2008 discharge: EU general budget, section III, Commission

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PURPOSE: presentation of the Council's recommendation on the discharge to be given to the Commission in respect of the implementation of the budget for the financial year 2008 (section III-Commission).

CONTENT: the Council approved a draft recommendation regarding the implementation of the EU budget for the financial year 2008. The recommendation recalls the key figures relating to 2008:

Analysis of expenditures:

- revenue amounted to EUR 121 584 382 284.55;
- expenditure amounted to **EUR 115 549 972 381.55;**
- cancelled payment appropriation (included earmarked revenue) carried over from 2007 amounted to EUR 187 895 817.94;
- appropriations for payments carried over from 2008 to 2009 amounted to EUR 3 912 336 487.46;
- the positive budget balance amounts to EUR 1 809 933 155.72.
- Cancelled payment appropriations for the financial year amounted to EUR 1 782 153 884.83.

EUR 994 555 498.12 (83%) of the EUR 1 192 715 675.21 in appropriations for payments carried over to 2008 have been used.

Based on the observations contained in the report of the Court of Auditors, the Council recommends the European Parliament **to give a discharge to the Commission** in respect of the implementation of the EU budget for the financial year 2008.

DAS (Statement of Assurance): the Council notes the positive trend over the recent years as regards an improved financial management of EU funds in an increased number of policy areas. However, it regrets that the Statement of Assurance (DAS) remains adverse for a significant part of the budget for the financial year 2008. In this respect, it welcomes the notable improvements in the management and control of funds, showing evidence of the progress made towards the principal objective of achieving a positive DAS. It urges all responsible actors to continue to improve the financial management of EU funds. The Council welcomes the unqualified audit opinion of the Court as regards the legality and regularity of the underlying transactions for "Revenue", commitments for all policy areas and payments for "Education and Citizenship" and "Administrative and other expenditure". It is particularly satisfied with the improvements made in the area of "Agriculture and natural resources" for which the Court's opinion on the underlying payments was for the first time qualified only in respect of "Rural Development". However, it notes with dissatisfaction the qualified opinion for the area of "Economic and financial affairs". The Council also regrets that the Court's opinion for certain other areas remained adverse, it calls for simplification of expenditure schemes, while not undermining the level of assurance provided by improved controls.

- **Reliability of the accounts:** the Council welcomes the favourable opinion given by the Court on the reliability of the annual accounts of the European Union for the financial year 2008 and the Court's statement that the accounts present fairly, in all material respects, the financial position of the EU as at 31 December 2008. It, nevertheless, asks the Commission to take further steps towards

the closing of outstanding cross-cutting issues relating to interfaces between local financial management applications and the central accounting system, as well as towards the improvement of the quality of basic accounting data;

- **Legality and regularity of the underlying transactions:** the Council welcomes the fact that the Court was able to give non-adverse opinions on an increasing number of areas and appreciates the Court's unqualified opinion for "Revenue", commitments for all policy areas and payments for "Education and Citizenship" and "Administrative and other expenditure" where the error range estimated lies below the 2% materiality threshold, as well as progress made in respect of "Rural Development". Regarding expenditure in the area of "Cohesion", the Council regrets the Court's finding that at least 11% of the total amount reimbursed to 2000-2006 Cohesion policy projects should not have been reimbursed. The Council recalls that irregularities in this policy area are almost entirely the result of eligibility errors and that irregularity does not mean fraud. It invites the Commission to do its best to recover a maximum of the money that should not have been paid out.

TFEU: the Council recalls that, following the Treaty on the Functioning of the European Union (TFEU), the Commission shall implement the budget in cooperation with the Member States, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management. **Member States shall continue to cooperate with the Commission** to ensure that appropriations are used in accordance with the principles of sound financial management. It insists on the importance of further improving the efficiency, effectiveness and consistency of controls, in order to provide reasonable assurance of the sound financial management of funds by all parties involved. Moreover, it is of the opinion that **the control burden must remain proportionate to the benefits derived from controls** undertaken at different levels. It encourages the Commission to continue its work on the concept of tolerable risk of error and looks forward to examining the Commission's proposals on this issue.

Commission internal control and supervisory system: the Council welcomes the progress made by the Commission in 2008 to improve its internal control and to address the weaknesses in the control and supervisory systems. It takes note of the **transmission by all Member States of annual summaries at the appropriate national level of the available audits and declarations** on time. Recognising the considerable steps taken by the Commission to improve its internal control standards, the Council regrets that there is still no evidence that the actions undertaken have been effective in mitigating the risk of error in the policy areas related to "Rural development", "Cohesion", "Research, energy and transport" and "External aid, development and enlargement". The Council acknowledges that any simplification of the rules and all improvements to the Commission's controls **will need time** to have an effect on the reduction in the level of errors. The Council also recalls that the controls and the assurance they provide should be improved by building on existing control structures and promoting simplification with a view **of improving the cost-benefit ratio**, based on the single audit model. As regards the simplification, the Council fully agrees with the recommendation of the Court that **simplified eligibility conditions, control structures and procedures have to be prioritised** in the context of future legislation. In particular, it stresses that attention is primarily directed to those expenditure areas where a **high level of errors** is systematically reported.

Budgetary management: the Council notes that the implementation level of the 2008 budget is similar to the spending rates in 2007. It reiterates that **over-budgeting** has to be avoided and insists that a realistic budgeting from the stage of the draft budget presented by the Commission onwards remains an essential element of good budgetary management. However, it shares the Court's statement that reducing appropriations for payments through amending budgets represents good financial management by adjusting to changes and reducing the budgetary surplus. Concerning the **2000-2006 Structural Funds programmes**, the Council welcomes the fact that the implementation of payment appropriations is higher than expected. However, it regrets that the implementation of payment appropriations for the 2007-2013 Cohesion programmes is lower than expected and that the initial payment appropriations were reduced by EUR 4.5 billion due to a delay in implementation.

RAL (outstanding budgetary commitments): the Council notes with concern that the overall level of outstanding budgetary commitments (RAL) continues to increase. The highest proportion is related to the Cohesion area. Nevertheless, it notes that almost 80% of RAL are from 2007 and 2008 and therefore related to the current financial framework. Moreover, the high level of RAL for the Cohesion Fund, responsible for about two thirds of the total amount, is mainly due to the regulatory provisions for this fund for the 2000-2006 programming period.

Revenue: the Council welcomes the Court's conclusions that the Member States' declarations and payments of traditional own resources, as well as the VAT- and GNI-based contributions were free from material error. It also notes that the functioning of the supervisory and control systems was overall satisfactory.

The Council then reviews each **budgetary area** and makes the following remarks:

- **Agriculture and natural resources**: the Council notes with great satisfaction that, for the first time, the overall error rate related to the transactions underlying the expenditure declared for this policy area, taken as a whole, is below the materiality threshold. The errors detected mainly affect the transactions' accuracy and, to a lesser extent, their eligibility, and were relatively small in financial terms. Therefore, the Council encourages the Commission and the Member States to continue addressing the weaknesses of the systems, most of which the Court assessed as partially effective. With a view to addressing specific deficiencies, particularly within the SPS (Single Payment Scheme) and SAPS (Single Area Payment Schemes), the Council considers that close cooperation between the Commission and the Member States is crucial. The reliability of databases and the correctness of administrative procedures will be enhanced mainly by providing implementing entities and beneficiaries with clear and simple guidelines, particularly in relation to eligibility conditions. With regard to the effectiveness of systems related to recoveries and financial corrections, the Council stresses, once again, that effective and rapid recovery actions represent not only an indispensable instrument for the protection of the Union's financial interests, but also an additional incentive for Member States to improve their Management and Control Systems.
    - the Council considers that the simplified rules and conditions set in the new regulatory framework for the 2007-2013 programming period, coupled with tighter and more effective controls, have resulted in a lower error rate for this policy area, which remains nonetheless an error-prone one, due in large part to the inherent complexity of rural development rules and conditions. It acknowledges that good progress has been achieved in ensuring that all measures, including agri-environmental ones, are verifiable and controllable but that further efforts still need to be made to **furthersimplify implementation**.
- **Cohesion:** the Council, being aware that the Court's observations concentrate on the 2000-2006 programming period, notes with great concern the Court's estimate that again in 2008 at least 11% of the **total amount reimbursed** to 2000-2006 Cohesion policy projects should not have been reimbursed. While noting the absence of potential fraud cases in the Court's report, the Council urges the Commission and the Member States to remedy this situation without delay. It welcomes the fact that the Commission has already taken remedial measures, namely in 2008 but the entire impact of the Commission’s action plan can only be assessed when the 2007-2013 reimbursements are audited. The Council is also convinced that simplification should lead to reductions in the level of errors and the administrative burden. It encourages the Commission, in cooperation with the Member States, to make concrete proposals aiming at further simplification of procedures. As regards financial corrections, the Council considers that the application of **flat-rate corrections** should be reserved for exceptional and duly justified cases.
- **Research, energy and transport**: overall, the Commission has reinforced its control systems and simplified the funding rules for research projects, and that these measures have contributed to a reduction in the level of error. The Council regrets that a number of transactions audited by the Court were still affected by material errors. It is concerned that, according to the Court, most of the

errors found were related to the reimbursement of ineligible costs in interim and final payments to research projects under the Sixth Framework Programme. The most common type of error remained the reimbursement of ineligible personnel and indirect costs. The situation appears to be better as far as the 7th Framework Programme is concerned and, in the context of the preparation of the Eight Framework Programme, special attention should be paid to work concerning the simplification of the funding rules.

- **External aid, development and enlargement**: the Council regrets that the transactions relating to this policy area were still affected by a material level of error of legality and/or regularity and that the frequency of errors in the transactions was higher than in the previous financial year. The Council recognises, however, the serious work done by the Commission to improve the financial controls in this area that entails controls to be made all over the world. As regards the types of errors, the Council notes with dissatisfaction the eligibility errors in the transactions and the irregularities in the procurement procedures. It expresses its disappointment concerning the controls at DG AIDCO (EuropAid) and in projects implemented by UN agencies. While checks made at headquarter level continue to be effective, this is not the case at delegation level. It invites the Commission to continue to improve management and supervision in DG RELEX and AIDCO delegations. It also criticises weaknesses in auditing methods.
- **Education and citizenship:** the Council welcomes the clear progress made in the implementation of transactions in this policy area. Nevertheless, it regrets that the Court's assessment of selected supervisory and control systems in this policy area as a whole resulted in the conclusion that these systems are only partially effective. It calls on all stakeholders to continue to improve the control and supervisory systems. It calls for new simplification measures, in particular the introduction of lump-sum payments. It also recommends the Commission to involve itself in a closer supervision of the annual ex-post declarations process, with more thorough monitoring visits and direct verification if the controls described are adequate and fully applied.
- **Economic and financial affairs:** the Council notes that, except for the payments made under the Sixth Framework Programme for research and technological development (FP6), the transactions in this policy area were free from material error. It notes with satisfaction that the Commission has taken significant measures in order to address errors and weaknesses affecting respectively the regularity of transactions and the effectiveness of systems. However, it is concerned about the fact that for 2008 the Court found out that the audit certificates, mainly for projects financed under the FP6, were only partially reliable. While noting that actions have been taken to improve the quality of audit certificates for FP7, it insists on the importance of this instrument as a contribution to prevention and early correction of errors.
- **Administrative and other expenditure:** overall, in 2008, all institutions continued to operate satisfactorily the supervisory and control systems required by the Financial Regulation. Nevertheless, the Council takes due note of the Court's observations concerning the budgeting of funds for the Secured European System for Automatic Messaging (SESAME). It will assess the situation in the context of the annual budgetary procedure. The Council is concerned with the various problems identified by the Court in the functioning of the new Individual Rights Information System (IRIS) used to manage staff entitlements, including the calculation of salaries, implemented by the Office for Administration and Payment of Individual Entitlements (PMO) and calls on the latter to take all measures necessary to remedy these shortcomings, in order to avoid in the future the problems identified by the Court. Lastly, it invites the Commission to take duly into account the remarks made by the Court when assessing the workings of the pension scheme and fund for local staff at Commission .delegations. It welcomes the Commission's commitment to present, in spring 2010, **a long-term estimate of EU pension expenditure**, as requested by the Council.