



Council of the
European Union

Brussels, 30 September 2014

13755/14

PE 343
BUDGET 23
INST 473
JAI 728

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 22 and 23 September 2014

CONT did not grant discharge to the Council for the fourth time in a row. An extended debate on the code of conduct of the Commission reveals the strong desire of CONT to enhance its transparency.. Greens call for an urgent meeting with President-elect Juncker. OLAF DG, KESSLER, invites MSs to engage in stronger cooperation by sending fraud information and explains how statistics on fraud information by MSs should be interpreted.

The meeting was chaired by Ms GRÄSSLE (EPP, DE)

1. Special Report No 13/2013 (2013 Discharge): "EU Development Assistance to Central Asia"

Mr PARGNEUX welcomed the CoA report and noted that implementation was slow and varied across MSs. He also stressed the importance of enhancing EU support, since some individual MS and third countries contributed more to the development of the region than the EU. Mr WESSBERG, Member of the European Court of Auditors, recalled in particular the CoA recommendation that future programmes be designed to achieve a genuine regional dimension. He also asked the Commission to define and apply robust and verifiable conditions for continuing budget support programmes and to set up a system for calculating and reporting the overall administrative costs involved in delivering development assistance. He stressed in particular that the 14.69 % of the budget earmarked for administrative costs was too high a figure.

The Commission representative emphasised the willingness of the Commission and the EEAS to implement CoA recommendations, except for the one requesting the setting up of a new system for calculating administrative costs. The issue of administrative costs gave rise to a debate opposing the representative of the Commission to Mr WESSBERG, supported by Ms GRÄSSLE, who considered it unacceptable that the revision of the system of calculating costs was not seen as a priority by the Commission. According to the Commission, countries with lower levels of development had higher administrative costs. As for corruption, the Commission explained that actions to improve administrative management were mainstreamed into all development programmes.

2. Special Report No 11/2013 (2013 discharge) - Getting the Gross National Income (GNI) data right: a more structured and better-focussed approach would improve the effectiveness of the Commission's verification

Mr STAES (Greens/ALE, BE), rapporteur, expressed his satisfaction with the CoA report and highlighted its conclusions that GNI data were not sufficiently structured and focused, that Eurostat did not plan and prioritise its verification work, and that Eurostat did not apply a consistent approach when carrying out such verifications.

Ms GRÄSSLE inquired about the implications of such findings in relation to the EU's financial resources, given that 73% of the EU budget is based on GNI. The EUROSTAT representative assured her that the CoA recommendations had either already been complied with or were in the process of being implemented. She agreed with Ms GRÄSSLE that it could have an impact on the fairness of the contribution by MSs. She also mentioned the need for MS to report on statistics concerning illegal activities.

3. Special Report No 2/2014 (2013 Discharge) "Are Preferential Trade Arrangements appropriately managed?"

Mr MUGURUZA, Member of the European Court of Auditors, recalled that, at end of 2013, 39 Preferential Trade Arrangements (PTA) covered trade between EU and 180 countries and territories. The value of goods imported into the EU under those agreements amounted to more than EUR 242 billion, representing 14% of the EU's imports. He said that Mr STAES had summarised the conclusions of the CoA well in his report. Mr STAES (Greens/ALE, BE), rapporteur, referred in

particular to the inappropriate assessment of the economic effects of PTA, owing to the lack of certain sustainability impact assessment studies. He called for Eurostat and Olaf to advise the Commission on PTA. He considered that MSs should enhance the effectiveness of their risk management systems through a common approach. The representative of the Commission (TAXUD) pointed out that MS exchanged their experiences in a systemic way within the relevant working party. Moreover, the Commission had adopted an action plan to enhance monitoring by MSs.

4. Special Report No 15/2013 (2013 Discharge) "Has the Environment component of the LIFE programme been effective?"

Mr ZDECHOVSKÝ (PPE, CZ), rapporteur, announced that CoA findings and recommendations would be reflected in his report.

In particular, he said that the LIFE 'Environment' component was not operating effectively because of design problems. In his view, the large number of objectives of the programme made it inconsistent with the allocated budget. The Commission had to set clear, specific, measurable and achievable objectives for projects to be funded. MS were invited to maintain a geographical balance by proposing more integrated projects. The Commission representative said that the new LIFE programme had already taken on board some of the CoA's recommendations. As for NGOs, they would continue to be supported to the tune of up to 60% of their running costs through a budget allocation of EUR 9 million, which made it possible to fund 30-35 NGOs.

5. Special Report No 1/2014 (2013 Discharge) "Effectiveness of EU-supported public urban transport projects"

Ms IVANOVA, a former member of the CONT Committee, presented her first report as a member of the CoA. Mr PIRINSKI (S&D, BG), rapporteur, welcomed the report and insisted on the importance of the utilisation rate of the projects as a key indicator for assessing the performance of public transport projects. In his view, the design of projects should be accessible and affordable to the most deprived groups and should not just be seen as a revenue-generating activity. The Commission representative said that some of the recommendations were being incorporated into the new programme. Moreover, a delegated act on quality review had already been published, while an implementing act would contain details on the application form for major projects.

Voting time

6. Discharge 2012: The Office of the Body of European Regulators for Electronic Communications (BEREC)

CONT recommended granting discharge by 15 votes in favour, 6 against and 2 abstentions.

The EP vote is scheduled for the October plenary in Strasbourg.

7. Discharge 2012: EU general budget - Council and European Council

CONT recommended refusing to grant discharge to the Council and the European Council by endorsing Mr DEUTSCH's (EPP, HU) report with 23 votes in favour (unanimity).

The motion for a resolution was adopted as amended by a unanimous vote. All five amendments to the draft resolution were carried.

This vote concerned the second report on the 2012 discharge after the EP plenary had voted in favour of postponing the Council and European Council discharge on 3 April 2014.

The EP vote is scheduled for the October plenary in Strasbourg.

End of voting time

8. Update of the study on "The Code of Conduct for Commissioners - improving effectiveness and efficiency"

Ms GRÄSSLE presented the study by recalling that the Commission code of conduct adopted in 1999 did not prevent a number of Commissioners from acting as lobbyists after the end of their mandate and therefore left them open to a potential conflict of interest. According to the expert, the code of conduct had limited impact when compared with foreign best practices, although he acknowledged that a member of the Commission could not be put on the same level as a national Minister. He pointed to the limited scope of job incompatibilities after leaving the Commission, since these only concerned activities within the Commissioner's portfolio, the lack of transparency of the ethics committee's proceedings, the absence of details on displacements, and the lack of disclosure of donors' names. Mr GEIER (S&D, DE) felt that the lack of sanctions was a major

lacuna in the code of conduct. Mr de JONG (GUE, NL) complained that Mr TIMMERMANS seemed to be comfortable with the existing code of conduct and felt offended by his allegation that the Commission code of conduct was better than that of the MEPs, since a distinction had to be made between nominated and elected members of the institutions. Mr STAES (Greens, BE) called for a meeting between President-elect JUNCKER and the political coordinators to address what he referred to as a 'complacent attitude' on the code of conduct. Mr BOVE (Greens, FR) suggested that a public procedure be introduced in order to check possible conflicts of interests of Commissioner candidates and he expressed criticism of the portfolios allocated to certain candidates who, in his view, had conflicts of interest (he mentioned Mr CANETE and Mr HILL). Ms GRÄSSLE considered that future Commissioners should have expertise of their area of competence and have a network of contacts in that area. Ms MACOVEI (EPP, RO) suggested that debt liability should also be declared, as this may create a conflict of interest. On interim Commissioners, while Mr KOLMEL (ECR, DE) was against granting severance pay, Mr ZDECHOVSKY (EPP, CZ) said that this was acceptable if it kept them away from lobbying activities. Ms AYALA SENDER and Mr SERVAMAA (EPP, FI) called for more transparency in applying the code of conduct.

The Commission representative disagreed with what she considered an excessively negative presentation of the code of conduct. As for the transparency issue, she stressed that Commissioners were being watched constantly in their activities, as if they were in an aquarium, so that they were supervised more closely than provided for in the rules of a code of conduct. In any case, the revision of the code to provide it with sanctions should account of the prerogatives given to the Court of Justice by Article 247 TFEU.

Concerning the conflicts of interest of future Commissioners, she outlined the new institutional architecture, which she considered had addressed conflicts of interest through a system of checks and balances by giving the Vice Presidents a role in the portfolios of individual commissioners.

9. Tobacco Agreements

This item was postponed.

10. Exchange of views with Commissioner Semeta on the establishment of a Controller for procedural guarantees and the future of the OLAF Supervisory Committee

This item was postponed.

11. Report from the Commission on Protection of the European Union's financial interests - Fight against fraud 2013 Annual report

This item and item 16 were discussed together owing to the absence of Commissioner SEMETA. On behalf of the Commissioner, Mr KESSLER recalled that this was the fifth and last report from the current Commission. The reporting methods had maintained a clear distinction between fraud and non-fraudulent cases. The report also provided a retrospective overview of the fight against fraud in the last five years. The 2011 multiannual anti-fraud strategy had been pivotal in raising fraud awareness, as the increased role of audit in detecting fraud and the amount of fraud information received demonstrated. Mr KESSLER also mentioned the reform of the Olaf Regulation adopted in 2013 and two ongoing legislative files, the European Public Prosecutor Office Regulation and the Directive on the fight against fraud to the Union's financial interests by means of criminal law. The modernisation of the Public Procurement Directive was also key. On the revenue side, Mr KESSLER stressed the quick reaction to VAT fraud and the importance of the Council Regulation on mutual assistance. In terms of figures, an 11% decrease in the number of fraudulent irregularities was reported on the revenue side, while on the expenditure side the downward trend was reversed in 2011. Non-fraudulent irregularities had increased by 37%. This led to the recovery of EUR 3.5 billion last year.

As for the future outlook, Mr KESSLER highlighted the divergence in reporting across MS and felt that this needed to be addressed, although fraud reporting had improved. The Commission would monitor MSs' follow-up of its recommendations on fraud activities.

12. The OLAF report 2013 – Fourteenth report of the European Anti-Fraud Office, 1 January to 31 December 2013

Mr KESSLER commented on some of the figures in the report and stressed the increase in incoming information, the higher number of opened and concluded investigations, and the higher number of recommendations issued. Mr KESSLER stressed that the operational capacity of OLAF had increased dramatically after the 2012 reorganisation. Results had been achieved without any

increase in staff. Moreover, the figures showed that case duration had shortened. Mr KESSLER also presented figures on the number and type of recommendations issued in the last five years. He stressed their importance for recovery. In 2013, recommendations totalled the record number of 353. He also mentioned that cooperation had started with certain MSs which were more reluctant to follow up judicial recommendations.

Mr PIRINSKI (S&D, BG), rapporteur, welcomed the report, which in his view provided an objective picture on the current state of fraudulent activities. He raised the question of the extent to which budgetary factors were at the origin of the choice between interruptive and corrective measures. He also considered that non-fraudulent activities should be addressed as they also impacted on the budget. Mr VAUGHAN (S&D, UK) added that only 0.2% of the EU budget was affected by fraudulent activities. Mr KESSLER told the rapporteur that figures on fraudulent activities, and in particular their breakdown by MS, should by no means be interpreted as the level of fraud in a particular MS. Such figures rather showed the commitment of the authorities of a MS to cooperate with OLAF and/or the credibility of OLAF amongst its citizens.

He also told Mr SERVAMAA (EPP, FI), who complained that the DG did not mention the friction with the Supervisory Committee, that he had never said that everything was going well with the SC. He rather concentrated on facts and provided factual information on the number of accesses to files the SC was given and on agreements that were reached with the SC. Mr KESSLER provided Ms GRÄSSLE with further details on the selection unit and on statistics concerning the duration of the procedures. He told Mr de JONG (GUE, NL) that the number of judicial indictments depended on the national judiciary, which were fully independent authorities. He told Ms AYALA SENDER that the Anti Fraud Coordinators Offices at national level were key to improving incoming information. He also announced cooperation with the EEAS in combating illegal manufacturing of tobacco products. A person would be posted in Beijing.

13. Fight against fraud to the Union's financial interests by means of criminal law - 2012/0193(COD)

Ms GRÄSSLE announced that the first trilogue at technical level was scheduled for 1 October 2014.

14. CONT Delegation to Czech Republic in the context of "Systemic errors in EU Funds Control and Auditing" - 26/27 March 2014

CONT/8/00497

Head of delegation: Mr GEIER (S&D)

- Presentation of the report on the delegation

The debate was postponed.

15. Special Report No 18/2013 (2013 Discharge) "The reliability of the results of the Member States' checks of the agricultural expenditure"

Ms KADENBACH (S&D, AT) reminded the Commission of the CoA findings, in particular the partial effectiveness of the control system of the MSs for expense payments and that inaccurate databases were used for cross-checks. She considered that MS had to be interlocutors if a way out was to be found. Mr SERVAMAA expressed a sense of great frustration, since the lack of reliable data made it impossible to start addressing problems. Ms GRÄSSLE highlighted the inaccuracy of information received by the Commission. The Commission representative told Mr ZELLER that it was not possible to suspend payments because of false reporting from MS, as this was not envisaged by the legal basis, despite the recent reform of the CA by the co-legislator. Ms KADENBACH considered that sanctions should punish those who did wrong and not the farmers.

16. Special Report No 3/2014 (2013 Discharge) "Lessons from the European Commission's development of the second generation Schengen Information System (SIS II)"

Mr Russo, Member of the European Court of Auditors, recalled that the Commission had delivered the central system, but over 6 years later than initially planned and at 8 times the initial budget estimate. The rapporteur criticised the Commission for not having provided enough expert staff since the outset of the project. Lessons should be learnt for future projects, so that an exact profile of technical and end-users' requirements could be established by the Commission in cooperation with MSs from the outset.

Mr COELHO (EPP, PT) considered that the Commission operated without involving MSs.

Ms CHINNICI (S&D, IT) found the report of the CoA balanced, but recalled that the Commission had to implement a Council decision and that the Council introduced several changes to the original design of the project at a later stage. The Commission representative underlined that the Commission had accepted all the recommendations of the CoA. He nevertheless stressed that the

Council had adopted a decision on its own initiative and then introduced changes to the original plan. Lessons learnt would be abided by in all current and future projects; in particular, the Commission would no longer embark on projects without a clear legal framework and specifications. As Ms GRÄSSLE considered that the issue was not clear, since the Commission and the CoA seemed to have differing views on the financial aspects, the CoA representative insisted that the principal responsibility lay with the Commission, because the delay in delivering the system had given rise to the higher costs. Moreover, the Commission should no longer deal with only one contractor.

17. Next meetings

- 13 October 2014, 15.00 – 18.30 (Brussels)
 - 16 October 2014, 9.00 – 12.30 (Brussels)
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