

FINANCIAL CONTROL

On March 29th, 2001, negotiations between Malta and the EU on the area of Financial Control were provisionally closed. The closure of this "chapter" brought the total number of chapters where Malta has closed negotiations up to thirteen.

Malta made no specific requests for any transitional period for adjustment in this area, claiming that what needs to be done is either already in place or will be in place by the time Malta joins the EU.

WHY FINANCIAL CONTROL?

Negotiations on Financial Control dealt with the protection of the financial interests of the European Union once Malta joins the EU.

Each country must have structures in place to ensure that this control is exercised both from within the public administration (the civil service) as well as from outside (external audit). The reason for control is that it is the taxpayers' money that finances the budget of the European Union and all the funds paid out of this budget.

The EU institutions, together with Member States, have the duty to guarantee the best use of its money and in particular to fight fraud effectively.

THE MALTESE STRUCTURES TO EXERCISE FINANCIAL CONTROL

Malta already has laws in place to deal with its EU obligations relating to financial control. In particular, these include the Financial Administration and Audit Act, the Public Service (Procurement) Regulations and the Auditor General and National Audit Office Act. There are also directives issued by Malta's Ministry of Finance that impose financial control in dealing with public funds. More important, this issue is also given due importance in Malta's Constitution itself.

This string of laws is the basis in Malta for safeguarding and protecting the proper collection and disbursement of public funds, including funds emanating from foreign sources, such as the EU.

INTERNAL AUDIT FROM WITHIN THE CIVIL SERVICE

When it comes to using public funds, the first financial control starts directly from within individual Ministries. Each Ministry in Malta has its own Financial Control Unit. These are responsible for commitment of funds, tendering, contracting procedures and disbursements.

By the first half of this year (2001), this current structure will be modified somewhat to ensure that financial control units within Ministries achieve functional independence and be able to operate in line with EU standards.

THE INTERNAL AUDIT DIRECTORATE

An Internal Audit Directorate (IAD) is already operating as the national authority responsible for financial control in Malta from within the civil service.

The IAD was set up last year (2000) within the Cabinet Secretariat of the Office of the Prime Minister. Amongst other things, the IAD is responsible for public internal auditing and exercises financial control over agencies that receive or manage funds in Malta, including EU funds.

It will also be conducting value-for-money audits on both national and EU-financed initiatives. In so doing, it will apply EU and international standards and guidelines.

The IAD operates under the policies of a General Internal Audit Board that was also set up last year within the Cabinet Secretariat.

EXTERNAL AUDIT FROM OUTSIDE THE CIVIL SERVICE

In Malta we already have the National Audit Office (NAO) which is independent from Government and reports to Parliament. The NAO audits all public finances from outside the government structure. This ensures that the use by the civil service of public funds is scrutinised by an agency that operates outside the civil service itself.

The National Audit Office and the role of the Auditor General are supported and guaranteed by the Constitution of Malta. The Office reports directly to Parliament and not to the government. Amongst other things, it may inquire into and report on public entities that administer, hold or use public funds.

ON-THE-SPOT FINANCIAL CHECKS

When it comes to the use of EU funds, financial control must apply as thoroughly as the control of the use of Maltese public funds.

The EU Commission may carry out on-the-spot checks and inspections on those legal or natural persons who may commit an irregularity, if this irregularity affects the financial interests of the EU. The Commission is however required to notify the local authorities.

EU inspectors are authorised by EU law to have access to all available information on the transactions (using EU funds) made by these persons under the same conditions as national administrative inspectors. Any information obtained will be covered by professional secrecy.

THE EUROPEAN ANTI-FRAUD OFFICE (OLAF)

The European Anti-Fraud Office (OLAF) is responsible for carrying out investigations, and for devising and preparing legislation in relation to the protection of the EU's financial interests and to the battle against fraud in the EU.

The fight against fraud using EU funds is very hot topic within the EU, particularly since financial mismanagement has once led to the resignation of the entire EU Commission.

OLAF checks transactions carried out in the Member States and those other non-EU countries with which the EU has co-operation agreements and where EU funds are used. It carries out the spot-checks for which the Commission is responsible. It also carries out its own internal investigations on the EU institutions themselves.

MALTA AND THE EUROPEAN ANTI-FRAUD OFFICE (OLAF)

In Malta, the Internal Audit Directorate (IAD) will be designated as the Anti-Fraud Co-ordinating Unit with respect to the management of EU funds. The IAD will be the national contact with the Commission's Anti-Fraud Office (OLAF) when it comes to investigations on suspicion of fraud against the EU financial interests in Malta.

These two agencies will be supported by the Economic Crimes Unit within the Malta Police Force as well as the Legal Enforcement Units within the VAT Department and the Customs Department. In addition, a Financial Intelligence Unit (FIU) is being set up to operate, in particular, in the "sophisticated" area of money laundering.

MANAGEMENT OF EU OWN RESOURCES

Own Resources are the means by which the EU is financed. In other words, it is the way the EU collects its revenue. These essentially consist of customs duties and agricultural levies on imports from non-EU countries, a percentage (currently around 1%) of VAT collected in EU countries and a balancing GNP-related contribution.

Several Government departments, particularly the Ministry of Finance, the Department of Customs, the VAT Department and the National Statistics Authority are preparing themselves to co-ordinate Malta's contribution to the EU's financial resources. Most of these resources will be deposited in a local account, which the EU will use to implement its economic and cohesion policies in Malta.

FINANCIAL CONTROL: WHAT REMAINS TO BE DONE

Apart from ensuring that all local structures involved in financial control operate effectively, Malta must also introduce some legislation to be able to fully adopt its obligations in line with EU standards in this area. These laws will be adopted between now and accession.

For instance, new laws will be introduced relating to the protection of EU financial interests and on-the-spot checks carried out by EU inspectors relating to EU funds. Malta will also be adopting the Convention and Protocols on the Protection of the EU's Financial Interests. It will also be extending the provisions of the Criminal Code to cover the offence of bribery of officials of foreign Governments and of EU officials. The Criminal Code will also make the participation in a criminal organisation in any EU country a criminal offence.