



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 1 February 2013

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ADD 1**

**FIN 44
PE-L 4**

ADDENDUM 1 TO NOTE

from : Budget Committee

to : Permanent Representatives Committee/Council

Subject : Discharge to be given to the Commission in respect of the implementation of the
general budget of the European Union for the financial year 2011
- Draft Council recommendation

Draft
COUNCIL RECOMMENDATION

of

on the discharge to be given to the Commission
in respect of the implementation of the general budget
of the European Union
for the financial year 2011

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 319 thereof,

Having carried out the examination provided for in Article 319(1) TFEU,

Whereas:

(1) According to the revenue and expenditure account for the financial year 2011:

| | |
|--|-------------------------|
| - revenue amounted to | EUR 129 999 955 328.80 |
| - expenditure disbursed from appropriations amounted to | -EUR 128 043 323 049.01 |
| - cancelled payment appropriations (including earmarked revenue) carried over from year <i>n-1</i> amounted to | EUR 457 395 591.58 |
| - appropriations for payments carried over to year <i>n+1</i> amounted to | -EUR 1 013 400 234.32 |
| - EFTA payment appropriations carried over from year <i>n-1</i> amounted to | -EUR 6 106 180.30 |
| - the balance of exchange rate differences amounted to | EUR 97 411 791.05 |
| - the positive budget balance amounted to | EUR 1 491 933 247.80 |

(2) Cancelled payment appropriations for the financial year amounted to EUR 160 948 713.14;

(3) EUR 1 351 572 566.04 (89 %) of the EUR 1 512 521 279.18 in appropriations for payments carried over to year *n* have been used;

(4) The observations in the report by the Court of Auditors for the financial year 2011 call for certain comments by the Council, which are ANNEXED hereto;

(5) The Council attaches importance to its comments being followed-up and assumes that the Commission will implement all of the recommendations in full, without delay;

(6) The Council has adopted conclusions concerning special reports published by the Court in 2011 and 2012¹;

¹ As set out in documents 8711/12, 7519/12, 6967/12 + COR 1, 8795/12, 9149/12, 12663/12, 10058/12, 11633/12, 11632/12, 12473/12, 12526/12, 15393/12, 12727/12, 16490/12, 15421/12, 17985/12, 15544/12 EXT 1, 18063/12, 17987/12, 17767/12 and 17989/12.

- (7) Following the examination referred to above, implementation by the Commission of the budget for the financial year 2011 taken as a whole, on the basis of the observations made by the Court of Auditors, is such as to allow a discharge to be given in respect of such implementation;

HEREBY RECOMMENDS the European Parliament, in the light of these considerations, to give a discharge to the Commission in respect of the implementation of the budget of the European Union for the financial year 2011.

Done at Brussels,

For the Council

The President

INTRODUCTION

1. The Council is pleased that the annual accounts of the European Union (hereinafter "the accounts"), for the fifth consecutive year, gave a fair presentation of the financial position of the Union and the results of its operations and cash flows.

2. The Council welcomes the Court's Statement of Assurance (DAS) on the implementation of the budget for the financial year 2011 and the analysis of the audit findings and conclusions provided by the Court. It stresses the importance of independent audits carried out at EU level and firmly supports the work of and the audit findings presented by the Court.

3. Nevertheless, the Council remains concerned that, according to the Court's overall assessment, payments from the budget continued to be materially affected by error and that supervisory and control systems for payments audited by the Court remained only partially effective in ensuring the legality and regularity of transactions. It recalls the importance of better spending and sound financial management of EU funds to ensure credibility in the public perception of actions financed from the EU budget in particular under the current economic and financial circumstances. The Council broadly supports the recommendations presented by the Court in its annual report. The Council appreciates the Court's work in assessing the results achieved from the EU budget and considers that it is an important additional element in the annual evaluation of the sound financial management of EU funds.

4. The Council takes note of the relative stability in the implementation of the budget in recent years, confirming lower error rates than those identified by the Court in the years prior to 2009. It acknowledges the action taken by the Commission and Member States to put into practice the recommendations of previous years and to improve the management and control of EU Funds and programmes, resulting in improvements particularly in the "Cohesion" policy area in 2011. The Council is aware that the complex and multiannual nature of some programmes can lead to difficulties in managing the programmes. However, the Council regrets that the error rate increased in 2011 and urges the Commission and Member States to continue their efforts to strengthen controls for the effective and efficient management of EU funds. It also reaffirms the wish to see year-on-year improvements, creating the basis for an unqualified audit opinion from the Court.
5. The Council draws attention to the differences in the types of transactions examined by the Court, which have varied between years, and the different proportions of pre-financing, interim and final payments in the Court's sample. This has implications, depending *inter alia* on the year of the programming cycle, for the overall error rate estimated by the Court and for the comparability of error rates between chapters in the Court's report.
6. As in previous years, the Council recalls the importance of simplifying policy objectives. The Council recognises that frequent or radical changes to supervisory and control systems over the duration of a programming period should be avoided as changes in practices can also lead to errors. However, the discussions on the programmes for the next multiannual programming period should provide an opportunity to achieve major progress towards simplification. The Council also reiterates the need for guidance for Member States and beneficiaries, to help them to fulfil their role and to further bring down the frequency of eligibility errors.

7. The Council notes that in this year's annual report an important share of the errors identified by the Court are again to be found 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 notes that the revision of the Financial Regulation has modernised and simplified procurement procedures and rules and that this, together with the ongoing review of procurement procedures, should lead to improvements in this area in the coming years. It encourages Member States to effectively use the benefits of these simplification measures with a view to reducing error rates.

8. The Council recalls the importance of timely, transparent and comparable information about the quality of financial management of EU funds at Commission and Member State level. This should include data on the financial impact of detected errors and the implementation of corrective action. It highlights the need for the Commission and Member States to further align their methods in the assessment of errors.

9. The Council urges the Commission and Member States to continue to put in place robust programme management structures. More emphasis should be put on measures to prevent errors. In this regard, where required, the timely interruption and suspension of payments and the rigorous implementation of recoveries and financial corrections are important. It reiterates the importance of putting in place effective and efficient controls for the management of funds at EU and national level. The Council recognises that the Commission takes corrective action to protect the financial interests of the Union. However, it also notes that sometimes there is a delay in implementing these measures due to the multiannual nature of programmes. The Council recalls that the achievement of results from EU policies remains the priority. At the same time, due attention should be paid to reducing error rates.

10. The Council considers that the Annual Activity Reports published by the Commission's Directors-General are important and welcome documents which play a significant role in accountability within the Commission and also in providing accountability and transparency to Member States and the public. The reservations issued by the Directors-General, based on their assessment of the use of resources and of the control procedures ensuring the legality and regularity of transactions, should, therefore, be applied systematically whenever appropriate, in order to enhance the value of the Annual Activity Reports. Furthermore, the Council calls on the Commission to harmonise the presentation and content of Annual Activity Reports between Directorates-General in order to improve their comparability across policy areas.
11. The Council invites the Commission to remain vigilant for upcoming challenges, particularly concerning new tasks required by the new Financial Regulation. These include the requirement to develop a method for evaluating and quantifying the cost and benefit of control systems and reporting on an increasingly complex environment resulting *inter alia* from the more extensive use of financial instruments and trust funds.
12. The Council takes note of the persistent high volume of outstanding budgetary commitments under multiannual programmes. It calls on the Commission to carefully monitor the amounts of outstanding commitments, and to settle or decommit them in a timely manner and in line with the relevant rules.
13. Finally, the Council notes with interest the Court's special report No 19/2012 on the follow-up of the Court's special reports in 2011. It supports the Court's suggestion to the Commission to enhance its efforts in implementing the actions recommended by the Court in a timely, efficient and effective manner.

CHAPTER 1
THE STATEMENT OF ASSURANCE AND SUPPORTING INFORMATION

1. Reliability of the accounts

The Council welcomes the favourable opinion given by the Court on the reliability of the accounts for the financial year 2011. 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 31 December 2011, and the results of its operations and cash flows for the year then ended, in accordance with the provisions of the Financial Regulation and the accounting rules adopted by the Commission's accounting officer.

The Council encourages the Commission to continue to ensure that the high quality of the accounts is maintained in the forthcoming years.

2. Legality and regularity of the underlying transactions

The Council notes that the Court's audit findings, based on the audited sample of the underlying transactions and of supervisory and control systems, confirm the relative stability in the error rate observed in recent years. However, the Council 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 from 3.7 % in 2010 to 3.9 % in 2011. It notes that 0.1 % of the increase results from the inclusion for the first time of cross-compliance in the calculation of the error rate. The Council reiterates its wish to see year-on-year improvements in financial management systems and lower error rates.

The Council appreciates the Court's unqualified conclusion for "Revenue", commitments for all policy groups and payments for "External relations, aid and enlargement" 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 most likely error rate estimated by the Court for "Revenue", "External relations, aid and enlargement" and "Administrative and other expenditure" was below the 2 % materiality threshold. However, it is concerned that interim and final payments for "External relations, aid and enlargement" were again affected by material error.

The Council regrets the Court's conclusion that overall the supervisory and control systems examined by the Court were only partially effective in ensuring the legality and regularity of payments underlying the accounts, and that payments relating to the policy groups "Agriculture: market and direct support", "Rural development, environment, fisheries and health", "Regional policy; energy and transport", "Employment and social affairs" and "Research and other internal policies" remained affected by material error.

The Council encourages the Commission to further reinforce supervision and control structures, to further strengthen its cooperation with Member States and to continue to provide guidance to national managing authorities, in order to bring down the level of error in Union spending in the forthcoming years.

3. The Court's audit approach

The Council welcomes the modified structure of the Court's 2011 annual report. The chapters now reflect a more equal distribution between policy areas and a more proportional split of expenditure, and this approach is in line with the request made by the Council in previous years. The Council emphasises the importance of ensuring full transparency regarding the implementation of expenditure in all areas of the budget, as well as the comparability with previous years' audit results under the revised structure of the report.

Similarly, given that interim and final payments are affected by a higher level of error than advance payments, the Council supports the Court's intention to apply in its future audits a harmonised method with regard to advance payments. This will facilitate the comparison of audit findings between chapters and between years. The Council recalls the importance of a comprehensive, consistent and uniform presentation of audit results and estimated error rates.

The Council considers that, when appropriate, the Court's tripartite meetings with the Commission and national authorities are important for the mutual understanding, judgment and follow-up of errors in shared management.

CHAPTER 2

REVENUE

The Council welcomes 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.

1. Traditional own resources

While acknowledging the efforts already made, the Council notes that some problems relating to the management of B-accounts persist and that further efforts are needed to strengthen Member States' customs supervision. It calls on the Commission to continue its work in order to ensure a correct accounting of the established customs duties and to assist Member States in enhancing appropriate control frameworks in order to collect the total amount of traditional own resources due to the Union.

2. VAT-based own resources

The Council notes with satisfaction the improvements achieved in lifting long-outstanding reservations regarding VAT-based own resources. It encourages the Commission, in close collaboration with Member States, to endeavour to resolve outstanding issues as soon as possible.

3. GNI-based own resources

The Council welcomes the good progress made in lifting general and specific reservations. It invites the Commission to pursue actively its efforts in implementing the Court's recommendations.

CHAPTER 3

AGRICULTURE: MARKET AND DIRECT SUPPORT

The Council welcomes the Court's introduction of distinct estimated error rates for the European Agricultural Guarantee Fund and for Rural Development and the division of the previous chapter "Agriculture and Natural Resources" into two separate chapters.

It regrets that the payments examined by the Court in this policy group were affected by material error and that the Court observed a small increase in the most likely error rate.

The Council is also concerned about the fact that the audited control systems were found to be only partially effective. It welcomes the efforts already made by the Commission and Member States and urges them to continue to improve their supervisory and control systems.

1. Regularity of transactions

The Council regrets that 39 % of the transactions audited by the Court in 2011 were affected by error and that the overall most likely error rate amounted to 2.9 %.

The Council notes that approximately three quarters of the quantifiable errors identified were in relation to accuracy, the most frequent of these errors being the over-declaration by beneficiaries of eligible land with a limited financial impact.

The Council notes that the Court's methodology is different this year, including in the treatment of cross-compliance infringements and the use of a different set of samples. The Council underlines that only the evolution over the coming years will allow comparisons to be drawn from such findings.

The Council encourages Member States to further improve the quality of the Land Parcel Identification System (LPIS) and to continue their efforts to ensure the reliability and completeness of data. It welcomes the Court's acknowledgment of the remedial action taken by the Commission to support such efforts and stresses the importance of a continuous monitoring of the results of the LPIS annual quality assessments.

2. Supervisory and control systems

The Council notes the Court's finding that the effectiveness of the Integrated Administration and Control System (IACS) in the six paying agencies audited was adversely affected by inaccurate data in the databases and the incorrect administrative treatment of payment claims and urges improvement in this regard. Nevertheless, the Council values the important work accomplished by the Commission and Member States to improve the system and shares the Commission's view that the IACS remains an effective tool in limiting the risk of error in this area. It urges all actors to continue their efforts to ensure that it remains an effective and functioning system.

The Council also takes note of the Court's observations concerning weaknesses in the quality of on-the-spot inspections, as well as in the validation of inspection statistics by the certification bodies. In this respect, it welcomes the fact that the Commission services have developed tools to enable complete checks of the on-the-spot inspections' results. When appropriate, more consideration should be given to combining the re-performance by the certification body of the primary controls with the supervision checks to be done by the internal control system of the paying agency. Well performing certified bodies should have the possibility to opt, on the basis of cost-benefit and timing considerations, for accompanied inspections rather than having to systematically re-perform previous checks. Moreover, while encouraging the Commission to keep on following up deficiencies such as those identified in the quality of on-the-spot inspections, the Council agrees with the Commission that conformity clearance procedures offset the limited financial impact on the EU budget of the weaknesses found.

The Council welcomes the introduction of the "reinforcement of assurance" procedure and the initiatives already taken in this framework on a voluntary basis by some certification bodies, while taking note of the criticism expressed by the Court with respect to the work performed in 2011. The Council supports the Commission's intention to discuss the Court's findings with the Member States concerned and to take those findings into account when providing its guidance and in monitoring the implementation of the relevant action plans already developed by several Member States. In this regard, the Council recalls that control measures should be proportionate, effective and avoid any unnecessary administrative and financial burdens.

Finally, the Council, while welcoming the simplification measures already implemented in this area, underlines the need for further improvements in the next programming period. In conjunction with better guidance to all stakeholders, and by affording sufficient time to adjust to the new procedures, this should allow for further improvement in the proper application and correct implementation of the systems by Member States, thus enhancing the capabilities of the IACS.

CHAPTER 4

RURAL DEVELOPMENT, ENVIRONMENT, FISHERIES AND HEALTH

The Council is disappointed that the estimated error rate for this policy group amounted to 7.7 %. However, the Council notes the Court's explanation that this is a particularly error prone spending area of the EU budget and for a large part this is related to the inherent complexity of the programmes it covers.

The Council is also concerned that the audited supervisory and control systems were found to be only partially effective, and underlines that their full performance depends on their correct implementation by Member States, and thus on a clear and transparent regulatory framework, particularly with respect to the eligibility of expenditure.

1. Regularity of transactions

The Council regrets that 57 % of the transactions audited by the Court in 2011 were affected by error and wishes to recall again that, as in 2010, rural development expenditure presents a high risk of error due to the fact that its policy objectives are subject to highly complex rules and eligibility conditions. Therefore, the Council welcomes the fact that the Commission had proposed a number of corrective actions in order to address this situation even in advance of the Court's publication of its findings.

The Council notes that the Court found a high incidence of errors, including by public bodies, in declaring the inclusion of ineligible VAT and failure to comply with public procurement rules.

The Council notes that the Court has included cross-compliance errors for the first time in its estimate of the rate of error. Furthermore, it takes note of the Commission's argument that cross-compliance does not constitute an eligibility criterion and that therefore the checks on these requirements should not affect the appraisal of the legality and regularity of the underlying transactions.

2. Supervisory and control systems

The Council notes that the Court audited six rural development supervisory and control systems and found the IACS to be a partially effective system. Overall the Council considers that the IACS is an important tool in managing rural development expenditure and limiting the risk of error. However, the Council remains concerned that administrative and on-the-spot checks were found not to be sufficiently rigorous to mitigate the risk of declaring ineligible expenditure and that serious weaknesses were observed in the definition and control of the applicable cross-compliance requirements. The Council encourages the Commission to continue following up the weaknesses identified and in ensuring their correction, including through the conformity clearance procedure.

The Council acknowledges the importance of applying a preventive audit approach, particularly by taking measures aiming at providing targeted guidance and increasing the mutual understanding between the administrations involved. In this regard the Council welcomes the efforts already made by the Commission.

The Council takes note of the Court's findings with respect to the insufficient follow-up given by the certification bodies to observations raised in the Commission's or in the Court's previous audits. It urges the Commission to supplement its regular reminders with clearer and more specific indications in the relevant guidelines.

In this context, the Council notes DG AGRI's reservation for EAFRD expenditure in its 2011 Annual Activity Report and agrees with the Court, as well as with the Commission, on the importance of a thorough analysis of the reasons explaining the higher error rates, including the residual one. It appreciates the fact that the Commission has already started, in cooperation with Member States, an in-depth analysis. The Council supports these actions and calls on the Commission and Member States to implement as timely and effectively as possible all preventive and corrective actions aiming at tackling the causes for the material error rate thus identified.

Nevertheless, the Council underlines the need for further improvements in Member States' administrative and control procedures set up to ensure correct payments and additional simplification measures.

Finally, with respect to the Court's findings concerning the internal control system of DG MARE, the Council takes note that key controls were not always fully documented and there was insufficient monitoring of fish catches. While appreciating that appropriate remedial action was taken, it urges the Commission to strengthen its preventive action in order to avoid fishing activities exceeding the existing agreement, detrimental to environmental sustainability and not in line with sound financial management.

CHAPTER 5

REGIONAL POLICY; ENERGY AND TRANSPORT

The Council regrets that the most likely error rate for this policy group was well above the materiality threshold, but recognises the positive development in the evolution of the error level for this policy group. For the third consecutive year, the error rate remained well below the levels reported by the Court in the period 2006-2008. The Council takes due note of this positive trend. It also notes the increasing volume of payments resulting from the multiannual nature of the operating programmes.

The Council also welcomes the Court's new approach in presenting the audit findings in its annual report which includes this year two separate chapters on "Regional policy; energy and transport" and on "Employment and social affairs". It considers this new approach provides more focused results and greater transparency.

1. Regularity of transactions

The Council acknowledges that the most likely error rate for this policy group improved in 2011 and that the combined most likely error rate for the previous chapter "Cohesion, energy and transport" as a whole decreased from 7.7 % to 5.1 %.

However, the Council considers that the error rate of 6 % estimated by the Court for "Regional policy; energy and transport" remains too high. Moreover, it regrets that for 62 % of the transactions affected by error, Member States would have been in a position to detect at least some of these prior to certification of the expenditure to the Commission. The Council reiterates the importance of first-level checks, and that more effective verification systems must be put in place by the national managing authorities to reduce the error rate. It calls on Member States and the Commission to pursue this and to provide targeted training and guidelines, to ensure a better dissemination of information and of best practices while, at the same time, ensuring a greater stability of rules and procedures over time.

The Council also recalls the importance of the proper enforcement of rules and encourages the Commission to continue applying a strict policy of interruption and suspension of payments whenever significant deficiencies in the functioning of management and control systems are identified, until corrective action is fully implemented.

As in previous years, the incorrect application of eligibility criteria and failure to comply with public procurement rules were the most common errors identified by the Court in its 2011 annual report. The Council invites the Commission and Member States to continue their efforts in securing strict compliance with EU and national eligibility requirements, and with public procurement rules. At the same time, the Council encourages Member States to simplify as much as possible the eligibility rules set out at national level and to ensure their correct application.

2. Supervisory and control systems

As in 2010, the Court's examination of the management and control systems focused on the work and performance of national audit authorities and their effectiveness in ensuring the regularity of expenditure. The Council notes that the work of four out of seven audit authorities assessed by the Court was considered to be effective, that the remaining two were rated as partially effective and one as not effective.

Furthermore, it welcomes the fact that the Commission's audit methodology and the assessment results of the national audit authorities examined were consistent with the Court's findings. The Council welcomes the efforts to rely more on the work of audit authorities, in accordance with Article 73 of Regulation (EC) No 1083/2006 and considers that Member States' audit authorities are a crucial player in the chain of accountability. It encourages Member States to pursue their efforts to ensure the delivery of high quality results by the national audit authorities, and the Commission to continue providing guidance with particular attention to sampling, scope of verifications and quality control.

3. Reliability of the Commission's management representations

The Council welcomes the Commission's efforts in providing a stricter and more comprehensive assessment of the amounts at risk for payments relating to the 2007-2013 programming period and in issuing reservations for regional policy. This stricter approach resulted in the estimation that between 3.1 % and 6.8 % of the expenditure was at risk, in line with this year's Court's observations.

However, the Council is concerned that some reservations concerning the closure of 2000-2006 programmes in regional policy and of the 7th framework programme for research in energy and transport do not quantify the amounts at risk. It calls on the Commission to pursue the audit work for those programmes in order to provide a more realistic evaluation of the expenditure at risk. The Council also notes that the Commission DGs will have a common representative sample for the 7th framework programme for research in 2012.

4. Closure procedures

The Council notes with concern that, according to the Court's findings, weaknesses persist in the management and control systems for the 2000-2006 programmes, in particular concerning the reliability of some of the closure documents submitted by Member States. The Council underlines the importance of addressing the weaknesses identified by the Court and calls on the Commission to apply robust procedures to ensure that 2000-2006 and 2007-2013 programmes are closed in an efficient manner and respecting sound financial management.

CHAPTER 6

EMPLOYMENT AND SOCIAL AFFAIRS

The Council welcomes the fact that the most likely error rate for the policy group "Employment and social affairs" was estimated by the Court at 2.2 %, which is only slightly above the materiality threshold.

The Council notes that this positive development resulted from a simplification of rules and a strict application of the policy of interruption and suspension of payments by the Commission, as well as from the improvements made by Member States in their management and control systems.

However, the Council is concerned that the Court's audit revealed significant weaknesses in the "first level checks" of expenditure which are the responsibility of Member States.

1. Regularity of transactions

While welcoming the improvements made in this policy group, the Council stresses its concern about the deficiencies identified by the Court in Member States' management and control systems and, in particular, in the "first level checks". It strongly regrets that Member States were not in a position to detect errors prior to certification of expenditure to the Commission in 76 % of the transactions affected by error, as identified by the Court.

The Council also notes that the main sources of errors in expenditure from the European Social Fund were the reimbursement of ineligible or inaccurately declared costs and failures to observe procedural requirements. It invites the Commission to continue with preventive and corrective measures, such as guidance and training, in order to secure strict compliance with the eligibility requirements, to further simplify the procedures and to ensure, where necessary, that financial corrections are made. With regard to national eligibility criteria, the Council invites Member States to seek further ways of simplification and streamlining of national rules, for the benefit of all stakeholders.

2. Supervisory and control systems

In 2011, the Court's examination of the management and control systems for this policy group focused on the performance of two national audit authorities and their effectiveness in ensuring the regularity of expenditure. The Council notes that the work of one audit authority was considered to be effective and the other one to be partially effective. Furthermore, it welcomes the fact that the Commission's audit methodology and the assessment results for the national audit authorities examined were in line with the Court's conclusions.

The Council encourages Member States to continue their efforts to ensure the delivery of high quality results by national audit authorities, and the Commission to continue providing guidance, with particular attention to sampling, the scope of verifications and quality control.

3. Reliability of the Commission's management representations

The Council welcomes the Commission's efforts in providing a stricter and more thorough assessment of the amounts at risk for payments relating to the 2007-2013 programming period. This stricter approach in issuing reservations resulted in the estimation that between 2 % and 2.5 % of the expenditure was at risk, in line with this year's Court's observations.

However, the Council is concerned that some reservations concerning the closure of 2000-2006 programmes understate the amounts at risk. It calls on the Commission to pursue further audit work for those programmes in order to provide a more realistic evaluation of the expenditure at risk.

CHAPTER 7

EXTERNAL RELATIONS, AID AND ENLARGEMENT

The Council notes with satisfaction that the Court's audit revealed that the payments for "External relations, aid and enlargement" were free from material error, with a most likely error rate of 1.1 % estimated by the Court for 2011. However, it regrets that interim and final payments were again affected by material error.

The Council is concerned about the Court's statement that the supervisory and control systems audited by the Court in this policy group were only partially effective in ensuring the legality and regularity of payments.

While welcoming the improvements made in this policy group, and noting with satisfaction that the Commission had reacted to the past weaknesses identified by the Court, the Council calls on the Commission to continue taking the Court's recommendations into account.

The Council asks the Commission to take the necessary measures to correct the shortcomings identified by the Court in relation to tendering procedures and on-the-spot checks.

With regard to the service for Foreign Policy Instruments, the Council acknowledges that the Internal Audit Capability is now fully operational.

The Council notes the Court's observation that there are difficulties in identifying the risks related to budget support. It expects that the new budget support guidelines, with increased eligibility criteria, will mitigate the risks identified by the Court.

CHAPTER 8

RESEARCH AND OTHER INTERNAL POLICIES

The Council regrets that the payments examined by the Court in this policy group were affected by material error, and that the estimated error rate of 3.0 % in 2011 was higher than the one in 2010 (1.4 %), partly due to the fact that the sample examined by the Court in 2011 included a higher share of interim and final payments.

Regarding the supervisory and control systems for research and other internal policies audited by the Court, the Council takes note that they were partially effective in ensuring the regularity of payments.

In general, the Council supports the Court's recommendations addressed to the Commission both in the area of the framework programmes for research and in other internal policies and calls on the Commission to continue taking these recommendations into account.

1. Regularity of transactions

The Council regrets that the main source of error was the over-declaration of costs by beneficiaries for projects funded from the 6th and the 7th framework programmes for research. The Council also regrets the recurrence of several types of errors which were found in all cost categories, including personnel costs and other direct and indirect costs.

2. Supervisory and control systems

The Council regrets that supervisory and control systems audited by the Court remained only partially effective in ensuring the regularity of payments, although it recognises the improvements achieved in comparison with previous years. It encourages the Commission to continue to reinforce its internal control systems.

2.1. Framework programmes for research

The Council notes that the Court identified weaknesses in the *ex-ante* desk checks. It encourages the Commission to further improve its control procedures which the Court still considered to be only partially effective.

The Council regrets that the audit certification of cost claims remains only partially effective. As in previous years, it is concerned about the errors in cost statements which had received an unqualified opinion from the certifying auditor. The Council encourages the Commission to increase awareness on this issue with the aim of improving the reliability of the issued audit certificates.

The Council welcomes the overall assessment of the effectiveness of the *ex-post* strategy put in place by the Commission.

Regarding the procedures which aim at ensuring the reliability of the results of external audits, the Council encourages the Commission to intensify its efforts to ensure that the external audit firms align their procedures to the Commission's guidelines and standard practice reviews, in line with the Court's recommendations.

Finally, the Council welcomes the efforts made by the Commission in simplifying the rules applicable to the 7th framework programme for research and encourages the Commission to continue towards further procedural simplification and increased awareness among beneficiaries.

2.2. Other internal policies

Regarding the *ex-ante* desk checks for the Competitiveness and Innovation Framework Programme - ICT Policy Support Programme (ICT-PSP), the Council notes the weaknesses identified by the Court and invites the Commission to continue to strengthen its accounting systems.

In the context of the Commission's *ex-post* financial audits, the Council supports the Court's recommendation of setting up an audit strategy for the ICT-PSP programme. The Council takes note that such audit strategies have been designed for all non-research programmes and encourages the Commission to ensure its full implementation.

CHAPTER 9

ADMINISTRATIVE AND OTHER EXPENDITURE

1. General observations

The Council notes with satisfaction that, again in 2011, the administrative expenditure of 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.

2. Issues regarding individual institutions

Even if specific observations made by the Court do not question the assessments set out in the first paragraph above, the Council regrets that in some institutions weaknesses were still detected in the payment of social allowances to staff members, in the employment contracts for non-permanent staff and in procurement procedures.

The Council welcomes the measures already taken and encourages the institutions concerned to address the remaining weaknesses pointed out by the Court. The Council notes the Court's recommendations that the institutions concerned should ensure that staff regularly deliver documents on their personal situation, that the relevant provisions are applied when concluding, extending or modifying employment contracts with non-permanent staff, and that the authorising officers further improve guidance and appropriate checks concerning procurement procedures.

3. Issues regarding EU agencies

The Council invites the Court to present a document summarising its main audit findings on agencies and joint undertakings for the discharge procedure.

The Council welcomes the Court's unqualified opinion on the legality and regularity of the underlying transactions of all agencies and joint undertakings audited, as well as the unqualified opinion on the reliability of their accounts, with the exception of the European Centre for Disease Prevention and Control and the five Joint Technology Initiative joint undertakings ARTEMIS, Clean Sky, Innovative Medicines Initiative, Fuel Cells and Hydrogen and ENIAC. Moreover, the Council notes with satisfaction that a number of agencies did not receive any comments from the Court.

Nevertheless, the Council is concerned about some of the remaining weaknesses identified by the Court for a number of agencies and joint undertakings and considers that they should be progressively remedied. It encourages agencies and joint undertakings to improve their financial management, in particular the compliance with the budgetary principles of annuality and budget accuracy, to rigorously respect the rules for procurement of goods and services, to improve their fixed assets management and to tackle the deficiencies identified by the Court in staff recruitment procedures. It invites the Commission to strictly scrutinise the level of carry-overs of agencies and joint undertakings at year end.

The Council takes note of the irregularities regarding the management of one framework contract by the European Centre for Disease Prevention and Control, which gave rise to the Court's qualified opinion on the reliability of the accounts of that agency, as set out in the specific recommendation for discharge for that agency.

The Council also takes note of the Court's qualified opinion on the legality and regularity of the underlying transactions of the five Joint Technology Initiative joint undertakings. It strongly recommends ARTEMIS and ENIAC set up their respective internal audit capabilities and encourages the other three joint undertakings to continue their efforts, aimed at reducing the overall level of error.

The Council welcomes the actions taken, following past recommendations, by the European Global Navigation Satellite System (GNSS) Agency, which received an unqualified opinion from the Court for the year 2011. Nevertheless, it encourages the agency to further improve its control systems and staff selection procedures.

4. Follow-up to observations from past annual reports

The Council welcomes the actions taken, following past recommendations, by the institutions to improve their administrative systems for the timely monitoring and control of documents related to the payment of social allowances to staff members. It encourages those institutions to continue this improvement, as the Court noted that the risk of incorrect or undue payments remains.

CHAPTER 10

GETTING RESULTS FROM THE EU BUDGET

The Council regards the assessment of performance as a useful additional element in the annual evaluation of the sound financial management of EU funds. It is also an important component in assessing how to improve the spending of EU funds. The Council urges all actors in the Commission, Member States and the Court to consider how best to develop robust mechanisms for measuring and reporting on the performance of programmes during the next multiannual programming period. This will strengthen accountability in relation to the performance of EU actions and should be used as an instrument in the management of the programmes to ensure that they deliver their expected outcomes. The Council calls on the Commission, in cooperation with Member States, to ensure that timely, reliable and comparable data are made available at EU and national level.

The Council stresses the need to define a limited number of SMART¹ annual and multiannual objectives for each programme and action, focussing on the results achieved, notably on the impact and the added value resulting from activities at EU level, and to strictly monitor these objectives.

The Council considers that the guiding principles in defining the objectives of programmes at EU level should be economy, efficiency, effectiveness, subsidiarity and synergy. In this context, the Council underlines the importance of all actors developing a better and clearer understanding of the concept of EU added value and of taking this into account when designing the programmes for the next multiannual programming period.

¹ Specific, measurable, achievable, relevant and timed.

The Council takes note of the Commission's evaluation report on the Union's finances based on the results achieved, submitted under Article 318 TFEU, and welcomes the improvements made in the information provided in this report compared to the previous year. The Council encourages the Commission to further develop the content and coverage of the report, with a particular focus on performance management and reporting on outcomes. In addition, it asks the Commission to ensure the consistency of the evaluation report and the Annual Activity Reports established by the Commission's Directors-General via a common reporting framework.
