



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Budgetary Control

23.10.2013

WORKING DOCUMENT

on Special Report No 24/2012 - The European Union Solidarity Fund's response to the 2009 Abruzzi earthquake: The relevance and cost of the operations

Committee on Budgetary Control

Rapporteur: Søren Bo Søndergaard

DT\1007699EN.doc

PE521.621v02-00

EN

United in diversity

EN

Introduction

On 6 April 2009 at 3.32 am the city of Aquila and its province is devastated by a huge earthquake. More than 300 people died and tens of thousands are displaced¹. The entire historical medieval old town became uninhabitable in the earthquake and remains uninhabitable until today. The medieval old town was built in the XIII century mirroring the city plan of Jerusalem. The old city had tens of squares with churches and fountains in representation of the 99 village of the area. Fifty-five neighbouring municipalities were also affected by the earthquake; some were completely destroyed. The entire zone is known as “*cratere*” (crater). The direct damage caused by the earthquake is estimated at more than EUR 10 billion.

On the 16 April 2009, ten days after the earthquake, the Attorney of Aquila puts together a team of prosecutors charged with making sure that organised crime does not infiltrate the reconstruction work following the earthquake.

On 11 November 2009 the European Parliament adopted the Commission's European Union Solidarity Fund (EUSF) proposal for Aquila:

- EUR 493,7 million was mobilised from the EUSF for Abruzzi,
- The European Regional Development Fund (ERDF) programme for Abruzzi (2007-13) was altered. The modification of the 2007-13 ERDF allocation therefore consisted of transferring funds within the envelope of the Regional Operational Programme. Furthermore, ERDF financing could not be used for the reconstruction of destroyed or damaged private houses but only for the economic redevelopment of the area affected by the earthquake and for a limited number of infrastructural interventions outside the scope of the Solidarity Fund, e.g. cultural heritage, rebuilding of regional or municipal offices.

On 27 October 2010 the Committee on Budgetary Control (CONT) sent a delegation to Aquila as part of a wider fact-finding mission to Italy.

On 11 April 2011 CONT endorsed the following conclusion of the visit²:

As regards Abruzzi:

16. *Invites the Commission to carry out an “ad hoc” audit on the Solidarity Fund for the costs of relief and reconstruction as well as the regularity of contracts with suppliers;*
17. *Calls on the Commission to inform the CONT committee about the levels of error so far detected in use of funds following the earthquake;*
18. *Calls also on the Commission to inform the CONT committee if the normal commitments of EU funds have now been resumed after the interruption and remodelling of the programmes subsequent to the earthquake.*
19. *Asks the Commission to give to the CONT committee more details regarding the disbursement of funds for reconstruction;*
20. *Asks the Commission to verify compliance with EU rules on public procurement on the DPC³ side and verify if and how the Italian government replied to the 2004*

¹ Mission report prepared following DG REGIO's visit to Aquila, 11-13 April 2010

² Committee on Budgetary Control, Feedback Report on the Fact-Finding Mission to Italy, 26 – 28 October 2010 pp12/13,

³ Department of Civil Protection

Commission infringement procedure on this matter;
21. *Regrets that the DPC gave to the CONT delegation apparently incorrect data;*

In 2010 and 2011 the Prosecutor of Aquila opens several enquiries into the misuse of the funds for emergency and reconstruction by criminal organisations of the funds for emergency and reconstruction. As a considerable share of these funds came from the EUSF, it was of interest to CONT to pay special attention to these inquiries.

On 25 January 2010 the prosecutor national substitute of the National Anti-Mafia Department (Direzione nazionale antimafia: DNA), Olga Capasso, declared: "It seems to me that among the problems related to combating organized crime, Aquila is one of the biggest problem at national level"¹.

On 7 March 2011, in an answer to a written parliamentary question, Commissioner Barnier stated: "*as for the construction works conducted as a consequence of the L'Aquila earthquake, the investigation did not give any evidence that breaches of EU public procurement law had occurred, it ascertained that the Italian Authorities had complied with the relevant EU provisions.*"²

On 21 September 2011 CONT received documentation from the law firm Vinciprova & Chinnici, which confirmed the violation of EU public procurement rules in public procurement launched by Department of Civil Protection (DPC) after the earthquake.

On 9 December 2011 the coordinators of CONT discussed a letter which they had received from the law firm Vinciprova & Chinnici. In the letter the law firm pointed to irregularities in the management of the funds with regards to the chemical toilets³.

On 21 December 2011 the coordinators of CONT decided to send the dossier related to the cases brought to light by the law firm Vinciprova & Chinnici to OLAF requesting that the information be evaluated.

Until today, CONT has not received any reply from OLAF regarding this request.

On 18 December 2012, during the CONT meeting, Commissioner Hahn announced that the Commission's audit report on Abruzzi will be delivered to the Parliament within a few weeks.

However, only on the 15 July 2013, the audit report was finally transmitted to the chair of CONT. The report was confidential, which means that the Members of CONT had only the possibility to read the report in a supervised room with no possibility of taking notes. Furthermore, the Members are neither allowed to comment on nor quote from the content of the report. Therefore, the European citizens will not have access to the information about how their tax money has been used.

At the same CONT meeting, Commissioner Hahn invited the rapporteur to submit the

¹ Raitre TG, January 25, 2010: "Mi sembra che tra i problemi legati alla lotta alla criminalità organizzata quello dell'Aquila sia uno dei nodi più grossi a livello nazionale"

² P-000904/2011 <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2011-000904&language=EN>

³ This letter was also sent to OLAF and the Commission.

committee's questions to the Commission.

On 29 January 2013 Commissioner Hahn provided the following answers to the questions:

Answer 42 - 19 a)

According to the Commission *"the full amount was spent and operations were finalised before 30 November 2010"*. The rapporteur asked the Commission to explain why the Commission had taken more than two years to carry out the audit. In its answer (42-19) the Commission states *"in principle, this procedure will be closed in the beginning of 2013"* but the answer did not explain why the audit has taken more than two years.

Answer 42-19 b)

In its answer, the Commission states that *"the EU Solidarity Fund grant was not used for the reconstruction purposes but for the first emergency operation"*. However, during the delegation visit to Aquila, the Italian government informed CONT that CASE¹ concerns permanent houses while MAP² concerns provisional houses. Hence, the answer of the Commission is in stark contrast to the claims of the Italian government; claims that the Italian government has made at public meetings as well as in official documents. It is unclear whether the Commission is implying that the Italian government used the EUSF funds unlawfully or whether the Commission is trying to justify its own lack of vigilance with regards to the spending of the funds.

Answer 42-20

In its answer, the Commission asked the MEPs to provide the Commission with information about the infringement procedures of the Italian authorities. However, the Commission received detailed information concerning the infringement procedure in connection with the procurement of chemical toilets more than one year earlier. It is unclear why the Commission does not acknowledge that it has received this information or whether it has lost the file. Furthermore, the Commission justified its inaction with regards to the infringement procedures by stating that the Italian authorities - that are under investigation for breaching the EU public procurement rules - had assured the Commission that there have been no breaches of the EU public procurement rules. It is of great concern that the Commission asked the authorities under investigation about infringements whether or not they believe the allegations of infringements are relevant.

On 18 February 2013 the European Court of Auditors (ECA) submitted to the Parliament Special Report 24/2012: The response of the EU Solidarity Fund to the Earthquake in Abruzzi: relevance and cost of operations.

On 25 June 2013, during a hearing organized by the EEP-group in the European Parliament on the subject, the Italian authorities present argued that CASE should be seen as temporary housing and not permanent housing because the reconstruction of the old city will take 15-20

¹ CASE: The acronym for Complessi Antisismici Sostenibili Ecocompatibili, i.e. seismically isolated and environmentally sustainable housing. The CASE project was announced by the Italian Council of Ministers on 23 April 2009. On 28 April 2009 the Italian Government issued Decree Law No 39, known as the Decreto Abruzzo, which required the Department of Civil Protection to ensure the construction of CASE housing that could be used in a durable manner..

² MAP: The acronym for Moduli Abitativi Provvisori, i.e. provisional accommodation modules..

years to complete, which means roughly 25-years after the earthquake¹. Furthermore, the Italian authorities stated during the hearing that CASE costs EUR 9 million per year in maintenance because the houses are of poor quality. Similarly, problems have been identified in relation to houses in the MAP.

The scope and objectives of the ECA audit (ECA Special Report 24/2012)

The ECA audit examined whether:

- the expenditure provided for in the implementation agreement was compliant with the EUSF regulation,
- whether the CASE project was well planned and rapidly implemented and
- whether the C.A.S.E project was implemented with due regard to economy.

The ECA findings

The ECA makes the following observations in its report:

- Operations to be financed included the immediate restoration to working order of infrastructure for energy, water, sewage, transport, telecommunications, health and education, and the provision of temporary shelter and rescue services to meet the immediate needs of the population. 67,500 people were left homeless after the quake.
- Around 30% (€ 144 million) of the EUSF contribution was earmarked for operations which were fully eligible under the EUSF Regulation. However, the CASE project (Italian acronym for “Complessi Antisismici Sostenibili Ecocompatibili”, i.e. seismically isolated and environmentally sustainable housing), while relevant to the actual needs, did not comply with specific provisions of the EUSF Regulation. This was because it constructed new permanent buildings instead of temporary houses. The CASE project took 70 % of the funding – € 350 million. The strategy chosen for the CASE project addressed the housing needs of 15,000 of the earthquake-affected population, but did not respond in a timely manner and with sufficient capacity to the actual needs of the population. The CASE houses were much more expensive than standard houses.
- The EUSF Regulation states that the Fund can only be used for essential emergency operations, including temporary accommodation. The regulation does not envisage financing real reconstruction. The scope of the EUSF is limited to the most urgent needs, whereas longer-term reconstruction must be left to other instruments. Therefore, in the EU auditors’ opinion, the CASE project, which provided lasting and sustainable accommodation, did not comply with the objectives of the EUSF.
- Furthermore, the CASE apartments are expected to generate considerable revenue in the future, although there are no provisions in the EUSF Regulation for such eventualities².

ECA recommendations

The Commission should:

- consider adapting the EUSF regulation to the recent developments in disaster-response strategies,

¹ Mr. Gabrielli, DPC – Mr. Chiodi, Abruzzi’s Governor – Mr. DelCorvo, Aquila Province President – Mr Cialente, Aquila’s Major – and others

² Here quoted from ECA 13/05

- encourage Member States to improve their emergency preparedness to achieve timely and cost-effective assistance and
- promote due regard to economy in the design and implementation of emergency projects.

Commission's replies

The Commission

- considered that the CASE project under the given circumstances fully corresponded to the conditions and objectives of the EUSF regulation as it responded to an urgent need of thousands of people made homeless by the earthquake by providing temporary accommodation for them until they could return to their own homes;
- was of the opinion that the choice made by the Italian authorities in the procurement procedure had no impact on the EU budget.
- considered that the construction of the CASE blocks for so many people in such short time under the given circumstances was a major achievement and most were available by the end of the year. It was never intended to accommodate the entire homeless population;
- in its communication on the future role of the EUSF accepts the idea that the regulation has to be changed and will use the opportunity of the forthcoming review of the regulation to clarify the formulation of 'temporary accommodation' and address the question of revenue generation;
- Shares the Court's analysis that a high degree of preparedness is key to the success of disaster-response operations and should therefore be promoted.

Rapporteur fact finding in the field

The first visit of the Rapporteur to Aquila took place on 7-8 October 2010.

In August 2013 the situation of the historical centre remains largely unchanged. In the past four years only a couple of buildings (one public and one private) have been rebuilt in the red zone.¹ With regards to displaced persons, it is estimated that around 49 people are still living in hotels² and around 5000 people live under the co-called "autonoma sistemazione" arrangement³.

Specific remarks

In the CASE, MAP and MUSP⁴ areas there are no signages indicating that the houses and schools were built with EU funds. On the contrary, there are many signages specifying that the buildings were constructed with donations from private entities and local administrations. This is in contradiction with EU rules.

The situation of the MAP

A range of problems have been identified in relation to the quality of the houses under the

¹ The red zone refers to the areas in Aquila and the surrounding area, which is closed by the authorities for safety reasons.

² The local authorities have been unable to provide the Rapporteur with a precise number.

³ The choice was between C.A.S.E housing or lump sum grants for people who found accommodation for themselves. The definition of autonoma sistemazione is to be found in the ECA Special Report 24/2012 paragraph 25, note 17, page 17

⁴ MUSP: The acronym for Moduli ad Uso Scolastico Provvisori, modules for temporary schooling use. These modules are temporary replacements for the schools damaged by the earthquake.

MAP. These include:

- The building material was generally of poor quality;
- Some MAPs have been evacuated following the Aquila Prosecutor's orders stating that the houses in question are characterised by "deficiencies" and are "dangerous and unhealthy"¹. The entire Cansatessa MAP was evacuated (54 families) following the Aquila Prosecutor's order. Furthermore, the person responsible for the public procurement for this project was arrested and an additional ten people are under investigation. In addition, 34 families have been evacuated from the Arischia MAP and 15 families have been evacuated in the Tempera MAP;
- Risk of fire: the MAP in Monticchio caught fire due to faulty electric system in the building. The enterprise that built this MAP no longer exists;



Furthermore, the plaster used is flammable and therefore presents a fire hazard;

- Many MAP have problems related to water pipelines², humidity³, broken walls⁴, broken floors⁵, sewers⁶ and the finishing;

The situation of the CASE

A range of problems have also been identified in relation to the CASE. These include:

- The quality of the building material was of very varying quality, e.g. many CASE buildings have problems with the electric system, the sanitary infrastructure, and heating⁷,
- The Pagliare di Sassa CASE caught fire due to a faulty electrical system and because it was constructed with flammable materials⁸,

¹ <http://www.abruzzoeb.it/contenuti/difetti-e-pericoli-sgombrati-100-map--si-costruiva-male-anche-dopo-il-sisma/513991-302/>
<http://www.abruzzoeb.it/contenuti/map-sequestrati-parla-la-del-principe--gia-ricollocati-inquilini-cansatessa/514065-302/>
<http://ilcentro.gelocal.it/aquila/cronaca/2013/04/17/news/map-sequestrati-a-rischio-i-beni-1.6902405>

² Villetta di Bagno

³ Ocre

⁴ Poggio Picenze & San Martino e Rocca di Cambio

⁵ <http://www.abruzzoeb.it/contenuti/laquila-incendio-a-pagliare-di-sassa--case-fatte-con-materiali-inflammabili/522577-4/>

⁶ <http://www.abruzzoeb.it/contenuti/progetto-case-cede-rivestimento-il-comune-non-risponde/522971-302/>

⁷ Civita di Bagno

⁸ St. Antonio

⁸ <http://www.abruzzoeb.it/contenuti/laquila-incendio-a-pagliare-di-sassa--case-fatte-con-materiali-inflammabili/522577-4/>
<http://www.abruzzoeb.it/contenuti/progetto-case-cede-rivestimento-il-comune-non-risponde/522971-302/>



- Safety issues with the seismic isolators: According to the Aquila Prosecutor, 200 of the installed seismic isolators are defective. On request of the Aquila Prosecutor's office, the seismic isolators were tested by a laboratory in San Diego (California). The seismic isolators produced by the company ALGA Spa failed the test. The seismic isolators had previously been tested by the laboratory Eucenter of Pavia G. Calvi. Mr. Calvi was also the director of CASE in the DPC. Hence, this is a classic case of controlled-controller and of conflict of interests. The city of Aquila has demanded EUR 2.6 million in damages of Alga Spa¹.



The situation of the MUSP

There are no recorded problems. However, the MUSPs will not be temporary since there are no plans for the reconstruction of schools.

Cost and financial problems

- The figures presented by the DPC since the CONT visit in Aquila are contradictory. Hence, the DPC has claimed that the EU has contributed 3,5% of the cost and in other places DPC claims that the EU has contributed 27,67% of the costs;
- The total cost for CASE amounts to EUR 809 million for 185 buildings, which is an

¹ <http://www.ingegneri.cc/articolo/15515/politecnico-di-torino-gli-isolatori-sismici-de-laquila-sono-difettosi>

average price of EUR 4.372,97 per building. EUSF has contributed EUR 350 million to finance the construction of 80 CASE building, which represents 42% of the total buildings. Another 8,2 buildings (4% of the total) have been financed by private donations;

- According to the ECA Special Report 24/2012, the CASE houses cost 158% more than the market price¹;
- The ECA Special Report 24/2012 highlighted the high cost of the steel pillars². However, the same company (EDIMO) produces similar pillars in concrete, which costs less than half of the price of the pillar in steel.

Income derived from EUSF

- The DPC has agreed for a company to lease the roofs of CASE houses in order to install solar panels for 20 years. The firm that holds the lease has guaranteed the supply of energy for the buildings, however the surplus energy is sold on the market for profit;
- The Aquila Municipality has decided³ to lease the CASE apartments to new tenants. This includes young people who have grown up in CASE housing as displaced persons and who want to live on their own.

Organize crime

- A number of subcontractors did not dispose of the obligatory anti-Mafia certificate, the “certificato Antimafia”⁴,
- DPC increased the use of subcontracting from the allowed 30 % to 50%⁵,
- Wanted criminals have been discovered at the factories of Edimo, which is one of the 15 contractors for the projects;
- The DPC did not respect the EU rules on public procurement. The Aquila prosecutor's office has opened several inquiries with regards to the public procurements. One of these inquiries was concluded with an order of evacuation of several MAP for safety reasons and the person responsible for the public procurement has been arrested;
- From the outset, the Commission refused to regard the procurement procedure by DPC as incorrect. The Commission argued that the urgency justifies the shortcuts and shortcomings in the procure procedure. However, for example, the contracts for chemical toilette was completed before the earthquake, which is in total violation of the EU rules on public procurement;
- Part of the funds for CASE and MAP were paid to companies with direct or indirect ties to organized crime; yet the documentation for these serious allegations were not part of the ECA audit as the competent Italian authorities have not made this public⁶,
- In the above mentioned hearing in the European Parliament on June 25. 2013, the Commission stated that it had discovered cases of fraud. According to the Commission it communicated these findings to the DPC, and subsequently, the DPC swapped these projects associated with fraud with projects where no fraud had been discovered. It is

¹ ECA Special report 24/2012, par.32 pag.21

² ECA Special Report 24/2012, p. 21, paragraph 33 a

³ Delibera Aquila Municipality july 2013

⁴ Certificate of non-involvement in organized crime issued by the Italian Chamber of Commerce.

⁵ DPC website

⁶ Prefecture of Aquila: "...documentation that relates to all the activities for the prevention and combating of organized crime".
04/02/2013 Protocol nr. 0011773 classifica 55.01

unclear why the Commission chose to abandon the normal procedure, which would have entailed to forward the suspicions dossiers to OLAF for further investigation and involvement of the Italian judicial authorities. It is of great concern that the Commission did not follow the correct procedure as it makes the Commission an accomplice in fraud.

General remarks

1. Since the rapporteur was appointed to draw up this working document, the latter has received numerous reports and information from the Italian Parliament's question time as well as associations¹ and newspapers², including "Libera" and "Site.it". The verified information from these sources have been included in this working document,
2. Another important element of the analysis of the results of the use of the European funds is the impact the funds have had on the local population and the area. The failure to rebuild housing and the fact that the CASE and MAP sites are situated in relatively isolated areas has meant that communities have been scattered³.

In the Commission's mission report on Aquila from 2010⁴, the Commission does not mention any of the problems that have been brought to its attention by several MEPs. Examples of the Commission's negligence include:

- *“the possibility of recurring to exceptions from the normal procurement rules – which would have been possible in an emergency situation – was not used.”* The contrary is confirmed by the ECA Special Report 24/2012,
- *“we could not, at first sight, find evidence for inflated costs (allegations were made that the cost per m2 was up to twice the market price)”*. However, the ECA Special Report 24/2012 affirms that the cost has been 158% higher than the market price (p.21),
- The mission report states that *“A degree of prudence appears however advisable”* concerning the judiciary enquiry of companies building houses with EU tax payers money. If the Commission had read the official documents concerning this question, the Commission could have learned that in the two first building sites⁵, the “gruppo interforze⁶” (inter force group) discovered 132 subcontracting firms without the right authorisation to work in these sites and that some of the firms have been linked with organized crime⁷; However, the DPC's *ordinanza* (ministerial decree) retroactively decriminalised not having the right authorisation.

Recommendations and comments by the rapporteur for possible inclusion in the 2012 Commission discharge report

1. Welcomes despite the delay of more than one year, the ECA Special Report 24/2012⁸;

¹ Dossier Abruzzo. “La fine dell'isola felice”. 2010, December. Libera. Associazioni, nomi e numeri contro le mafie. www.libera.it/flex/cm/.../BLOB%3AID%3D4515

² Site.it, La Repubblica, il Messaggero, il Centro, Abruzzo Web, News Town.it

³ <http://www.youtube.com/watch?v=KhfDsAlhBB4> and “Radici, L'Aquila di cemento”, regia di Luca Cococchetta

⁴ Mission report prepared following DG REGIO's visit to Aquila 11-13 April 2010

⁵ Bazzano and Cese di Preturo

⁶ ex art. DM 14-3-2003

⁷ www.libera.it/flex/cm/.../BLOB%3AID%3D4515 - page 8

⁸ ECA President, Victor Caldera letter, December 10, 2010 –CPT11656EN01-10PP-OR.doc

notes that with this report a EU institutions provides finally the Parliament and the EU tax payers with answers to some of the questions regarding the management of EU funds in the Abruzzi region after the 2009 earthquake;

2. Congratulates the ECA for safeguarding the EUSF regulation concerning the type of shelter that can be provided under the regulation;

Totally agree with the statement from ECA "Around 30% (Euro 144 million) of the EUSF contributions was earmarked for operations which were fully eligible under the EUSF Regulation. However, the CASE project (Italian acronym for "Complessi Antisismici Sostenibili Ecocompatibiliti", i.e. seismically isolated and environmentally sustainable housing), while relevant to the actual needs, did not comply with specific provisions of the EUSF Regulation. This was because it constructed new permanent buildings instead of temporary houses. The CASE project took 70% of the funding - EEUR 350 million. The strategy chosen for CASE project addressed the housing needs of 15.000 of the earthquake-affected population, but did not respond in a timely manner and with sufficient capacity to the actual needs of the population. The CASDE houses were more expensive than standard houses¹

3. Notes that assessment of the ECA with regard to the violation of the EUSF regulation in connection to the funding of permanent housing is correct. The Decree of the Prefect Gabrielli, 1462 April 3, 2012 confirms the assessment of the ECA. Hence, the decree, which transfers the CASE. properties of the City of Aquila, defines C.A.S.E the following way in article 1: "*housing units intended for permanent use*"²;
4. Notes , however, that the ECA Special Report 24/2012 does not fully consider all the violation of the EU rules with regards to the public procurement procedures and other kinds of misuse of EU funds in the wake of the 2009 earthquake;
5. Recommends that Italy should pay back the EUSF funds if, in the future, profit is derived from the projects funded by the EU tax payers;
6. Strongly regrets the inaction of the Commission in this case; further regrets that the Commission's internal audit report is confidential which means that the European citizens' do not have access to the information about how their tax money has been used.
7. Calls on the Commission to clarify why i) although alerted to the inquiries by Aquila's prosecutor, the Commission has always refused to investigate whether or not EU funds have been paid out to economic operators linked to criminal organizations³; ii) although the Commission was alerted to the fact that there could be problems with the cost of the CASE project , the Commission has declined to follow-up on this point⁴; iii) the Commission has consistently refused to take an interest in this matter;

¹ European Court of Authors press release ECA/13/05.

² Art. 1. I moduli abitativi destinati ad una durevole utilizzazione di cui all'articolo 2 del decreto legge 28 aprile 2009, n. 39, convertito con modificazione alla legge 24 giugno 2009, 11.77, identificati dalle corrispondenti unita immobiliari riepilogate nell'allegato n. 1, che costituisce parte integrante e sostanziale del presente decreto, sono assegnati in proprietà a titolo gratuito al Comune di L'Aquila.

³ OJ C 10 2011/01/14

⁴ OJ C 10 2011/01/14

8. Notes that more than 42% of CASE has been built for EU tax payers money and not by the Italian government as claimed by the former Italian Prime Minister, Silvio Berlusconi;
9. Deeply regrets that the Parliament is still waiting for answers from Olaf;
10. Agrees with Michael Kimmelman's article in New York times: Aquila: example not to follow¹;
11. Urges the Rapporteur for discharge of the Commission 2012-budget to include the above strong critique of the Commission in his discharge report and to use this information in the overall assessment of the Commission's management of the budget;

¹ New York Times, November 30, 2012