



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
MARITIME AFFAIRS AND FISHERIES

GUIDANCE NOTE ON
ANNUAL CONTROL REPORTS AND OPINIONS
[Article 61 (1) (e)(i) & (ii) of Council Regulation (EC) 1198/2006]

DISCLAIMER

This is a Working Document prepared by the Commission services. On the basis of the applicable Community law, it provides technical guidance to the attention of public authorities, practitioners, beneficiaries or potential beneficiaries, and other bodies involved in the monitoring, control or implementation of Common Fisheries Policy on how to interpret and apply the Community rules in this area. The aim of the working document is to provide Commission services' explanations and interpretations of the said rules in order to facilitate the implementation of operational programmes and to encourage good practices. However, this guidance is without prejudice to the interpretation of the Court of Justice and the Court of First Instance or evolving Commission decision making practice.

1 Preamble

The objectives of this document are to provide guidance as regards the annual control reports and opinions to be submitted by the Member States to the European Commission (EC), as provided for in Article 61(1)(e)(i) and (ii) of Council Regulation (EC) No 1198/2006.

The submission of an annual control report and opinion by the audit authority is the most important element through which the European Commission obtains reasonable assurance on the effective functioning of the European Fisheries Fund management and control systems in the Member States. It constitutes a key change introduced by the Regulation for the programming period 2007-2013 with regard to the management and control of the European Fisheries Fund and is considered to be fully in line with the concept of the single audit.

According to Article 274 of the Treaty, in areas of the Community budget which are managed through shared management arrangements, the Commission retains overall responsibility for implementing the budget, while the Member States cooperate with the Commission and are responsible for day-to-day administration and control of the implementation of the programmes. Therefore, the annual control reports and opinions will be a critical element that the Commission will use in order to assess how the Member States have fulfilled their obligations and responsibilities for using Community budget appropriations.

2 Legal basis

Article 61(1)(e) of Council Regulation (EC) No 1198/2006 stipulates:

[The audit authority of an operational programme shall be responsible in particular for:]

(e) by 31 December each year from 2008 up to 2015:

(i) submitting to the Commission an annual control report setting out the findings of the audits carried out during the previous 12 month period ending on 30 June of the year concerned in accordance with the audit strategy of the operational programme and reporting any shortcomings found in the systems for the management and control of the programme. The first report to be submitted by 31 December 2008 shall cover the period from 1 January 2007 to 30 June 2008. The information concerning the audits carried out in the period after 1 July 2015 shall be included in the final control report supporting the closure declaration referred to in point (f);

(ii) issuing an opinion based on the controls and audits that have been carried out under its responsibility as to whether the management and control system functions effectively, so as to provide reasonable assurance that statements of expenditure presented to the Commission are correct and, as a consequence, reasonable assurance that the underlying transactions are legal and regular;

(iii) submitting, where applicable under Article 85, a declaration for partial closure assessing the legality and regularity of the expenditure concerned.

Article 44(2) & (4) of Commission Regulation (EC) No 498/2007 stipulates:

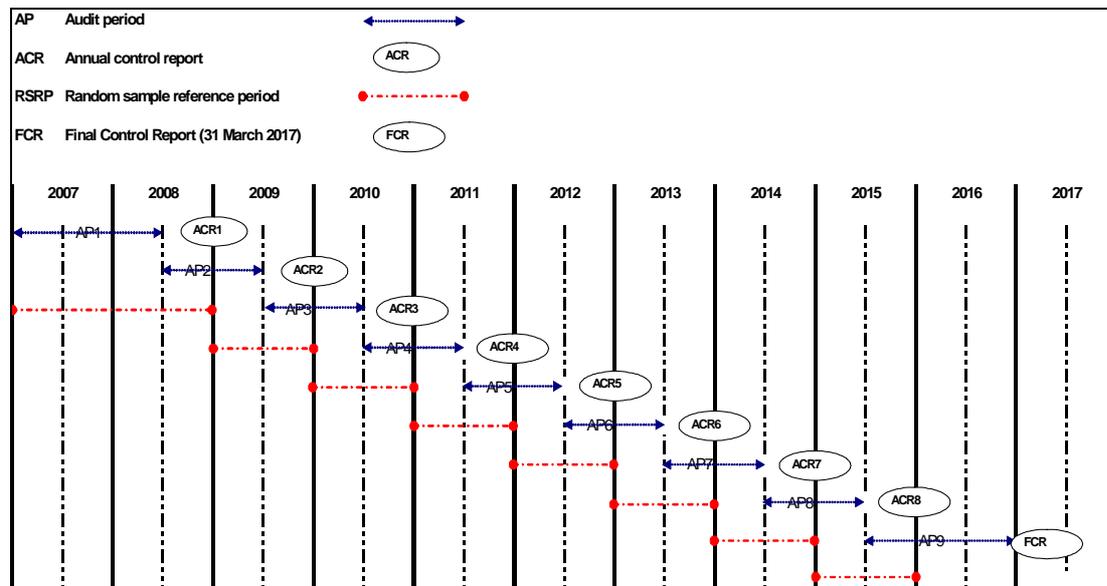
2. The annual control report and the opinion referred to in Article 61(1)(e)(i) of the basic Regulation shall be based on the systems audits and audits of operations carried out under Article 61(1)(a) and (b) of that Regulation in accordance with the audit strategy for the operational programme and shall be drawn up in accordance with the models set out in Annex VI to this Regulation.

4. If there is limitation in the scope of examination or if the level of irregular expenditure detected does not allow the provision of an unqualified opinion for the annual opinion referred to in Article 61(1)(e) of the basic Regulation (or in the closure declaration referred to in Article 61(1)(f) of that Regulation, the audit authority shall give the reasons and estimate the scale of the problem and its financial impact.

Finally, Annex VI to Commission Regulation (EC) No 498/2007 provides a model annual control report and a model opinion.

3 Timing of the reports

The schema below shows the timing for the annual control reports.



The audit authority has to report on the basis of the audit work¹ carried out during the audit period 01/07/N to 30/06/N+1 by 31/12/N+1. It is the period during which the audit authority carries out its work, both systems audits and audits of operations.

In accordance with Article 61(1)(e) of Regulation (EC) No 1198/2006 there are the following two exceptions:

The first annual control report and audit opinion (ACR 1) must be provided by 31/12/2008 and will be based on the audit work performed from 01/01/2007 to 30/06/2008. This will be based on the systems audits only. The first results of the audits of operations are expected to be presented in the ACR 2 to be submitted by 31/12/2009 based on the audited sample of operations for which expenditure has been declared to the Commission in 2007 and 2008, if applicable.

¹ Includes the audits for which the on the spot field work has been performed.

The results of the audits performed after 1st July 2015, shall be included in the final control report for the closure of the programme, which is to be submitted at the latest by 31 March 2017.

The reference period for selecting the sample of projects to be audited is expenditure declared to the Commission in year N, except for the first reference period which runs from 01/01/2007 to 31/12/2008. After completion of the audit field work by 30 June, the audit authority has six months for preparing and submitting the annual control report.

4 Content of the report

According to Annex VI of Regulation (EC) No 498/2007, which provides the model for the annual control report pursuant to Article 61(1)(e)(i) of Regulation (EC) No 1198/2006 and Article 44(2) of the Regulation (EC) No 498/2007, the report should contain the following parts:

1. Introduction: This part should include general information (parts in italics are quoted from Regulation (EC) No 498/2007):

- *Indication of the responsible audit authority and other bodies that have been involved in preparing the report.*
- *Indication of the 12 month (reference) period from which the random sample was drawn. The audit period during which the audit work took place should also be mentioned. Reference should also be made to the version of the audit strategy applicable for the audit period. In cases where changes of the strategy took place during this period, this should be mentioned in part 3 of the report.*
- *Identification of the operational programme covered by the report (CCI number) and of its managing and certifying authority.*
- *Description of the steps taken to prepare the report. This should cover the preparatory phase, documentation analysed, coordination with other bodies (if applicable) and final drawing up of the opinion. This section is of particular relevance in cases where the audit authority relies on the work of other audit bodies.*

2. Changes in management and control systems:

- *Indication of any significant changes in the management and control systems notified to the audit authority as compared with the description provided under Article 71(1) of Regulation (EC) No 1198/2006 and of the dates from which the changes apply.*

The dates from which these changes apply, the dates of notification of the changes to the audit authority, as well as the impact of these changes to the audit work should be indicated. It is expected that the audit authority confirms that the changed management and control systems are still in compliance with Articles 57 to 61 of Regulation (EC) No 1198/2006 on the basis of audit work performed related to the changes. In case the changes were effective at a late stage of the audit period and no related audit work has been carried out in this respect, the audit authority should, when establishing its conclusions and providing its opinion, estimate their impact on the set up and functioning of the management and control systems.

3. Changes to Audit Strategy:

- *Indication of any changes that have been made to the audit strategy or are proposed, and of the reasons behind them.* The audit authority should differentiate between the changes made or proposed at a late stage, which do not affect the work done during the audit period and the changes made during the audit period, that affect the audit work and results. Only the changes compared to the previous version of the audit strategy submitted to the Commission should be included.

4. Systems Audits:

- *Indication of the bodies that have carried out systems audits, including the audit authority itself.* If part of the systems audits has been outsourced, the contract details² and the tasks outsourced to the contractor(s) should be specified.
- *Summary list of the audits carried out (bodies audited).* The summary should include the OP (CCI and title), the body that has carried out the system audits, the date of the audit, the scope of audit including scope limitations and the bodies audited. Horizontal audits should also be reported in this section.
- *Description of the basis for selection of the audits in the context of the audit strategy.* A reference should be made to the audit strategy applicable and submitted to the Commission, more particularly to the risk assessment methodology and the results that led to establishing the specific systems audit plan. In case an update of the risk assessment has been done, this should be described in point 3 above covering the changes of the audit strategy.
- *Description of the principal findings and conclusions drawn from the audit work for the management and control systems and their functioning, including the sufficiency of management checks, certification procedures and the audit trail, adequate separation of functions and compliance with Community requirements and policies.* According to Article 61 (1) (e) (i), any shortcomings found in the systems for the management and control of the programme should be reported in the annual control report in relation to the key elements of the systems. The level of assurance obtained following the system audits (low/average/high) should be indicated and justified.
- *Indication of whether any problems identified were considered to be of a systemic character³, and of the measures taken, including a quantification of the irregular expenditure and any related financial corrections.* In case the audit work performed is not sufficient to determine whether or not a problem is to be considered of a systemic character, an indication of the possible systemic character of a problem identified and an estimated quantification could be included. In cases where there are insufficient elements for quantification, a reference should be made to this. The updated conclusions and quantification related to this problem could then be reported in the subsequent annual control report.

The abovementioned information, except for the description of the basis of selection, may be provided in the form of a table, using the following format:

² Such as the name of the contractor, scope and objectives, definition of tasks, etc.

³ A systemic error is an error relating to a system. A systematic error is an error that is repeated/reproduced.

SYSTEMS AUDITS⁷

Audit period	1. OP (CCI and title)	2. Audit Body⁴	3. Date of the audit⁵	4. Scope of the audit⁶	5. Principal findings and conclusions	6. Problems of systemic character and measures taken	7. Estimated financial impact (if applicable)	8. State of follow-up (closed/or not)
2007-2008								
...								
2008-2009								

⁴ Indication of the bodies that have carried out the system audits, including the audit authority itself.

⁵ Date of audit fieldwork

⁶ Authorities audited, themes audited, scope limitations, ...

⁷ This table is not a mandatory table and can be adapted to the needs of the audit authority.

5. Audits of Sample of Operations:

- *Indication of the bodies that have carried out the sample audits, including the audit authority* If part of the audits of operations has been outsourced, the contract details⁸ and the tasks outsourced to the contractor(s) should be specified
- *Description of the basis for selection of the sample(s).* Describe the sampling methodology used and the steps taken for applying the methodology. Confirm that this is in accordance with the audit strategy.
- *Indication of the materiality level and, in the case of statistical sampling, the confidence level applied and the interval, if applicable.* Indicate additional parameters used for the sampling, such as expected error, sampling risk levels etc. In cases where the audit authority has decided to change basic elements of the methodology (e.g. to reduce the materiality level), these changes should be indicated and explained. The number of operations actually audited should be mentioned. The confidence level applied should be justified.
- *Summary table (see below point 9) indicating the eligible expenditure declared to the Commission during the calendar (reference) year (ending in the audit period), the amount of expenditure audited, and the percentage of expenditure audited in relation to total eligible expenditure declared to the Commission (both for the last calendar year and cumulatively). Information relating to the random sample should be distinguished from that related to other samples.*

This table will have to be completed via SFC 2007.

- *Description of the principal results of the audits, indicating in particular the amount of irregular expenditure and the error rate resulting from the random sample audited.* The second subparagraph of Article 43(4) of Commission Regulation (EC) No 4988/2007 requires the audit authorities to calculate a projected error rate and compare it with the set materiality level, in order to reach conclusions for the total population. The projected error rate should be communicated to the Commission through the annual control report, along with the conclusions reached after the qualitative and quantitative analysis performed. The projection of the errors found in the random sample differs according to the sampling method selected and described in the audit strategy (for projection of errors, see parts 6.3 to 6.6 of the Guidance note on sampling Methods for Audit Authorities COCOF 08/0021/01-EN – examples of sampling methods and their application).
- *Indication of the conclusions drawn from the results of the audits with regard to the effectiveness of the management and control system.* This part should also include the qualitative analysis performed on the errors found. The number and types of errors, their significance and their causes as estimated by the audit authority should be indicated (see part 6.8 of the Guidance note on sampling Methods for Audit Authorities COCOF 08/0021/01-EN: Other considerations – Evaluation of misstatements).

⁸ Such as the name of the contractor, address, scope and objectives, definition of tasks, etc.

- *Information on the follow-up of irregularities, including revision of previously reported error rates.* The audit authority should indicate:
 - Any cases of fraud/ suspected fraud identified during the audit work and the steps taken;
 - Number of operations for which the follow-up has been closed, broken down by year;
 - Number of operations for which the follow-up remains open, broken down by year;
 - Updated error rates of previous years⁹, as a result of follow-up.
- *Indication of whether any problems identified were considered to be systemic in nature, and the measures taken, including a quantification of the irregular expenditure and any related financial corrections.*

In case the audit work performed is not sufficient to determine whether or not a problem is to be considered of a systemic character, an indication of the possible systemic character of a problem identified and an estimated quantification could be included. In cases where there are insufficient elements for quantification, a reference should be made to this. The updated conclusions and quantification related to this problem could then be reported in the subsequent annual control report.

6. Coordination between audit bodies and supervision work of the audit authority:

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- *Description of the procedure for supervision applied by the audit authority to other audit bodies carrying out the audits pursuant to Article 61 (3) of Regulation (EC) No 1198/2006 (if applicable).* The description should include an overview of the supervision actually performed during the audit period. For the aspect of reliance on the work of other auditors, see the Guidance note on reliance on the work of other auditors (EFFC/38/2009-EN).

7. Follow-up of previous years' audit activity:

- *Information on the follow-up of outstanding audit recommendations and on the follow-up of systems audits and audits of operations from earlier years.* For systems audits, this can be done through column 8 of the table provided in point 4 of the report (see relevant parts above). For audits of operations, the only information required will be on the follow-up of measures on errors of systemic character, if not provided in part 5 of the report.

8. Other information (if applicable):

⁹ The error rate to be provided in the annual control report will normally be based on the final audit results (after the contradictory procedure) related to the sample selected for the reference period. Nonetheless, it could happen that following further follow up in line with the administrative/audit procedures, it might be concluded that an error is finally not considered as being an error. As a consequence, the error rate indicated in the previous reports may need to be updated.

The results of the regular review, where applicable, of the coverage provided by the random sample should be described in this section, as well as the decision taken related to the complementary sample.

The method used for selecting the complementary sample and the related qualitative results should be included in this section. The complementary sample is not necessarily linked with the reference period and can cover previous periods as well. The quantitative results are to be included in the table for declared expenditure and sample audits (see point 9 below).

The section should also include an explanation of the way in which the overall level of assurance from the combination of the results of the system audits and audits of operations is obtained.

Finally any other information that the audit authority may consider relevant and important to communicate to the Commission can be reported in this section. Information or measures that may have been communicated to the audit authority or significant events occurred after the audit period should be considered when establishing the level of assurance and opinion by the audit authority, and be described in this part of the report. Some subsequent events might have an important impact on the functioning of management and control systems and/or on the qualifications (in cases of qualified or adverse opinion) and therefore cannot be ignored by the audit authority.

9. Table for declared expenditure and sample audits:

The annual control reports will be submitted to the Commission via SFC2007. The module which has been developed includes the table provided in point 9 of Part A of Annex VI of Regulation (EC) No 498/2007, which will have to be filled in by the audit authorities. Together with the information on declared and audited expenditure, the audit authorities are required to submit information on the projected error rate that derives from the application of the sampling method selected (see point 5 mentioned above) in the column called "percentage (error rate) of irregular expenditure in random sample".

TABLE FOR DECLARED EXPENDITURE AND SAMPLE AUDITS (point 9 of Part A of Annex VI of Regulation (EC) No 498/2007)

Reference (CCI no)	Expenditure declared in reference year	Expenditure in reference year audited for the random sample		Amount and percentage (error rate) of irregular expenditure in random sample		Other expenditure audited ¹⁰	Amount of irregular expenditure in other expenditure sample	Total expenditure declared cumulatively	Total expenditure audited cumulatively ¹¹ as a percentage of total expenditure declared cumulatively
		12	13	Amount	% ¹⁴				

¹⁰ Expenditure from complementary sample and expenditure for random sample not in the reference year (amount)

¹¹ Includes both expenditure audited for the random sample and the other expenditure audited

¹² Amount of expenditure audited

¹³ Percentage of expenditure audited in relation to expenditure declared to the Commission in the reference year.

¹⁴ **Projected error rate** of irregular expenditure in the random sample. In case of non statistical sampling for small populations, the error rate of the sample.

5 Assurance to be provided by the audit authority

Article 61(1)(e)(ii) of Regulation (EC) No 1198/2006 requires the audit authority to provide an opinion as to whether the management and control system functions effectively, so as to provide reasonable assurance that the statements of expenditure presented to the Commission are correct and, as a consequence, reasonable assurance that the underlying transactions are legal and regular.

The concept of reasonable assurance is integral to the auditor's opinion. According to ISA 200 of the IFAC, reasonable assurance is a high, but not absolute, level of assurance. Section 2 of Annex IV to Regulation (EC) No 498/2007 requires the audit authority to combine the results of systems audits and audit of operations in order to obtain a high level of assurance.

As concerns the part of the systems audits, the Commission in cooperation with the European Court of Auditors has prepared a detailed methodology (Guidance on a common methodology for the assessment of management and control systems in the Member States – EFFC/27/2008-EN), in which four categories for the assessment of the systems are foreseen (Category 1: Works well; only minor improvements needed (high reliability), category 2: works but some improvements are needed (average reliability), category 3: works partially; substantially improvements are needed (average reliability), category 4: essentially does not work (low reliability)). Even if the audit authority chooses not to apply this methodology, the determination of reliability of the systems should be based on the **quantified assessment of all key elements** of the systems and authorities involved, as provided for in Section 3 of Annex IV to Regulation (EC) 498/2007.

On the basis of the four categories, the opinion would be unqualified for category 1, qualified for category 2 and 3 and adverse for category 4.

As concerns the audits of operations, the results, including a qualitative and quantitative analysis, should be used to confirm the assurance level obtained initially from the systems audits. The overall assurance will include the assessment of the reliability of the systems combined with the results of the audits of operations.

In practice, the results of the audit of operations may confirm the assurance level obtained from the system audits or might lead to an adaptation (reduction or increase).

For example, a low level of assurance (category 4) from the systems assessment combined with positive results from the audits of operations, may result in an increased level of overall assurance (category 2 or 3), but cannot reach the level of high assurance (category 1), given the low reliability assigned initially to the systems (see also part 4 of the Guidance note on sampling Methods for Audit Authorities COCOF 08/0021/01-EN: relationship between the results of systems audits and the sampling of operations).

It could also occur that an average level of assurance (category 2 or 3) from the systems assessment combined with positive results from the audits of operations, may result in an increased level of overall assurance (category 1 or 2).

The audit authority should record and keep in the audit files information on all the audit work and the assessments performed. It should also indicate in the annual control report under "Other information" the way in which the overall assurance was obtained from the combination of the results of the system audits and the audits of operations.

6 Annual audit opinion

The audit opinion is based on the conclusions drawn from the audit evidence obtained. Regulation (EC) No 498/2007 provides in Annex VI, Part B a model annual opinion, in which three types of opinions are foreseen:

- Unqualified opinion: the auditor considers that the management and control system functioned effectively so as to provide reasonable assurance that the statements of expenditure presented to the Commission are correct and the underlying transactions are legal and regular. This corresponds to a high level of assurance (category 1).
- Qualified opinion: the auditor considers that certain aspects of the systems did not function effectively in order to provide reasonable assurance on the correctness of the expenditure statements and on the legality and regularity of the underlying transactions. An estimate of the impact that this qualification may have on the declared expenditure should be provided by the audit authority. The quantification of the impact may be done either on the basis that the projected error rate established for expenditure in the reference year is applicable, or on a flat-rate basis, taking into account all the information that the audit authority may have at its disposal. The audit authority should indicate whether the improvements required were substantial or not, in line with the categorization for system evaluations. This corresponds to an average level of assurance (category 2 and 3).
- Adverse opinion: the auditor considers that the management and control system did not function effectively so as to provide reasonable assurance on the correctness of expenditure statements and on the legality and regularity of the underlying transactions. This corresponds to a low level of assurance (category 4).

In cases where there is a qualified or adverse opinion, the audit authority is expected to indicate the corrective actions planned/taken by the different authorities involved. The audit authority should follow up if these actions have actually been implemented and report the following year on the implementation in point 7 of the Annual Control Report.

In cases where there are limitations in scope, a qualified opinion has to be provided, stating whether these limitations have an impact on the declared expenditure, and if so providing quantification.

In general, an overall high level of assurance (reasonable) should lead to an unqualified opinion. An average level of assurance should lead to a qualified opinion. Finally, where the auditor has low assurance, an adverse opinion should be issued.

While establishing the annual opinion and while setting the levels of assurance, appropriate professional judgement should be applied in order to decide whether the gravity of findings justifies a qualified opinion/adverse opinion.

7 What should be expected from the Commission?

The annual control reports and opinions are to be submitted to the Commission via SFC2007. The system provides for the submission of data in a structured format, such as the table foreseen in point 9 of Annex VI of Regulation (EC) No 498/2007. The regulatory framework does not provide for any formal reaction by the Commission on the annual control report and opinion. Nevertheless, the Commission will carry out their analysis and transmitting a reply to the national authorities within two months of reception of the annual control reports and opinions, via SFC 2007. In case the Commission has not finalized its assessment within the two months deadline, the national authority will be informed. There are three types of replies foreseen:

- Accepted: the annual control report and opinion follow the models foreseen in Annexe VI to Regulation (EC) No 498/2007 and are of adequate quality.
- Accepted with follow-up: the annual control report and opinion follow the models foreseen in Annexe VI to Regulation (EC) No 498/2007 and are of adequate quality, but the Commission requires additional information, in particular as regards the follow up by the responsible authorities of issues raised in the report, in order to be able to draw conclusions on the basis of the work carried out by the audit authority. In this case, the audit authority must submit the additional information via SFC 2007, which the Commission will then assess.
- Returned for correction: the annual control report and opinion either do not follow the models foreseen in Annexe VI to Regulation (EC) No 498/2007, or their quality is not adequate, or significant information on the work performed by the audit authority is missing. The Commission will request that a revised version of the report and/or opinion be submitted.