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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

on the follow-up to the discharge for the 2017 financial year (Summary)

**REPORT ON THE FOLLOW-UP TO THE REQUESTS MADE BY THE EUROPEAN PARLIAMENT IN
ITS DISCHARGE RESOLUTIONS AND BY THE COUNCIL IN ITS DISCHARGE RECOMMENDATION
FOR THE FINANCIAL YEAR 2017**

INTRODUCTION

On 26 March 2019, the European Parliament - on a recommendation by the Council - granted the Commission discharge for the financial year 2017. In its discharge resolution, the Parliament considered not only the financial management of the 2017 budget and the performance of programmes and policies, but also took stock of the European Parliament's contributions to establishing sound financial management structures in the Commission and in the Member States during the 2014-2019 legislative term.

During this period, the European Parliament and the Council have acknowledged significant achievements:

- **The focus on the performance of programmes and policies has increased** in the European Parliament, the Council, the European Court of Auditors and the Commission. The performance framework for the EU budget has been rated by the Organisation for Economic Cooperation and Development as the most advanced among its members. The Commission has improved its reporting on performance in its annual integrated financial and accountability reporting. This increased focus on performance was reflected in the discharge procedure where debates focused more on results delivered by the EU budget than in the past.
- **The European Court of Auditors acknowledged a sustained improvement in the management of EU finances** by issuing - for the second time since it began to provide an annual statement of assurance in 1994 - a qualified opinion rather than an adverse opinion on the legality and regularity of the payments.
- The European Court of Auditors continued to issue a **'clean' audit opinion on the annual accounts of the EU budget as well as on revenue.**
- **The overall level of error for expenditure decreased to 2.4%** for the financial year 2017 (compared with 3.1% for 2016, 3.8% for 2015 and 4.4% for 2014).
- Entitlement-based payments (e.g. payments related to direct aid to farmers, Erasmus students, budget support to third countries and EU staff salaries) representing **more than half of payments from the EU budget in 2017 were not materially affected by error.**
- **A new EU financial regulation was agreed**, introducing inter alia simpler rules, a reinforcement of the single audit approach, and strengthened accountability reporting.

These **positive developments reflect the continuous and constructive cooperation** between the European Parliament, the Council, the Commission and the European Court of Auditors.

During the debate in plenary on 26 March 2019, the European Parliament's rapporteur for the 2017 discharge on the EU general budget of the Commission and executive agencies, Ms Ayala Sender, underlined the importance of learning together in order to ensure that the Union budget is implemented as intended (in terms of priorities and in terms of regularity and legality).

The Presidency of the Council represented by Mr Ciamba noted that *'The European Parliament and the Council seem, in general, to share the same approach. We welcome the improvements that are there for all to see, and we want to see the good work of Member States' authorities, of the Commission and of the Court, sustained and further improved. We have to send a clear signal to European citizens and taxpayers that EU funds are used in a responsible and accountable manner.'*

The President of the European Court of Auditors Mr Lehne said that the discharge decisions adopted by the European Parliament are never a blank cheque – they are part of a longer process of cooperation.

The discharge procedure offers an opportunity for all stakeholders to reflect on past developments, identify good practices as well as weaknesses, with the aim of further improving financial management and achieving better results with the EU budget.

Lessons learned from the past (for example through the discharge procedures, the work of the European Court of Auditors and Commission evaluations) were fed into the Commission's draft proposals for the next Multiannual Financial Framework with the aim of improving the performance framework, further simplifying rules, and addressing new challenges by introducing modern sources of funding as well as strengthening the protection of the EU budget against generalised deficiencies as regards the rule of law in the Member States.

In the discharge procedure for the financial year 2017, the European Parliament and the Council made requests to the Commission focusing on:

- Performance of programmes and policies;
- Accountability reporting, including the methodology for calculating error rates;
- Absorption of European funding;
- Other specific issues such as conflicts of interest.

The Commission addresses the main discharge requests in this report, which is part of the 2018 integrated financial and accountability reporting. More detailed replies to the specific 2017 discharge requests made by the European Parliament and the Council, including requests made in relation to the special reports of the European Court of Auditors will be published at a later stage.

1. PERFORMANCE OF PROGRAMMES AND POLICIES

The European Parliament and the Council underlined that **the 2017 EU budget supported successfully the implementation of EU priorities and policies** by complementing the resources of Member States.

As mentioned by the European Parliament, this was the case in particular for Horizon 2020, the European Union Programme for the Competitiveness of Small and Medium-sized Enterprises (COSME), the Cohesion Fund and the European Regional Development Fund, the Rural Development Programmes, as well as the Asylum, Migration and Integration Fund and humanitarian aid in 80 different countries.

The European Parliament and the Council called on the Commission to improve the reporting on how it uses the performance information. **The Commission provides up-to-date performance information in its performance reports and is increasing its focus on the quality of data and on reporting on how performance information is used.** For example, conclusions of audits on the performance of current programmes, programme monitoring and mid-term evaluations fed into the comprehensive spending review accompanying the Commission's proposals for the future Multiannual Financial Framework and the sectoral programmes with the aim to strengthen the performance focus of the future programmes. This request was fully implemented with the adoption of the Annual Management and Performance Report on 25 June 2019.

Furthermore, the Commission provided comprehensive performance information for each programme in the Programme Statements accompanying the proposal for the Draft EU Budget 2020. This information is intended to be used by the budgetary authority in its decision-making.

For the next Multiannual Financial Framework, the Commission has proposed to strengthen the focus on performance across all programmes, by setting clearer objectives and focusing on a smaller number of higher quality performance indicators. This will make it easier to monitor and measure results and to take appropriate actions.

The proposal for the next Multiannual Financial Framework is more streamlined, the number of programmes has been reduced, and fragmented funding sources are brought together into new integrated programmes. A stronger link has been proposed between the European Semester and Cohesion funding, and the Common Agricultural Policy will shift the emphasis from compliance and rules towards results and performance, for example by introducing Strategic Plans for Member States.

The main requests made by the European Parliament and the Council concerning the future design of agriculture, cohesion, migration and research policies are part of the ongoing negotiations on the next generation of the Multiannual Financial Framework programmes.

2. ACCOUNTABILITY REPORTING

The integrated financial and accountability reporting constitutes an important element in the accountability process for the EU finances. It brings together comprehensive information on implementation, performance, results, sound financial management and protection of the EU budget. It includes – as provided for in the 2018 Financial Regulation - the final consolidated accounts, the annual management and performance report, the annual report on internal audits, a long-term forecast of future inflows and outflows covering the next five years, the evaluation on the Union's finances based on the results achieved, and the report on the follow-up to the discharge.

The reporting for the financial year 2018 will address several requests from the European Parliament and the Council concerning inter alia long-term forecasting, performance reporting, and the presentation of error rates.

The Commission has a robust compliance system. It presents error rates for each of its departments in annual activity reports and across policy areas in its Annual Management and Performance Report. These error rates are calculated following a consistent methodology while taking into account that the legal frameworks, management environments and other specificities vary between policy areas. Multiannual internal control systems are in place for the EU budget to prevent and detect errors before payments are made – and make corrections if errors are found after payments were made. The Commission provides a full picture to stakeholders by presenting two indicators: risk at payment (before corrections) and risk at closure (after corrections). The Commission's aim as a manager of EU funds is to ensure that, once a programme is closed and all controls are carried out, the remaining level of error remains below 2%.

The Commission will make further efforts to improve and streamline its reporting in the annual activity reports of each Director-General, in the programme statements accompanying the draft budget, and the Annual Management and Performance Report adopted by the Commission. In that context, the Commission also takes into account recommendations made by the European Court of Auditors.

The Commission is fully transparent about the weaknesses identified. These are clearly set out in the reservations made by each Director-General in his/her annual activity report. Whenever a Director-General makes a reservation, he/she must also set up an action plan to address the related weaknesses. However, in the context of shared management it is for the Member States to set up the action plans resulting from the reservations in the annual activity report of the relevant Director-General.

The annual activity reports, programme statements and evaluation reports feed into the Annual Management and Performance Report. These reports are being continuously improved based inter alia on the feedback from the Commission's Internal Audit Service, the European Court of Auditors, the European Parliament and the Council.

Finally, the Commission is in continuous dialogue with the European Court of Auditors on possible methodological improvements to the estimation and presentation of the error rates as well as the presentation of results achieved by the programmes financed by the EU budget.

With regard to the request made by both the European Parliament and the Council on **contingent liabilities**, the annual accounts of the EU contain detailed information on the existing liabilities, including on the EU budget exposure stemming from budgetary guarantees and guarantees from financial assistance programmes. Furthermore, pursuant to the 2018 Financial Regulation, as of 2021 the Commission will provide in a dedicated working document attached to the draft budget an assessment of the sustainability of those liabilities.

To respond to the reporting requests by the European Parliament and the Council concerning the **funding related to the refugee and migration crisis and financial instruments**, the Commission transmitted a *Report on the Implementation of*

funding raised for the migration and refugee crisis (2015-2017) to the European Parliament and the Council in February 2019, and will continue to do it on a regular basis.

With regard to the request to provide **information on the closure of the financial instruments** for the 2007-2013 Multiannual Financial Framework, the Commission will report on the progress made with the closure of the 2007-2013 operational programmes in line with the legislation in force. The Commission will report on the final outcome of the closure for the programming period in the context of the annual activity reports of the respective Directorates General, starting from the 2018 reporting year. This report on the closure of the programming period includes - by operational programme - the amount eligible at closure, including for financial instruments where available. It also includes information on recoveries by operational programme, if any.

3. ABSORPTION OF THE EUROPEAN UNION FUNDS

In its 2017 Annual Report, the European Court of Auditors focused on the ‘Reste à liquider’ which subsequently became an important theme of the discharge debate. **The ‘Reste à liquider’ is the sum of commitments made which have not yet been paid. It is a mechanical consequence of the fact that commitments are relatively evenly spread over time in a multi-annual budget, whereas, due to the fact that most of the commitments relate to investments which take time to complete, payments are back-loaded.** With projects lasting several years before they are completed, it is normal to have a time lag between the initial commitments and actual payments. The time lag depends mainly on the length of projects financed and rules applied to each programme.

The European Parliament pointed out that the ‘Reste à liquider’ increased significantly due to inter alia the late adoption of the 2014-2020 Multiannual Financial Framework, the difficulties in implementing new requirements, and a change in the de-commitment rules in cohesion policy from N+2 to N+3. These combined with the increased pre-financing rates contributed to a slower absorption of EU funds at the beginning of the current Multiannual Financial Framework. The Commission considers that the timely adoption of the next Multiannual Financial Framework in autumn 2019 is crucial to avoid a repetition of those past problems.

The Council was concerned about the risk that available payment appropriations will be insufficient to settle all payments claims, despite the increase in the flexibility of the budget to address needs for the final years of the current Multiannual Financial Framework. It urged 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.

The Commission is constantly monitoring the evolution of payment needs in view of improving budget predictability and managing the related budgetary risks. Since 2015, the Commission is providing an annual forecast of the EU long-term payment needs, which as of 2018 takes the form of an annual Forecast Report

on future inflows and outflows of the EU budget. This Report gives a projection of the payments necessary to cover the outstanding commitments the EU has already signed (i.e. the 'Reste à liquider'), as well as payments for new commitments yet to be concluded for a 5-year time horizon, as required by the 2018 Financial Regulation.

The main factor for the reliability and stability of the payment forecast is the implementation of the cohesion policy, which currently constitutes roughly one third of the EU budget and is the biggest spending policy carried out through differentiated appropriations. As it is implemented through shared management mode, the pace of implementation and forecasting of payments is largely dependent on the Member States' planning.

In its proposal for the 2021-2027 Multiannual Financial Framework, the Commission has aimed to ensure the sufficiency of the payment ceilings, as well as more stable and predictable implementation of the annual budgets. In particular, the payment ceilings over the years 2021-2027 have been proposed at the level sufficient to cover the outstanding commitments of previous years and to contain the growth of the 'Reste à Liquider', as well as to allow for a seamless transition to the next generation of spending programmes. To contribute to a more stable and predictable evolution of payments, the Commission has proposed to adapt specific implementing modalities of the cohesion policy (e.g. return to N+2 decommitment rule, lower pre-financing level to avoid accumulation of recoveries and to promote quicker implementation).

The Commission also proposed to maintain the mechanisms of the Global Margin for Payments and the Contingency Margin, which may be used, within the overall Multiannual Financial Framework payment ceiling for the period, to address possible peaks and troughs in payment needs. These instruments have proven their usefulness for the management of payments across the duration of the financial framework already in the 2014-2020 period.

Moreover, **the Commission will continue working closely with Member States** to ensure the timely absorption of EU funds within the 2014-2020 Multiannual Financial Framework, and provide substantial support to Member States including technical assistance and advisory services in order to improve their capacity to implement the EU Funds. The lessons learnt from the Task Force for Better Implementation (set up to improve the implementation of ESI Funds for the previous period) have been mainstreamed for programmes in difficulty in the current period. A close dialogue is in place with the concerned Member States to improve the situation.

4. SPECIFIC ISSUES

4.1 REVENUE

The European Parliament notes that for the second year in a row, DG Budget made a **reservation on the value of Traditional Own Resources collected by the United Kingdom** due to the country's failure to make available to the Union budget

customs duties evaded on textiles and footwear imports. It welcomes the infringement procedure initiated by the Commission in March 2018 as a follow-up to the customs fraud case.

After several legal steps and the analysis of the United Kingdom reply received in February 2018, the Commission referred the case to the Court of Justice of the European Union in March 2019.

As of October 2017, the United Kingdom authorities started to gradually introduce some of the remedial measures requested by the Commission but still refuse to make available the amounts of Traditional Own Resources due to the EU budget.

An analysis of the data shows a steep reduction of the Traditional Own Resource losses in the United Kingdom since the introduction of the remedial measures.

The European Parliament also calls on the Commission to approach such cases reaffirming the clear **need for more cooperation between custom services in the Member States** to avoid harm to Union and national budgets and to Union product standards.

The Commission is taking action to avoid losses of customs duties. When the Commission finds that Member States' controls are not effective and lead to losses of Traditional Own Resources, the Member States are made liable for those losses, with very significant interest applied for belated payment. The Commission acts as soon as irregularities are detected.

Responsibility for collecting the customs duties is primarily that of the Member States. The Commission is therefore working closely with the Member States to ensure a consistent application of the EU customs legislation across the Member States to protect the financial interests of the Union.

The European Parliament also calls on the Commission to **improve its monitoring of import flows and to review the existing control framework and better document its application in verifying Member States' calculations of the weighted average rate** presented by the Member States in their VAT statements.

Regarding monitoring and data mining, as trade volumes grow and national customs administrations face financial constraints, Member States need to rely more than ever on automated risk analysis to target the most problematic consignments while facilitating legitimate trade.

All Member States already have access to the Automated Monitoring Tool on external trade, providing them with regular updates on the Commission's ongoing analysis of import flows and import prices (statistical data mining). However, with a view to support Member States to enhance their control activities, the Commission will obtain more detailed data on imports in the coming years under the new Union Customs Code, facilitating the wider use of data mining techniques.

The control framework related to the Weighted Average Rate calculation is currently being reviewed to further harmonise the work documentation and the VAT Weighted Average Rate verification checklist. This request should be implemented by the end of 2019.

4.2 CONFLICT OF INTERESTS

The Parliament resolution requests the Commission to follow up on a specific case of alleged conflict of interest in the Czech Republic, as well as to raise the issue with Member States in general.

The 2018 Financial Regulation contains strengthened rules with respect to the preventing and addressing conflicts of interests that are in force since 2 August 2018. For the first time, they apply explicitly also to Member States managing EU funds under shared management. The Commission has provided guidance to Member States on the implementation of these rules in a series of meetings with Member States' authorities in 2018. All Member States shall communicate to the Commission the measures taken to ensure compliance with the new rules. A dedicated conference on managing conflicts of interests was organised on 10 April 2019. The Commission continues to provide guidance.

In relation to the specific case in the Czech Republic, comprehensive audits have been carried out regarding the application of EU and national law. The audit procedure is ongoing in full respect of the applicable rules and deadlines defined in the relevant regulations. In order to protect EU financial interests, as a precautionary measure, no relevant payments from the EU budget under the European Structural and Investment Funds are being made until the situation has been clarified. The Commission will keep the European Parliament informed taking due account of the confidentiality requirements.

4.3 DECENTRALISED AGENCIES

The Parliament resolution calls on the Commission to monitor the agencies operating under Heading 3 and points to the weaknesses in the management of the European Asylum Support Office.

The Commission is not directly responsible for the management of the budget of decentralised agencies. Therefore, the discharge for the implementation of the budget is decided by the European Parliament separately, to reflect their autonomy as separate legal entities. However, in accordance with the Common Approach on decentralised agencies, the Commission monitors that the agencies act in accordance with Union rules and interests.

The mechanisms for exercising such monitoring have been reinforced with the entry into force of the new Financial Framework Regulation in May 2019. The new rules oblige the agencies to apply effective internal control based on the Internal Control Framework laid down by the Commission for its own departments; to design the internal control system in order to mitigate the specific risks of activities of offices run away from the main seat; to include in the programming document the strategy for preventing recurrence of problems that have led to critical audit recommendations; and to report on the efficiency and effectiveness of the internal control system. As in the past, an agency shall report in its annual activity report on the follow up to all recommendations of internal/external audit and to inform the management board, where the Commission is represented.

Other measures include the obligation for the agencies to report without delay to the Management Board on financial irregularities and fraud identified by the European Court of Auditors, the Internal Audit Service and OLAF. The Commission has the right to obtain all the necessary information related to the budget.

Concerning the management of the European Asylum Support Office, the Commission has taken and continues to take the situation very seriously.

During 2018, the European Asylum Support Office drew up an action plan to address the weaknesses in its management and control systems and it is actively implementing it, regularly reporting to the European Parliament.

The Commission has supported the European Asylum Support Office by offering advice and expertise on actions taken (notably in procurement, budget and recruitment issues).

The Parliament has welcomed the action plan and measures taken by the Office.

The Commission's representative on the agency's management board will continue to monitor that the agency implements the action plan so that that previous shortcomings are remedied and any further measures that might be needed are taken.

4.4 EUROPEAN FUND FOR STRATEGIC INVESTMENTS (EFSI)

The European Parliament called on the Commission to ensure that EFSI management bodies take into account a proper geographical balance when signing loan agreements and to report back to the Parliament on the progress achieved.

EFSI is demand driven but the EFSI Investment Guidelines provide that best efforts shall be made to ensure that at the end of the investment period a wide range of regions will be covered and excessive geographical concentration is avoided. The Commission and the European Investment Bank have implemented several measures to ensure proper geographical balance. These measures are based on the amended EFSI Regulation (EFSI 2.0). They include among others:

- More targeted local outreach through enhanced cooperation with National Promotional Banks or Institutions including through the setting up of investment platforms and enhanced cooperation models (e.g. European Investment Fund national Promotional Institutions Equity platform).
- Facilitation of combination of European Structural and Investment Funds and EFSI,
- An enhanced role of the Advisory Hub to facilitate project origination and development in particular in less developed regions and transition regions.

Furthermore, the Commission, the European Investment Bank, and the EFSI Steering Board regularly monitor the geographical distribution of the EFSI supported investments. In order to increase transparency and accountability, the monthly public reporting on operations under EFSI support and the annual implementation reports on EFSI contain information on the geographical distribution.

4.5 SENIOR OFFICIAL APPOINTMENTS IN THE EU INSTITUTIONS

The European Parliament calls on the Commission and other EU institutions to review, where necessary, appointment procedures, and take additional measures to improve transparency, fairness and equal opportunity during these procedures. The inter-institutional round table organised in September 2018 was fruitful and allowed representatives of the institutions at political or senior management level to share how they run their procedures. It confirmed that the way in which the different institutions implement the rules is both adequate and fit for purpose and that there is also much in the way of common best practice. All the institutions have the same objective – to recruit, appoint and promote talented individuals, on the basis of skills, qualifications and experience. The Commission will take appropriate follow-up action whilst underlining that like all institutions, it acts autonomously within the powers conferred on it in the Treaties and within the framework of the applicable law. This includes the power to decide on its internal organisation, its rules of procedure and the exercise of its appointing authority powers under the Staff Regulations.

5. CONCLUSION

The Commission considers the discharge procedure of crucial importance in terms of accountability for the sound financial management of EU finances.

The Commission will do its utmost to contribute to continuous and constructive cooperation with the European Parliament, the Council and the European Court of Auditors in relation to the management of EU funds.

It is committed to implementing the main recommendations and requests made in the discharge procedure. Some have already been fully implemented and others are ongoing.

The next Multiannual Financial Framework provides an important opportunity to take into account lessons learned and inter alia further simplify rules and improve the overall performance framework. An agreement on the 2021-2027 Multiannual Financial Framework in autumn 2019 will be crucial for the efforts to ensure the timely start of the implementation of EU policies.

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