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'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Special Report No 14/2022 from the European Court of Auditors entitled:
"The Commission's response to fraud in the Common Agricultural Policy:
Time to dig deeper"
- Approval of draft Council conclusions

1. The Permanent Representatives Committee instructed the Working Party on Financial Agricultural Questions (WP AGRIFIN) to examine the above-mentioned Special Report in accordance with the rules laid down in the Council conclusions of 8 May 2000 on improving the examination of special reports drawn up by the Court of Auditors (doc. 7515/00 + COR 1).
2. At its meeting on 21 September 2022, WP AGRIFIN discussed the above-mentioned Special Report as well as the Commission's replies to that report.
3. In the light of those discussions, the Presidency drew up draft conclusions (12971/22) and presented them at the AGRIFIN meeting on 12 October. A revised version (12971/22 REV 1) was presented at the AGRIFIN meeting on 16 November. From 18 to 21 November 2022, delegations were asked to reach informal agreement on these draft Council conclusions (12971/22 REV 2).

4. In accordance with the Council conclusions of 8 May 2000, the Permanent Representatives Committee is hereby invited to suggest to the Council that it approve the draft Council conclusions as set out in the Annex to this note as an 'A' item at a forthcoming session.
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Draft Council conclusions

European Court of Auditors on its Special Report 14/2022 entitled:

“The Commission's response to fraud in the Common Agricultural Policy: Time to dig deeper”

THE COUNCIL OF THE EUROPEAN UNION

1. NOTES the Court's Special Report No 14/2022 entitled “The Commission's response to fraud in the Common Agricultural Policy: Time to dig deeper”, which assessed whether the Commission has taken appropriate action on fraud in CAP spending;
2. TAKES NOTE of the Court's recommendations to the Commission to gain and share a deeper insight of fraud risks and measures in CAP spending and to promote the use of new technologies in preventing and detecting fraud in CAP spending, which the Commission accepts;
3. RECALLS that the Commission implements the budget under shared management and Member States are required to take all necessary measures to ensure that actions financed from the EU budget are implemented correctly and effectively and in accordance with EU rules, including having systems in place to prevent, detect and correct irregularities and fraud; therefore HIGHLIGHTS the need to take into account the financial and administrative burden and that national budgetary expenses must remain proportionate to the identified risk for the EU funds;
4. UNDERLINES that the financial impact of the reported fraudulent irregularities for the CAP is generally low and that the number of irregularities and the associated amounts are not direct indicators of the amount of fraud affecting the EU budget and STRESSES that Member States work hard to counter fraud and other illegal activities affecting the EU's financial interests;

5. EMPHASIZES the distinction between established fraud and suspected fraudulent irregularities and UNDERLINES that suspected fraudulent irregularities can only be investigated by bodies competent to investigate such cases;
6. WELCOMES the Court's positive assessment of the role of the Integrated Administration and Control System (IACS) and Land Parcel Identification System (LPIS) in preventing and reducing levels of error;
7. NOTES that "land grabbing" does not represent a problem inherent to the abuse of weaknesses in CAP legislation and that it may be linked to deficiencies of legal systems, supervision and protection of individual rights in Member States, which should be addressed under a general rule-of-law approach;
8. TAKES NOTE of the actions implemented by the Commission to support Member States in their use of new technologies, artificial intelligence and machine learning ~~also~~ for preventing and detecting fraud;
9. SUPPORTS the actions taken by the Commission aimed at raising the Member States' awareness of fraud-related issues, the guidance provided to the certification bodies on their roles in assessing the paying agencies' anti-fraud strategies and the dissemination of best practices among Member States;
10. RECALLS that as of 2023, Member States should have full subsidiarity on designing their control and penalty systems in line with the concept of the New Delivery Model and the legal framework for the new CAP 2023-27.