2012 discharge: EU general budget, European Commission and executive agencies

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In line with paragraph 1, Article 319 of the Treaty on the Functioning of the European Union (TFEU), the Council approved a recommendation on granting the Commission discharge in respect of the implementation of the general budget of the European Union for the financial year 2012.

Analysis of expenditure:

- revenue for the year amounted to EUR 139 540 541 171.93;
- expenditure disbursed from appropriations amounted to **EUR 137 737 768 772.97**;
- cancelled payment appropriations carried over from year n-1 amounted to EUR 92 099 139.87;
- appropriations for payments carried over to year n+1 amounted to EUR 930 914 134.37;
- the positive budget balance amounted to EUR 1 018 938 932.75;
- cancelled payment appropriations for the financial year amounted to EUR 73 827 261.80;
- of the EUR 1 019 506 414.62 in appropriations for payments carried over to year n, EUR 945 679 152.82 (93%) have been used.

On the basis of the observations made by the Court of Auditors, the Council recommends the European Parliament **to give a discharge to the Commission** in respect of the implementation of the budget of the European Union for the financial year 2012. However, it considers that the budgetary implementation invokes a series of comments from the Council that should be fully taken into account when granting discharge.

DAS: the Council welcomes the Court's Statement of Assurance (DAS) on the implementation of the budget for the financial year 2012, according to which the consolidated accounts of the European Union were, in 2012, free from material error and present fairly, in all material aspects, the financial position of the Union and the results of its operations and its cash flows.

It states that **the error rate was at 4.8% for 2012**, thereby payments from the budget continued to be **materially affected by error**. It is also concerned that supervisory and control systems audited by the Court were only partially effective in ensuring the legality and regularity of transactions.

In general, the Council recalls that better spending and sound financial management of EU funds is of particular importance for the public perception of actions financed from the EU budget. Thus, the Council calls for the full implementation of the recommendations presented by the Court in its annual report.

Management of EU Funds: in the area of shared management, the Council regrets that the error rate still remains above the materiality threshold. Therefore, it calls upon the Commission to further strengthen the control systems and to make them more efficient, to put more emphasis on measures preventing errors, on timely interruption and suspension of payments, to target the most risk prone programmes and **to apply**

financial corrections and recoveries, rigorously in line with the relevant rules, in order to protect the EU budget. The Council takes note of the findings of the Court that for a significant part of transactions affected by error, **national authorities had enough information to detect and correct the errors concerned**. It calls upon the Commission to provide guidance to Member States with a view to strengthening the efficiency of their administrative and control structures. It calls upon the Commission to fully respect the need to achieve simplification in the management of EU funds and to evaluate the potential additional burden of the measures on Member States before significant changes are introduced.

Simplification of rules: in the Council's view, the simplification of rules is of paramount importance in achieving an unqualified audit opinion. The adoption of the new legislative acts implementing the new multiannual programming period 2014-2020 and the new Financial Regulation is an opportunity to achieve major progress towards simplification and thereby lower the risk of error. Thus, the Council invites the Commission andMember States to take full advantage of this opportunity in the implementation of the new multiannual financial framework and to find the right balance between risks and cost of controls.

Public procurement: the Council regrets that, as in previous years, an important share of the errors is identified by the Court **in the area of public procurement, for the EU budget as a whole**, and in particular under shared management where national rules also apply. It calls for the simplification of the rules, for the benefit of all relevant actors.

The Council also refers to the need to:

- pursue all available corrective measures and recoveries necessary;
- enhance the value of the annual activity reports ublished by the Commission;
- deal with the problem of outstanding balance of unused commitments (RAL) and to settle them in a timely manner (to this end, Council invites the Commission to prepare and publish a long term cashflow forecast, projecting future payment requirements).

Council also expressed itself on the following aspects of the DAS:

- **Reliability of the accounts**: the Council welcomes the favourable opinion given by the Court on the reliability of the accounts for the financial year 2012. It notes with satisfaction the Court's statement that the accounts present fairly, in all material respects, the financial position of the Union as at 31December 2012;
- **Legality and regularity of the underlying transactions**: it regrets that an important share of spending continued to be affected by a material level of error and that the most likely error rate for payments as a whole increased to **4.8% in 2012**. It reiterates its wish to see improvements in financial management systems and lower error rates;
- **Control systems**: the Council regrets the Court's conclusion that overall the supervisory and control systems were only **partially effective** in ensuring the legality and regularity of
- payments underlying the accounts, and that payments relating to the other policy groups remained affected by material error. It therefore encourages the Commission to further reinforce supervision and control structures and to further strengthen its cooperation with Member States.

Revenue: the Council notes with satisfaction the Court's conclusion that "Revenue" transactions were free from material error and that overall the related supervisory and control systems were assessed as effective

in ensuring the regularity of transactions. It calls on the Commission to continue to improve the estimates of traditional own resources (TOR) and to assist Member States in enhancing appropriate control frameworks in order to collect the maximum amount of TOR due to the Union.

The Council then expressed itself as follows on each **budget area**:

- **Agriculture – direct support**: the Council is disappointed that the payments examined by the Court in this policy group were affected by material error and that the most likely error rate estimated by the Court increased to 3.8%. As in previous years, the Council notes that most of the quantifiable errors detected by the Court relate to the accuracy or eligibility of aid payments, in particular the **over-declaration of land**, which were linked to the shortcomings identified in the Land Parcel Identification System (LPIS), and which, in financial terms, were not significant. The Council, therefore, while noting the need for improvements at national level, calls on the Commission to further engage with Member States to address these shortcomings.

- **Rural development, environment, fisheries and health**: the Council regrets that the most likely error rate for this policy group was estimated by the Court at 7.9%. The Council takes note that **rural development remains a particularly error prone spending area of the EU budget** due to the inherent complexity of the programmes, and that, according to the Court, errors were found in all Member States visited. It reiterates its view that the high error risk is partially due to the **complexity of the existing rules and eligibility conditions** in force. The Council notes that the Court included cross-compliance errors in its estimate of the error rate although the Commission considers that **cross-compliance does not constitute an eligibility criterion**. The Council invites the Court, in consultation with the Commission, to consider the most appropriate way of reflecting the impact of cross-compliance on the error rate. The Council supports the action plans set up in cooperation with Member States in order to identify and target the root causes of weaknesses relating to the ineffective implementation of procurement rules and to implement remedial actions.

- **Regional policy, energy and transport**: the Council regrets that the most likely error rate for payments under this policy group increased to 6.8%. The Council reiterates the importance of first-level checks and calls on national managing authorities to ensure more effective verification systems in order to reduce the error rate. It calls on Member States and the Commission to take their respective responsibilities for enhanced guidance and supervision and to **provide targeted training and guidelines**. As in previous years, **failures to comply with public procurement rules and the declaration of ineligible costs** were the most common sources of error identified by the Court for this policy group. It also encourages the Commission to focus in particular on preventive measures, in order to better protect the Union budget and awaits with interest the Court's specific audit on public procurement. It stresses the importance of a continued simplification of rules at national and Union level and encourages Member States to implement the Commission's recommendations for **eliminating unnecessary complex national rules** at programme level.

- **Employment and social affairs**: in this policy group, the Council notes that that 35% of the transactions were affected by error. Moreover, it underlined that a significant number of errors could have been detected and corrected by Member States themselves. It notes that the main sources of error in this policy group were the **declaration of ineligible projects, the reimbursement of ineligible or inaccurately declared costs, and failures to respect national public procurement rules**. The Council calls on the Commission and Member States to continue addressing the weaknesses in first-level checks carried out by national managing authorities and intermediate bodies and invites the Commission and Member States to seek possible ways to further simplify and streamline national eligibility criteria.

- **External relations, aid and enlargement**: the Council regrets the material level of error affecting this policy group (3.3% for 2012). Nevertheless, it welcomes the fact that the frequency of errors has decreased as compared to the previous years. The Council is nevertheless concerned about the Court's conclusion that the supervisory and control systems audited by the Court in the Directorate-General for Development and Cooperation (EuropeAid) were only partially effective in ensuring the legality and regularity of payments. While acknowledging the actions already taken, the Council urges the Commission to take the necessary measures to correct the weaknesses identified in its control mechanism, namely in relation to the ex-ante checks, **the clearing procedure, the management of documentation and contract awarding procedures**, and the quality checks carried out by external auditors.

- **Research and other internal policies**: the Council regrets that payments examined by the Court under this policy group were again affected by material error (3.9%). It notes that the main sources of error were the inclusion of ineligible costs, **the lack of evidence of expenditure actually incurred**, and the use of incorrect methodologies for the calculation of personnel and indirect costs, notably in the project cost statements provided by beneficiaries of the research framework programmes. It calls on the Commission to systematically remind beneficiaries of the eligibility rules and of the applicable calculation methods, as well as of the requirement to substantiate all declared costs. In this regard it recommends simplification of the EU instruments. With regard specifically to the research framework programmes, the Council encourages the Commission to continue to improve its methods and procedures, while maintaining an appropriate balance between trust and control and without increasing the administrative burden for project promoters and beneficiaries. It also calls for efforts to be made to ensure that **project coordinators immediately distribute received funds to other project partners** so as to avoid the serious financial consequences on beneficiaries that are highly dependent on EU funding.

- **Administrative and other expenditure**: finally, the Council is pleased to note that, as in previous years, the administrative expenditure of EU institutions and bodies remained free from material error with an estimated error rate of 0%, and that their supervisory and control systems continued to comply with the requirements of the Financial Regulation.

Conclusion: by way of conclusion, the Council calls on all actors in the Commission, the Court and Member States **to take advantage of the new legal framework agreed for the new multiannual programming period 2014-2020** and to pursue efforts towards developing a performance framework as to ensure that expected results and impacts laid down in the sector-specific regulations are achieved. This includes, among others, a consistent application of SMART objectives, using milestones and suitable indicators to evaluate on an annual basis the performance of multiannual programmes.

The Council finally underlines the importance of clearer and better understanding of the concept of the EU added value and invites all actors, the Commission, the Court and Member States to contribute to its further development.