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From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 2)/Council
No. prev. doc.:	11483/15, 11484/15
Subject:	Draft Council conclusions on Special Report No 2/2015 "EU-funding of Urban Waste Water Treatment plants in the Danube river basin: further efforts needed in helping Member States to achieve EU waste water policy objectives" - Adoption

1. On 15 July 2015, the General Secretariat of the Council received Special Report No 2/2015 "EU-funding of Urban Waste Water Treatment plants in the Danube river basin: further efforts needed in helping Member States to achieve EU waste water policy objectives" adopted by the Court of Auditors at its meeting on 10 June 2015.
2. Pursuant to the rules laid down in the Council conclusions on improving the examination of special reports drawn up by the Court of Auditors¹, the Permanent Representatives Committee (Part II), at its meeting on 2 September 2015, instructed the Working Party on Structural Measures to examine this report according to the rules laid down in the above-mentioned conclusions.

¹ Doc. 7515/00 FIN 127 + COR 1.

3. The Working Party on Structural Measures examined the Special Report on 28 September and 6 October 2015 and an agreement on draft Council conclusions was reached on 19 October 2015 following a silence procedure.
 4. The Permanent Representatives Committee is therefore invited to recommend to the Council to adopt, as an "A" item, these draft Council conclusions as set out in the Annex to this document.
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Draft

Council conclusions on Special Report No 02/2015

by the European Court of Auditors:

**"EU-Funding of Urban Waste Water Treatment plants in the Danube river basin:
further efforts needed in helping Member States to achieve
EU waste water policy objectives"**

THE COUNCIL OF THE EUROPEAN UNION:

- (1) WELCOMES the special report from the European Court of Auditors (hereinafter referred to as "the Court") and TAKES NOTE of its observations.
- (2) UNDERLINES that the Danube river basin is the EU's largest river basin (801 463 km²) and touches 19 countries, including 9 Member States, and RECALLS that 14 countries (9 Member States and 5 non-EU countries) have committed to continue major investments in building and upgrading urban waste water treatment plants across the Danube Basin, in the framework of the EU Strategy for the Danube Region.
- (3) NOTES that the audit covers an illustrative sample of 28 EU funded waste water treatment plants in four Member States of the Danube river basin (the Czech Republic, Hungary, Romania and Slovakia). The total amount audited was about EUR 1,614 million including EU funding of EUR 1,022 million, which represents a co-financing rate of 63.3%;

NOTES also that the total EU funds allocated to waste water infrastructures under the European Regional Development Fund (ERDF) and the Cohesion Fund (CF) were approximately EUR 12.9 billion for the 2000-2006 programming period and EUR 14.6 billion for the 2007-2013 programming period.

(4) WELCOMES the overall conclusion of the Court that ERDF/CF spending during the 2000-2006 and 2007-2013 programming periods played a decisive role in improving waste water collection and treatment, as well as the quality of water.

(5) RECALLS that the Urban Waste Water Treatment Directive (UWWTD) from 1991² requires Member States to ensure by a certain deadline that agglomerations with a population equivalent (p.e.) of more than 2 000 are provided with collecting systems for urban waste water and that the collected waste water is subject to appropriate treatment. It addresses also the disposal of sewage sludge;

RECALLS furthermore that the Water Framework Directive (WFD)³ aims to achieve, throughout the European Union, a good status of surface water and groundwater by 2015 by requiring Member States to establish a programme of measures to reach these objectives.

(6) RECALLS that costs for the construction, upgrading and modernisation of waste water treatment plants and sewage networks were eligible for EU co-financing from the ERDF and CF and for those Member States that joined the Union in 2004 and 2007 (which is the case for the 4 audited Member States) from 2000 till the date of accession under the Instrument for Structural Policies for Pre-accession (ISPA).

(7) UNDERLINES that for the audited Member States, the (EU and national) funds provided in the context of operational programmes are the main source of financing for waste water related projects.

² Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment (OJ L 135, 30.05.1991, p. 40).

³ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for the Community action in the field of water policy (OJ L 327, 22.12.2000, p.1).

Court's findings

- (8) NOTES the finding of the Court that, despite ERDF/CF spending playing a decisive role, the above deadlines regarding waste water treatment were not always met;

STRESSES however that waste water treatment is an issue where there is an obligation on Member States to deliver results based upon an EU directive, which is not necessarily the case in other areas;

UNDERLINES furthermore that the main objectives of the ERDF and CF in the 2000-2006 and 2007-2013 programming periods were to reduce the gap between the levels of socioeconomic development of the EU regions and not necessarily to contribute to meeting the above WFD deadline.

- (9) NOTES also the finding of the Court that around one third of the audited plants are in its view oversized;

STRESSES however that waste water treatment plants are built for a period of about 30 years and have to be dimensioned to also cope with the waste water related to future developments such as population growth, economic development, etc.;

HIGHLIGHTS furthermore that other factors may also influence the size of newly constructed plants such as overflows, seasonal variations (for instance tourist areas) and high temperature variations between seasons, and that Member States are best placed to evaluate these factors;

CONSIDERS therefore that the actual number of population equivalents connected to the size of the projected plant may not be a sufficient indicator for measuring whether the plants are or not oversized.

- (10) NOTES furthermore the finding of the Court that the degree of financial sustainability attained by the audited EU co-financed infrastructures was not fully satisfactory;

CONSIDERS nevertheless that the financial analysis underlying EU co-financed waste water projects is based on EU guidelines and, in the case of major projects, approved by the European Commission and JASPERS experts, and NOTES that attaining full cost pricing in time is in this respect fully taken into consideration;

UNDERLINES in addition that setting a pricing policy to meet the required financial sustainability standards is a sensitive issue for which Member States have to take into account different socio-economic considerations.

- (11) NOTES that the small audit sample, particularly at the level of the four individual Member States concerned, where in one case for instance only 4 plants out of a total of about 600 have been audited, requires care to be taken with regard to generalising the conclusions drawn.

Court's recommendations

- (12) TAKES NOTE of the Court's recommendations that:

12.1. Member States and the Commission should make efforts to reduce the reporting deadlines, especially in cases of significant changes in the number of waste water treatment plants falling under the Directive and in the cases of population changes;

12.2. Member States should make all efforts to reduce delays in implementing their projects and fully benefit from available funds and thus reducing the risk of decommitments;

12.3. Member States should take care that the waste water treatment plants correspond to the latest State of the art to avoid too high concentrations in the effluents, reduce overflows and ground water infiltrations and use, where possible, efficient and sustainable, the energy production potential of sewage sludge as well as encourage the recovery of phosphorus from sewage sludge;

12.4. the Commission should make the projects' final payment conditional to the existence of an appropriate solution for treating or re-using the sewage sludge;

12.5. Member States should apply, in accordance with the polluter pays principle, an adequate level of pricing allowing also necessary maintenance and renewal, and take all necessary action to ensure a robust monitoring of pollutants;

12.6 The Commission and the Member States should address the issue of storm water overflows.

- (13) STRESSES that the affordability ratio of 4% referred to by the Court is based on a single non-representative examination in one region of a single Member State and cannot therefore be considered as a commonly accepted benchmark;

CONCURS therefore with the Commission that this ratio can only be indicative and that Member States shall be responsible for setting the final ratio for each project.

- (14) CONSIDERS that the Court's recommendations, as far as EU-funding is concerned, are properly addressed by the new European Structural and Investment Funds (ESIF) regulatory framework for the period 2014-2020, in particular the fulfilment of applicable ex-ante conditionalities for defining the best approach to waste water treatment policy.

Policy actions

- (15) TAKES NOTE of the Commission's intention to launch a broad review of environmental reporting requirements in the framework of the "Better regulation" agenda, but not to introduce new reporting obligations for agglomerations below 2 000 inhabitants.

- (16) **UNDERLINES** the need to strengthen, where appropriate, the technical, legal and administrative capacity at all levels to ensure that only the best quality projects are selected and financed, in particular at local and regional level to enable a consistent implementation of the relevant strategies.
- (17) **RECALLS** the important added-value of the involvement of JASPERS (Joint Assistance to Support Projects in European Regions) when assisting Member States to improve the quality of project applications in general, and major projects in particular, including their technical characteristics and when providing them with horizontal support covering the whole programming cycle.
- (18) **UNDERLINES** the necessity of adequate technical and administrative analysis for the allocation of EU funding to waste water treatment plants.
- (19) **STRESSES** that there are many reasons for delays in implementation and thus risks of not fully using available funds. Overall delays in meeting the deadlines may also result from the absence of mature projects ready to be submitted. Risk factors in this respect include notably technical, administrative and property questions.
- (20) **RECALLS** furthermore the capital intensive nature of investments in waste water treatment plants and the economic situation after the 2008 financial crisis on the slow recovery of public finances, which had a negative effect on the pace of building.
- (21) **TAKES NOTE** of the establishment by the Commission of a Task Force focusing on ways how to speed up implementation by Member States, including the four Member States concerned, in order to ensure the full use of available resources.

- (22) WELCOMES the Commission's revised closure guidelines⁴, in order to ensure the smooth finalisation of a number of projects and introduce more flexibility in some areas, including the "phasing" of the unfinished projects from 2016 onwards.
- (23) WELCOMES also the Commission's improved approach concerning the management of major projects, defining a quality review process and the quality elements of the cost benefit analysis to be respected.
- (24) CALLS on Member States and the Commission to build on lessons learned from previous experiences of investments in similar infrastructure.
- (25) INVITES the Member States concerned and the Commission to make use of the EU Strategy for the Danube Region to promote exchange of experiences, leverage of investments, synergies and effectiveness in the system of urban waste water management.
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⁴ Commission decision C(2015) 2771 of 30.4.2015 amending Decision C(2013) 1573 on the approval of the guidelines on the closure of operational programmes adopted for assistance from the European Regional Development Fund, the European Social Fund and the Cohesion Fund (2007-2013).