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'I/A' ITEM NOTE

From: ACP Working Party

To: Permanent Representatives Committee/Council

Subject: Relations with the ACP States and the OCT
- Discharge to be given to the Commission in respect of the financial management of the 8th, 9th, 10th and 11th European Development Funds (financial year 2015)

1. Article 11(7) of the Internal Agreement applicable to the 11th European Development Fund (EDF) states that the discharge for the financial management of the Fund shall be given by the European Parliament on the recommendation of the Council, which shall act by the qualified majority laid down in Article 8(3) of the Internal Agreement (see OJ L 210, 6.8.2013 p.1)¹.
2. The ACP Working Party examined the annual Report of the Court of Auditors on the European Development Funds for the financial year 2015, together with the Commission's replies to the Court's observations (see OJ C 375, 13.10.2016, p. 287), in the presence of a representative of the Court of Auditors.

¹ A similar provision is included in the Internal Agreements governing the 8th, 9th and 10th EDFs.

3. At the end of its discussions, the Working Party:
- agreed to refer to Coreper and the Council the comments in the Annex regarding its examination of the Court's report;
 - instructed the Secretariat to draw up draft recommendations for a discharge, to be submitted to Coreper and the Council for adoption.
4. It is therefore suggested that, subject to confirmation by Coreper, the Council should:
- adopt the recommendations regarding the discharge to be given by the European Parliament to the Commission in respect of the implementation of operations under the 8th, 9th, 10th and 11th EDFs for the financial year 2015, as contained in documents 5376/17, 5377/17, 5378/17 and 5379/17, drawn up by the Legal/Linguistic Experts;
 - order their publication in the Official Journal of the European Union.
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Comments by the ACP Working Party

on the Court of Auditors Annual Report¹

concerning the activities funded by the eighth, ninth, tenth and eleventh

European Development Funds (EDFs), for the financial year 2015

1. The Working Party welcomes the fact that, in the Court's opinion, the Commission's report on the financial management of the EDFs, established in accordance with Article 49 of the 11th EDF Financial Regulation accurately presents financial information concerning the EDFs.
2. The Working Party notes, however, that the Court's Annual Report concerning EDF activities for the financial year 2015 shows that the error rate has not decreased compared to the previous year and that this error rate is still too high. The Working Party is concerned that the error rate is static despite numerous efforts undertaken by the Commission to remedy this situation. It also notes that this error rate is substantially higher than the one observed in Heading IV of the general budget. The Working Party urges the Commission to work within the agreed target of 2% error rate and to revert during 2017 to the Working Party with a report on the actions undertaken.
3. The Working Party notes the Court's conclusions that:
 - the revenue of the EDFs was free from material error;
 - the global commitments entered into by the EDFs were also free from material error.

¹ OJ C 375, 13.10.2016, p. 287.

4. The Working Party notes with concern that, regarding the payments, the Court estimated the most likely error rate to be 3,8%. The Working Party appreciates Commission efforts to simplify the EDF Financial Regulation and to align it with the Financial Regulation of the general budget. It notes the specificity of the EDF, which excludes application of the principle of annularity enshrined in General Financial Regulation. It also recalls that the expenditure under the EDF is delivered using a wide range of methods implemented in 79 partner countries.
5. The Working Party acknowledges, along with the Court's findings, the efforts made by the Commission to reduce old open prefinancing and old outstanding commitments (le RAL (le reste à liquider)), and the number of open expired contracts, but considers that further progress is needed in this regard. The Working Party invites the Commission to sustain its efforts in these matters.
6. Further to its requests made in 2015 opinion, the Working Party positively notes further progress made by the Commission in the implementation of monitoring system regarding the recovery of interests of prefinancing. The Working Party, however notes observations made by the Court in respect of recording of the unspent prefinancing and urges the Commission to take further measures to prevent, detect or correct errors in the future.
7. The Working Party notes with concern the Court's findings that errors relating to the absence of supporting documents and non compliance with procurement rules account for 70% of the estimated level of error. The Working Party acknowledges that the procurement errors identified by the Court do not concern contracts directly managed by the Commission. As in the previous years the Commission and its implementing partners committed more errors in transactions relating to programme estimates, grants and contribution agreements with international organisations than in other types of support. The Working Party remains concerned with the Court's findings that should the Commission have used all the information at its disposal, it could have lowered the error rate by 1.7 percentage points.

Therefore, the Working Party calls on the Commission to pay more attention to ex-ante checks, given the high-risk operational environment in which the operations are implemented. The Working Party urges the Commission to apply appropriate measures to address existing weaknesses.

8. The Working Party notes with satisfaction the effective implementation by the Commission of an Action Plan to address weaknesses in the implementation of its own control system. It also notes that new Action Plan was adopted by DG DEVCO in July 2016 and awaits its assessment by the Court in next year's annual report. In addition, the Working Party looks forward to an update from the Commission on the implementation of this action plan in the first half of 2017, including an update on the recommendations in the CoA report from 2015.
9. The Working Party also notes the improvements made by the Commission by putting in place a quality grid to assess the reliability of checks, the development of a new audit application and measures taken in the areas of document management and procurement. However, the Working Party shares concerns noted by the Court regarding the persistent weaknesses in the above measures and invites the Commission to take action to address them and inform the **ACP Working Party** on its actions taken in this respect. In this sense, the Working Party welcomes the Commission announcement to revise the system for expenditure verifications directly contracted by the beneficiaries and apply a quality assurance scheme also to these verifications, and invites the Commission to take steps to swiftly implement this promise.
10. The Working Party welcomes Court finding that for the 2015 Residual Error Rate Study DG DEVCO put in place mitigating measures which address all weaknesses with the exception of the RER-specific estimation method.

11. In agreement with the Court, the Working Party acknowledges that improvements should be made in certain important areas, and supports the recommendation of the Court of Auditors; the Commission should demonstrate how this has been done in the context of the Annual Report of the Court of Auditors. Areas of particular importance are:
- expanding the use of quality grid to audits and expenditure verifications contracted directly by beneficiaries and assess the costs and benefits of including them in the new audit application;
 - improving the provision of necessary documentation by the external entities, including by applying appropriate sanctions;
 - exploring options for improving risk assessment for payments under indirect management with beneficiary countries, for example in the next Annual Activity Reports;
 - revising the estimates of the future Commission's corrective capacity.
12. While noting the Court's conclusions and recommendations in its latest report (paragraphs 51 to 54 of the Report), the Working Party takes also note of the replies given by the Commission.
13. The ACP Working Party welcomes the fact that the Commission is implementing the Court's previous recommendations which are detailed in Annex 2 to the Annual Report. The Working Party notes with approval that the Court's review of progress in addressing previous recommendations reveals that only one recommendation is implemented in most respects, while all the others are now fully complied with. The Working Party thanks the Commission for its efforts to fully implement recommendations.
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