



Council of the
European Union

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NOTE

From: Budget Committee

To: Permanent Representatives Committee/Council

Subject: Council recommendation 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 2017

– *Adoption*

Draft COUNCIL RECOMMENDATION
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 2017

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 2017:

- revenue amounted to	EUR 139 691 411 177.11
- expenditure disbursed from appropriations amounted to	EUR 135 763 957 598.31
- cancelled payment appropriations (including earmarked revenue) carried over from year <i>n-1</i> amounted to	EUR 1 409 873 556.99
- appropriations for payments carried over to year <i>n+1</i> amounted to	EUR 1 792 466 135.54
- EFTA payment appropriations carried over from year <i>n-1</i> amounted to	EUR 3 504 182.26
- the balance of exchange-rate differences amounted to	-EUR 166 431 469.32
- the positive budget balance amounted to	EUR 555 542 325.09

- (2) Cancelled payment appropriations for the financial year amounted to EUR 39 830 591.35;
- (3) EUR 1 615 150 224.92 (97.59 %) of the EUR 1 654 980 816.27 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 2017 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 2017 and 2018¹;
- (7) Following the examination referred to above, implementation by the Commission of the budget for the financial year 2017 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 2017.

Done at Brussels,

For the Council

The President

¹ Docs. 6330/18, 6680/18, 7043/18, 7052/18, 7466/18, 7474/18, 7878/18, 8003/18, 8665/18 + COR 1, 8755/18, 8756/18, 8952/18, 9121/18, 9619/18, 10301/18, 10332/18, 10505/18, 12862/18, 12945/18, 13044/18, 13901/18, 14077/18, 14137/18, 14395/18, 14461/18, 14757/18, 14933/18, 15158/18, 15766/18, 15782/18 and 5768/19.

INTRODUCTION

1. The Council welcomes the European Court of Auditors' annual report and Statement of Assurance on the implementation of the EU budget and the analysis of the audit findings and conclusions provided. It attaches great importance to the independent audit work carried out by the Court, as defined in Article 287 TFEU, and namely to the primary task of providing a Statement of Assurance on the reliability of the accounts and examining the legality and regularity of revenue and expenditure.
2. The Council acknowledges the findings of the Court, as specified in its annual report, and invites the Commission to take the relevant Council recommendations into consideration and to focus on the more risk-prone areas. To ensure trust and legitimacy, it is essential that the EU-budget efficiently delivers true value to EU citizens.
3. The Council considers that an assessment of the results achieved by the EU budget is a key element of the annual evaluation of the sound financial management of EU funds.
4. The Council encourages the Court to ensure a high level of information and detail per spending area. It stresses the need to ensure stability, continuity and comparability between years and policy areas; this can contribute to improved quality of expenditure. In this context, the Council reiterates the increasing political importance of expenditure under headings 3 (*Security and Citizenship*) and 4 (*Global Europe*) and invites the Court to provide error rates for these spending areas in the future, both in the context of the current and of the future multiannual financial framework (MFF). The Council stresses the need to ensure comparability between years within each policy area.

CHAPTER 1

THE STATEMENT OF ASSURANCE AND SUPPORTING INFORMATION

1. The Council welcomes the significant decrease of the estimated level of error reported by the Court (from 3.8 % in 2015 and 3.1 % in 2016 to 2.4 % in 2017) but regrets that the estimated level of error is still above the materiality threshold of 2 %. Furthermore, the Council takes note of the level of the expenditure examined in 2017 as a result of the implementation stage of the MFF and of changes in the control and assurance framework.
2. The Council welcomes the fact that for the second year in a row the Court gives a qualified opinion, rather than an adverse one, on the legality and regularity of payments and takes note of the fact that the entitlement-based payments, which constitute the majority of EU budget spending, are free from material error. The Council notes that the material error was mainly confined to the reimbursement-based spending, but also welcomes the improvement in the estimated level of error for reimbursement-based payments (from 4.8 % in 2016 to 3.7 % in 2017). In this context, the Council commends the efforts made by the Member States and the Commission to improve their management and control systems so as to ensure the legality, regularity and transparency in spending European taxpayers' money and invites the Member States and the Commission to intensify these efforts.
3. The Council stresses that simplification of legislation should remain a top priority in the reduction in error rates. Simpler, more transparent and more predictable regulatory framework is essential to ensure effective and correct management of EU funds. The difference between the estimated level of error in the two types of payment highlights the need to improve further the management of the EU budget, including by implementing less complex funding rules.

4. The Council notes the influence of financial corrections and recoveries on the amounts at risk at payment/at closure. The Council takes note of the fact that the Court considers corrections made by Member States' authorities and recoveries applied by the Commission when estimating the level of error. The Council encourages the Court to continue to cover in its audit corrective measures applied by the Member States and the Commission.
5. The Council welcomes the clean opinion given by the Court on the reliability of the annual accounts of the European Union (hereinafter "the accounts") for the financial year 2017. It notes the Court's statement that the accounts present fairly, in all material respects, the EU's financial position as at 31 December 2017 and the results of its operations and cash flow and changes in net assets for the year then ended, in accordance with the Financial Regulation and with accounting rules based on internationally accepted accounting standards for the public sector.
6. The Council also welcomes the fact that the revenue underlying the accounts for 2017 is legal and regular in all material respects, as in previous years.
7. While appreciating the increasing focus on performance measurement, the Council invites the Court to continue its excellent work on the annual reports and to provide estimated levels of error for all spending areas both in the current and in the next MFF.
8. The Council recalls that the Court's estimated level of error is not a result of a measure of fraud, inefficiency or waste of funds per se, but of payments which were not used in accordance with the applicable rules and regulations. It takes note that the number of cases reported to OLAF by the Court for suspected fraud during the audits has increased in comparison with 2016 from 11 to 13.
9. The Council appreciates previous efforts and actions undertaken by the Commission and the Member States to implement the Court's recommendations and encourages the Member States and the Commission to continue these efforts. In addition, the Council encourages further simplification of funding rules and implementation procedures in the Member States, expecting that these measures will have a positive impact on the estimated level of error.

CHAPTER 2
BUDGETARY AND FINANCIAL MANAGEMENT

1. The Council takes note of the significant level of outstanding budgetary commitments (RAL) reached in 2017 as a result of the almost full use of commitment appropriations combined with a lower than anticipated use of payment appropriations. It notes the Court's concern that, despite the increase in the flexibility of the budget to address payment needs for the final years of the current MFF, the risk exists that available payment appropriations will be insufficient to settle all payment claims. The Council urges the Commission to continuously improve both payment estimates and monitoring mechanisms in order to manage this risk, to anticipate an orderly disbursement of payments and to ensure predictability of national contributions.
2. The Council notes with concern that using available resources from the European Structural and Investment (ESI) Funds is lower than anticipated in 2017. The Council urges the Member States and the Commission to intensify their efforts to accelerate implementation.
3. The Council is also concerned about the significant financial exposure of the EU budget, both in relation to outstanding commitments and contingent liabilities and calls on the Commission to follow the Court's recommendation to provide an overview of the total value of contingent liabilities, together with an analysis of their possible impact on the budget and of the way risk-exposure can be mitigated. Moreover, the Council expects the Commission to provide more information about the situation of financial instruments for the 2007-2013 programming period.

CHAPTER 3
GETTING RESULTS FROM THE EU BUDGET

1. The Council takes note of the recommendation of the Court that the strategic frameworks governing the implementation of the EU budget should be streamlined and simplified, acknowledging that this complexity makes it hard for the Commission to measure the performance of the budget in contributing to the accomplishment of the objectives of the Union.
2. The Council welcomes the increased focus on performance in the internal culture of the Commission and calls on it to disseminate knowledge and guidance about performance management and exchanging good practice in using performance information both within the Commission and with the Member States.
3. Also, the Council aligns itself with the Court's recommendation addressed to the Commission on the need to include up-to-date performance information in performance reporting on progress made towards achieving targets and to always take appropriate action or make proposals for such action when these targets are not met. Moreover, the Council takes note of the wealth of performance-relevant information available to the Commission and invites it to improve the timeliness of its use.
4. The Council supports the Court's recommendation to streamline indicators on the performance of the EU budget, focusing only on indicators relevant for measuring results directly attributable to activities financed by the budget. In addition, the Council supports the recommendation to improve the alignment between high-level general objectives and specific programme and policy objectives, thereby reinforcing accountability for results and increasing clarity and transparency for all stakeholders. Without prejudice to the ongoing negotiations, the Council welcomes the proposals made by the Commission to streamline and strengthen the performance framework for programmes under the future MFF.

5. The Council considers that a more balanced reporting, by also clearly presenting information on the main challenges to achieving results, on pitfalls and on failures, can contribute to a better assessment of past performance.
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CHAPTER 4

REVENUE

1. The Council notes with satisfaction that in 2017 the revenue part of the budget was not affected by material error, that the underlying transactions tested were found to be free from error and that the examined GNI- and VAT-based own resources systems were assessed as being effective whilst the key internal controls of traditional own resources (TOR) were assessed as being partially effective. The Council takes note that there are weaknesses in certain Member States' management of TOR and in the verifications of the VAT-based own resource by the Commission.
2. The Council recalls that accurate data is essential for a fair distribution of contributions between Member States. In that respect, it supports the Court's recommendations made to the Commission to improve by the end of 2020 its monitoring of import flows and to act promptly to ensure that due amounts of TOR are made available. Also, on the verification of the VAT-based own resource, the Commission should improve, by the end of 2019, the existing control framework and better document its application on the verification of Member States' calculations of the Weighted Average Rate.

CHAPTER 5
COMPETITIVENESS FOR GROWTH AND JOBS

1. The Council notes with regret that the estimated level of error reported by the Court for payments in this policy area has not decreased despite the administrative simplification introduced for some programmes, but remains similar to previous year (4.2% in 2017 and 4.1 % in 2016). The Council regrets that the estimated level of error remains significantly above 2 % and urges the Commission to continue its efforts to reach an error rate below the materiality threshold.
2. The Council is concerned about the fact that, according to the Court's findings, the estimated level of error would have been 1.5 percentage points lower if the Commission had made proper use of all available information to prevent, detect and correct errors before accepting the expenditure. The Council notes that even in this case, the error rate would still have been above the materiality threshold.
3. The Council reiterates its appeal to the Commission to continue its efforts to address the causes of error with a particular focus on the programmes subject to persistently high error levels and to strengthen its efforts to fully implement the measures already taken in this respect.

Regularity of transactions, management and control systems, reliability of the Commission's annual activity reports

4. The Council notes with regret that, as in previous years, the main risk identified by the Court relates to beneficiaries declaring ineligible costs, which are neither detected nor corrected before reimbursement by the Commission.

5. The Council takes note of the Court's analysis that the root causes for most errors, mainly affecting personnel costs and mostly committed by new entrants and SMEs, are the misinterpretation of complex eligibility rules, in particular under the research and innovation programmes and the Connecting Europe Facility (CEF). While recognising that Horizon 2020 was set up with simpler funding rules than the Seventh Research Framework Programme and that the Commission has made considerable efforts towards reducing administrative complexity, the Council supports the Court's recommendation addressed to the Commission to review the methodology on personnel costs in order to further clarify the Horizon 2020 rules on the matter. The Council encourages the Commission to extend simplifications introduced for the Horizon 2020 programme, in particular by considering alternative funding models, with a view to further reducing the estimated level of error for the programming period 2014-2020.
6. In addition, the Council supports the Court's recommendation as regards CEF and invites the Commission to reinforce communication and intensify its efforts towards providing beneficiaries with proper guidance on eligibility issues. The Council takes note with satisfaction that the Commission accepted previous Court's recommendations with regard to Horizon 2020 and CEF.
7. The Council supports the Court's recommendation and calls on the Commission to swiftly finalise its actions to address the weaknesses identified by its Internal Audit Service (IAS) in the Education, Audiovisual and Culture Executive Agency's (EACEA) Erasmus+ grant management procedure, as well as in the monitoring of research and innovation projects and closing of overdue audit recommendations.
8. The Council welcomes the Court's finding that the Commission's annual activity reports in this policy area provide a fair assessment of financial management in relation to the regularity of transactions and corroborate the Court's findings and conclusions in most respects.

Performance issues in research and innovation projects

9. The Council welcomes the Court's specific performance assessment for research and innovation projects. It notes with satisfaction that most projects achieved their expected outputs and results. However, the Council notes with concern that some projects were affected by issues that detracted from their performance, such as progress only partly in line with objectives, reported costs not reasonable in view of progress achieved and some dissemination weaknesses.
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CHAPTER 6
ECONOMIC, SOCIAL AND TERRITORIAL COHESION

1. The Council welcomes the fact that the estimated level of error reported by the Court for payments in the "Economic, Social and Territorial cohesion" policy area has decreased for the fourth year in a row to 3.0% in 2017. The Council regrets, however, that the estimated level of error remains above the materiality threshold of 2 %. The Council also notes that the amount of audited expenditure was EUR 8.0 billion in 2017, significantly lower than in previous years. This resulted from the changes in the control and assurance framework. Nonetheless, the Council notes that the sample of 217 transactions was extracted so as to be statistically representative of the entire range of expenditure carried out under sub-heading 1b of the MFF for the year 2017.

2. Expenditure subject to audit relate both to the closure of the 2007-2013 programming period and to assurance packages of the 2014-2020 programming period submitted for the first time by the Member States. Moreover, the Council notes the modified approach piloted in this area, where the Court reviewed the checks previously carried out by national audit authorities and assessed the work carried out by the Commission. The Council expects that changes introduced in Regulation 2018/1046² (the Omnibus Regulation) will address problems such as the one identified by the Court in the SME initiative.

² Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

3. The Council takes note of the new legal framework which makes the audit authorities' and the Commission's work even more important for ensuring the regularity of spending in this policy area on an annual basis. The Council recognises the continuous efforts made by Member States and the Commission to improve their management and control systems. In this respect, the Council notes with regret the shortcomings identified by the Court in the reliability of audit authorities' reporting and the fact that the Commission did not identify a number of these shortcomings itself, following its decision to revise its audit planning in order to avoid the duplication of audits. The Council also notes that the Court refers to weaknesses related to the regularity of the expenditure declared by managing authorities and therefore calls for additional efforts from managing authorities and the Commission to tackle this problem.

Regularity of transactions

4. The Council invites the Commission to continue providing appropriate and consistent training and guidance, along with sharing good practices to assist beneficiaries and national authorities in the implementation of the programmes.
5. The Council encourages the Commission to follow the recommendation of the Court by ensuring that the audit arrangements for financial instruments managed by the European Investment Bank (EIB) are adequate, clearly defined and proportionate at the level of financial intermediaries and define the minimum conditions of procedures with external auditors with a view to the need to provide assurance, in particular the obligation for sufficient audit work at the level of the investments made by financial intermediaries. It takes note of the new regulatory provisions in that regard since the entry into force of the Omnibus Regulation.
6. Moreover, the Council urges the Commission to improve its annual activity reports and in this context also refers to the Court's observation on the necessity to have reliable residual error rates reported by audit authorities and information available that refers exclusively to eligible expenditure at closure (i.e. without advances).

Assessment of project performance

7. The Council welcomes the Court's assessment of performance and its conclusion that there is a clear link between output objectives at operational programme and project level and that most targets were met at least partially. However, the Council notes with concern that many performance measurement systems lack result indicators at project level, which makes it difficult to assess a project's overall contribution to specific operational programme objectives.
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CHAPTER 7
NATURAL RESOURCES

1. The Council welcomes the fact that the estimated level of error reported by the Court for payments in the "Natural resources" policy area has steadily decreased in the last years (3.6 % in 2014, 2.9 % in 2015, 2.5 % in 2016 and 2.4% in 2017). However, the Council regrets that the estimated level of error remains above the materiality threshold of 2 %.
2. The Council welcomes the fact that the corrective measures applied by the Commission and the Member States reduced the estimated level of error by 1.1 percentage point. The Council also takes note of the Court's findings that the estimated level of error would have been 0.9 percentage points lower and below the materiality threshold if national authorities had made better use of all available information to prevent or detect and correct errors before declaring the expenditure to the Commission. Therefore, the Council encourages the Commission to continue its support to Member States to take all necessary actions to prevent, detect and correct errors.
3. The Council encourages the Court to establish estimated levels of error for Pillar 1 and Pillar 2 of heading 2 (*Sustainable growth: natural resources*) based on a larger sample, as in previous years. Given that this policy area is the largest in terms of budget and that it covers different types of expenditure, the calculation of the two levels of errors is deemed to be fully justified.

EAGF - Direct support

4. The Council notes with satisfaction that the direct support expenditure, which represents 74 % of all the expenditure under heading 2, was not affected by material error in 2017. The Council regrets that the only indication given by the Court of the error rate in 2017 for the direct support expenditure is that the estimated level of error is below 2 %, while in 2016 the estimated error rate for market and direct support was reported at 1.7 %. This renders it more difficult for the Council to assess if the situation has improved or not in comparison with previous years.

5. The Council notes that the Court and the Commission acknowledge that the Land Parcel Identification System (LPIS) makes a significant contribution to preventing and reducing the levels of error. It also notes the Court's finding that the paying agencies continued to accurately identify the eligible areas. It calls upon the Member States to instruct their paying agencies to generalise the preliminary cross-checks on direct aid applications.

Market measures, rural development, environment, climate action and fisheries

6. The Council regrets the persistent high level of error for payments under this policy area, significantly above the materiality threshold of 2 %. The Council notes, however that this is also an area where error rates have been going down in part due to the significant efforts made by Member States' authorities in implementing action plans. The Council notes that reducing the error rate for payments to beneficiaries below 2 % for rural development has to be balanced against the resulting costs and burdens, but encourages the Commission and the Member States to continue their efforts in this respect.

Certification bodies

7. The Council takes note that, following the assessment by the Commission in 2017, limited reliance or no reliance could be placed on the work of part of the certification bodies. It welcomes the Court's recommendation to the Commission to check the implementation of the remedial action taken by Member States' authorities where the Commission found that it could place no or limited reliance on a certification body's work.

Performance

8. The Council notes the Court's findings on the performance of the geospatial aid application (GSAA) for area-based payments and of rural development investment projects and underlines the positive assessment of the GSAA made by beneficiaries and paying agencies. The Council also encourages GSAA to be gradually made available in all Member States. It welcomes the Court's recommendation to the Commission to monitor progress made by paying agencies in supporting farmers not yet using the GSAA and promote best practices, in order to maximise the benefits and achieve full implementation of the new system within the regulatory deadline.

 9. The Council notes the Court's findings on the low use of simplified cost options (SCOs) when financing rural development projects. It underlines the need for clear rules to allow the Member States to check and assess SCOs and also to clarify and appropriately define the roles of paying agencies and certification bodies in this regard, and it invites the Commission to take this into account in its guidance on SCOs, as well as in its guidelines to certification bodies.
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CHAPTER 8
SECURITY AND CITIZENSHIP

1. The Council welcomes the fact that the Court has included for the first time in its annual report recommendations for the "Security and Citizenship" policy area. The Council, however, regrets that due to the relatively low level of payments in this policy area (around 2% of the EU total) the Court has not estimated an error rate.
2. The Council recalls that the payments of national programmes, in particular as regards the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF), have increased in the past years. Moreover, the heading finances an area of increasing political focus. The Council, therefore, urges the Court to enhance its audit scope and approach to a representative sample in order to provide an error rate and performance information for the coming years.
3. The Council notes with satisfaction that the Court has not found any major flaws in the Commission's procedures and clearance decisions concerning the annual accounts of AMIF and ISF national programmes submitted by the Member States. The Council is, however, concerned that the Court has identified some inconsistencies in the transactions audited despite the limited size of the sample. Therefore, the Council calls on the Court to maintain its focus on these programmes.
4. The Council welcomes the Court's recommendations and calls on the Commission to provide guidance to the Member States with a view to improving reporting on the actual spending from AMIF and ISF and to carry out effective supervision.

CHAPTER 9
GLOBAL EUROPE

1. The Council, whilst supporting a new focus on performance-related checks, regrets that the Court has chosen not to establish an estimated level of error for payments in the "Global Europe" policy area. The Council calls on the Court to examine possibilities to resume providing for the coming years an estimated level of error that allows year-on-year comparison.
2. The Council takes note that the Commission's Directorate-General for Neighbourhood and Enlargement Negotiations' (DG NEAR's) "RER study" to assess the residual level of error is considered broadly fit for purpose by the Court. It notes that the Court has identified scope for improvement, being, however, concerned about the highlighted shortcomings. In particular, DG NEAR did not use samples that focused on the areas more prone to error and should increase the controls on those areas. This is of particular importance where the Court samples only a limited number of transactions and relies more heavily on the external auditor's Residual Error Rate study.
3. The Council welcomes the assessment of performance aspects with a review of output and results conducted by the Court in this policy area. It notes that all samples had clear and relevant performance indicators.
4. The Council welcomes the Court's recommendations, including on possible improvements to the Residual Error Rate studies, and calls on the Commission to swiftly implement them effectively.

CHAPTER 10
ADMINISTRATION

1. The Council welcomes the fact that the administrative and related expenditure of the EU institutions remained, as in previous years, free from material error with an estimated level of error of 0.5 %, which while being well below the materiality threshold is higher by 0.3 percentage points compared to the Court's findings for 2016 (0.2 %). The Council notes with satisfaction that no serious weaknesses were identified by the Court in the supervisory and control systems and in the examined annual activity reports.
2. The Council takes note of the Court's observations on the European Parliament related to work carried out on buildings under a contract resulting from a procurement procedure and to the lack of control on payment of subsidies to groups of visitors. The Council invites the European Parliament to improve the selection and award criteria for its procurement procedures and to strengthen its procedures in validating the reimbursements to requesting visitor groups in line with the Court's recommendation.
3. The Council takes note that, as in previous years, there is a small number of errors relating to staff costs and some weaknesses in the Office for Administration and Payment of individual entitlements' (PMO) management of family allowances. The Council calls on the Commission to improve its procedures to avoid errors related to staff expenditure.