

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 03/02/2011

In accordance with Article 319(1) of the Treaty on the Functioning of the European Union (TFEU), the Council approved a recommendation concerning the discharge to be given to the Commission for the implementation of the general budget of the European Union 2009.

Analysis of expenditures:

- revenue amounted to EUR 117 625 569 759.42
- expenditure disbursed from appropriations amounted to EUR **116 578 956 036.54**
- cancelled payment appropriations amounted to EUR 2 790 917 571.71
- appropriations for payments carried over from 2009 to 2010 amounted to EUR 1 758 859 611.37
- positive budget balance amounted to EUR 2 264 213 443.61
- cancelled payment appropriations for the financial year amounted to EUR 1 688 491 608.32.

EUR 1 782 055 939.84 (84%) of the EUR 2 131 805 682.01 in appropriations for payments 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 2009.

DAS (Statement of Assurance): the Council welcomes the Court's Statement of Assurance (DAS) for the financial year 2009 which shows evidence of improvements in the implementation of the EU budget as a whole. It regrets, however, that payments from the budget continued to be materially affected by error, that supervisory and control systems for payments remained to be only partially effective, and that the principal objective of obtaining a positive DAS on the underlying transactions was still not achieved.

The Council welcomes the fact that, for the third consecutive year, the annual accounts of the European Union gave a fair presentation of the financial position and the results of operations and cash flows. Nevertheless, the Council draws attention to the necessity to continue monitoring closely the management and control of funds, in particular concerning the policy group "Agriculture and natural resources".

As in previous years, the Council stresses the need to concentrate efforts on simplification of programme structures and management systems. It calls on the Commission to propose, where appropriate, measures aiming at reducing the complexity of rules, in particular of those governing the practical administration of programmes. In addition, a thorough scrutiny of the inherently complex EU legislation on public procurement would be of particular importance. The Council recalls the importance of transparent and functioning systems for recovery and financial corrections, both in the Commission and in Member States, in the context of the multiannual character of expenditure. It encourages the Commission to immediately interrupt and suspend payments when it is duly justified, and to strictly follow up all corrective action.

Supporting information to the DAS:

- **Reliability of the accounts:** although the Council welcomes the favourable opinion given by the Court on the reliability of the annual accounts, it takes note of the missing or incomplete information in the management representation letters of three entities whose accounts are

consolidated with those of the Commission. The Council encourages the Commission to assure, also in the coming years, that the high quality level of the EU accounts is maintained.

- **Legality and regularity of the underlying transactions:** the Council appreciates the Court's unqualified opinion for "Revenue", commitments for all policy groups, and payments for "Economic and financial affairs" and "Administrative and other expenditure". The Council notes the Court's statement that supervisory and control systems for "Revenue" and "Administrative and other expenditure" functioned effectively, and that the error range estimated by the Court for "Revenue", "Economic and financial affairs" and "Administrative and other expenditure" lays below the 2 % materiality threshold. It is satisfied with the improvements made in the area of "Cohesion", even though further efforts are needed. The Council is concerned that payments for the policy areas "Agriculture and natural resources" as a whole and "Education and citizenship" were materially affected by error, in addition to "Research, energy and transport" and "External aid, development and enlargement" for which the Court's opinion remained adverse. The Council encourages the Commission to increase transparency in these areas.

Revenue: the Council notes with great satisfaction the Court's conclusions that the revenue transactions were free from material error and that the related supervisory and control systems were assessed as effective. The Council reiterates its request to the Commission for a qualitative assessment of the administration, management and control of the traditional own resources and VAT own resources systems.

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

- **Agriculture and natural resources:** the Council is concerned that, compared to 2008, the Court's audit results show an increase in its estimate of the most likely error concerning the transactions underlying the expenditure declared in this policy area. It notes that most of the quantifiable errors affected the transactions' accuracy, particularly with respect to declarations of eligible land, and had a limited financial impact. The Council considers that the Court's conclusions on the regularity of the 2009 transactions question neither the quality nor the persistency of the efforts made by the Commission and Member States in improving their supervisory and control systems. Nevertheless, these efforts should be stepped up in order to find adequate solutions to the weaknesses of the systems, most of which the Court assessed as partially effective. As regards the **effectiveness of systems related to regularity of transactions**, the Council considers that the Integrated Administrative Control System (IACS) is generally effective in limiting the risk of error or irregular expenditure and enables Member States' authorities to identify numerous errors. The results of the very extensive conformity audits carried out by the Commission support the effectiveness of IACS and its constant improvement. On the other hand, the Council, drawing from the Court's observations in this respect, considers that fully-fledged performance of IACS depends on its proper application and correct implementation by Member States. On **rural development**, the Council welcomes the declining error rate. However, it agrees with the Court that further efforts are required to continue simplifying rules and conditions, focussing particularly on defining clearer eligibility criteria and better guidance to beneficiaries. As regards the **effectiveness of systems related to recoveries and financial corrections**, the Council welcomes the considerable results obtained in the recovery of old debts following the application of the new clearance mechanism for irregularity cases. However, the Council demands faster recovery procedures for the immediate future and calls on Member States to move further in this direction. The Council strongly supports the Court in asking the Commission to continue its effort to limit flat-rate corrections to exceptional cases, and to base recoveries to the maximum possible extent, and particularly when large sums are at stake, on the actual amounts of irregular payments, subject to appropriate information being provided by Member States on the actual losses.
- **Cohesion:** Even if it regrets that still 36% of the audited projects in 2009 were affected by error, the Council notes with satisfaction that the trend for reduced error already registered in 2008 continued. The Council also welcomes the significant decrease, from at least 11% in 2008 and 2007 to at least **3% in 2009**, of the estimated proportion of the expenditure certified by Member States to the

Commission which should not have been reimbursed according to the Court's findings. Nevertheless, the Council remains concerned about this excessive proportion and also about the most likely error rate estimated by the Court above 5%. The Council notes that a large part of quantifiable errors were linked to the **non-respect of public procurement rules**. It is convinced that training and simplification measures in this area could reduce the risk of misinterpretation and consequently the risk of error. Concerning the systems related to **recoveries and financial corrections**, the Council notes with satisfaction the better results, compared to previous years, in terms of recording and correcting errors and encourages the Commission and Member States to pursue their efforts in this area.

- **Research, energy and transport:** the Council regrets the material level of error in payments, as well as the weaknesses in supervisory and control systems identified by the Court's audit of this policy group managed mainly by centralised direct management. It encourages the Commission to pursue its efforts to simplify the financing rules for research projects. It stresses that the **diversity of research projects does not justify a diversity of financial rules and control systems** and expects this issue to be resolved in the next multiannual framework programmes. On the **regularity of transactions**, the Council regrets that payments in this area were still affected by material error and notes that, as in 2008, the principal source of error found in the audit continued to be the reimbursement of overstated personnel and indirect costs. The Council regrets that the supervisory and control systems were still only partially effective in ensuring the regularity of payments, but welcomes the improvements noted by the Court. It encourages the Commission to continue to reinforce its internal control systems. The Council is concerned that the Court again in 2009 found errors in cost statements which had received an unqualified opinion from the certifying auditor under FP6. It expects the Commission to pursue its measures to remedy this problem. It also regrets that the efforts of the Commission to simplify the audit certification under FP7 by the ex-ante certification of beneficiaries' costing methodologies did not lead to the expected results and suffered from consequent delays.
- **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. It takes note that, overall, most of the errors identified were non-quantifiable and that they were detected at the level of Union Delegations. On the other hand, the Council notes with satisfaction the improvement of the relations between UN agencies and the EU in the field of control and audits of projects implemented in this policy area by UN agencies, as requested by the Council in its recommendation for the 2008 discharge. On **ex-ante controls** and in particular concerning DG ELARG, the Council asks the Commission to take the necessary measures to correct the shortcomings identified by the Court concerning tendering procedures, the setting up and operation of the decentralised implementation system for Croatia and Turkey, the centralised management at Commission level, and the closure and clearance of the PHARE and CARDS programmes. As regards DG ECHO, and while welcoming the Court's assessment that the ex-ante controls were generally effective, the Council invites the Commission to address the comments made by the Court, notably those concerning partners' control systems. The Council, while welcoming the various reinforcements to the ex-ante control procedures introduced by DG RELEX in 2009, underlines the importance to remedy the remaining weaknesses identified by the Court.
- **Education and citizenship:** the Council notes with regret that payments in this policy area were assessed by the Court as affected by material error. Supervisory and control systems in this policy area were evaluated by the Court as only partially effective in ensuring the regularity of payments. The Council regrets that a significant number of errors in the closures made during the year were left undetected and uncorrected. It takes note of the fact that those closures concerned actions undertaken in a previous programming period and calls on the Commission to reinforce the checks with regard to closure payments to prevent the reoccurrence of errors. The Council considers that the multiplicity of schemes for various thematic areas and types of projects raise the need for well-functioning supervisory and control systems. Simplified rules and extensive use of **lump-sum financing**, used in the current generation of programmes, should lead to reducing the risks linked to final payments in the future.

- **Economic and financial affairs:** the Council welcomes the clear progress made in the implementation of transactions in this policy area. The Council encourages the Commission to continue this approach, to further simplify the application of eligibility rules and to increase the awareness of beneficiaries. It takes note of the Court's remarks concerning the correctness of FP6 audit certificates and invites the Commission to continue to provide support and guidance to beneficiaries and auditors, also in the context of FP7.
- **Administrative and other expenditure:** lastly, the Council notes with satisfaction that, also in 2009, the administrative expenditure of the EU institutions and bodies remained free from material error and that their supervisory and control systems continued to comply with the requirements of the Financial Regulation.