



Brussels, 23 January 2025
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5492/25

ACP 8
FIN 64
PTOM 4
PE-L 2

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	EDF discharge procedure: financial year 2023 Council Recommendations on the discharge to be given to the Commission in respect of the implementation of operations under the 9th, 10th and 11th European Development Funds for the financial year 2023 - Adoption

1. Article 11(7) of the Internal Agreement applicable to the 11th European Development Fund (EDF) states that the discharge for the financial management of the EDF shall be given by the European Parliament on the recommendation of the Council, which shall act by the qualified majority laid down in Article 8(3) of the Internal Agreement (see OJ L 210, 6.8.2013, p.1)¹.
2. The ACP Working Party examined the Annual Report of the Court of Auditors on the European Development Funds for the financial year 2023, together with the Commission's replies to the Court's observations (see OJ C, C/2024/5882, 9.10.2024), in the presence of a representative of the Court of Auditors.

¹ A similar provision is included in the Internal Agreements governing the 9th and 10th EDFs.

3. At the end of its discussions, the Working Party agreed at its level on the comments in Annex I regarding its examination of the Court's report and on the text of the draft recommendations for a discharge.
4. It is therefore suggested that, subject to confirmation by Coreper, the Council should:
- endorse the comments by the Council on the Court of Auditors Annual Report on the activities funded by the 9th, 10th and 11th European Development Funds (EDFs) for the 2023 financial year, as set out in Annex I;
 - adopt the recommendations regarding the discharge to be given by the European Parliament to the Commission in respect of the implementation of operations under the 9th, 10th and 11th EDFs for the financial year 2023, as set out, after finalisation of the texts by the legal-linguistic experts, in 5489/25, 5490/25 and 5491/25;
 - arrange for the recommendations, accompanied by the comments in Annex I, to be forwarded to the European Parliament and approve the draft letter in Annex II to that effect.
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Comments by the Council
on the annual report of the Court of Auditors¹
on the activities funded by the 9th, 10th and 11th
European Development Funds (EDFs) for the 2023 financial year

1. The Council welcomes the fact that, in the opinion of the European Court of Auditors (ECA), the EDFs' accounts for the 2023 financial year in all material respects fairly present their financial position, the results of their operations, their cash flows and the changes in their net assets, in accordance with the provisions of the EDF Financial Regulation and the accounting rules adopted by the accounting officer.
2. The Council takes note of the ECA's conclusions that:
 - the revenue of the EDFs was not affected by a material level of error;
 - EDF payment transactions were affected by a material level of error.
3. The Council notes with regret that, according to the ECA's report on EDF activities for the 2023 financial year, the estimated level of error has increased by 1.8 percentage points compared with the error level estimated in 2022, and is 6.9 percentage points above the materiality threshold of 2%.
4. The Council is concerned that EDF payments underlying the accounts for the 2023 financial year are materially affected by error, with the estimated level of error being 8.9%.

¹ OJ C, C/2024/5882, 9.10.2024.

5. The Council welcomes the fact that the relative share of the error types ‘serious failure to respect public procurement rules’ and ‘ineligible expenditure’ was lower in 2023 than in 2022. However, it notes with concern that the relative share of the error category ‘absence of essential supporting documents’ increased considerably. The Council regrets that the error categories ‘expenditure not incurred’ and ‘absence of essential supporting documents’ account for 76% of the overall estimated level of error.
6. The Council takes note of the fact that all quantifiable errors were found in transactions relating to programme estimates, grants and also contribution and delegation agreements with beneficiary countries, international organisations and Member State agencies, with 46% of examined transactions containing quantifiable errors.
7. The Council remains concerned by the ECA’s finding that in a number of cases, the Commission had sufficient information to prevent, or detect and correct, the error before accepting the expenditure, and that should the Commission have used all of the information at its disposal, it could have lowered the estimated level of error by 3.0 percentage points. The Council calls on the Commission to make better use of the information at its disposal and step up its efforts to prevent, detect and correct errors.
8. The Council is concerned that half of the examined transactions (38 out of 76) relating to contracts under indirect management with pillar-assessed organisations were affected by quantifiable errors, contributing 7.0 percentage points to the estimated level of error. The Council considers that further efforts are needed in order to ensure that the organisations concerned submit complete and accurate financial information. In that respect, the Council welcomes the fact that the Commission is working on reviewing the reporting templates and on reinforcing its controls before accepting the expenditure.
9. The Council notes with satisfaction that transactions in two spending areas, namely budget support and multi-donor projects implemented by international organisations and subject to the ‘notional approach’, resulted in no errors.

10. The Council reiterates the importance of ensuring that the ECA has access to all documents needed for its work and regrets that, despite the efforts made by the Commission to improve the situation, difficulties still persist with some international organisations. The Council underlines the importance of implementing the ECA's previous recommendations in this respect.
11. The Council welcomes the work undertaken by the Commission to enhance the quality of its own internal control system, in particular through the adoption of action plans and the continued implementation of the measures set out therein. It acknowledges the progress made in the implementation of the 2021 and 2022 action plans, and encourages the Commission to pursue its efforts to fully implement the measures.
12. The Council appreciates the fact that, as in previous years, in 2023 the Commission adopted an action plan to address the weaknesses in the implementation of its internal control system, adding four new actions, namely on (i) strengthening the analysis and documentation of the reasonableness of budgeted action costs; (ii) implementing the recommendations made in the report of the Commission Internal Audit Service on the European Fund for Sustainable Development (EFSD); (iii) checking that accounting balances for closed EDFs are cleared in a timely manner and (iv) improving guidelines on *ex ante* controls.
13. The Council welcomes the fact that the 2023 RER study, carried out by an external contractor on the basis of a methodology provided by the Commission, estimated the rate of errors that evaded all management checks to be below the 2% materiality threshold for the eighth year in a row. It is, however, concerned by the ECA's recurring finding that the RER study has limitations that may contribute to the underestimation of the RER, inter alia due to overreliance on the work of other auditors and to the restrictions in the *Financial and Administrative Framework Agreement* between the EU and the UN. At the same time, the Council takes note of the Commission's replies in this regard, and welcomes the fact that measures have been taken to find a workable solution with the UN.

14. The Council takes note of the absence of reservations on the regularity of underlying transactions for the fifth year in a row since the 2019 annual activity report (AAR), and of the Commission's efforts to improve its internal corrective capacity, including by performing targeted checks on recovery orders.
15. The Council welcomes the introduction of two new key performance indicators (KPIs) by the Commission, relating to sound financial management and the efficient use of EU resources, notably a KPI on timely clearing of pre-financing and another on the timely decommitment of unused funds, both with a target value of 85%. It notes with satisfaction that the Commission reached, and even exceeded, the target for timely clearing of prefinancing, and came close to the target for the timely decommitment of unused funds. Regarding the KPI on reducing unspent commitments, the Council takes note of the fact that the Commission fell short of reaching the target of 35% (34.04%).
16. The Council takes note of the progress achieved in the implementation of the ECA's recommendations from 2020, 2021 and 2022, and encourages the Commission to take further action to address the issues identified by the ECA, including that concerning access to the documents of international organisations.
17. The Council considers that improvements should be made in certain areas, and supports the ECA's recommendations that the Commission:
 - a) take into account changes made to contracts after the reporting period when calculating cut-off estimates (which the Commission has accepted),
 - b) strengthen checks before making payments (which the Commission has accepted),
 - c) take measures to improve control systems for the clearing of pre-financing paid to pillar-assessed organisations (which the Commission has accepted).

18. While noting the ECA's conclusions and recommendations, the Council also takes note of the Commission's replies.
 19. The Council welcomes the fact that the ECA also assessed the achievement of performance indicators for projects that were either completed or close to completion. It is concerned that in some cases EDF funds have been lost due to inefficiencies in project setup, and that outcomes have been negatively affected by a lack of political will and communication and coordination between local stakeholders. The Council calls on the Commission to do its utmost to ensure that EU funds are used effectively, and contribute to the achievement of project objectives.
 20. Finally, the Council notes with satisfaction that the United Kingdom's withdrawal from the European Union had no financial impact on the 2023 EDF accounts, which correctly reflect the state of the withdrawal process as at 31 December 2023.
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DRAFT LETTER

To: President of the European Parliament

from: President of the Council

Madam President,

I am forwarding under separate cover the Council recommendations of 18 February 2025 on the discharge to be given to the Commission in respect of the implementation of operations under the 9th¹, 10th² and 11th³ European Development Funds for the financial year 2023 accompanied by the comments of the Council⁴ on the Court of Auditors Annual Report on the activities funded by the 9th, 10th and 11th European Development Funds (EDFs) for the 2023 financial year.

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|---|---------|-------|--------|----------------|
| 1 | 5489/25 | ACP 5 | FIN 61 | PTOM 1. |
| 2 | 5490/25 | ACP 6 | FIN 62 | PTOM 2. |
| 3 | 5491/25 | ACP 7 | FIN 63 | PTOM 3. |
| 4 | 5492/25 | ACP 8 | FIN 64 | PTOM 4 PE-L 2. |