



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 12 July 2012

12493/12

**PE 344
BUDGET 25
AGRI 505
SAN 175
ENV 609**

NOTE

from: General Secretariat of the Council
to: Delegations

Subject: Summary record of the meeting of the European Parliament **Committee on Budgetary control (CONT)**, held in Brussels on 9 and 10 July 2012

The meeting was chaired by Mr THEURER (ALDE, DE)

Items 9, 10 and 11 on the agenda

- **Discharge for 2010: European Food Safety Agency (EFSA)**
CONT/7/09687;
- **Discharge for 2010: European Environment Agency (EEA)**
CONT/7/09686
- **Discharge 2010 : European Medicines Agency (EMA)**
CONT/7/09685
- Consideration of draft report

Ms MACOVEI (PPE, RO), rapporteur, recalled that on 10 May 2012 the EP plenary had decided to postpone discharge for the three agencies. She announced that her second report on the three discharges was being prepared by amending those reports, due to the deadlines set for the agencies to react. She added that a shadow rapporteurs' meeting would take place on 5 September 2012, a day before the deadline for tabling amendments. Ms MACOVEI referred to the close contacts she kept with the agencies in which measures to address conflict of interest were discussed and mentioned in particular an action plan. In her view, a strong commitment by the agencies to implement such measures would allow the EP to grant them discharge. A transparency issue was

raised by Mr GERBRANDY (ALDE, NL), who complained that no information was given by the rapporteur on the existence of a working document. He also asked about a draft report of the CoA, to which the rapporteur referred. Ms HERCZOG (S&D, HU) complained about the poor cooperation with shadows, and insisted that more than one day was needed between the meeting with the rapporteur and the date for tabling amendments. She added that shadows had not been informed about the letters sent by Ms MACOVEI to the agencies, and that it was not clear if such letters had been sent in compliance with the mandate (Ms HAUG, S&D, DE). Mr GEIER (S&D, DE), supported by Mr GERBRANDY, considered that it was not fair to burden agencies with new requests that had not been put by the plenary. Ms ANDREASEN (NA, UK) recalled that discharge should only refer to the past and criticised an approach making discharge conditional upon promises for the future. Ms AYALA SENDER (S&D, ES) expressed the opinion that conflicts of interest should remain outside the remit of CONT and raised a general issue of proportionality between requirements and means needed for the agencies to deliver. She also criticised the fact that new reports would only be drafted through an amendment of previous reports. Mr STAES (GREENS, BE) considered that the Commission should present a legislative proposal to frame conflict of interest. Mr SARVAMAA (EPP, FI) insisted, as future shadow for the agencies, that the question of whether conflict of interest was in the remit of CONT be clarified. The representatives of the three agencies highlighted the huge efforts made in financial terms and in time - the representative of EEA referred to some 1400 hours spent in trying to cope with the rapporteur's requests. Ms MACOVEI told Mr GEIER that her intention was to grant agencies discharge and disagreed with Ms AYALA SENDER, stating that conflict of interest was related to the management of resources and therefore was in the remit of CONT. She also told Mr GERBRANDY that the reputation of the agencies was not at stake and that, on the contrary, solving the agencies' conflict of interests would enhance their reputation. She complained that it was instead Ms HAUG who had sent a letter to the agencies without consulting the rapporteur and criticised its content, as in the letter Ms HAUG had cast doubts about the fact that the rapporteur had kept within the limits of her mandate. Ms MACOVEI highlighted the good cooperation with the EMA and EFSA, but pointed to what she considered a few inconsistencies in the EEA's replies, which gave rise to an emotional reaction by the representative of the EEA. This prompted a reminder by Mr THEURER that a discharge procedure should not be conducted as a court case, and that only reports of the CoA that had already been published could be used in a discharge procedure.

- Deadline for tabling amendments: **6 September 2012, 18.00**

Item 6 on the agenda

Exchange of views with Edmund Stoiber, Chairman of the High Level Group of Independent Stakeholders on Administrative Burdens

CONT/7/09750

- Exchange of views

Mr Stoiber recalled that his mandate in the High Level group had been extended for the whole term of office of the Commission. He insisted in particular on the important contribution that reduction of bureaucracy could give to boosting growth and referred to a discussion in the Council on 22 June 2012 on exchanges of good practices between public administrations in implementing EU law, agreeing with Ms GRASSLE that more needed to be done, in particular within the Council. He told Ms AYALA SENDER that such cooperation should be enhanced also within federal States.

Item 8 on the agenda

Special Report No 3/2012 (Discharge 2011) - 'Structural Funds: Did the Commission successfully deal with deficiencies identified in the Member States' management and control systems?'

CONT/7/09095

- Consideration of draft report in the presence of Mr LAZAROS LAZAROU, Member of the European Court of Auditors responsible.

Mr GEIER (S&D, DE), rapporteur, observed that in its findings the CoA had concluded that although the Commission generally initiated appropriate corrective actions when deficiencies in management and control systems were identified, MS took too much time to implement corrective measures. He then turned to the question as to whether the Commission responded with sufficient follow-up that its actions led to improvements in the systems to prevent recurrence of irregularities, and stated that the CoA had concluded that systems were still not working properly in MS. In his view, the rate of errors in MS was still very high and he indicated better checks, simplified regulatory provisions and financial corrections as remedies.

Mr LAZAROU delivered the speech in the annex.

The representative of the Commission agreed with Mr GEIER that the conclusions of the report were not too negative. Moreover, improvements had been achieved after the time period covered by the report. He then raised the issue of replacement of ineligible expenditure and explained that the current system allows MS to replace it whether or not they are the ones that detect the error. He therefore invited the EP to support the Commission proposal to allow replacement only if the MS

detected the error, to give them an incentive. He also asked the EP to support the Commission position against a compromise put forward by the Council for the use of a non-statistical sampling method. In his view, the adoption of such a method would make it harder to detect deficiencies. The representative of the Commission told Ms WEILER (S&D, DE) that the volume of suspensions was around 3,5 billion and that the error rate did not refer only to corruption or fraud. After a reminder that much information could also be found in the annual activity report of the Commission (Ms CESKOVA -ECR, CZ), he told Ms GRASSLE that about 35 % of transactions were checked and that corrections were effective, as when they were done the error was immediately withdrawn from the programme. In his final remarks Mr GEIER concluded that the Commission appeared to react quickly and effectively to criticism from the EP, although there was still room for improvement within MS.

- Deadline for tabling amendments: **12 July 2012, 12.00**

Item 7 on the agenda

Discharge 2010: EU general budget, Council

CONT/7/09684

Rapporteur: Ms AYALA SENDER (S&D, ES)

- Consideration of draft report

At the meeting of the Budgetary Control Committee on 10 July 2012, Ms AYALA SENDER (S&D, ES), rapporteur for the 2010 Council discharge, recalling that on 10 May the Parliament had decided to postpone discharge to the Council for the implementation of its budget in 2010, presented the content of her second draft report. She said the main aim was to find a solution to the impasse and get the situation back to normal whereby the EP's right to grant discharge was recognised. She referred in particular to the following points in the report:

- the reference to the EP rights contained in points 1-3 of the draft report;
- the reference to the Court of Auditors Report, which had shown some willingness on the part of the Council to give some explanations,
- pending issues, including the 26 questions from the EP that the Council had not yet answered.

She drew particular attention to the reference in her report to the organisation of a seminar on the different roles played by the EP and the Council in the discharge procedure. She said this would provide updated information to the Cyprus Presidency in the hope of their finding a solution.

All the MEPs who took the floor welcomed the organisation of a seminar. Mr SKYLAKAKIS (ALDE, EL) welcomed in particular the involvement of the Cyprus presidency and insisted on the importance of transparency on the EP side, regardless of the Council attitude. Mr SONDERGAARD (GUE, DK) considered that appealing to the Cyprus Presidency was important, and that separate invitations to take part in meetings should be sent to the Presidency. However, he warned against overly high expectations as it was difficult to envisage a situation where Cyprus could oblige the Council as an institution to change its mind. He announced some amendments on points 9, 16 and 24 of the draft report, intended in particular to highlight the Council's unwillingness to enter into a dialogue with the EP.

Mr AUDY (EPP, FR) considered that the central issue of the legal basis to grant discharge to the Council had not yet been addressed by the EP. This was all the most important, in his view, given that the Lisbon Treaty had given the EU a single legal personality, which implied that only the Commission should be granted discharge. He regretted the Commission's position in support of granting separate discharges to each of the Institutions and welcomed the seminar as an opportunity to obtain an independent legal opinion on this issue. Ms ANDREASEN (NA, UK) supported Mr AUDY. She agreed with Mr SKYLAKAKIS on the need for transparency and called on the Committee to maintain a realistic approach that would not discredit the EP in its future budget negotiations with the Council, as well as on the MFF.

Ms AYALA SENDER expressed her optimism for a possible solution to be found under the Cyprus Presidency and told Mr SONDERGAARD that point 24 of the draft report was intended to ensure that the Committee could continue to work on the issue of the Council discharge. She considered that the issue of the legal opinion on the legal basis for discharge could be raised in the seminar, but pointed out that the EP legal service had already given its opinion. She concluded by recalling that the EP could find itself in a difficult position if actual figures were used to influence public opinion.

- Deadline for tabling amendments: **6 September 2012, 18.00**

Item 12 on the agenda

Direct payments to farmers under support schemes within the framework of the CAP CONT/7/07520

Rapporteur: Ms HOHLMEIER (PPE, DE)

Rapporteur for the responsible committee (AGRI): Mr CAPOULAS SANTOS (S&D)

- Consideration of draft opinion

The rapporteur tabled 56 amendments to the Commission proposal, aiming to increase the transparency of the support schemes, and introducing more simplification and reduction of administrative burdens notably concerning the provisions on greening, active farmers, young farmers and small farmers' schemes. In her opinion, food security, environmental sustainability and territorial cohesion should be the main policy objectives of the new CAP post-2013 so that the right balance needed to be struck there. She also pointed out that, in her view, the political substance of the new CAP should remain in the main regulation; only the non-essential elements could be transferred to the level of the delegated acts.

The representative of the Commission fully endorsed the rapporteur's priorities, the main objective of the CAP reform being simplification, transparency and less administrative burden. He emphasised however that these priorities should comply with the policy objectives and their implementation. He agreed that more targeted support was needed towards active farmers and that better and clearer definitions should be formulated. With regard to the greening of direct payments and young farmers and small farmers' schemes, the Commission did not share the rapporteur's view in favour of a voluntary approach towards those policy tools, arguing that making them compulsory for the whole EU was the only way to achieve a balanced policy and to target the farmers that were most in need.

- Deadline for tabling amendments: **12 July 2012, 12.00**

Item 13 on the agenda

Interim report in the interests of achieving a positive outcome of the Multiannual Financial Framework 2014-2020 approval procedure (2011/0177(APP))

CONT/7/09789

Rapporteur: Mr MULDER (ALDE)

Rapporteur for the responsible committee (BUDG): Mr BÖGE (PPE) & Mr KALFIN (S&D)

- Consideration of draft opinion
- Deadline for tabling amendments: **5 September 2012, 12.00**

This ITEM was postponed.

Voting time

Item 4 on the agenda

Special report No 12/2011 (2011 discharge): Do EU measures contribute to adapting the capacity of EU fishing fleets to available fishing opportunities?

CONT/7/08662

Rapporteur: Ms ANDREASEN (EFD, UK)

- Adoption of draft opinion

Was adopted as amended with 18 votes in favour and 1 against.

Item 5 on the agenda

Special Report No 14/2011 (Discharge 2011) - Has EU assistance improved Croatia's capacity to manage post-accession funding?

CONT/7/08771

Rapporteur: Mr DEUTSCH (EPP, HU)

Rapporteur for the responsible committee (AFET): Mr ROUČEK (S&D)

- Adoption of draft report

Was adopted as amended with 18 votes in favour and 1 against.

Item 15 on the agenda

Next meeting(s)

- 17 September 2012, 15.00 – 18.30 (Brussels)
- 18 September 2012, 9.00 – 12.30 (Brussels)

Speech of Mr. Lazaros S. Lazarou

Honourable Chairman and Members of the Committee on Budgetary Control, it is my pleasure to present to you the European Court of Auditors' Special Report No 3/2012, an assessment as to whether the Commission has successfully dealt with deficiencies identified in the Member States' management and control systems with regards to Structural Funds.

The draft report prepared by the Rapporteur, Mr Geier, presents a full synthesis of the Court's Special Report which allows for my presentation to be brief.

The audit showed that the Commission deployed considerable efforts to ensure the effectiveness in the management and control systems in the Member States for the 2000-2006 period. The Commission requested many corrections to preserve the financial interests of the EU. Nevertheless, in many cases the Member States were able to substitute the ineligible expenditure withdrawn. The efforts to clear the way for a smooth closure process did not fully pay off as further issues need to be followed up and additional financial corrections will be required. Further endeavours by the Commission and the Member States are required to stabilise the systems at a good quality level for the 2007-2013 period.

The Court's audit did **not** cover the closure process as it is currently ongoing. Since the assurance obtained by the Commission during the programming period was not sufficient in all cases where deficiencies had been identified, it is the closure process that will have to serve as a safety net. The audit pointed out a number of challenges that the Commission will be facing. While closure audits are planned in a limited number of cases, for the remaining ones, the Commission will have to place reliance on the information in the winding-up declaration and further information provided at its request. This hampers the position of the Commission as experience indicates that the statements, declarations and commitments by MS authorities do not always hold true.

Another big challenge relates to the correct assessment of the final error rate on a programme as presented by the winding-up authority. Should this error rate exceed the materiality threshold of 2%, then financial corrections will be required.

Although further corrections will be decided for a number of programmes at closure, in many cases they will not have any real impact as the Member States manage not only to replace the expenditure previously found ineligible but also to declare expenditure over and above the budget allocated and thus have a buffer to allow for further financial corrections.

The Court recommended for the budgetary authorities to reconsider whether any changes should be made to the arrangements regarding the possibilities for substitution of expenditure found to be ineligible in order to enhance the added value of European funds. Considering the difficult financial situation of some Member States and the general application of austerity measures, it is important to draw the right line between dissuasive measures and support for development and cohesion.

In such a moment of crisis, and as pointed out by Mr Geier in point 12 of the draft report, it is even more so in the interest of the Member States to have well functioning systems that ensure legality and regularity of transactions as well as achievement of value for money.

Indeed, firstly Structural funds always involve co-financing from public or private resources in the Member States. Hence, their interest is at stake as well. Secondly, in case certain expenditure is not considered eligible by the Commission and is thus disallowed, it is to be covered by national or regional public money. The national taxpayer is concerned in any case and therefore legality and regularity and value for money should always be aimed at.

The Rapporteur also refers to the concept of "single audit". The Structural Funds Regulations themselves do foresee a number of control layers which are mainly the first level checks to be carried out by the managing authorities or under their authority and the second level checks to be carried out by the audit authorities. A major improvement introduced by the Regulation for the 2007-2013 period is the

requirement for the audit authorities to produce annual error rates on the basis of a statistically representative sample. Statistical representativity means that extrapolation of results is possible. That's why these second level checks are now the main building block for the Commission's assurance. As the Rapporteur points out, if and only if these audit authorities produce reliable results, then even in the case of a high error rate, the Commission will be in a position to ensure legality and regularity by applying financial corrections on the basis of this error rate.

Finally, with the significant strengthening of the second level checks the current architecture of control layers in the Structural Funds might be reconsidered.

Mr Chairman and Members of the CONT Committee, I would like to underline that, more than ever, there is an interest for the Member States and thus the taxpayers, to have effective systems in place that ensure legality, regularity and achievement of results.

I am now at your disposal to answer questions you may have. Thank you very much.
