very well.

Concerning the 2009 sub delegations, the only change was the sub-delegation of requests to DG BUDG for transfer of appropriations to the Director of Resources and to the Head of the Budget and Finance Unit, in accordance with Article 17§1 of the Internal Rules.

5. Risk Management: Follow-up of DG INFSO's High-Level Risk Assessment (HLRA) Exercise

Building upon our experience in previous years, risk management, in the context of the *DG INFSO's 2008-2009 High-Level Risk Assessment (HLRA)* exercise results, was once again organised via the "Internal Control Coordination Group (ICC Group)". In 2009, DG INFSO's ICC Group met on 26.03.2009 in order to launch the progress monitoring of the actions in the context of both risk management and internal control recommendations.

As foreseen in the finalised HLRA exercise, and endorsed by the INFSO Directors on 16.02.2009 (see Annex B1), the envisaged risk responses (action plan, working group and/or monitoring) are in progress. Risks have not increased and/or have even been reduced ⁽⁴⁾:

- In order to reduce one of DG INFSO's most important risks (i.e. the consequences of the financial-economic crisis on ICT Programme participants), an action plan is being implemented. The topic is being handled within the framework of existing INFSO Working Groups which take into account the lessons learned from ex-post controls – e.g. with a mandate for considering changes in the DG's ICT payment procedures.
- In addition, the other important risks are being monitored – including DG INFSO's 3 'critical risks' as defined and reported in the INFSO 2009 Annual Management Plan (i.e. telecom regulation, spectrum policy, errors in ICT cost claims).

Based on the next review by the ICC Group, a 2009 mid-term progress report will be sent to DG INFSO's senior management.

⁴ For the appreciation of the 'new' financial and/or reputational risks in the context of the "COCOON"-case 'fall out', see chapter 6.2.

6. Internal Control

6.1. Implementation of the Recommendations from the Internal Control Coordinator (ICC)

The progress monitoring of the implementation of the annual recommendations of the Internal Control Coordinator (ICC) for improvement of the effectiveness of DG INFSO's internal control system is assured by the "Internal Control Coordination Group (ICC Group)". As mentioned in the previous chapter, in 2009, DG INFSO's ICC Group met on 26.03.2009 in order to launch the progress monitoring of the actions in the context of both risk management and internal control recommendations.

As reported in the "*Annual review and recommendations from the internal Control Coordinator (ICC)*" [D(2009)107175 of 24.02.2009 – cf. see Annex C1], these recommendations include DG INFSO's 5 'priority' Internal Control Standards (ICS) which were selected following the last ICS review and reported upon in the INFSO 2009 Annual Management Plan (i.e. sensitive functions policy, business continuity plan, data protection, ethical values, document management). In addition, in the context of the continuous improvement of existing management procedures, 2 ICC recommendations in the areas of (i) exceptions recording and of (ii) the follow-up of open recommendations have also been issued.

Based on the next review by the ICC Group a 2009 mid-term progress report will be sent to DG INFSO's senior management.

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

Through their 2009 *mid-term* Directorates' Management Reports (DMRs), the Directors - in their roles of Authorising Officers by Sub-Delegation - have reported no new material issues ⁽⁵⁾ under their responsibility to be considered by the Director General as Authorising Officer by Delegation as potential qualifications or new reservations to his AAR declaration.

Furthermore, it appears that the risks at Directorates' level have been kept under control ('stable') and/or have been further mitigated through risk management measures by continued line management ('reduced'). Following the appreciation of the 'new' financial and/or reputational risks in the context of the "COCOON"-case 'fall out', additional measures are being taken: awareness raising, screening and EWS-signalling of beneficiaries, termination of contracts, suspension of payments and re-negotiation of contracts, reinforced monitoring, etc.

⁵ These "material issues" relate to the principles of legality, regularity, effectiveness, efficiency and economy (sound financial management) and/or related to risk management and internal control.

The internal control systems have been applied, and directors have reasonable assurance that suitable controls are in place and working as intended.

In their respective DMRs covering the first semester of 2009, Directors reported on a number of (minor) deviations from set procedures ⁽⁶⁾ which have all been adequately justified, authorised and documented in the related file and logged through the appropriate administrative/financial IT tools. There was no overruling and all deviations were of a non-systemic nature and/or non-policy dimension.

⁶ e.g. extensions of FDI after expiration, re-opening of files after termination leading to the initiation of new commitments for existing payment obligations or 'Couverture des Obligations Subsistantes' (COS), reimbursement of additional costs from ICT projects, late signature of Appointment Letters and Mission Orders, late payments, minor deviations related to payment of experts (daily subsistence allowance or travel arrangements), and several categories related to public procurement (extension of procured contracts; AL clauses missing; invitations to negotiation procedure sent before authorisation to launch an PP procedure; contract notice (study corrigendum) published in OJ before approval by R2; payment of additional costs; reimbursement of book purchase not via library).

7. Status Report on External Financial Audits up to 30 June 2009

7.1. Implementation of the ABM Action Plan

The common audit action plan for the Research DGs, approved by the ABM steering committee in March 2007 (Action plan to implement a new approach for ex-post audits of the Research Programme activities), is now being implemented in all essential aspects:

- staff and organisational structures have been adapted to the objectives of substantially increasing the overall number of audits including those carried out with own resources;
- the audit coverage has been reinforced and the number of audits carried out on a yearly basis has finally reached “cruising speed”;
- the coherence of activities of the ex-post audit functions of the Research DGs has been reinforced;
- the joint approach in dealings with the external audit firms under contract with the Commission has been further improved;
- the certification process regarding FP6 and FP7 has been reinforced;
- the implementation of audit results has been reinforced and it is now applied as a standard procedure.

The progress regarding the implementation of this action plan has been regularly reported to the ABM steering committee.

In addition, DG INFSO has developed a new approach for risk-based audits targeted to those beneficiaries where the risk of over-claim is significant.

Audit work is ongoing on three Framework Programmes and non-research co-funded projects. Focus is still on FP6.

- **FP5:**
Finalisation of the limited number of ongoing audits, implementation of audit results.
- **FP6:**
 - The common Research DGs' audit strategy is being implemented, with reinforced cooperation in planning and exchange of audit results amongst the Research DGs.
 - Balance of in-house/outsourced audits: following the IAS recommendations to decrease dependency on external audit companies, the target to perform 20 % of the audits with own staff will be reached during 2009.
 - The implementation of the FP6 common audit strategy has been reviewed by the European Court of Auditors.

- **FP7:**

- The framework contract with the external consultants for FP7 audits has been finalized and will be officially signed in July 2009.
- The FP7 audit strategy is currently under preparation in collaboration with the other Research DGs, taking into account the specificity of the certification modalities in FP7.

- **Non-research:**

Audits are conducted on request from the operational services or on the basis of risk assessment. The audits launched in 2009 are carried out by own resources.

7.2. Initiation of New Audits

Up until 30.06.2009, a total of 53 "batch" audits relating to FP6 were launched in 1 batch. This batch is foreseen to be completed between 2009 and 2010. The applied selection procedures are in line with the common audit strategy for FP6, i.e. the selection comprises big contractors in terms of funding, statistically sampled contractors and mostly audits on the basis of risk considerations. This batch also includes follow-up audits for those beneficiaries for which systematic errors have been found.

In addition, 24 audits on FP6 were launched with own resources, mainly selected on the basis of risk considerations. One audit was launched by the European Court of Auditors.

The launch of further FP6 audit batches comprising 56 audits is foreseen for the second half of 2009.

This implies a total of 134 new audits for FP6 in 2009.

Considering the fact that all TOP 200 beneficiaries and all beneficiaries selected via MUS (Monetary Unit Sample) as foreseen in the FP6 audit strategy have already been audited, either by DG INFSO directly or by the other Research DGs, the focus of the second semester 2009 as regards FP6 will be on follow-up audits and on risk-based audits.

A first batch for FP7 is also in the pipeline for the second semester 2009. The number of audits to be launched will depend on the status of the FP7 audit strategy and the start-up phase of the new framework contract with external consultants for FP7.

In the meantime, 10 FP7 audits have been launched and are being carried out with own resources. These audits result from the high risk profile of FP6 beneficiaries on which FP6 audits have been conducted.

According to the same criteria, 3 FP5 audits have been launched with own resources.

Finally, 20 non-research audits are being launched either on the basis of risk-based analysis or following requests from the operational services. These audits are being conducted with own resources.

Overview of audits initiated in 2009 up to 30.06.2009

	INFSO.02	External Audit Firm	ECA	TOTAL
FP5	3	0	0	3
FP6	24	53	1	78
FP7	10	0	0	10
Non-Research	20	0	0	20
TOTAL	57	53	1	111

7.3. Status on Ongoing Files

In total, 211 audits are currently ongoing of which 3 relate to FP5, 167 to FP6, 9 to FP7 and 32 to non-research programmes. The figure regarding FP6 includes 8 audits initiated and conducted by the ECA. These audits are included in the statistics as the administrative and financial follow-up is ensured by the DG.

Overview of audits ongoing up to 30.06.2009

	INFSO.02	External Audit Firm	ECA	TOTAL
FP5	3	0	0	3
FP6	26	133	8	167
FP7	0	9	0	9
Non-Research	19	13	0	32
TOTAL	48	155	8	211

7.4. Finalised Audits

Up to 30.06.2009 a total of 81 audits were closed. 5 of those relate to FP5, 72 to FP6 (including 10 audits which were initially conducted by the ECA), 2 to FP7 and 2 to non-research.

Overview of audits closed in the first semester 2009

	INFSO.02	External Audit Firm	ECA	TOTAL
FP5	1	4	0	5
FP6	16	46	10	72
FP7	2	0	0	2
Non-Research	2	0	0	2
TOTAL	21	50	10	81

It should be noted that the completion of some audits is delayed either due to difficulties in accessing or obtaining relevant audit evidence or because of the inherent difficulty of individual files where high-risk profile beneficiaries are involved.

7.5. Audit Results

The adjustment rate at cost level is measured according to the following formula:

$$\frac{\text{Adjustments to costs accepted before audit in favour of the EC}^*}{\text{Total costs accepted before audit}}$$

* adjustments to costs accepted before audit= (costs accepted before audit-costs eligible after audit)

For FP6, the error rate is calculated at funding level according to the following formula:

$$\frac{\text{Adjustments to funding accepted before audit in favour of the EC}^*}{\text{Total funding accepted before audit}}$$

* adjustments to funding accepted before audit= (funding accepted before audit-funding eligible after audit)

The error rate in favour of the Commission for FP6 audits closed in 2009 excluding risk-based and follow up audits (83 participations) equals 3.87%. This rate is slightly higher than the level of errors detected in previous periods. However, it is too early to draw conclusions on the error rate that will be disclosed for the whole 2009.

7.6. Implementation of Audit Results

The implementation of audit results for FP6 is now handled according to standard procedures. The guidelines for the implementation of audit adjustments were developed and presented to the ICT Directors and AFUs.

The progress in implementation of audit adjustments for FP6 is also reported regularly to the ABM steering committee.

In order to further improve the practical handling of the implementation of audit results, DG INFSO services are currently developing a new IT tool (webARPS). This new tool will be integrated with the DG's work tools. It will also allow the tracking of the application of liquidated damages, which started on 01.04.2009 on a systematic basis, following the recommendations of the European Court of Auditors and a common decision of the Research DGs.

As regards the application of liquidated damages, internal procedures and guidelines to implement them have been elaborated by a working group animated by INFSO 02. A specific communication on the application of liquidated damages is included with every audit conclusion file.

The committee composed of representatives of the Research DGs set up to coordinate the implementation of extrapolation and to make sure that systematic findings are corrected in the same manner across Research DGs, meets on a monthly basis. A common IT tool (SAR-EAR) is being finalised, supporting both the analysis of the files by the committee and the follow-up of the extrapolation process by the DGs. The handling of the implementation of extrapolation results is dealt with in the DG INFSO local IT Tool ARPS.

7.7. Audit of the Top Beneficiaries and MUS Beneficiaries

A key component of the FP6 Research DG's audit strategy is the systematic auditing of all the key beneficiaries. In auditing these TOP beneficiaries and extrapolating the results to non-audited contracts, a large proportion of the budget would become free of systematic errors.

Initially, DG INFSO intended to audit all the TOP100 beneficiaries, covering 38% of the budget. Due to the newly introduced systematic sharing of audit results between the Research DGs, this objective has been updated towards the TOP200, covering 50% of the budget. All DG INFSO TOP200 beneficiaries have now been audited, either directly or by the other Research DGs.

Similarly, all DG INFSO beneficiaries selected according to the Monetary Unit Sample methodology (MUS) have been audited either directly or by the other Research DGs.

As mentioned under par. 7.2, the audit effort in the second semester of 2009 as regards FP6 will focus on follow-up audits on those beneficiaries for which systematic errors were found and on risk-based audits. The follow-up audits will therefore allow putting emphasis on the budget cleaning exercise.

7.8. Risk Based Auditing

DG INFSO has implemented a new methodology to select and audit beneficiaries which expose specific risk of over-claim.

The audit approach allows an overall analysis of the participations of a beneficiary and is supported by specific informatics tools (PLUTO) and data-mining techniques.

On this basis, 57 contractors have been selected for auditing in the first semester of 2009. In many cases, the risk-based audits are carried out by own resources. In case of risk-based audits carried out by an external audit firm, an auditor of Unit 02 accompanies them.

Some risk-audits are also conducted in co-operation with OLAF, which facilitate the effective follow up of the cases in which over-claim is linked to fraudulent procedures. This collaboration is also essential in view of the successful completion of OLAF investigations.

7.9. Certification policy in FP7

The implementation of the new approach for the certification of costs claimed using "agreed upon procedures" is progressing as planned.

Unit INFSO 02 has initiated and is animating a DG INFSO working group on the handling of the certificates on financial statements (CFS), in order to guide financial officers in the interpretation of the information disclosed in the certificates. The group gives recommendations on the acceptance/rejection of CFS. Checklists have been drafted to facilitate a standardised approach among the operational services. The checklists are currently being tested by DG INFSO's operational services. Specific questions are also dealt with by Unit 02, on a case by case basis.

As regards the ex-ante certification, the Commission has adopted a decision (Ref. C(2009) 4705 of 23.06.09) containing the criteria according to which the systems used by beneficiaries for the calculation of average rates may be acceptable in terms of assurance. This decision now allows the assessment of the certificates on the methodology for charging average personnel costs submitted by the beneficiary, with the aim of reducing and detecting possible errors in advance. The implementation of this decision has to be seen as a pilot exercise, which will allow evaluating the results in terms of both simplification and assurance for both the EC and the beneficiaries.

7.10 Lessons learnt through ex-post audits

In order to take stock of lessons learnt during ex-post audits, and in particular risk-based audits, Unit INFSO.02 is taking several initiatives to improve the ex-ante control systems of DG INFSO without unnecessary increase of administrative burden.

In particular, a working group on evaluations/negotiations composed of Unit 02, the legal Unit, the finance Unit and operational services has been set up. This group has produced guidelines to improve the handling of anomalies and exceptions during the evaluation and negotiation of projects. It has focused on pragmatic recommendations to help the project officers avoid problems in projects at an early stage.

Another working group on the handling of payments has been set up in order to coordinate issues on projects and procurement payment procedures. Additional guidance on the suspension of payments, on the handling of pre-information procedures and on the termination of project participations have been issued.

Furthermore, Unit INFSO 02 has invested a lot of effort in the dissemination of the results and lessons learnt from risk-based audits to the other DGs in the Commission, by presentations in different horizontal networks (EPCNET, AUDITNET, RUF, ICCNET, and CAR). Presentations have also been given to individual DGs (JLS, ENV, AIDCO) and Agencies (EACEA, REA) as well as to the European Court of Auditors.

7.11. Conclusion

The implementation of the common audit strategy agreed amongst the Research DGs is continuing according to the agreed plan. As the audit target relating to the biggest beneficiaries and the MUS selected ones has been reached either with own audits or by audits undertaken by another Research DG, future audit efforts will concentrate on risk-based audits and follow-up audits.

It will therefore be possible to concentrate on the timely adoption of an FP7 audit strategy common to all Research DGs and to start auditing FP7. This audit strategy will take into consideration the peculiarity of FP7 in particular as regards the certification modality (certification on the methodology).

During 2009, a big number of risk-based audits will be finalized. The final or preliminary results of these audits have already allowed the development of a series of measures of internal control targeted to the early detection of fraud signals and the improvement of ex-ante controls.

8. Relations with the European Court of Auditors

8.1. Declaration of Assurance (DAS) 2007 – Recommendations

The Council and the Parliament have formulated respectively 94 and 214 recommendations to the Commission, based on the Annual Report 2007 of the Court of Auditors. Among these recommendations, 6 and 9 respectively are addressed to the Research sector, Energy and Transport, DG INFSO included, with DG RTD as "chef-de-file".

8.2. The Court's Annual Report 2008

• The Court's audit work and preliminary findings

For DG INFSO, the Court's Annual Report 2008 is based on the results of the following audits:

- Transaction audits: for 2008, 36 DG INFSO payments and 1 commitment were checked by the Court. Five statements of Preliminary Findings were issued (PF 3020, PF 3122, PF 3216, PF 3275 and PF 3310) with 9 error forms (63 in 2007) concerning 9 different projects (34 in 2007). The errors mainly concerned the overstatement of eligible personnel and indirect costs (7 cases), and the declaration of other ineligible costs (4 cases).
- Follow-up of late payments (PF 3310)
- Follow-up to the main errors in DAS 2006 (PF 3310)
- Ex-post controls (PF 3310)
- Audit certification (PF 3310)
- Ex-ante desk checks (PF 3310)

• The Court's draft Annual Report 2008

DG INFSO is mainly concerned by Chapter 7 (Research, Energy and Transport), but also by a number of cross-cutting Chapters.

In **Chapter 1** (Statement of assurance concerning the reliability of accounts) the Court considers that in general the supervisory and control systems for the Research, Energy and Transport Sector are partially satisfactory, as in 2007. The Court considers that the error range for this Sector is slightly above 2%. The Court underlines the importance of reflecting further on simplification and on the costs and benefits of controls.

In **Chapter 2** (the Commission's internal control framework, including AAR and declarations by DGs), the Court notes further progress in the Commission's supervisory and control systems. The Court also notes the full implementation of the internal control standards. No specific reference to DG INFSO is made in Chapter 2.

In **Chapter 7** the general results drawn by the Court concerning the assessment made on supervisory /control systems and on the errors found in transactions selected for testing in the framework of DAS 2008, are the following:

- Supervisory and control systems: The Court considers that, overall, the systems are partially effective (yellow colour). This assessment is in line with the one made by the Court for 2007. For desk checks before payments, the Court examined, for DG INFSO, the guidelines and procedures, and the reporting and monitoring arrangements. The Court did not identify any specific weakness and confirmed the checks to be operating as intended. As a consequence desk checks control systems are considered by the Court to be effective (green colour)
- Results of transactions testing: the Court indicates that 23% (48% in 2007) of the transactions tested for DAS 2008 were affected by an error. The Court indicates that the error rate is between 2% and 5% (yellow colour), as for 2007. This rate is an average for chapter 7 and there is no mention of the DGs' specific error rates. It should be noted that, based on the Statements of Preliminary Findings (SPFs) received from the Court, **the error rate detected by the Court on DG INFSO's transactions amounts to 1.65% - below the materiality threshold of 2%.**

The Court also reports in Chapter 7 a number of problems already noted in previous years (declaration of overstated eligible costs, in particular in relation with personnel costs and indirect costs; submission of audit certificates that confirmed the correctness of costs, although the Court detected ineligible costs; complexity of the legal framework; non-imposition of sanctions).

The Court highlights several positive aspects, including a considerable improvement in making timely payments to beneficiaries, the effectiveness of desk reviews control system, the repeated increase of the ex-post audit activity and the coherent approach of the Research DGs to ex-post audits. The contradictory meeting with the Court took place on 02.07.2009 for Chapter 7 and was preceded by a pre-contradictory meeting on 25 June 2009. The contradictory meetings for Chapters 1 and 2 are scheduled for September 2009.

8.3. DAS 2009 – Audits Started or Ongoing

• Transaction audits

During the first semester of 2009, the Court requested the supporting documents for 10 transactions dealt with by DG INFSO.

8.4. The Court's Special Reports

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

The Court sent to the Commission, end February 2009, its draft special report called "Networks of excellence and Integrated projects in Community

Research: did they achieve their objectives?" The Court concludes that the FP6 instruments audited were successful in promoting research collaboration and projects of reasonable quality. It considers that the specific objectives of the new instruments were partially achieved and that the Commission's management revealed some weaknesses, in particular at the beginning of the implementation of FP6.

The contradictory meeting took place on 5 May 2009. The Court intends to publish this report and present it to the EP's Budget Control Committee (CONT) in the third quarter of 2009.

- **Performance Audit: "Executive Agencies"**

This performance audit was coordinated on the side of the Commission by DG BUDG. The Court sent to the Commission, in mid-May 2009, its draft special report called "Delegating implementing tasks to executive agencies: a successful option?" The Court found that the initiative of setting up the executive agencies was mainly driven by constraints on employment within the Commission rather than being based on the intrinsic features of the programmes. The Court considers that the cost-benefit analysis took little account of non-financial aspects and contributed only on a limited basis to the decision-making process. The Court indicates that in terms of benefits achieved, there are clear cost savings and that the agencies provide better service delivery in terms of reduced delays and simplification of processes. Finally, the Court considers that the Commission's supervision of the agencies is limited.

The contradictory meeting took place on 29 June 2009. The Court should publish this report and present it to the EP's Budget Control Committee (CONT) in the last quarter of 2009.

- **Performance Audit on "Is the Commission's Impact assessment system effective in leading to "Better Regulation".**

This performance audit – which started at the end of 2008 - is coordinated on the side of the Commission by the SG as different DGs are involved (TREN, EMP, REGIO, INFSO and the JRC). Briefing meetings took place for both operational services and the Cabinets involved to coordinate the input. The Court issued the Statement of Preliminary findings (PF-3230) on 8 April 2008. A consolidated reply was sent by Mrs C. Day to Mr. H. Grethen on 29 May 2009 with a main focus on the process of Impact Assessment and its place within the interinstitutional relations.

As part of this audit, the Court interviewed several international organisations and Member States in order to analyse the use being made of the Impact Assessments, including a comparison of the practice in other administrations. To this extent, the Court organised an expert Focus Group meeting in Luxembourg from 8 to 10 July 2009 with the Commission as observer. It is expected that the next Statement of Preliminary findings (including the findings of the Focus Group) be issued in August. The Special Report, as such, is expected in the first trimester of 2010

9. Relations with the Internal Audit Service

During the first semester of 2009, the Internal Audit Service (IAS) had one new audit engagement which directly related to DG INFSO's activities:

9.1. IAS Audit of the Annual Activity Report (AAR) Assurance Process

In early 2009, the IAS effectively launched its pre-announced audit on FP7 controls in DG INFSO. The IAS had planned this audit 'early enough' to enable the auditees to take into account any suggestions and recommendations for the next FP7 calls. However, given the evolutionary development (based on FP6) and gradual deployment (in line with the priorities as from the FP's life-cycle phases) of the FP7 procedures and systems, it only made sense to have the audit 'not too early'. Therefore, the IAS decided to audit the "design" of the FP7 controls now, while the actual "testing" of the control system covering all FP7 life-cycle phases (e.g. those at the end as well, i.e. ex-post audits and programme evaluation) will be carried out at the end of 2009 or beginning of 2010.

The "opening meeting" took place on 26.01.2009 and the "kick-off meeting" on 19.02.2009, resulting in the "scoping document" of 09.03.2009. Following the fieldwork phase of this audit, the IAS presented its validation table "observations" (07.04.2009) for pre-validation and then for formal validation (meeting of 22.04.2009). The IAS agreed to take into account DG INFSO's comments and requests for further clarifications (sent on 24.04.2009). A draft audit report was issued on 30.04.2009.

In its comments on the draft audit report, DG INFSO pointed out the importance of some underlying contextual elements about FP7 for good understanding by the (third-party) reader of such audit reports. A request to add a few paragraphs on the "*Context and Background Elements on FP7*" was granted. Topics covered are:

- Complexity of the legal and financial framework (e.g. reimbursement of 'actual' costs);
- Pressure towards simplification (especially for SMEs);
- Lessons learnt from previous FPs (e.g. on the appropriate balance between ex-ante and ex-post controls);
- Evolutionary development and gradual deployment of the FP7 procedures, systems and controls (based on FP6 and in line with the FP7 life-cycle's priorities);
- Fraud prevention and detection strategy (cf. OLAF's anti-fraud 'proofing', INFSO's data-mining).

Following these INFSO comments (sent on 15.05.2009) and the "exit meeting" (26.05.2009), the IAS' final audit report was issued on 29.05.2009.

In terms of substance, the IAS has issued a [qualified] "positive opinion", i.e. that they have reasonable assurance about DG INFSO's FP7 controls design –

nevertheless with some recommendations (see below). Moreover, DG INFSO's strengths in this context are mentioned in the report as well:

- FP7 simplification;
- CFS (Certificates on the Financial Statements) based on agreed-upon-procedures;
- Guarantee Fund;
- Well-organised proposals submission and evaluation process;
- IT-tools for information links with beneficiaries;
- Conveyance of good practices within the operational units.

The IAS has issued NO "critical" recommendations to DG INFSO. There are 5 "very important" (*marked * below*) and 6 "important" recommendations on the following aspects:

- Governance
 - 1 – Governance concerning JUs and REA: to be included in the FP7 mid-term-evaluation (2010)
 - 2* – Assurance process: balance ex-ante / ex-post controls to be re-considered
- Ex-ante controls – Project awarding and negotiation processes
 - 3 – LFV: quality and consistency of Legal validation & Financial Viability checks to be ensured + beneficiaries' choices of cost models to be verified
 - 4* – Certificates on Methodology: interim phase (pending Commission-agreement on margin for 'average' personnel costs) to be finalised
- Ex-ante controls – Project implementation and payment processes
 - 5* – Fraud prevention to be embedded in ex-ante controls
 - 6* – Ex-ante controls on project deliverables and CFS to be improved
- Ex-post controls
 - 7 – FP7 ex-post audit strategy: to be developed asap, including more explicit coverage of smaller beneficiaries
 - 8 – Tolerable Risk of Error (TRE): cooperation with RDGs for Research Area to be continued
- Guarantee Fund
 - 9 – Guarantee Fund: to cooperate with RDGs for clarifying criteria, procedures, monitoring and reporting
- Sanctions
 - 10* – Penalties: to support RTD for finalising guidelines
- Simplification
 - 11 – Re-balancing simplification and control: to cooperate with RDGs for considering suggestions

DG INFSO submitted its action plan on 26.06.2009.

Following an APC Preparatory Group meeting on 23.06.2009, the Audit Progress Committee (APC) discussed on 29.06.2009 the IAS' FP7 controls audits covering both DGs RTD and INFSO – cf. APC minutes in Annex E1. The APC noted the continued efforts by the Research DGs to strengthen their control and audit procedures, it also noted the work being carried out to find an appropriate balance between ex-ante and ex-post controls, and has called on both DGs to proceed with their analyses of tolerable risk of error in order to enable DG BUDG to formulate a proposal by May 2010.

9.2. Other IAS-Related Issues

DG INFSO updated the IAS' AMS-IssueTrack database with the relevant information on the implementation status, at 30.06.2009, of the accepted recommendations from previous audits – i.e. on ethics, recovery orders, IT systems – enabling the IAS to produce their next (twice annual) overview report to the APC.

In the context of the APC's scrutiny of any "significant delays" (>6 months) in the implementation of any critical or very important IAS recommendations, at 30.06.2009 DG INFSO has no very important recommendations for which a reminder between Commissioners and/or an APC inquiry would be due

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

During the first half of 2009, the Internal Audit Capability (IAC) of DG INFSO finalised two audits: "Procurements including appointment letters" and "Monitoring of DG INFSO over the activities and operations performed by EACEA". Additionally, two follow-up audits "Financial statements processing and payment process in the FP6-IST programme" and "Project review process in the FP6-IST programme" as well as a "Limited review on general accounting in DG INFSO" were finalised. Two new audits have been launched ("CIP, Safer Internet and other Research Programmes not covered by IST Framework Programmes"; and "FP7 project reviews"). The IAC also gave advice to the Director General.

10.1. Overview of the Audits and Internal Organisation

All audits planned to be finished in the first half of the year have been executed. However, there is currently a delay of about one month in the execution of the ongoing audits, due to the mobility of 3 auditors during the semester.

The software "auto audit" has systematically been used since mid 2007 to carry out audits in order to have a better audit trail, a formalised supervision and a production of ad hoc reports (observations and recommendations per audit, time sheets etc.).

10.2. Four Finalised Audits and one limited review

The results of the four finalised audits (two initial audits and two follow-up audits) and one limited review show that DG INFSO makes continuous efforts to improve its internal control systems. The acceptance rate of the recommendations for "Procurements including appointment letters" and "Monitoring of DG INFSO over the activities and operations performed by EACEA" cannot be indicated yet since the deadline for the provision of the action plans is in July 2009.

As detailed in the table of the number of recommendations hereafter:

- Four recommendations out of four (100%) were accepted by the auditees;

Audits	Accepted Recommendations			Rejected Recommendations	Dropped by IAC	Total
	VI (*)	I(*)	D(*)	VI (*)		
Limited review general accounting	1	2	1			4
Procurement and ALs						
EACEA						
Total	4					4
	4					

As regards the recommendations in two follow-up audits, 15 recommendations out of 25 are only partially implemented.

Audits	Implemented Recommendations			Partially implemented Recommendations				Total
	VI (*)	I(*)	D(*)	VI (*)	I(*)	D(*)		
Follow-up FP 6 financial statements	2	5	1	5	5			18
Follow-up FP 6 project reviews		2			5			7
Total	10			15				25
	25							

* VI: Very Important I: Important D: Desirable

The IAC's Opinion concerning the two audits and one limited review is satisfactory, except for further improvements needed in particular:

- Concerning the audit on Procurement and appointment letters the following elements are to be noted: (1) the current inventory for studies (the SMART database) only provides a partial view on both ongoing and completed studies; (2) regarding the appointment letters, both the EMI database as well as the AL2 IT tool could be improved in terms of risk of errors, monitoring possibilities and explicit rules (e.g. the 30 days limit for experts). Directorates are encouraged to exchange good practices both in terms of fraud prevention (e.g. plagiarism) and segregation of duties (e.g. the same staff member should not be involved in drafting the tender specification, evaluation or approving the deliverables and study reports).
- As regards the audit on Monitoring of DG INFSO over the activities and operations performed by EACEA, the internal coordination

arrangements within DG INFSO for an adequate exercise of the supervision and monitoring responsibility over EACEA have to be updated and completed;

- As regards the Limited review on general accounting, the written description of the cut off procedure may be completed.

The IAC's Opinion on the recommendations resulting from the two follow-up audits is that the recommendations have not yet been adequately and effectively implemented:

- Concerning the follow-up audit on FP 6 financial statements, 10 out of 18 recommendations still need to be implemented: i) Financial statements training should be made mandatory for gestionnaires and Project officers; ii) FP 6 payment guidelines concerning the stop-the-clock method and baseline date calculation (including examples of reasons to stop the clock) should be refined; and the baseline date calculation should be introduced and checked in the IT application; iii) Reliable statistics should be available in order to check the total elapsed payment delays
- Concerning the follow-up audit FP6 project reviews, 5 out of 7 recommendations need still to be implemented. Main issues currently outstanding are: i) to ensure adequate assessment of economy and necessity in FP6 project reviews; ii) to help the Project Officers to adequately reject costs or terminate the contract when these actions are due; iii) to ensure that the requested changes are implemented in EMM application; iv) to set additional supervision measures on the project review process.

10.3. Two Audits in Progress

Two new audits "CIP, Safer Internet and other Research Programmes not covered by IST Framework Programmes" and "FP7 project reviews" are at the stage of preliminary study and fieldwork respectively.

10.4. Consultancy

The IAC gave some advice to help the management. Advice consisted mainly in providing guidance on: what Seconded National Experts may or may not do in DG INFSO; avoiding conflicts of interest; and on Human Resources management.

11. State of Play on OLAF's Files

12. State of Play on the European Ombudsman's Files

In the first semester of 2009, the following changes have occurred in the European Ombudsman's files for which DG INFSO is either 'chef de file' or associated:

- no new complaint was received
- 1 informal request was settled and 1 complaint was closed because of the launch of a legal procedure before a national court. No maladministration was therefore decided.
- 12 replies were sent to the Ombudsman regarding 8 complaints where DG INFSO was 'chef de file' and 4 complaints where DG INFSO was associated.
- no complaint is ongoing on the side of the DG, but DG INFSO is waiting for the Ombudsman's closing decisions regarding 4 of the 'open' complaints as 'chef de file' and 3 as 'associated DG'. One is related to a complaint answered by the Commission in October 2007.

One of these 'open' complaints before the Ombudsman is also related to an inquiry by the European Data Protection Supervisor (EDPS). Following a complaint by a citizen about the transfer of personal data to a third party by DG INFSO, the EDPS decided in March 2009 (decision confirmed in May 2009) that a breach of Regulation 45/2001 had occurred⁷. DG INFSO is working with the Commission Data Protection Officer to find an appropriate solution to the conclusions drawn by the EDPS.

As far as his general activities are concerned, during the reporting period, the European Ombudsman:

- presented his Annual Report 2008⁸ including some statistics on 2008 complaints concerning all European institutions (about 66% of the complaints were made against the European Commission). Among other topics, the report highlights the characteristics of the main Ombudsman's inquiries (in decreasing order: access to documents and data protection, the European Commission as guardian of the Treaty, tender contracts and grants, personnel matters including recruitment). The lack of transparency thus counts for 36 % of the total of the inquiries whereas unfairness or abuse of power amounts to 20 %; avoidable delays and discrimination represent respectively 8 and 5 %.
- presented his Report: "The European Ombudsman: Follow-up to critical and further remarks – How the EU Institutions responded to the Ombudsman's recommendations in 2007"⁹. In this document, the Ombudsman explains that

⁷ In the context of an audit performed on the company for which the complainant was working as a consultant, DG INFSO transferred to the Internal Audit department of another company the minutes of an interview held with the complainant in order to permit that company to determine whether possible fraudulent or unethical behaviour had taken place in view of the relation between the complainant and an employee of that company. The EDPS considered that the transfer of personal data in this context was in breach of Article 4(1)(c) of Regulation (EC) No 45/2001⁷. The EDPS considered that the Internal Audit department of the company had enough information to conduct an investigation without the transfer of the minutes containing personal data of a third party and that the transfer was excessive. In his conclusion, the EDPS invited the Commission to assess:

- "any further transfers of personal data in the context of external audits to recipients, other than Community institutions and bodies, and
- how data subjects involved in research projects can be better informed about the possible transfer of personal data to other contractors in the context of the audit procedure".

⁸ See: <http://www.ombudsman.europa.eu/activities/annualreports.faces>

⁹ <http://www.ombudsman.europa.eu/cases/followup.faces/en/3819/html.bookmark>

a critical remark can normally be avoided if the institution takes the initiative to acknowledge and apologise for the maladministration. He regrets the lack of replies by the Commission in certain cases and states that, in case of critical or further remarks, the institution is now systematically invited to report on the follow-up within six months. Therefore, information on remarks made in 2008 should be provided at the latest by the end of July 2009. The Ombudsman intends to publish in September 2009 the report of the follow-up of critical and further remarks made in 2008.

- met the Directors General in a meeting on 28 May 2009.

Moreover, during the reporting period, the Commission:

- presented its annual report 2008 on the assessment on relationships between the Commission and the Ombudsman to the GRI of 30 April 2009.
- revised its vademecum on the implementation of the empowerment procedure (SEC/2005/1260) following the adoption of the revised statute of the Ombudsman. This vademecum should be submitted to the interservices consultation very soon.

See ***Annex G1*** for the full status report.

13. Relations with the Education, Audiovisual and Culture Executive Agency (EACEA)

13.1. DG INFSO's Supervision of the EACEA

In accordance with Article 15 of the EACEA's "*Act of Delegation*" [C(2005)365 of 15.02.2005], DG INFSO is one of the parent DGs (DGs-de-tutelle) co-responsible for the "scrutiny" of the EACEA. DG INFSO's monitoring and supervision needs in the context of the EACEA are being met through the participation in the "horizontal issues" and the "coordination committee (ex-task force)" meetings between the Agency and the parent DGs. In addition, regular MEDIA-specific "réunions de suivi" take place between the Director of the Agency and the Director INFSO/A to monitor the implementation of the annual work programme and to discuss the Agency's programme-specific reporting (cf. "mirror units" INFSO.A2 – EACEA.P8). Finally, the Director INFSO/A is also Vice-Chairman of the EACEA Steering Committee and ensures the regular reporting to DG INFSO's Director General (and, through him, the Commissioner) through a formal reporting procedure on the outcome of the Steering Committee meetings.

During the first semester of 2009, DG INFSO's own IAC has performed an internal audit on DG INFSO's monitoring of the EACEA (see section 10). The final report was issued on 05.06.2009 with recommendations related to the DG-internal task division and mutual expectations related to the DG's supervision responsibilities. An action plan for the implementation of the 4 recommendations is being drawn up.

During the first semester of 2009, 2 meetings of the Agency's Management Board ("Steering Committee") took place (03.02 and 27.03.2009). The next one, in the second semester, will take place on 23.07.2009.

The main events during the first semester are:

- The finalisation of the Commission's mid-term evaluation report of the EACEA (a.k.a. the COWI-report)
- The ECA performance audit on all executive agencies (see section 8)
- The EACEA's cancelling of Call for Proposals 36/08 of 07.02.2009 (MEDIA initial training), which had been published before the approval of the 2nd (=detailed) part of their Work Programme (¹⁰)

13.2. EACEA's Management Reporting

The EACEA's 2009 mid-term Management Report will be forwarded to the Cabinet once received in the approved version.

¹⁰ Following an administrative error, the call for proposals 36/2008 "Support for the networking and mobility of students and trainers in Europe" was cancelled and replaced by the call for proposals 16/2009.

14. Declaration and Reservations

The Declaration in the 2008 Annual Activity Report (AAR) of DG INFSO contains one reservation. It concerns the rate of residual errors with regard to the accuracy of cost claims in Framework Programme Six contracts.

The reasons for the reservation lie essentially with the observations that the residual error rate observed by ex-post controls was higher (2.8%) than the control objective (2.0%) and that the full impact of the multi-annual audit programme will only be reached later in the management cycle.

For further details, notably on the justification for the reservation, the materiality criteria, the quantification of the weaknesses and the related corrective actions, see AAR 2008, Chapter 3, p. 45-49.

The current state of implementation of these corrective actions and the impact they have achieved at the end of this first 2009 semester are described in detail in Chapter 7 of this BMR.

15. Annexes

Annex A - Implementation of 2009 budget

A1: Overview Status of Recovery orders

Annex B – Risk Management

B1: DG INFSO's 2008 High-Level Risk Assessment (HLRA) -
DG INFSO's main risks for 2009 as endorsed by
management on 16.02.2009

Annex C – Internal Control & Internal Control Standards

C1: Annual review and recommendations from the Internal
Control Coordinator (ICC)

Annex D – Status Report on External Financial Audits up to 30 June

D1: Quantitative overview of the finalised audits
D2: Summary of the implementation of the external audit
results in DG INFSO up to 30.06.2009

Annex E – Relations with the Internal Audit Service June

E1: Minutes of the 58th Meeting of the Audit Progress
Committee (29 June 2009)

Annex F - State of play on the OLAF's files

F1: Status overview

Annex G - State of play on the European Ombudsman's files

G1: Status overview

LIMITED

Bi-Annual Management Report DG INFSO

01 JANUARY 2009 – 30 JUNE 2009

Annexes



European Commission
Information Society and Media

Annexes - Table of Contents

Annex A - Implementation of 2009 budget

A1: Overview Status of Recovery orders

Annex B – Risk Management

B1: DG INFSO's 2008 High-Level Risk Assessment (HLRA) - DG INFSO's main risks for 2009 as endorsed by management on 16.02.2009

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D1: Quantitative overview of the finalised audits

D2: Summary of the implementation of the external audit results in DG INFSO up to 30.06.2009

Annex E – Relations with the Internal Audit Service June

E1: Minutes of the 58th Meeting of the Audit Progress Committee (29 June 2009)

Annex F - State of play on the OLAF's files

F1: Status overview

Annex G - State of play on the European Ombudsman's files

G1: Status overview

Annex A – Implementation of 2009 budget

- A1: Overview Status of Recovery Orders

Recovery Type	Balance 31/12/2008		New RO 2009		Cashed or compensated 2009	Waived 2009	Cancelled 2009	Balance 30/06/2009		Estimated amounts / nbr to be waived in the future	
	Nr	amount	Nr	amount				Nr	amount		
CoA Audit	4	586.098	0	0	0	0	0	4	586.098	3	240.801
Financial Audit	42	3.272.545	60	2.886.982	1.321.108	215.158	0	56	4.623.261	0	0
Final Payment	32	3.029.807	17	560.782	567.115	324.937	9.605	32	2.692.153	5	310.860
Liquidation/bankruptcy	17	2.109.407	2	1.039.527	940.000	10.807	0	17	2.198.128	17	2.198.128
Contract Termination	4	2.857.623	2	92.942	24.014	0	0	5	2.926.551	1	2.367.521
Other/divers	10	8.842.631	12	8.164.097	13.099.182	0	0	16	3.364.461		
Grand Total	109	20.698.112	93	12.744.329	15.951.419	550.903	9.605	130	16.390.652	26	5.117.310

* there is a difference in the final year balance 2008 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 orders at 30/06/2009		
	Nr	amount
INFSO-A2	3	11.561
Sub total	3	11.561

DG BUDG	73	6.715.115
Legal Service (1)	37	7.279.881
OLAF	7	1.021.805
Sub total	117	15.016.802
Liquidator (2)	10	1.362.290
Sub total	10	1.362.290
Total	130	16.390.652

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

Annex B – Risk Management

- B1: DG INFSO's 2008 High-Level Risk Assessment (HLRA) - DG INFSO's main risks for 2009 as endorsed by management on 16.02.2009

Annex - DG INFSO's 2008 High-Level Risk Assessment (HLRA) - DG INFSO's main risks for 2009 *endorsed version – 16.02.09* **incl. "critical risks"(*) for annex to DG INFSO's 2009 Annual Management Plan (AMP)**

As foreseen in the Commission-wide risk management framework (aiming at a coherent application of ICS-6), DG INFSO's 2008 High Level Risk Assessment (HLRA) exercise has covered all the DG's 2009 AMP objectives. Similar to the previous year (cf. INFSO's fairly stable multi-annual programming environment), the exercise was organised along the lines of the ABB-structure, which arranges the "activities" of DG INFSO's policy area into 6 clusters:

- *i2010 - Electronic Communications Policy and Network Security (Dirs. A, B) – "ECP & NS";*
- *i2010 - Audiovisual Policy and MEDIA Programme (Dir. A) – "A. P. & MEDIA";*
- *i2010 - Research Cooperation - ICT (Dirs. C, D, E, F, G, H) – "ICT";*
- *Capacities - Research Infrastructures (Dir. F) – "Infra";*
- *i2010 - ICT Take-Up (Dirs. C, H) – "ICT Take-Up";*
- *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 (27.10.08), the process was based on bottom-up inputs from the INFSO Directorates, which were consolidated and discussed by the members of DG INFSO's Internal Control Coordination Group (ICC Group meeting of 04.12.08).

Out of the risks reported, a consolidated set of the DG's **8 main risks** (residual risk level of 5 or above) has been selected. In function of (i) political/reputational importance, (ii) residual risk level and (iii) scope for further risk reduction actions by DG INFSO during 2009, the appropriate risk management mode will be applied: (a) dedicated action plan; (b) reinforced monitoring; or (c) continued line management. Similar as in previous years, the relevant risk management mandates will be assigned to and elaborated by the unit(s) in charge – via the ICC Group which will also monitor the risks and the progress made during 2009.

The results of the INFSO 2008 HLRA have been discussed and endorsed by DG INFSO's Senior Management (cf. INFSO Directors Meeting of 16.02.09). From the list of main risks, **3 risks (cf. political/reputational exposure) have been labelled as DG INFSO's "critical risks" (*) and are reported in annex to DG INFSO's 2009 AMP.** Finally, as requested for the AMP as well, DG INFSO will prioritise 5 "key" ICS themes on which it will focus its 2009 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 2008", INFSO-S2 D(2008)941103 of 24.10.08*
- *"Finalisation of DG INFSO's 2008 High-Level Risk Assessment exercise at the INFSO Directors Meeting", INFSO-S2 D(2008)951409 of 22.12.08*

(*) *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 2008 – consolidated inputs: main risks to be considered at INFSO Directors meeting for HLRA / step 3

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 Risk "critical" (*) ?	Action scope Potential for additional action by INFSO during 2009, if any <i>Outline only; to be elaborated later via ICC Group</i>	Risk response Either: - To be reduced (=action plan) <i>or</i> - Accepted (=reinforced monitoring) <i>or</i> - Continued line management
1 A.P. & Media – 1 <i>Audiovisual Policy & MEDIA Programme</i> DIR A	MEDIA International / MEDIA Mundus Reputational risk (e.g. expectation gaps with stakeholders / UNESCO Convention on Cultural Diversity) when not complying with the inter-institutional agreement to launch the new programme based on the Preparatory Action, <u>due to</u> failure to deliver legal base in time / reach agreement on financing of the new instrument. <i>EP would require justification why Preparatory Action MEDIA International was not followed up in time with adoption of a legal base that would allow actions to continue after the 3rd year of the Preparatory Action comes to an end in 2010 (Programme duration 2011-2013)</i>	Risks related to the external environment: • EU Institutions Risks related to planning, processes and systems: • internal decisions • operational processes	proposal initially planned for December 2008 (co-decision procedure)	HIGH: 3 + 4 = 7	- Continuous close follow-up - Inter-service group - Extra actions if/as needed	ACCEPTED (=reinforced monitoring)

<p>2</p> <p>ECP&NS – 1</p> <p><i>Electr. Comm. Policy & Network Security</i></p> <p>DIR B</p>	<p>TELECOM REGULATION</p> <p>Risk of the Commission's Electronic Communications Package review proposal being modified by Council and/or EP in a way which would make it unacceptable for the Commission (in particular as regards key elements such as the creation of ECMA, functional separation, spectrum policy)</p>	<p>Risks related to the external environment:</p> <ul style="list-style-type: none"> • MS decisions • EU Institutions 	<p>Continuous close follow-up in weekly conjunction with Cabinet; extra actions if/as needed</p>	<p>HIGH: 3 + 4 = 7</p> <p>CRITICAL RISK</p>	<p>In the Council, key elements such as the regulatory authority, functional separation and spectrum policy are the subject of compromise Presidency texts. All key issues have been the subject of intensive discussion under the current French Presidency, which is aiming at a political agreement in the Council, to be followed by a common position on 19 January 2009. The Commission will adopt its Communication on the Council's common position in 2009.</p> <p>In the European Parliament, the first reading vote took place on 24 September. The Commission submitted its amended proposals in the light of the amendments adopted.</p>	<p>ACCEPTED</p> <p>(=reinforced monitoring)</p>
<p>3</p> <p>ECP&NS – 2</p> <p><i>Electr. Comm. Policy & Network Security</i></p> <p>DIR B</p>	<p>SPECTRUM POLICY</p> <p>1. Risk of Commission not being able to take a lead on Spectrum policy, or to deliver quality measures in a timely manner, due to MS' reluctance to accept the Commission's role in light of the review proposals coupled with the EP's desire to limit the use of comitology and have a greater scrutiny on 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"> • review of the regulatory 	<p>Risks related to the external environment:</p> <ul style="list-style-type: none"> • MS decisions • EU Institutions 	<p>Continuous close follow-up; extra actions if/as needed</p>	<p>HIGH: 3 + 4 = 7</p> <p>CRITICAL RISK</p>	<p>In the Review negotiations (significant resistance in the Council to enhancing the Community dimension of Spectrum policy), some attempts are being made to undermine the existing acquis. This can only be resolved in the context of negotiations on the Review package.</p> <p>The Commission is negotiating with the EP and Council to ensure the appropriate procedures are applied to harmonisation and to technical implementation measures respectively. In one specific case, the Commission has made a new proposal (on the GSM Directive) in order to overcome</p>	<p>ACCEPTED</p> <p>(=reinforced monitoring)</p>

	<p>framework;</p> <ul style="list-style-type: none"> • inter-institutional negotiations on comitology; • new comitology procedures being unduly burdening and delaying. 				EP concerns about its continued role.	
<p>4</p> <p>ICT – 1</p> <p><i>ICT – Research Cooperation</i></p> <p>DIR G/H + DIR R + DIR S</p>	<p>PUBLIC-PRIVATE PARTNERSHIPS</p> <p>a - JU: set-up of ENIAC and ARTEMIS JUs</p> <p>1. Risks of delayed progression of the two Joint Undertakings (JUs) to full autonomy, <u>due to</u> delays in appointment of the two Executive Directors;</p> <p>2. Non-execution of EC contribution, <u>due to</u> lack of funding commitment of Member States in the current economic climate;</p> <p>3. Reputational 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> <p>b - AAL initiative (article 169)</p> <p>1. Non-execution of the initiative, <u>due to</u> un-sustained support from Member States in the current economic climate;</p>	<p>Risks related to People and the organisation:</p> <ul style="list-style-type: none"> • human resources <p>Risks related to the external environment:</p> <ul style="list-style-type: none"> • macro-econ. • MS decisions • EU partners <p>Risks related to the external environment:</p> <ul style="list-style-type: none"> • macro-econ. • MS decisions • EU partners 	<p>Close and intensive follow-up by supervision at senior and middle management level, and with Cabinet, to monitor the progress and review as needed.</p> <p>idem</p>	<p>MEDIUM: 3 + 3 = 6</p> <p>LOW: 2 + 2 = 4</p>	<p>Respectively:</p> <p>a - JU: set-up of ENIAC and ARTEMIS JUs</p> <p>1. Swift finalisation of the Executive Director recruitment process that was launched in May 2008 (estimated for 2H09 only).</p> <p>2. Continuous close follow-up with MS, JUs governing bodies and other stakeholders.</p> <p>3. Close follow-up of operations by the EC representative in the Public Authorities Board (PAB) and Governing Board (GB).</p> <p>b - AAL initiative (article 169)</p> <p>Continuous close follow-up</p>	<p>Respectively:</p> <p>ACCEPTED (=reinforced monitoring)</p> <p>ACCEPTED (=reinforced monitoring)</p>

	2. Operational risks (longer time-to-contract/payment) and/or reputational risks (decentralised verification of eligible costs) , <u>due to</u> the multi-level decision-making					
5 ICT – 2 <i>ICT – Research Cooperation</i> DIR H + all ICT Dirs + DIR S	CONSEQUENCES OF THE FINANCIAL-ECONOMIC CRISIS ON ICT PARTICIPANTS Risks of current ICT projects being scaled down (incomplete scientific deliverables, financial losses) and/or next calls being unsuccessful , <u>due to</u> the economic crisis deepening in 2009 and affecting beneficiaries (e.g. less RTD spending, less 'absorption capacity' with industry, less FP7 participation (when FP7 budgets are increasing), participants withdrawing from running projects, key research people being fired by participating companies, more bankruptcies, etc)	Risks related to the external environment: • macro-econ • EU partners	Standard controls and vigilance on potential bankruptcies: case-by-case analysis and decision-making in ICT Directors meeting	HIGH: 4 + 3 = 7	Set-up of an INFSO Working Group (C5 + R2 + S4 + delegates from ICT Directorates) with a mandate for considering and suggesting additional actions <i>e.g. (non-exhaustive and non-binding; contributions to be collected):</i> (a) speeding up and/or simplify the negotiations and payments processes in order to strengthen cashflow-positions of participants... (b)... while safeguarding the EC's financial interests: <ul style="list-style-type: none"> • by reinforcing the ICT Dirs' existing case-by-case analyses and decision process by an additional structural support from Dir S • by updating the financial viability information during the year(s) • by monitoring the reserves of the Guarantee Fund (cf. based on historical data and 'normal' assumptions in terms of bankruptcies and recoveries) and/or avoiding that abuse would be made of the Guarantee Fund provisions 	TO BE REDUCED (=action plan)

					<ul style="list-style-type: none"> by re-directing (parts of) next calls towards ICT areas less affected by strategic reshuffles by ICT companies 	
6 ICT – 3 <i>ICT – Research Cooperation</i> DIR E	EUROPEANA – re-launch Risk of repeated reputational event in case of non-performance (or weak performance) when re-launching the Europeana service, run by the European Digital Library Foundation	Risks related to the external environment: • macro-econ • EU partners	Commission task-force to provide technical assistance and financial resources to plan and implement Europeana's re-launch	MEDIUM: 2 + 3 = 5	- Continuous close follow-up - Extra actions if/as needed?	ACCEPTED (=reinforced monitoring)
7 SUPP – 1 <i>Resources & Support</i> DIR S	ERRORS IN ICT COST CLAIMS It may remain necessary to maintain an AAR reservation on errors in cost claims by beneficiaries, <u>due to</u> : - the fact that - despite the implementation of the FP6 audit strategy being in line with plans - the level of observed error rates remains material; - the intended budgetary effect of the correction of errors is highly dependent on the successful extrapolation of audit results (which remain a new and complex control feature); - the potential reputational fallout from the risk-based audits on-the-spot (out of the ordinary negative results of a few cases on 'intentional errors')	Risks related to the external environment: • EU partners • EU Institutions Risks related to planning, processes and systems: • internal decisions	- FP6 audit strategy - FP7 certification of methodologies	HIGH: 3 + 4 = 7 CRITICAL RISK (cf. recurrent AAR reservation)	- Ensure implementation and extrapolation of audit results (cf. follow-up audits and potential liquidated damages) - Risk-based part of FP6 audit strategy	ACCEPTED (=reinforced monitoring)

<p>8</p> <p>SUPP – 2</p> <p><i>Resources & Support</i></p> <p>IT S.C. + DIR R</p>	<p>IT SYSTEMS</p> <p>1. Availability and reliability of the IT tools necessary to cope with the day to day business requirements – to become operational gradually along the line of the FP lifecycle (e.g. FP7 amendments & payments are due) – and to provide summary views for supervision and validation purposes.</p> <p>Potential delay in the deployment of efficient and user-friendly RDGs common and local INFISO IT tools, due to the complexity of the IT architecture, the IT governance structure and the business processes. Particular concern lies in the timely availability of the systems supporting the FP7 research grants management (= INFISO's core business), with regard to financial statements and amendments processing.</p> <p>2. Difficulties bound to managing the transition from a partly paper-based system of exchanges, to a totally electronic and interactive system (based on a fully fledged <u>Participant Portal</u>).</p> <p>Possible negative implications are foreseen to emerge both among the "external constituency" of participants (new complex system they</p>	<p>Risks related to planning, processes and systems:</p> <ul style="list-style-type: none"> • IT systems 	<p>- INFISO IT Steering Committee (IT SC), RDGs IT Supervisory Board (ITSB), RDGs IT Project Steering Committee (ITPSC), RDGs IT Stakeholders Group (ITPSG), IT Project Office (ITPO), Local and Joint Schema Directeurs, IT Disaster Recovery Plan.</p> <p>- Monitoring of ITPO deliverables.</p> <p>- Involvement of local IT units (e.g. INFISO-R3) in the development and deployment of common IT solutions.</p>	<p>MEDIUM/LOW</p>	<p>INFISO and Research family governance structures in place.</p> <p>Close monitoring by INFISO 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>continued line management at DIR R</p>
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	<p>will have to learn quick, but use seldom), and within the "internal users" (e.g. potential divergence between paper files and electronic files).</p> <p><i>cf. number of actors and systems involved (Research DGs, DIGIT, BUDG, SG, Agency, subcontractors) and the evolving scenario being planned (deployment of common IT tools such as URF/PDM, evolution of NEF and introduction of the Participant Portal; incidence on DG INFSO back office systems).</i></p>					
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INFSO's 2009 AMP – Internal Part – Demonstration of effectiveness relating to the implementation of certain ICS
Pre-selection of ICS for which DG INFSO wishes to place emphasis on evaluating the effectiveness of the controls put in place

<i>ICS</i>	<i>Brief description of the context</i>
2. Ethical and Organisational Values	<p>Awareness of relevant ethical values</p> <ul style="list-style-type: none"> • Would DG-specific ethical guidance be meaningful? For example, although the rules relating to “conflict of interests” apply to all persons in the Commission, a DG/Directorate/Unit with significant procurement activities may want to emphasise this aspect. Dealing with insider information and preventing financial fraud are other topics that certain DGs, Directorates or Units may want to stress. • Is the ethical guidance concise and user-friendly? The way the code of conduct/guidance is written will affect its effectiveness. Studies show that the most effective codes of conduct are those that are short and concise, focus on a few main messages and utilise a straightforward vocabulary. • Are staff sufficiently aware of the different requirements and provisions concerning ethics and integrity (via training of newcomers, regular information, etc.)? Staff awareness can, for example, be analysed through surveys. • Is enough done to facilitate the practical application of the code of conduct and other ethical guidance? For example, creating easily accessible and secure channels for staff to confidentially report alleged wrongdoings could make the code of conduct more effective in this domain. • Do results of the supervisory activities, audit reports, reported deviations or other relevant sources suggest that there could be ethical issues or problems in the DG/Directorate/Unit? Have adequate measures been taken to address these issues?
3. Staff Allocation and Mobility + 7. Operational Structure	<p>Revision of sensitive functions policy</p> <ul style="list-style-type: none"> • Where sensitive functions have been removed and allocated to a different member of staff, is management satisfied that the risks involved have been effectively mitigated? • Where additional mitigating controls have been put in place, is management satisfied that these controls are effective and that the risks involved have been reduced to an acceptable level (considering impact and likelihood of the risk)? • Do results of the supervisory activities, audit reports or other relevant sources suggest that there could be failings or issues associated with the DG’s sensitive functions? • Is the number of sensitive functions that require mandatory staff mobility reasonable? The cost of excessive mandatory staff mobility (negative impact on operations) may outweigh the benefits (reduced risk of conflict of interest and fraud).
8. Processes and Procedures + 11. Document Management + 12. Information and Communication	<p>Data protection</p> <ul style="list-style-type: none"> • Are arrangements in place to ensure data protection is applied to manual processes? • Document management systems and related procedures comply with relevant compulsory security measures, provisions on document management and rules on protection of personal data. • Data management systems and related procedures comply with relevant Information Systems Policy, compulsory security measures and rules on protection of personal data.

10. Business Continuity	<p>Effectiveness of INFSO's BCP (beyond the already existing IT Disaster Recovery Plan)</p> <ul style="list-style-type: none"> • Cf. "Business Continuity Plans are in place to ensure that the Commission is able to continue operating to the extent possible whatever the nature of a major disruption" and related requirements.
11. Document Management	<p>Document management to be secure, efficient and compliant with applicable legislation</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 – Internal Control & Internal Control Standards

- C1: Annual review and recommendations from the Internal Control Coordinator (ICC) - see BMR 01.07.2008 – 28.02.2009 for detailed enclosures



Brussels, **24 FEB. 2009**
INFSO-S2/AR/GV/cf D (2009) 107175

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

Subject: Annual review and recommendations from the Internal Control Coordinator (ICC)

Each year, the Internal Control Coordinator is required to report on the state of the DG's internal control arrangements and to provide advice and recommendations to the Director General ⁽¹⁾. Moreover, the report is a major element for the assurance building process as described in Part 2 of the Annual Activity Report (AAR).

As in previous years ⁽²⁾, after an initial desk review by Unit S2 itself, the other horizontal units that are the 'chefs-de-file' in their area of expertise for the implementation of the 16 ⁽³⁾ Internal Control Standards (ICS) within DG INFSO have been interviewed. This leads to the 'top-down' assessment of the DG's internal control status during 2008, with respect to both the compliance and the effectiveness of the control arrangements in place. Furthermore, the 'bottom-up' information on internal control issues received through chapters 2-6 of the 2008 Directorates' Management Reports (DMRs) has been checked for confirmation or any counter-indications. Finally, the IAC's annual Opinion has been taken into account as well.

As in previous years, the ICC's annual review and recommendations are based on these sources of information.

1. Annual Review of Internal Control Standards in DG INFSO

In order to have a more coherent framework for assessing the compliance with the ICS baseline requirements and especially the effectiveness of the internal control arrangements in place, DG BUDG has issued a new set of methodological guidelines, which inter alia aims at reducing the

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.

³ As from 2008, the ICS requirements have been re-structured into a set of 16 ICS (reduced from 24).

subjectivity and increasing the transparency of this rather 'qualitative' assessment process)⁽⁴⁾. They contain sets of detailed questions for analysis per ICS and suggestions for a synthetic presentation of the results into 6 categories of ICS ('building blocks').

Consequently, INFISO-S2 has used this new guidance for underpinning DG INFISO's 2008 ICS review. As for previous exercises, the resulting detailed analysis notes (working document of 60 pages) and the synthesis document are available on Unit S2's intranet-page dedicated to ICS-15 "Assessment of internal control systems" ⁽⁵⁾. Therefore, in this report, only the overall summary and general conclusions appear:

1a. compliance with the ICS baseline requirements

In terms of ICS compliance in 2008, DG INFISO has implemented all baseline requirements which underpin the 16 ICS. No counter-indications have been identified, not from the review, or from the DMRs, or from the IAC's Opinion.

1b. effectiveness of the implemented ICS

In its 2008 AMP, DG INFISO had prioritized 3 ICS for which targeted actions to improve the effectiveness of their implementation would be elaborated: i.e. sensitive functions policy, business continuity plan, data protection. During 2008, DG INFISO's "Internal Control Coordination Group" (ICC Group) has met five times in order to monitor the progress of the actions in this context. In its 2008 year-end progress monitoring report ⁽⁶⁾, both the steps already taken in 2008 and those to be finalised in 2009 have been mentioned in detail - see summary below:

2008 ICS PRIORITY N°1 - SENSITIVE FUNCTIONS POLICY

Steps taken: Elaboration and endorsement of a new INFISO policy on sensitive functions (establishment of criteria for defining sensitive posts and for de-sensitising them)

Steps to be finalised: Implementation and application of the new policy: re-assessment and de-sensitisation of functions across the DG

2008 ICS PRIORITY N°2 - BUSINESS CONTINUITY PLAN (BCP)

Steps taken: Nomination of a BC Correspondent and a BC Desk Officer for DG INFISO (both at R0), plus creation of a BC Duty Officer function at DG INFISO (rotating pairs of 'stand-by' staff from Directorates R and S)

Steps to be finalised:

(i) Second enhancement of INFISO's BCP: Based on the experiences and ideas drawn from the test exercises by SG in 2007 and 2008, an inventory of possible further improvements has been compiled. The current version of the INFISO BCP will be updated based on those experiences.

(ii) BCP communication and staff readiness: Creation of a website dedicated to the INFISO BCP and launching a communication campaign to increase awareness and readiness among staff.

2008 ICS PRIORITY N°3 - PROTECTION OF PERSONAL DATA

Steps taken: Training sessions for all staff + systematic briefings for newcomers

Steps to be finalised: Ensuring that the data protection arrangements in place are working as effectively as intended, by:

- further simplifying procedures in collaboration with key INFISO units (R1-R2-R3-R4-S1-S3-S4 & AFU)
- regularly reporting to the Directors/DG on the state of play

⁴ 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

⁵ See the "ICS-15" page: http://intra.infiso.cec.eu.int/index.htm?url=/ICS/16_ics/ics2008_15.htm

⁶ "2008 year-end progress monitoring report from the ICC Group" (INFISO-S2 951211 of 22.12.08)

As far as the overall state of ICS effectiveness in DG INFSO (assessment of the effective implementation of all 16 ICS at 31.12.08) 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 for all their underlying requirements, DG INFSO services comply with the 3 assessment criteria for effectiveness; i.e. (a) staff having the required knowledge and skills, (b) systems and procedures designed and implemented to manage the key risks effectively, and (c) no instances of ineffective controls that 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; there are no issues or only some minor improvements needed).
- Nevertheless, for some ICS, the effectiveness of the existing controls in the context of a few underlying specific aspects should be **further improved**:
 - *sensitive functions policy (ICS-7): new INFSO policy on sensitive functions to be fully implemented*
 - *Business Continuity Plan (ICS-10): INFSO BCP to be updated, communicated and tested (similar to the already effective INFSO IT Disaster Recovery Plan)*
 - *data protection (ICS-8): ensuring the effective implementation of the data protection arrangements made*
 - *ethical values (ICS-2): implementation of IAS and IAC audits action plans (inter alia clarifying and tailoring the existing ethical guidance)*
 - *document management (ICS-11): re-addressing issues such as version management, filing and retention*
 - *follow-up of open recommendations (ICS-9): continuing the efforts for a more integrated and formalised follow-up of all open recommendations and related action plans*

Consequently, taking into account the progress made, the efforts to be continued and the most recent status review results, the 3 previous ICS priority areas (sensitive functions, business continuity, data protection) have been maintained and 2 other ICS priority areas (ethical values, document management) have been added as **DG INFSO's 5 ICS priorities for 2009** ⁽⁷⁾.

In addition, in the context of the continuous improvement of existing management procedures, it is advisable to add **an ICC recommendation** in the area of follow-up of open recommendations (ICS-9). See chapter 3 below.

⁷ See note on the "finalisation of the 2008 High-Level Risk Assessment exercise" (INFSO-S2 951409 of 22.12.08) and DG INFSO's 2009 AMP

2. Information on internal control from the Directors' Management Reports (DMRs) and from the IAC Opinion

2a. information from the INFSO Directors

An overview of the information on internal control issues received from the Directors, as *Authorising Officers by Sub-Delegation (AOSDs)*, via their *Directorates' Management Reports (DMRs)*, is provided in Annexes 1 and 2.

The main conclusion is that INFSO Directors have **reasonable assurance** that risks are under control and that suitable controls are in place and working as intended. They have **not raised any new issues** to be considered in the context of the declaration by the Director General.

Taking into account the number and scope of DG INFSO's main **exceptions and derogations** in 2008, it can be concluded that this source of information does not lead to concerns that procedures and/or controls would not be suitable or not working as intended. However, based on the information collected about some categories of the minor deviations (*see Annex 1*) – e.g. *while one ICT Directorate reports inter alia 66 cases of "extension of expired FDI" and 23 cases of "COS", others report none or a few* – it would be useful to analyse (e.g. via the ICC Group) whether there is need for more consistency among directorates and/or for more scrutiny/surveillance of the exceptions in order to determine whether they are an indication of the current procedures not being suitable anymore. Consequently, in the context of the continuous improvement of existing management procedures, it is advisable to add **an ICC recommendation** in the area of exceptions recording (ICS-8). See chapter 3 below.

In the context of their **comments and suggestions** on DG INFSO's current working methods, they have suggested to put a number of important topics of concern on the agenda for discussion at the Directors meeting (e.g. the need for more coordination among ICT directorates, the need for more horizontal coordination of and assistance for audit results implementation, the need for more focused IAC audits that add value in essential areas, the need to re-balance staff allocation and to limit the mobility of contract staff).

2b. opinion from the INFSO internal auditor

In addition, from the *IAC Opinion 2008* ⁽⁸⁾, it appears that the internal control system and governance processes in place provide **reasonable assurance**. The IAC is not aware of 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 cost claims).

Still, **very important recommendations** have been issued regarding the organisation of the Administration and Finance Units (AFUs), the management of legacy projects from previous FPs, the governance of ethics in INFSO, the coherence of the FP7 negotiation and contracting processes.

Finally, the IAC advises to address the **remaining issues** related to the Central Validation Team for the Legal and Financial Viability (LFV) checks, the need to better monitor the ICT operations, and the need to implement the suspended FP6 related recommendations.

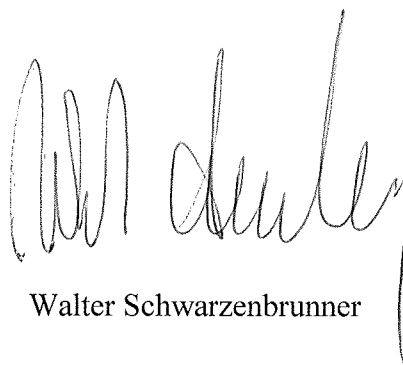
⁸ INFSO-01 105214 of 10.02.09

3. Recommendations from the Internal Control Coordinator for 2009

Enhancing the effectiveness of a DG's control arrangements in place is an ongoing effort in line with the principle of continuous improvement of management procedures. Having taken in consideration the results from the analyses and reports mentioned above, as well as the current Commission instructions on ICS, **I would confirm the following ICS priorities and would propose the following ICC recommendations for further improvement actions during 2009:**

- As DG INFSO's 2009 ICS priorities, for increasing the effectiveness of the implementation of the Commission's Internal Control Standards, we maintain the 3 previous priority areas (sensitive functions, business continuity, data protection) and complements them by adding 2 other areas (ethical values, document management);
- In addition, in the context of the continuous improvement of existing management procedures, we add 2 ICC recommendations in the areas of (i) exceptions recording and of (ii) follow-up of open recommendations.

Consequently, with your agreement and in line with last years' arrangements, **I would suggest mandating the ICC Group** (based on input from Unit S2) to further develop actions covering these priorities and recommendations, prepare their implementation, report on their progress on a regular basis, and present the results to senior management (and the Commissioner, via the BMR).



Walter Schwarzenbrunner

Encl.:

- Annex 1: Information on internal control from the 2008 Directors' Management Reports (DMRs)
- Annex 2: Overview of information from DG INFSO's 2008 DMRs (chapters 2-6); in two tables – part A: Directorates A, B, C, D, E; part B: Directorates F, G, H, R, S

C.c.: A. Peltomäki, INFSO Directors, F. Sendra Palmer, A. Rauch, Assistants;
DG INFSO's ICS 'chefs-de-file' units R1, R2, R3, R4, R0-SO, S1, S2, S3, C3, 01.

Annex D – Status Report on External Financial Audits up to 30 June 2009

- D1: Quantitative overview of the finalised audits
- D2: Summary of the implementation of the external audit results in DG INFSO up to 30.06.2009

Progress report on implementation of audit results - 30.06.2009

Implementation of the ex-post audit results for FP6

Results from external audits					Status of implementation					
					Implementation done				Ongoing	
					1=2+3+4	2	3	4		
	Audit closing year	Audits closed	Participations with adjustments in favour of the EC	Adjustments in favour of the EC €	Total implementation done €	Offset from payments €	Recoveries €	Waived or not recoverable €	Forecast of revenues issued €	Forecast of revenues to be issued €
INFSO	2009	72	114	7.019.079	2.601.970	597.343	1.848.028	156.599	874.240	3.542.869
	2008	156	171	4.596.265	1.647.082	418.232	788.305	440.545	1.039.314	1.909.869
	2007	54	85	1.516.196	1.976.513	1.392.144	371.705	212.664	0	0
	2006	6	3	54.684	92.096	395	91.701	0	0	0
	TOTAL	288	373	13.186.224	6.317.661	2.408.114	3.099.739	809.808	1.913.554	5.452.738

Implementation of the ex-post audit results for FP5

Results from external audits					Status of implementation					
					Implementation done				Ongoing	
					1=2+3+4	2	3	4		
Audit closing year	Audits closed	Participations with adjustments in favour of the EC	Adjustments in favour of the EC €	Total implementation done €	Offset from payments €	Recoveries €	Waived or not recoverable €	Forecast of revenues issued €	Forecast of revenues to be issued €	
INFSO	2009	5	9	1.100.698	159.918	0	159.918	0	0	940.780
	2008	35	57	2.737.222	2.139.906	0	1.692.980	446.926	175.387	421.929
	2007	90	132	5.181.551	4.842.059	167.373	4.092.272	582.414	18.571	320.921
	2006	75	99	3.357.627	3.824.207	256.108	3.069.913	498.186	11.018	0
	TOTAL	205	297	12.377.098	10.966.090	423.481	9.015.083	1.527.526	204.976	1.683.630

Note: for years 2007 and prior, total implemented amounts include also application of audit findings to non-audited periods. For this reason, these amounts may be higher than the adjustments in favour of the EC.

Summary table: status up to 30.06.2009

Years		Number of Audits	Audited Participations	Audited Costs in k€	Adjustments in favour of EC		
					Adjustments to costs accepted before audit in k€	Adjustment rate at cost level	Error rate at funding level
2006	Total	85	197	78.939			
	FP5	75	187	74.954	6.280	8,59%	
	FP6	6	6	2.660	141	5,30%	3,58%
	Non research	4	4	1.325	13	1,05%	
2007	Total	151	347	170.152			
	FP5	90	211	103.332	9.941	9,90%	
	FP6	54	129	64.902	2.497	3,86%	3,48%
	Non research	7	7	1.918	34	2,01%	
2008	Total	206	408	256.174			
	FP5	35	75	45.021	3.145	7,35%	
	FP6	156	317	210.369	6.788	3,98%	3,29%**
	FP7 ¹	2	2				
	Non research	9	10	4.670	285	6,44%	
	Media	4	4	784			
2009	Total	81	187	154.640			
	FP5	5	14	7.874	351	5,89%	
	FP6	72	166	145.968	5.569	4,37%	3,87%
	FP7 ¹	2	4				
	Non research	2	3	798			
FP5 aggregate		399	954	440.080	38.063	9,01%	
FP6 aggregate		288	618	423.899	14.997	4,10%	3,55%

¹ audits include review of certificate of methodology

* Risk audits and follow-up audits are excluded from these calculations

** Error rate used to be 3,5% but 2 audit files were reopened and adjustments substantially minored

Annex E – Relations with the Internal Audit Service

- E1: Minutes of the 58th Meeting of the Audit Progress Committee (29 June 2009)



EUROPEAN COMMISSION
SECRETARIAT GENERAL

Directorate B
SG-B-2
APC Audit

Brussels, 7 July 2009

Commission Internal

MINUTES

**of the Fifty eighth Meeting of the Audit Progress Committee
held in Brussels
(BERLAYMONT - MEETING ROOM 12/62)**

**on Monday 29th June 2009
(15h00 – 16h30)**

Meeting: Monday 29th June 2009 (15h00 – 16h30)

Mr Kallas opened the meeting at 15h00.

LIST OF PARTICIPANTS

Present:

Mr KALLAS, VP	Chairman
Ms FISCHER BOEL	Member
Mr PIEBALGS	Member
Mr SPOEL	Member
Mr PICARD	Member

Excused

Ms WALLSTRÖM, VP	Member
Ms GRYBAUSKAITE	Member
Ms FERRERO WALDNER	Member
Ms HÜBNER	Member

Also present:

Commission

Mr SCHMIDT	Cabinet VP Kallas	
Ms SVENDSTRUP	Cabinet Ms Fischer Boel	
Ms LAMBERT	Cabinet VP Wallström	
Mr BAUDRU	Cabinet Ms Grybauskaite	
Ms CLOOT	Cabinet Ms Grybauskaite	
Mr KARNITSCHNIG	Cabinet Ms Ferrero-Waldner	
Ms BUISSON	Cabinet Mr Piebalgs	
Mr KOLINSKI	Cabinet Ms Hübner	
Mr GRAY	Head of the Internal Audit Service	
Mr MERCHAN	Audit Process Director, IAS	
Mr MORENO MADRID	Adm. Assistant to the Head of the Internal Audit Service	
Mr MASON	Audit Supervisor, IAS	
Ms BLAIS	Unit A1, Policy Officer - Desk officer for relations with Internal Audit Capabilities, IAS	
Mr SZLASZEWSKI	Director of Directorate B, Better Regulation and Administration, SG	
Mr COLASANTI	Director General DG INFSO	Item 6
Ms RICHARDS	Director of Directorate S, General Affairs, DG INFSO	Item 6
Mr PEREZ ECHAGUE	Head of Unit R.2, Budget and Finance, DG INFSO	Item 6

Mr RAUCH	Head of Unit S.2, Management Support, DG INFSO	Item 6
Mr SILVA RODRIGUEZ	Director General DG RTD	Item 6
Ms DE LA TORRE	Director of Directorate A, Inter institutional and legal matters -Item 6 Framework programme, DG RTD	
Mr BISCONTIN	Director of Directorate R, Resources, DG RTD	Item 6
Mr BELLENS	Head of Unit A.4, External audits, DG RTD	Item 6
Mr LOPEZ SANCHEZ	Head of Unit R.5, Risk Management, DG RTD	Item 6
Mr MILNE	Secretariat, Audit Progress Committee, SG	

Mr BRAEUER, Secretary of the Audit Progress Committee, assured the Secretariat.

6. IAS FINAL AUDIT REPORTS ON DG INFSO AND DG RTD INTERNAL CONTROL SYSTEMS FOR MANAGING FP7 - DESIGN (B POINT)

The Chairman welcomed Mr Silva Rodriguez, Director General DG RTD and Mr Colasanti, Director General, DG INFSO.

The Internal Auditor, Mr Gray, in introducing this Report to the Committee, recalled that under the new Framework Programme (FP) 7, DGs RTD and INFSO were responsible for €35.9bn and €9.1bn respectively of an overall budget of €50bn. In 2008 of the total payments made of €2.9bn, the majority was made in respect of pre-financing for the grant based projects based on the reimbursement of eligible actual costs. €0.1bn related to interim payments. The aim of the audit was to assess the design of both DGs control systems for FP7 before claims really start to be paid.

The Committee, having discussed RTD audit reports on a number of occasions, were also reminded by Mr Gray of the inherent difficulty in the process of verifying the accuracy of beneficiary cost claims, leading to significant levels of error in underlying

Both IAS audit reports concluded with "qualified" opinions. All recommendations, notably the very important ones (6 to RTD and 5 to INFSO), were accepted.

A number of the main issues arising were summarised under the following headings:

- Key preventive measures not already in place at the time of the audit (e.g. certifying methodologies for declared indirect/personnel costs)
- The overall control strategy (balance between ex-ante and ex-post control)
- Risk of inconsistent/incoherent treatment (governance of the range of bodies involved in FP7)
- Management of the Guarantee Fund not defined at the time of the audit.

The Internal Auditor noted the residual risks identified by the IAS and added that significant progress has been made since the audit in the key areas summarised above,

most notably on the costing methodology and the set up of the Guarantee Fund. The principal residual risks remaining to be addressed were confirmed as:

- Over-reliance on ex post controls given delays in preventive measures
- A lack of sufficient cost/benefit data to support the control strategy (right mix between ex ante and ex post checks, detailed guidelines, treatment of smaller beneficiaries)
- Need for further discussion of the 'tolerable risk of error' (in the context of possible increases in error rates)
- Consideration of the scrutiny and supervision of the Executive Agencies and Joint Undertakings.

Mr Colasanti and Mr Silva Rodriguez were invited to address the Committee. There was a significant degree of agreement between them in the remarks that they expressed to the Members.

The complexity of the FP7 structure concerning the different actors was acknowledged but the DGs confirmed that it is being implemented correctly and that there was, and indeed had been a continuous evolution in the methodologies of the services to make progress in the improvement of the effectiveness of controls and to reduce error rates that reflects a continuation and improvement from previous framework programmes. Delays in implementation in key areas had principally arisen due to the technical and administrative complexity of some key issues being prepared and consulted upon with all interested services and organisations.

More specifically, concerning the discussion on the balance of ex ante and ex post controls, the DGs confirmed that two principal measures, the Guarantee Fund and the audit certificates on costing methodologies, were both targeted at improving the effectiveness of procedures at the ex ante phase. It was recognised that currently, given the early stage of FP7, the effectiveness of these measures can not yet be clearly demonstrated. The DGs further noted that, in the wake of the IAS Audit on FP6 ex post controls, they had taken steps to plan and jointly implement a Common Audit Strategy which was in place for FP6 and was being finalised for FP7. The DGs confirmed that any resources required to enhance the level of ex ante control work could only be made

available by the identification of negative priority areas in their services. The Directors General recall that the political will of the Commission for the implementation of FP7, expressed by commissioners Potočnik and Reding in particular, was to reduce ex ante controls of beneficiaries that created barriers to entry and to favour ex post controls. Risks associated with such an approach would be offset by, amongst others, the setting up of the Guarantee Fund and ex ante certification of costing methodologies.

Concerning inherent risks relating to the oversight and scrutiny of the Executive Agencies and Joint Undertakings, both DGs stated that their current oversight and management were in line with, and resulted from, political decisions clearly supported by the European Parliament and the Council.

Commissioner Fischer Boel noted that the error rate had been significantly reduced between 2006 and 2007 (from 8% to 2.6%) and asked if the DGs knew what the error rate would be in 2008. The DGs said the 2008 error rate was not currently known as it would depend on the methodology used to calculate it. The DGs confirmed that their ongoing efforts would continue to reduce the error rate. However, the DGs could not guarantee that the error rate would decrease sufficiently over time to produce a "green light" rate ($< 2\%$) for a positive DAS in 2009.

Mr Colasanti recalled the two principal aspects of error rates to which research framework programmes are exposed: the technical error with the option to recover unduly paid funds at the end of the project and the risk of a loss due to fraud (or the risk of bankruptcy of beneficiaries) not allowing recovery at all. Especially the second risk area calls for strong ex ante control but the experience with FP5 and FP6 resulted in a low financial impact of this risk category, affecting only 0,28% of the budget for those two framework programmes.

Mr Silva Rodriguez stressed that the continuous reduction of the error rate is the clear objective of the ex post control strategy as well as ex ante control measures such as the Guarantee Fund and the certification of costing methodologies but as from a certain level any further reduction of the error rate will inevitably boost significantly the overall cost of control.

Concerning the 'tolerable risk of error' and recognising its particular importance, the DGs highlighted that a calculation of a residual error rate is technically complex and requires the distinction between the error rate level and the required effort to reduce its financial impact. Work was continuing under the Common Audit Strategy for FP7 to

increase the number of audits with increased resources to further reduce the error rate but this could not realistically or cost effectively be reduced to zero.

Mr Spoel, External Member, expressed his view that there was a certain lack of balance between the IAS written opinion and oral presentation and the introductory statements of the DGs. This did not allow the APC to clearly assess the actual residual risk at this stage. Mr Picard, External Member, expressed his satisfaction that the IAS presentation combined with the later discussion with the auditees allowed the Committee to focus on the underlying risks identified. He commented that this dynamic approach, to be continued, safeguarded ultimately the quality of the APC's consideration of the two IAS Reports.

Vice President Kallas noted that following the exchange of views of members there did appear at the end of the process to be a shared assessment of the risks by the services and the IAS. He confirmed that the APC welcomed the IAS Reports and congratulated the DGs on the positive actions being taken by them, particularly with reference to their efforts to achieve a positive DAS in a key policy area for the Commission.

Centralised management has for the Commission a direct impact on the budgetary discharge process. Currently 336 programmes are operational with different legal frameworks. Simplification of research grants is a matter of continuous political discussion. Some research programmes might be too complicated to control at reasonable cost. The APC supports the efforts necessary to simplify the legal framework of research programmes, and if need be, stopping those deemed to be "uncontrollable" at reasonable cost and to re-allocate resources.

On the 'tolerable risk of error' he confirmed that this was a key Discharge issue. The 'tolerable risk of error' concept needs concrete input from the research family of DGs. A zero error level is certainly not possible but the Commission needs to strive for a concrete proposal to the budgetary authorities delivering an informed base for their decision on an appropriate and reasonable error rate. He added that the APC would support the DGs' efforts of identifying negative priorities (actions where the risk was elevated and the cost of controls too high given the benefits).

The APC:

- Notes the continued good work by the Research DGs to strengthen their control and audit procedures

- Notes that the services are working actively to find an appropriate balance between ex ante and ex post control
- Calls on both services to proceed with their analyses of tolerable risk, in order to be able to formulate a specific proposal by May 2010.

Annex F - State of play on the OLAF's files

- F1: Status overview

Annex G – State of play on the European Ombudsman's files

- G1: Status overview

State of play on the European Ombudsman's files
Status overview

DG INFSO "Chef de file"

Name of the complaint	Date of reception of the complaint	Background	Steps taken	Next steps
N° 2008/3373	22.12.2008	<p>This complaint of 3.10. and 27.10.2008 relates to the earlier complaint 2008/2291 which was closed with no follow-up by the Ombudsman.</p> <p>The complainant alleges 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 parts of reimbursement orders.</p>	<p>Commission's draft reply to the Ombudsman: submitted to the approval by DG BUDG and SG G3 on 09.03.09</p> <p>Commission's opinion sent to the Ombudsman: 24.04.2009</p>	European Ombudsman's closing decision: awaiting (between 6 months & 1 year)

State of play on the European Ombudsman's files
Status overview

N° 2008/3003	16.12.2008	The complainant alleges that the Commission has not appropriately supervised the publicity in Member states as regards the "e-Inclusion Awards 2008". This alleged failure would explain the non-participation of some stakeholders in the event including the complainant. The complainant also requests information on the selection procedure of the projects which have participated in this event as well as on the European funds involved. Furthermore the complainant has not received a reply to his email of 9.11.2008.	Ombudsman's request (informal request-telephone procedure) for answering by 6.01.2009 at the latest the complainant's questions transmitted to DG INFSO's concerned services: 17.12.2008. Phone contacts between DG INFSO and the complainant: 18.12.2008. Reply sent by the Commission to the complainant (copy sent to the SG): 6.01.2009 Ombudsman's closing decision: 17.02.2009. (The Commission has settled the case)	None.
N° 2245/2008/WP	12.09.2008	The complaint concerns the organisation that participated in the FP5 project . Further to warnings by the consortium, the technical	Reply from Ms Reding to MEP sent on: 15.09.2008 The Court informed on 12.12.2008 the Commission's external lawyer that	None.

State of play on the European Ombudsman's files
Status overview

		<p>performance of this organisation led to the termination of the participation of this organisation to the project and a reimbursement was requested by DG INFSO. The complainant makes the following allegations: it was inappropriate for the Commission to insist on recovering from it financial contributions; the Commission unfairly rejected his suggestions for an alternative solution to the problem.</p> <p>A MEP, , sent also a letter to on 6.09.2008 with regard to this issue.</p>	<p>liquidation procedure has been formally opened. The external lawyer confirmed that everything will be done to register the Commission's claim in time, ie at the latest on 23.01.2008. A first audience is planned on 4.03.2009.</p> <p>The SG sent a note to the Ombudsman on 18.12.2008 informing him that the liquidation procedure was formally opened on 9.12.2008 in Germany and that the Commission will register its claims in the course of the procedure.</p> <p>Draft reply prepared by DG INFSO: 20.03.2009.</p> <p>The SG sent a note to the Ombudsman on 24.03.2009 informing him that the liquidation procedure is ongoing and that the Commission has registered its claim.</p> <p>Ombudsman closing decision : 22.04.2009 (termination of consideration by the EO because a legal procedure before a German national court –insolvency procedure- is ongoing and the court has established the Commission's claim against the complainant which was subject of the EO's inquiry).</p>	
N°2403/2008/OV	24.07.2008	<p>On 24.07.2008 a 3rd complaint was sent by the complainant to the Ombudsman. This 3rd complaint is the follow up of the 2 earlier ones for failure to deal, both as regards the procedure and the substance</p>	<p>3rd complaint sent to the Ombudsman: 24.07.2008</p> <p>Transmission of this 3rd complaint by the Ombudsman to the Commission: 11.09.2008</p> <p>reply received through</p>	<p>European Ombudsman's closing decision: awaiting (between 6 months & 1 year)</p>

State of play on the European Ombudsman's files
Status overview

		(only pending replies have been yet received by the complainant), with the initial complaint of 26.09.2007.	<p>the EU-Pilot mechanism on 18.09.2008. Proposed reply on the substance (based on 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 Reminder sent by DIR A to DG EMPL and LS on 31.10.08. Reattribution by the SG to DG EMPL 11.11.2008 DG EMPL's suggestion to re-attribution to DG INFSO as chef de file (which is rejected by DG INFSO): 13.11.08 Note by DG INFSO sent to DG EMPL: 10.12.2008 DG INFSO's holding reply sent to : 11.12.2008 Commission's opinion sent to the Ombudsman: 06.02.2009.</p>	
N°1507/2008/OV	<i>(27.09.2007) Attribution to DG INFSO: 28.05.2008</i>	<p><i>A 2nd holding reply was sent to the complainant on 21.04.2008, this time by the Cabinet of Commissioner Kovács. The reply pointed out that the matter has once again been forwarded to the Cabinet of another Commissioner, namely Commissioner Reding.</i></p> <p><i>On 29.04.2008, the complainant wrote again to the Ombudsman, pointing out that he had still not received a reply on the substance to his email of 26.09.2007</i></p>	<p><i>2nd holding reply sent to the complainant: 21.04.2008</i></p> <p><i>Second e-mail from the complainant: 29.04.2008</i></p> <p><i>First attribution to Cabinet Reding/DG INFSO: 28.05.2008</i></p> <p><i>Reattribution to DG TAXUD: 04.06.2008</i></p> <p><i>New reattribution to DG INFSO: 19.06.2008</i></p> <p><i>After consultation of all concerned DGs, reply to the complainant and letter to the</i></p>	<i>None.</i>

State of play on the European Ombudsman's files
Status overview

		<p><i>After discussions between SG, DG INFSO and a number of services possibly related to the issue, the complaint was finally attributed to DG INFSO on 19.06.2008, although no service seemed competent.</i></p> <p><i>After DG INFSO replied to the complainant on 17.07.2008 explaining that it had to undertake further investigations on the side of the authorities, the Ombudsman considered that the Commission took steps to settle the matter and closed this 2nd complaint on 24.07.2008.</i></p>	<p><i>Permanent Representation signed by Mr F. Colasanti: 17.07.2008.</i></p> <p><i>Ombudsman's 2nd closing decision: 24.07.2008</i></p> <p><i>3rd complaint sent to the Ombudsman: 24.07.2008</i></p>	
<p>N° 2007/3100</p> <p>(pour mémoire – DG INFSO not involved)</p>	<p>September 2007</p>	<p><i>The 3 complaints concern a failure to reply to the complainant's e-mail of 26 September 2007 addressed to Commissioner Kuneva. In this e-mail the complainant, a "*****" citizen living in "*****", claimed that authorities discriminate against foreign EU nationals entitled to unemployment benefits, by depriving them of the possibility of being exempted from payment of the TV and radio licence fees.</i></p>	<p><i>Reminder by the Ombudsman: the Cabinet of Commissioner Kuneva sent a first holding reply to the complainant on 11.12.2007. This holding reply stated that the complainant's email would be answered as quickly as possible by the Commission's services.</i></p> <p><i>The complaint (N° 3100/2007/OV) is closed by the Ombudsman on 17.01.2008 as settled by the Commission.</i></p>	<p>None.</p>
<p>N° 2597/2007/RT</p>	<p>14.11.2007</p>	<p>This complaint concerns the project under contract . The complainant alleges that the Commission did not pay the eligible costs and failed to</p>	<p>Draft reply prepared by DG INFSO: 28.11.2007</p> <p>DG BUDG's approval on: 28.01.2008</p> <p>LS 's approval on: 22.02.2008</p> <p>Cabinet's approval on: 03.03.2008</p>	<p>None.</p>

State of play on the European Ombudsman's files
Status overview

		explain its delay. In addition the complainant alleges that the Commission did not reply to its e-mail dated 7 March 2007. The complainant finally claims the eligible costs to be paid.	<p>Dossier sent to the Cabinet for Mme Reding's signature on: 06.03.2008</p> <p>Comments of the Commission sent to the Ombudsman: 25.03.2008</p> <p>Ombudsman's follow-up request on the payment to the complainant: 12.06.2008</p> <p>DG INFSO's reply sent on: 26.06.2008</p> <p>Payment by the Commission done on 14.07.2008 and SG informed on 15.07.2008.</p> <p>Ombudsman's closing decision: 09.12.2008 (maladministration: failure to reply to the complainant's email directly and to provide him with the required information, including the reasons for its payment delay)</p> <p>Draft reply prepared by DG INFSO: 27.04.2009.</p> <p>Empowerment procedure launched on 14.05.2009.</p> <p>Commission's reply sent to the Ombudsman: 19.06.2009</p>	
N° 870/2007/TN	08.05.2007	The complainant alleges that at the occasion of the review of its project which asked for a revision of its technical annex, the commission did not act in accordance with the grant agreement or in a timely manner. After extensive discussions and meetings with all partners, the Commission concluded to the failure of the revision process and terminated the grant agreement.	<p>Attribution to DG INFSO/Cabinet Reding: 10.05.2007</p> <p>Comments of the Commission sent to the Ombudsman on: 1.10.2007.</p>	European Ombudsman's closing decision: awaiting

State of play on the European Ombudsman's files
Status overview

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State of play on the European Ombudsman's files
Status overview

N° 1785/2005/OV	13.06.2005	The Ombudsman sent to the Commission on 14.06.2007 a new request for further information following a first request for information where the complainant maintained his earlier complaint related to the EC project (delay in interim payment, final payment outstanding and abuse of power by the EC services by auditing the conference income and expenditure) claiming for compensation.	Date of the Ombudsman's first request for info to Commission: 13.06.2005 Comments of the Commission sent to the Ombudsman: 03.01.2006 Date of the Ombudsman's further request for info: 14.06.2007 Comments of the Commission sent to the Ombudsman: 13.12.2007 Ombudsman's closing decision: 16.12.2008 (Maladministration with the following critical remark: the Commission failed to provide convincing reasons capable of justifying the delay in the payment of cost statements 5 and 6 which occurred from 5.01.2004 to 21.04.2004) Draft reply prepared by DG INFSO: 21.04.2009 Empowerment procedure launched on 14.05.2009 Commission's reply sent to the Ombudsman: 09.06.2009	None.
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State of play on the European Ombudsman's files
Status overview

DG INFSO associated

Name of the complaint	Date of reception of the complaint	Background	Steps taken	Next steps
N° 3399/2008	28.01.2009	<i>The complainant, a former employee at "*****", alleges that the Commission did not carry out his invalidity procedure correctly.</i>	<i>Attribution to DG INFSO: 28.01.2009 Dissociation de la DG INFSO de la plainte: 02.03.09</i>	<i>Deadline for the Commission's answer: 30.04.2009 DG INFSO is no longer concerned.</i>
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 to associated services 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 given on 23.02.2009 SG G3 agreement given 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).

State of play on the European Ombudsman's files
Status overview

N° 2681/2007/PB	17.01.2008	The complainant claims that the Commission has given the Ombudsman untrue information with regard to document ERG (06) 45a. In its reply to the Ombudsman concerning complaint No 488/2007/PB, the Commission stated that this document (a submission note) had not been prepared and thus there was no document with reference number ERG (06) 45a. The complainant submits that he has obtained this document from two independent sources	Attribution to Cabinet Barroso (SecGen): 18.06.2007 SecGen asking for DG INFSO contribution: 29.01.2008 DG INFSO forwarded its contribution to SG-E3: 05.02.2008 SecGen asking for modifications: 12.02.2008 DG INFSO final contribution sent: 22.02.2008 Comments of the Commission sent to the Ombudsman by SG-E3: 11.03.2008 European Ombudsman's closing decision (maladministration with a critical remark because the Ombudsman does not consider that "he has been provided by the Commission with information and explanations that demonstrate compliance with the duty of ensuring the accuracy of the statements which set the non-existence of certain requested documents"): 19.06.2008 Commission's reply sent to the Ombudsman: 19.03.2009.	European Ombudsman's closing decision: awaiting (between 6 months & 1 year).
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.	Date of the Ombudsman's sending to the Commission: 24.09.2007 Attribution to Cabinet Barroso (SecGen): 31.05.2007 SecGen asking for DG INFSO contribution: 22.08.2007	European Ombudsman's closing decision: awaiting (between 6 months & 1 year).

State of play on the European Ombudsman's files
Status overview

			<p>DG INFSO forwarded its contribution to 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's</p> <p>Extension of the deadline for answer to the Ombudsman: 31.01.2009</p> <p>DG INFSO's draft reply sent to the SG on 09.01.09</p> <p>SG's comments on the DG INFSO's draft reply: 20.01.2009</p> <p>Legal Service's comments: 05.02.09</p> <p>SG'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>	
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State of play on the European Ombudsman's files
Status overview

<p>N° 3697/2006/PB</p>	<p>05.02.2007</p>	<p>This complaint concerns the Commission's handling of the complainant's application for public access to a number of documents (Report on Mobile access market competition, MVNO/access and bottlenecks, ERG (06)45 and Internal report on Mkt 18 analysis, ERG (06)47).</p>	<p>Attribution to Cabinet Barroso (SecGen): 06.02.2007 SecGen asked for DG INFSO contribution: 03.05.2007 DG INFSO forwarded its contribution to SG-E3: 08.05.2007 SecGen made comments on INFSO contribution: 10.05.2007 DG INFSO gave its final approval to SG-E3: 10.05.2007 Comments of the Commission sent to the Ombudsman by SG-E3: 04.06.2007 European Ombudsman's closing decision: 22.10.2007 (Instance of maladministration) Commission's answer to the Ombudsman's critical & further remarks sent on 19.01.2009</p>	<p>None.</p>
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