



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 5 February 2014
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**FIN 71
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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 2012
- *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 2012

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 2012:

- revenue amounted to	EUR 139 540 541 171.93
- expenditure disbursed from appropriations amounted to	-EUR 137 737 768 772.97
- cancelled payment appropriations (including earmarked revenue) carried over from year <i>n-1</i> amounted to	EUR 92 099 139.87
- appropriations for payments carried over to year <i>n+1</i> amounted to	-EUR 930 914 134.37
- EFTA payment appropriations carried over from year <i>n-1</i> amounted to	-EUR 4 893 948.90

- the balance of exchange-rate differences amounted to EUR 59 875 477.19
- the positive budget balance amounted to EUR 1 018 938 932.75

- (2) Cancelled payment appropriations for the financial year amounted to EUR 73 827 261.80;
- (3) EUR 945 679 152.82 (93 %) of the EUR 1 019 506 414.62 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 2012 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 2012 and 2013¹;
- (7) Following the examination referred to above, implementation by the Commission of the budget for the financial year 2012 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 2012.

Done at Brussels,

For the Council

The President

¹ As set out in documents 7040/13, 8591/13, 8857/13, 9106/13, 9238/13, 9245/13, 10095/13, 12744/13, 13886/13, 14987/13, 16383/13, 16734/13, 17151/2/13 REV 2, 17496/13, 17497/13 and 17691/13.

INTRODUCTION

1. The Council welcomes the Court's Statement of Assurance (DAS) on the implementation of the budget for the financial year 2012, the analysis of the audit findings, the recommendations and the conclusions provided by the Court. It stresses the importance of independent audit work carried out at EU level and strongly supports the audit findings presented by the Court. The Council considers the Court's work in assessing the results achieved from the EU budget as a significant element in obtaining a balanced overall evaluation of the sound financial management of EU funds.
2. The Council is pleased to note that the consolidated accounts of the European Union (hereinafter "the accounts"), were, in 2012, free from material error and present fairly, in all material aspects, the financial position of the Union and the results of its operations and its cash flows.
3. The Council also notes with satisfaction that revenue and commitments underlying the accounts for the financial year 2012 were legal and regular in all material aspects.
4. The Council remains concerned that, according to the Court's overall assessment the error rate was at 4.8 % for 2012, thereby payments from the budget continued to be materially affected by error. Moreover, the fact that supervisory and control systems audited by the Court were only partially effective in ensuring the legality and regularity of transactions is also a cause of concern for the Council. It recalls that better spending and sound financial management of EU funds is of particular importance for the public perception of actions financed from the EU budget. Thus, the Council firmly supports the recommendations presented by the Court in its annual report insisting on their full implementation in due time and it takes note of the Commission's replies.

Management of EU Funds

5. The Council notes with concern that the implementation of the EU budget in 2012 remained affected as a whole by a material level of error. The Council recognises, however, that the error rate is lower than the ones identified by the Court in the years prior to 2009. However, the error rate persists at a significantly high level and well above the Court's materiality threshold for almost all policy areas. At the same time, the Council puts additional emphasis on the effectiveness of control systems and on a balance between their costs and benefits.
6. The Council recognises in the area of shared management, the actions taken by the Commission and Member States to implement the Court's recommendations of previous years and to improve the management and control of EU Funds and programmes. However, the Council regrets that the error rate still remains above the materiality threshold. Therefore, it calls upon the Commission to further strengthen the control systems and to make them more efficient, to put more emphasis on measures preventing errors, on timely interruption and suspension of payments, to target the most risk prone programmes and to apply financial corrections and recoveries, rigorously in line with the relevant rules, in order to protect the EU budget. The Council takes note of the findings of the Court that for a significant part of transactions affected by error, national authorities had enough information to detect and correct the errors concerned. It calls upon the Commission to continue fully executing its supervisory role in order to ensure the full protection of the EU budget and to provide guidance to Member States with a view to strengthening the efficiency of their administrative and control structures, and enhancing the quality of the different levels of controls, in particular the first level checks. It calls upon the Commission, in the context of future measures taken to strengthen control systems, to fully respect the need to achieve simplification in the management of EU funds and to evaluate the potential additional burden of the measures on Member States before significant changes are introduced.

7. The Council also notes with concern the increased error rate for the policies directly managed by the Commission, although it acknowledges that most of this deterioration is due to a harmonisation of the Court's sampling methodology that the Council has been asking for in the past. It urges the Commission to continue improving its control systems, in particular the desk checks, while keeping the right balance between costs of controls and achieving the policy objectives.
8. In the Council's view, the simplification of rules is of paramount importance in achieving an unqualified audit opinion. The adoption of the new legislative acts implementing the new multiannual programming period 2014-2020 and the new Financial Regulation is an opportunity to achieve major progress towards simplification and thereby lower the risk of error. Thus, the Council invites the Commission and Member States to take full advantage of this opportunity in the implementation of the new multiannual financial framework and to use more extensively the variety of simplification measures, such as the simplified cost options, that were given a clearly positive assessment by the Court and in finding the right balance between risks and cost of controls. To this end, the Council reiterates the need for an appropriate guidance and training to be provided to Member States and to beneficiaries to encourage them in applying such measures and to help them fulfilling their role in pursuing the policy objectives while further bringing down the level of errors.
9. The Council regrets that, as in previous years, an important share of the errors is identified by the Court in the area of public procurement, for the EU budget as a whole, and in particular under shared management where national rules also apply. The Council stresses the importance of simplification of the public procurement rules with particular attention to the simplification of the national rules. The Council encourages Member States together with the Commission to further simplify and streamline national rules, for the benefit of all relevant actors and with a view to reducing error rates. In the light of the newly revised public procurement rules and procedures, the Council invites the Commission to ensure through its technical assistance that the recently updated guidelines for determining financial corrections for non-compliance with the rules on public procurement are disseminated and understood by all relevant actors.

10. The Council considers that financial corrections are a very important instrument in the multiannual protection of the EU budget. It notes that in 2012, the Commission has implemented financial corrections and recoveries for an amount of EUR 4.4 billion and calls on the Commission to continue, where appropriate, the implementation of all available corrective measures. The Council welcomes information about multiannual *ex-post* financial corrections with the aim of providing reliable evidence and comparable data between years and policy areas. However, the annual average error rate of the Court should not be affected by financial corrections from other years. Therefore, the Council invites the Court, in consultation with the Commission, to consider the most appropriate way of reflecting the impact of the correcting measures, including at flat rate, on the protection of the EU budget.
11. The Council considers that the annual activity reports published by the Commission's Directors-General are valuable documents for the Commission's accountability, as well as for 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 be determined consistently in order to enhance the value of the annual activity reports. Furthermore, the Council calls on the Commission to continue to harmonise the presentation and content of the annual activity reports between Directorates-General in order to improve their comparability across policy areas.
12. The Council notes with concern the Court's assessment concerning the increase of the outstanding commitments (RAL) in 2012 and agrees with the Court on the need to deal with the outstanding balance of unused commitments. It calls on the Commission to continue monitoring the evolution of the amounts of RAL, and to settle or decommit them in a timely manner and in line with the relevant rules. Moreover, the Council agrees with the Court that more thorough and long term analysis of future payment needs is necessary. Therefore it invites the Commission to prepare and publish a long term cash flow forecast, projecting future payment requirements, to assist identifying future needs, planning budgetary priorities and ensure that necessary payments can be met from approved annual budgets.

13. The Council appreciates the Court's work in assessing the results achieved from the EU budget and considers the assessment of performance as a crucial element in the annual evaluation of the sound financial management of EU funds.
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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 2012. It notes with satisfaction the Court's statement that the accounts present fairly, in all material respects, the financial position of the Union as at 31 December 2012, 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 coming years.

2. Legality and regularity of the underlying transactions

The Council notes the Court's audit findings, based on the audited sample of the underlying transactions and of the supervisory and control systems, and regrets that an important share of spending continued to be affected by a material level of error and that the most likely error rate for payments as a whole increased to 4.8 % in 2012. It takes note that 0.3 percentage points of the increase results from the harmonisation of the Court's sampling methodology. The Council reiterates its wish to see 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 "Administrative and other expenditure". The Council notes the Court's statement that the 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" and "Administrative and other expenditure" was below the 2 % materiality threshold.

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 other policy groups 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 particularly welcomes the changes introduced this year by the Court in its sampling methodology, that now includes only the interim payments, final payments and clearing of advances ("expensed payments") with a view to harmonise and update the methodology applied to the transactions tested. The Council recognises the advantages of the new approach, providing for a comparability of results across all policy areas and between years, and invites the Court to pursue its efforts in continuing to deliver high quality results in line with international auditing standards.

The Council recalls the importance of a comprehensive, consistent and uniform presentation of audit results and estimated error rates between years.

CHAPTER 2

REVENUE

The Council notes with satisfaction the Court's conclusion that "Revenue" transactions were free from material error and that overall the related supervisory and control systems were assessed as effective in ensuring the regularity of transactions.

The Council welcomes the Commission's commitment to make a proposal on the system for calculation of interest for late payments.

1. Traditional own resources (TOR)

The Council underlines that further efforts are needed to strengthen the Member States' customs supervision. It calls on the Commission to continue to follow up the deficiencies identified, to improve the estimates of TOR and to assist Member States in enhancing appropriate control frameworks in order to collect the maximum amount of TOR due to the Union.

2. VAT-based own resources

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

3. GNI-based own resources

The Council notes that the Court found weaknesses in the Commission's verification of GNI data which also affected the management of reservations. It calls on the Commission to examine the Court's findings and to enhance its efforts in implementing the Court's recommendations, as well as to further improve the management of reservations.

CHAPTER 3

AGRICULTURE: MARKET AND DIRECT SUPPORT

The Council is disappointed that the payments examined by the Court in this policy group were affected by material error and that the most likely error rate estimated by the Court increased to 3.8 %.

The Council notes that, for the sample of the paying agencies that the Court examined in detail, the systems for the administration of the aid for the most deprived persons were found to be effective, while the Integrated Administration and Control Systems (IACS) were found to be adversely affected. It therefore calls on the Commission and Member States to continue their efforts and to improve their supervisory and control systems.

1. Regularity of transactions

The Council regrets that 41 % of the transactions audited by the Court were affected by error. The Council takes note that, according to the Court's assessment, a significant number of errors could have been detected and corrected by Member States themselves.

The Council notes that most of the quantifiable errors detected by the Court relate to the accuracy or eligibility of aid payments, in particular the over-declaration of land, which were linked to the shortcomings identified in the Land Parcel Identification System (LPIS), and which, in financial terms, were not significant. The Council also notes that some of the systemic weaknesses have been reported in previous annual reports and therefore, while noting the need for improvements at national level, calls on the Commission to further engage with Member States to address these shortcomings.

The Council supports Member States' efforts to continue to keep up to date the LPIS data and to strengthen the necessary cross-checks, in order to avoid administrative errors related to the incorrect calculation of entitlements, while taking into account the costs of such changes to the LPIS data and cross checks system compared to the financial risk of those errors for the EU Funds, in line with the applicable legal provisions.

The Council also notes that the Court included cross-compliance errors in its estimate of the error rate for this policy group and that they had a limited impact of 0.2 percentage points on the overall level of error in this policy group. At the same time, it takes note that for the Commission, the cross-compliance does not constitute an eligibility criterion. The Council invites the Court, in consultation with the Commission, to consider the most appropriate way of reflecting the impact of cross-compliance on the error rate.

Moreover, the Council urges the Commission to ensure an appropriate follow-up of the systematic errors detected by the Court, and either to put in place, when necessary, the appropriate action plans or to proceed with clearance of accounts. The Council recognises that the improvements expected from the 2012 action plans set up by the Commission will only materialise in the forthcoming years.

2. Supervisory and control systems

The Council takes note of the Court's audit results concerning the effectiveness of the Integrated Administration and Control System (IACS), including LPIS. It is concerned about the Court's assessment that the systems were adversely affected by inaccurate data in the databases used for cross-checks. 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 important 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 measurements. In this respect, it notes that the Commission services identified very similar deficiencies that have been followed up through conformity clearance procedures.

The Council welcomes the Court's positive assessment that, regarding the procedures to ensure the recovery of undue payments, the amounts to be recovered were well accounted for in the paying agencies audited. Moreover, the Council welcomes the positive overall assessment made by the Court on the control systems applicable to the EU food aid scheme for the most deprived persons, which were considered to be effective.

Finally, the Council takes note of the Court's recommendation and the Commission's work in order to ensure that the declarations and statements provided by the directors of paying agencies and the certification bodies become a reliable basis for the assessment of the legality and regularity of underlying transactions in the framework of the implementation of the Common Agricultural Policy (CAP) reform.

CHAPTER 4

RURAL DEVELOPMENT, ENVIRONMENT, FISHERIES AND HEALTH

The Council regrets that the most likely error rate for this policy group was estimated by the Court at 7.9 %. The Council takes note that rural development remains a particularly error prone spending area of the EU budget due to the inherent complexity of the programmes, and that, according to the Court, errors were found in all Member States visited.

The Council is concerned about the fact that the audited supervisory and control systems were found to be only partially effective. It recalls that Member States' authorities are responsible for putting in place and implementing administrative and control systems meeting all legal requirements, including the accuracy of declarations and the fulfilment of eligibility requirements. The Council recognises that the improvements expected from the 2012 action plans set up by the Commission will only materialise in the forthcoming years.

The Council reminds both the Commission and Member States that the new legislation and the 2014-2020 programmes constitute an opportunity to ensure simplification and thereby lower the risk of errors.

1. Regularity of transactions

The Council regrets that 63 % of the transactions audited by the Court were affected by error although, as in previous years, it acknowledges that the high error risk is partially due to the complexity of the existing rules and eligibility conditions for rural development.

The Council notes that the Court included cross-compliance errors in its estimate of the error rate and that they had a limited impact of 0.4 percentage points on the overall level of error in this policy group. At the same time, it takes note of the Commission's opinion that cross-compliance does not constitute an eligibility criterion. The Council invites the Court, in consultation with the Commission, to consider the most appropriate way of reflecting the impact of cross-compliance on the error rate.

Moreover, the Council encourages the Commission to ensure an appropriate follow-up of the systematic errors detected by the Court. The Council takes note that both, Member States and the Commission, when carrying out its own audits in some Member States, found shortcomings similar to those detected by the Court.

2. Supervisory and control systems

The Council notes that the weaknesses detected by the Court in its sample for 2012 were very similar to those found in other Member States audited in the previous year. Therefore the Council, while acknowledging the importance of applying a preventive audit approach at national level, calls on the Commission to pursue its efforts in providing targeted guidance and in increasing the mutual understanding between the administrations involved.

The Council supports the action plans set up in cooperation with Member States in order to identify and target the root causes of weaknesses relating to the ineffective implementation of procurement rules and to implement remedial actions. In that respect, the Council encourages the Commission to use the conformity clearance procedure, in accordance with the relevant rules.

The Council takes note of the comments made by the Court concerning the implementation of the Commission's clearance of accounts procedures.

The Council invites the Commission to further develop and to fine-tune the procedures and guidelines required following the CAP reform, including the reinforcement of assurance procedures at the level of the final beneficiaries.

Finally, with respect to the Court's findings concerning the internal control systems for procurement of the Directorate-General for Health and Consumers, the Council takes note that the systems were found to be partially effective and that the Commission proposes better evidence checks and an update of its procedures.

3. Reliability of the Commission's annual activity reports

The Council notes that the Directorate-General for Agriculture and Rural Development, in its annual activity report, maintained a reservation concerning rural development expenditure in its declaration of assurance for 2012 and welcomes the accompanying corrective actions determined together with Member States in order to address the situation.

CHAPTER 5

REGIONAL POLICY; ENERGY AND TRANSPORT

The Council notes that the error rate in the area of "Regional policy; energy and transport" remained well below the levels reported by the Court for Cohesion policy in earlier years, however, the Council regrets that the most likely error rate for payments under this policy group increased to 6.8 % when compared to the preceding year, but it notes that, compared to last year, the frequency of error in the audited sample of transactions went down significantly.

The Council reminds both the Commission and Member States that the new legislation and the 2014-2020 programmes constitute an opportunity to ensure simplification and thereby lower the risk of errors.

1. Regularity of transactions

The Council points out that the error rate for this policy group remains high. Moreover, it regrets that 49 % of the transactions were affected by error. The Council takes note that, according to the Court's assessment, a significant number of errors could have been detected and corrected by Member States themselves.

The Council reiterates the importance of first-level checks and calls on national managing authorities to ensure more effective verification systems in order to reduce the error rate. It calls on Member States and the Commission to take their respective responsibilities for enhanced guidance and supervision, to provide targeted training and guidelines, and 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.

As in previous years, failures to comply with public procurement rules and the declaration of ineligible costs were the most common sources of error identified by the Court for this policy group. The Council invites Member States and the Commission to continue their efforts to ensure compliance with EU and national public procurement rules and eligibility requirements. It encourages the Commission to continue concentrating its available audit resources on the most risk-prone areas and to focussing in particular on preventive measures, in order to better protect the Union budget. The Council welcomes the Court's intention to launch a specific audit on public procurement in the course of this year.

The Council stresses the importance of a continued simplification of rules at national and Union level which is expected to contribute decisively to reducing the number of errors, to the advantage of all Member States and beneficiaries. It encourages Member States to implement, whenever applicable, the Commission's recommendations for eliminating unnecessary complex national rules at programme level, in particular when they are not consistent with the Union's regulatory framework. Moreover, the Council highlights the advantages that could result from a wider use of simplified cost options.

The Council expects that the revised legal bases adopted for the period of the new multiannual financial framework 2014-2020 will have a favourable impact on the level of error. It calls on the Commission, in cooperation with Member States, to timely design the new rules and to agree on the guidelines for their implementation in a harmonised way that provides the highest possible clarity to those who have to comply with them and avoids delays in the execution of programmes relating to the new programming period.

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

2. Supervisory and control systems

As in previous years, 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 is concerned about the assessed partial effectiveness and compliance of national audit authorities and underlines that they are a crucial player in the chain of accountability under shared management.

The Council fully supports the Commission in its supervisory role. It welcomes the Commission's action to address the weaknesses identified by the Court and to review the work of national audit authorities, with the aim of getting able to better rely on their results and obtaining accurate and sufficient information for accepting or recalculating the error rates reported by them. The Council encourages Member States to pursue their efforts in ensuring the delivery of high quality results by their national audit authorities, and the Commission to continue providing guidance, with particular attention to the audit sampling methodology used, the reporting of audit findings and the treatment of errors.

3. Reliability of the Commission's annual activity report

The Council welcomes the fact that the Commission's assessment in its annual activity report of the amounts at risk for interim and final payments relating to the 2007-2013 programming period is comparable to the Court's estimated error rate for this policy group. It takes, however, note of the Court's observation that the Commission should have issued a reservation for five additional operational programmes and notes the Commission's replies.

Moreover, the Council is concerned about the Commission's limited information, identified by the Court, as to whether the systems put in place by Member States for imposing financial corrections are effective. It takes note of the Commission's reply and invites the Commission to improve this situation in order to limit the resulting risk to the robustness of its own management assessment.

CHAPTER 6

EMPLOYMENT AND SOCIAL AFFAIRS

The Council notes that the error rate in the area of "Employment and social affairs", remained well below the levels reported by the Court for Cohesion policy in earlier years, however, the Council regrets that the most likely error rate for payments under this policy group increased to 3.2 % when compared to the preceding year.

1. Regularity of transactions

The Council considers that the error rate for this policy group remains high. Moreover, it regrets that 35 % of the transactions were affected by error. The Council takes note that according to the Court's assessment, a significant number of errors could have been detected and corrected by Member States themselves.

The Council notes that the main sources of error in this policy group were the declaration of ineligible projects, the reimbursement of ineligible or inaccurately declared costs, and failures to respect national public procurement rules. The Council calls on the Commission and Member States to continue addressing the weaknesses in first-level checks carried out by national managing authorities and intermediate bodies which were again identified by the Court, in particular through preventive actions such as guidance and training. It also emphasises the importance of financial corrections, in accordance with the relevant rules, for the protection of the Union budget.

The Council invites the Commission and Member States to seek possible ways to further simplify and streamline national eligibility criteria, in line with the Commission's recommendations, for the benefit of all stakeholders. The Council welcomes in this context the Commission's report focussing on the state of play and proposed actions on simplification and "gold-plating" in the European Social Fund and invites the Commission to explore the issue of "gold plating" in other policy areas.

The Council is particularly satisfied about the Court's positive assessment, in its annual report, of the impact of using simplified cost options on the likelihood of error and on the administrative burden for project promoters. The Council encourages the Commission to enable a more extensive use of simplified cost options such as the declaration and payment of lump sums and flat rate costs instead of reimbursing real costs. Nevertheless, it recalls the importance of a prior approval of flat rates for simplified cost options by the Commission in order to make sure that they remain in line with the regulatory requirements.

2. Supervisory and control systems

In 2012, the Court's examination of the management and control systems for this policy group was limited to the performance of two national audit authorities and their effectiveness in ensuring the regularity of expenditure. The Council takes note that the work of one audit authority examined was considered to be effective, while the other one was rated as partially effective. The Council notes that for a large share of operational programmes the Commission had to adjust or considered unreliable the assessment results provided by national audit authorities.

The Council invites the Commission and Member States to seek improvement in the quality and reliability of the information provided by national audit authorities, through better guidance on the audit sampling methodology to be applied.

3. Reliability of the Commission's annual activity report

The Council welcomes the fact that, for the third consecutive year, the Commission's assessment in its annual activity report of the amounts at risk for interim payments relating to the 2007-2013 programming period is comparable to the Court's estimated error rate for this policy group. It supports, however, the Court's recommendation to the Commission to disclose additional information on the cases of financial risk for which reservations were not issued, in order to further improve transparency.

CHAPTER 7

EXTERNAL RELATIONS, AID AND ENLARGEMENT

The Council regrets that the Court's audit revealed that the payments for "External relations, aid and enlargement" were affected by a material level of error, with a most likely error rate of 3.3 % estimated by the Court for 2012. Nevertheless, it welcomes the fact that the frequency of errors has decreased as compared to the previous years. It also takes note of the Court's statement that the increase in the error rate estimated by the Court is linked to the changes in the Court's methodology.

The Council notes with satisfaction that the supervisory and control systems audited by Court for the Directorate-General for Enlargement were effective in ensuring the legality and regularity of payments, and welcomes the fact that all the previous recommendations made by the Court have been put in place.

The Council is nevertheless concerned about the Court's conclusion that the supervisory and control systems audited by the Court in the Directorate-General for Development and Cooperation (EuropeAid) were only partially effective in ensuring the legality and regularity of payments.

While acknowledging the actions already taken by EuropeAid, the Council stresses the importance of promptly addressing the recommendations made by the Court and urges the Commission to take the necessary measures to correct the weaknesses identified in its control mechanism, namely in relation to the *ex-ante* checks, the clearing procedure, the management of documentation and contract awarding procedures, and the quality checks carried out by external auditors.

CHAPTER 8

RESEARCH AND OTHER INTERNAL POLICIES

The Council regrets that payments examined by the Court under this policy group were again affected by material error, and that the estimated error rate in 2012 was 3.9 %. However, it notes that this reflects the harmonisation in the Court's sampling methodology as, contrary to previous years, the sample audited by the Court for 2012 did not cover any advance payments, usually affected by a low risk of error, but included as a new element the clearing of advances which contributed to a considerable extent to the overall error rate estimated by the Court for this policy group.

1. Regularity of transactions

The Council considers that the error rate estimated by the Court for "Research and other internal policies", mainly implemented under direct management by the Commission, is too high. It notes that the main sources of error were the inclusion of ineligible costs, the lack of evidence of expenditure actually incurred, and the use of incorrect methodologies for the calculation of personnel and indirect costs, notably in the project cost statements provided by beneficiaries of the research framework programmes. It calls on the Commission to systematically remind beneficiaries of the eligibility rules and of the applicable calculation methods, as well as of the requirement to substantiate all declared costs.

The Council expects that the simplification of rules in the revised legal bases of the programmes under this policy group adopted for the period of the new multiannual financial framework 2014-2020 will have a favourable impact on the level of error and will also improve the accessibility for small and medium-sized enterprises to these programmes. In this respect the Council reiterates its earlier call for simplification, for the Commission to continue the efforts to simplify the EU instruments aimed at fostering Research, Development and Innovation in order to facilitate their take up by the best scientists and the most innovative companies, and to find a right balance between risk taking and risk avoidance.

2. Supervisory and control systems

The Council takes note of the Court's conclusion that, for this policy group as a whole, the audited supervisory and control systems remained only partially effective in ensuring the regularity of transactions. It encourages the Commission to continue reinforcing its internal supervisory and control systems.

2.1. Research framework programmes

The Council notes that the Court again identified weaknesses in the *ex-ante* desk checks carried out by the Commission which did not detect all errors in the information submitted by beneficiaries. It encourages the Commission to further improve its methods and procedures which the Court still considered to be only partially effective, while maintaining an appropriate balance between trust and control and without increasing the administrative burden for project promoters and beneficiaries.

The Council understands the important positive impact of requesting independent audit certificates from beneficiaries on the overall level of error. It considers that they are an indispensable element in the existing system of supervision and control. However, the Council regrets that the audit certification of cost statements through the independent auditors remains only partially effective. As in previous years, it is concerned about the frequency of errors still found by the Court in cost statements which had received an unqualified opinion from the independent auditor, certifying that the costs declared were justified and in line with the eligibility criteria set out in the grant agreement. The Council encourages the Commission to further increase awareness on this issue with the aim of improving the reliability of the external audit certificates.

The Council is concerned about the significant delays in the implementation of the Commission's targets within the deadlines set for carrying out *ex-post* financial audits. It supports the Court's recommendations to monitor more closely the timely completion of *ex-post* audits, and to ensure a timely application of extrapolated corrections.

The Council welcomes the Commission's efforts to significantly reduce the time required for making grant payments to beneficiaries of the research framework programmes, as confirmed by the Court. The Council is, however, concerned about the Court's observation that several project coordinators incurred lengthy delays in distributing the received funds to other project partners. It notes the serious financial consequences that such a practice could have on beneficiaries that are highly dependent on EU funding. The Council calls on the Commission to monitor these delays and to take appropriate action if necessary.

2.2. Other internal policies

The Council welcomes the Court's finding that the Commission's supervisory and control systems for the Lifelong Learning Programme were effective in ensuring the regularity of transactions.

At the same time, the Council is concerned about the weaknesses identified by the Court in the supervisory and control systems of the Information and Communication Technologies Policy Support Programme within the Competitiveness and Innovation Framework Programme. It invites the Commission to further strengthen its audit strategy for non-research funded projects and to ensure its full implementation.

3. **Reliability of the Commission's annual activity reports**

The Council welcomes the Court's observation that the Commission, in its annual activity reports related to this policy group, provides a fair assessment of its financial management, in line with the Court's findings and conclusions. It is pleased about the Court's statement that the annual activity report of the Directorate-General for Research and Innovation is an example of good practice in providing a clear and comprehensive analysis of the factors affecting the regularity of expenditure.

CHAPTER 9

ADMINISTRATIVE AND OTHER EXPENDITURE

1. General observations

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

2. Issues regarding individual institutions

The Council welcomes the fact that, according to the Court's assessment, no serious errors were detected with regard to the effectiveness of the supervisory and control systems, in the individual institutions, except for a limited number of errors in the procurement procedures and the management of social allowances.

The Council welcomes the measures already taken and encourages the institutions concerned to address the remaining weaknesses identified by the Court.

3. Issues regarding agencies, joint undertakings and other EU bodies

The Council welcomes the new summaries provided by the Court on the audit results, allowing for an aggregated and comparable view of the different annual audits of European agencies, joint undertakings and other bodies.

Likewise, the Council welcomes the Court's unqualified opinion on the reliability of the accounts of all agencies, joint undertakings and other bodies audited, as well as the unqualified opinion on the legality and regularity of the underlying transactions, with the exception of the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX), the European Institute of Innovation and Technology (EIT) and the ARTEMIS, ENIAC and Innovative Medicines Initiative (IMI) Joint Undertakings. Moreover, the Council notes with satisfaction that a number of agencies did not receive any comments from the Court.

The Council is nevertheless concerned that weaknesses persist for a number of agencies and joint undertakings and considers that they should be swiftly remedied. It strongly invites agencies and joint undertakings to implement measures with regard to the financial management and internal control. It urges the agencies and joint undertakings to comply with the budgetary principles of annuality and budget accuracy, to respect the rules for procurement and recruitment, and to improve their fixed assets management and verifications in relation to grant management. When making budget proposals, it invites the Commission to strictly scrutinise the level of carry-overs of agencies at the end of the financial year.

The Council takes note of the Court's qualified opinion on the legality and regularity of the underlying transactions for EIT and of the reasons to enter a disclaimer of opinion on the legality and regularity of the underlying transactions in the case of FRONTEX. It encourages both EIT and FRONTEX to reinforce their *ex-ante* verifications in relation to the management of grants.

The Council also takes note of the Court's qualified opinion on the legality and regularity of the underlying transactions for the ARTEMIS, ENIAC and IMI Joint Undertakings. It recommends to improve the implementation of their *ex-post* audit strategies and to continue their efforts aimed at reducing the overall level of error.

The Council is also concerned about the weaknesses detected by the Court regarding the Fusion for Energy (F4E) Joint Undertaking. It calls on F4E to increase the transparency regarding the degree of advancement of the ITER project works, to improve the competitiveness of its procurement procedures and to regularly monitor the validity of its cost control mechanisms.

Finally, the Council welcomes the actions taken by agencies and joint undertakings, following past recommendations by the Court, and encourages them to continue to improve management and control procedures.

CHAPTER 10

GETTING RESULTS FROM THE EU BUDGET

The Council considers the assessment of performance as a crucial element in the annual evaluation of the sound financial management of EU funds. It is also an important element in assessing how to improve the spending of EU funds and should be seen separately and alongside the error rate.

Therefore, adequate reporting on policy achievements providing information on the expected results by the policy actions and their impact on the EU citizens is highly necessary. The Council agrees with the Court that measurement and reporting on the performance put in place by the Commission still present weaknesses and is of a limited utility for the assessment of the overall performance of EU programmes and actions, particularly the impact or effectiveness of applied EU funding, and calls on the Commission to address these weaknesses.

The Council calls on all actors in the Commission, the Court and Member States to take advantage of the new legal framework agreed for the new multiannual programming period 2014-2020 and to pursue efforts towards developing a performance framework as to ensure that expected results and impacts laid down in the sector-specific regulations are achieved. This includes, among others, a consistent application of SMART² objectives, using milestones and suitable indicators to evaluate on an annual basis the performance of multiannual programmes, focussing on timely and high quality performance data, and strengthening the link between goals, indicators and allocation of resources. The Council recognises progress made by the Commission so far, in particular as regards annual activity reports, and urges it to work further in developing a performance-focused approach.

The Council considers that defining the objectives of programmes at EU level should be guided by the principles of subsidiarity, synergy, economies of scale, efficiency and effectiveness. In this context, the Council underlines the importance of clearer and better understanding of the concept of the EU added value and invite all actors, the Commission, the Court and Member States to contribute to its further development.

² Specific, measurable, achievable, relevant and timed.