



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*

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 2018

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 2018:

- revenue amounted to	EUR 159 318 135 354.52
- expenditure disbursed from appropriations amounted to	EUR 154 832 895 234.46
- cancelled payment appropriations (including earmarked revenue) carried over from year <i>n-1</i> amounted to	EUR 1 007 493 772.65
- appropriations for payments carried over to year <i>n+1</i> amounted to	EUR 1 671 465 567.03
- EFTA payment appropriations carried over from year <i>n-1</i> amounted to	EUR 3 678 863.74
- the balance of exchange-rate differences amounted to	-EUR 564 125.70
- the positive budget balance amounted to	EUR 1 802 037 790.94

- (2) Cancelled payment appropriations for the financial year amounted to EUR 106 470 521.31;
- (3) EUR 1 839 842 809.62 (94.53 %) of the EUR 1 946 313 330.93 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 2018 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 2018 and 2019¹;
- (7) Following the examination referred to above, implementation by the Commission of the budget for the financial year 2018 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 2018.

Done at Brussels,

For the Council

The President

¹ Docs. 6499/19, 6752/19, 6960/19, 6973/19, 7102/19, 7115/19, 7420/19, 7551/19, 7629/19, 7704/19, 8382/19, 9130/19, 9283/19, 9300/19, 9325/19, 10359/19, 11073/19, 12140/19, 12266/19, 12975/19, 14069/19, 14265/19, 14562/19, 14656/19, 14862/19, 15262/19 and 5164/20.

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. To ensure trust and legitimacy, it is essential that the EU budget efficiently delivers true value to EU citizens. 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.
3. 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 more risk-prone areas. Special attention should be given to errors linked to public procurement, which are present in all chapters of the budget.
4. The Council stresses the need to ensure comparability between years within each policy area and again asks the Court to provide error rates for all headings, irrespective of the size of expenditure, taking into account the increasing political importance of chapters like Security and Citizenship and Global Europe.

CHAPTER 1
THE STATEMENT OF ASSURANCE AND SUPPORTING INFORMATION

1. The Council regrets that the estimated level of error reported by the Court continues to be above materiality and increased in 2018 (2.6 %) compared to 2017 (2.4 %), after having gone down from 3.8 % in 2015 and 3.1 % in 2016. On the other hand, the Council welcomes the fact that the Court gives, for the third year in a row, a qualified opinion, rather than an adverse one, on the legality and regularity of payments and the fact that roughly half of spending is free of material error, confirming the sustained improvement in the management of the EU's finances.
2. The Council is concerned, however, about the increase in the estimated level of error for reimbursement-based payments from 3.7 % in 2017 to 4.5 % in 2018 and notes that this type of expenditure, subject to complex rules, carries a high risk of error. On the other hand, the Council acknowledges the influence of financial corrections and recoveries performed after the Court's audit with the objective of bringing the level of error below materiality.
3. The Council stresses that, in order to achieve the reduction of error rates and ensure effective and correct management of EU funds, simpler, more transparent and more predictable legislation must remain a top priority. In this context, the Council welcomes the changes in the regulatory framework introduced in 2018, meant to streamline and clarify the funding rules, and is looking forward to seeing their positive impact.
4. In the same context, the Council encourages the Court and the Commission to better coordinate their approach in interpreting legislation. The Council considers that the EU institutions should speak with one voice in order to avoid misunderstandings for beneficiaries and national authorities.

5. The Council notes again that the Court's estimated level of error is not 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 regarding eligibility for reimbursement of spending.
6. 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 2018. It notes the Court's statement that the accounts present fairly, in all material respects, the EU's financial position, as at 31 December 2018, 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.
7. The Council also welcomes the fact that the revenue underlying the accounts for 2018 is legal and regular in all material respects, as in previous years.
8. The Council notes with satisfaction the overall effectiveness of the audit authorities in detecting errors and mismanagement of EU funds and appreciates the continuous efforts and actions undertaken by the Commission and the Member States to implement the Court's recommendations. However, the Council recognises the shortcomings identified by the Court in the work of some audit authorities. Based on the findings of the Court, the Council encourages actors involved in the management and control of EU budget implementation to coordinate and further improve their work, so that the Court could rely on the audit work performed by national and Commission auditors in view of developments connected to the principle of cross reliance.

CHAPTER 2
BUDGETARY AND FINANCIAL MANAGEMENT

1. The Council takes note of the nearly full budget implementation in 2018 (in commitments and payments) and welcomes the fact that the budget was neither under- nor over-budgeted, which shows an overall orderly budgetary management.
2. However, there are some elements which the Council notes with concern:
 - a) firstly, the continuing increase of outstanding budgetary commitments (RAL), which creates the risk of insufficient payment appropriations to settle outstanding payment claims in future years;
 - b) secondly, the lower than anticipated absorption of the European Structural and Investment (ESI) Funds in the earlier years of the current multiannual financial framework (MFF), mainly due to the late adoption of legislation for this MFF;
 - c) thirdly, the increase of the risk exposure of the EU budget to contingent liabilities stemming from guarantees.
3. The Council recognises that an important acceleration of the implementation of funds, as well as positive developments regarding project selection on the ground, took place in 2018. It welcomes the improvements in Member States and the Commission's forecasts and monitoring mechanisms and reiterates its call for continuation of this process. The Council calls on the Commission to continue its support for Member States in further improving the speed of implementation.

4. Considering contingent liabilities stemming from guarantees, the Council reiterates its call on the Commission to monitor the risk mitigating effect of the common provisioning fund, once it is established, to apply a prudent approach when establishing the effective provisioning rate of the common provisioning fund and to provide up-to-date information on risk exposure. The Council also invites the Commission to carefully monitor the evolution of potential liabilities, in the current MFF, and to evaluate how to mitigate the EU risk exposure.
5. The Council supports the Court's recommendation to the Commission to continue to provide the European Parliament and the Council with relevant information on the funds transferred from the EU budget for financial instruments managed by the EIB group, in order to allow proper scrutiny and increase the transparency of such operations.

CHAPTER 3
GETTING RESULTS FROM THE EU BUDGET

1. The Council takes note of the progress assessed by the Court regarding the performance of EU programmes and welcomes the overall focus on assessing performance, but not at the expense of the work on the legality and regularity of transactions. The Council takes note of the Commission's improved reporting on performance in the Annual Management and Performance Report. The Council encourages the Commission and the Court to continue their efforts in this sense.
2. The Council supports the Court's findings that performance indicators should be relevant to the programmes' general and specific objectives, provide quantifiable data and be sufficiently ambitious. Performance assessment undertaken by the Commission should increase the focus on results and impact of budget implementation. In that vein and acknowledging that programme implementation is often not linear, the Council calls on the Commission to assess performance on the basis of milestones, which would provide the Court with relevant information to assess performance progress.
3. Moreover, the Council shares the view of the Court that indicators do not always reflect the actual progress properly and reiterates its calls on the Commission to provide up-to-date data on performance and on progress made towards targets and objectives. Such data should be of high quality and focus on the actual performance of the programme, rather than on the actions taken by the Commission or other bodies implementing them.
4. As regards a timely information flow on performance, the Council supports the Court's recommendation that timely information should be provided in innovative ways, including in new reporting tools on internet platforms. This would allow Member States' authorities and final beneficiaries, as well as the general public and the EU institutions, to assess the state of play and the benefits of EU spending.

5. The Council welcomes the Programmes' Performance Overview (PPO) provided by the Commission for the first time in 2018 and calls on the Commission to continue providing a reader-friendly report on performance, including an explanation on the choice of indicators and the method for calculating progress.
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CHAPTER 4

REVENUE

1. The Council notes that in 2018 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 also notes that there are weaknesses in certain Member States' management of TOR and in the verifications of the Member States' TOR statements by the Commission. The Council regrets the persistence of delays in the Commission's follow-up and closing of both TOR and VAT open points with financial impact on national budgets.
2. In that respect, the Council supports the Court's recommendations made to the Commission to implement a more structured and documented risk assessment for its TOR inspection planning and to reinforce the scope of its monthly and quarterly checks of TOR A and B accounts.
3. The Council recalls that accurate data is essential for a fair distribution of contributions between Member States.

CHAPTER 5
COMPETITIVENESS FOR GROWTH AND JOBS

1. The Council takes note that the estimated level of error reported by the Court is 2 % (the materiality threshold), decreasing compared to 2017 (4.2 %), 2016 (4.1 %) and 2015 (4.4 %).
2. The Council notes that the reduction of the error rate is due mainly to the administrative simplification introduced for Horizon 2020, which for the first year represents the higher percentage of the transactions (59 out of the 81 research and innovation transactions) audited by the Court. In addition, the Council recognises that in 2018, the share of spending for space programmes has increased in the whole audit population and this has reduced the overall level of risk for sub-heading 1a, as space programmes are a low risk expenditure area.
3. The Council regrets that the level of error estimated specifically for research spending remains above 2 % and urges the Commission to continue its efforts to reach an error rate below the materiality threshold.
4. The Council is concerned about the fact that, according to the Court's findings, the estimated level of error would have been 0.3 percentage points lower if the Commission had made proper use of all available information to prevent, detect and correct errors before accepting the expenditure.
5. 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

6. The Council notes with regret that, as in previous years, the main risk identified by the Court relates to ineligible costs declared by beneficiaries, which are neither detected nor corrected before reimbursement by the Commission.
7. The Council takes note with concern of the Court's analysis that the root cause for most errors, mainly affecting personnel costs and mostly committed by new entrants and SMEs, is the misinterpretation of complex eligibility rules, in particular under the research and innovation programmes. While recognising that the Commission has made considerable efforts towards reducing administrative complexity for Horizon 2020, the Council supports the Court's recommendation and invites the Commission to carry out more targeted checks of new entrants' and SMEs' cost claims under this programme, to enhance its information and communication efforts towards providing those beneficiaries with proper guidance on eligibility issues and funding rules, as well as to further simplify the rules for calculating personnel costs in the next Research Framework Programmes.
8. The Council is concerned about the little impact on error prevention brought by the *ex ante* verification assessment procedures used by the Commission for the capitalised and operating costs of large research infrastructures (LRI). While recognising that the beneficiaries apply their own methodologies, the Council supports the Court's recommendation addressed to the Commission to improve its *ex ante* verification of operating costs for this type of project.
9. The Council notes that the Commission has accepted and, in most respects, implemented the Court's previous recommendations with regard to research programmes, CEF and Erasmus+.

10. The Council supports the Court's recommendation and calls on the Commission to promptly address the findings identified by its Internal Audit Service (IAS) in the Education, Audiovisual and Culture Executive Agency's (EACEA) internal control system for managing grants for Erasmus+, as well as in the monitoring of compliance with contractual obligations and reporting requirements on dissemination and exploitation of research and innovation projects.
11. 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

12. 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 diminished their performance, such as progress not in line or only partly in line with objectives, reported costs not reasonable in view of progress achieved and some dissemination weaknesses.

CHAPTER 6
ECONOMIC, SOCIAL AND TERRITORIAL COHESION

1. The Council regrets that the estimated level of error reported by the Court for payments in the "Economic, Social and Territorial cohesion" policy area continues to be above materiality and increased in 2018 (5 %) compared to 2017 (3 %) after having gone down in two consecutive years (5.2 % in 2015 and 4.8 % in 2016).

2. The Council considers that the differences in the interpretation of legislation between the Court and the Commission may have an impact on the error level and are indicative of the complexity of the legal framework in place. While the Council is looking forward to seeing results in the coming years from the changes introduced in Regulation 2018/1046² (the Omnibus Regulation), meant to simplify, streamline and clarify regularity conditions, both the Commission and the Members States should continue efforts to simplify the legislation and the administration of EU funds. The Council notes with satisfaction that, for the first time in 2018, audit authorities reported irregularities under a common typology agreed with the Commission and shared between the Member States and invites the Court to indicate other possibilities for simplification, beyond the use of simplified cost options, whenever a need for simplification is detected in the course of the audit work.

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 recognises the progress made by Member States and the Commission in improving their management and control systems and encourages them to continue these efforts. However, the Council notes with regret that there are still persistent weaknesses with the regularity of the expenditure declared to the Commission. The Council welcomes the guidelines adopted by the Commission on eligibility of VAT and the clarifications provided in this respect to audit authorities. The Council calls 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.
4. The Council welcomes the efforts by the Commission to improve its annual activity reports and the fact that it updated its key performance indicator (KPI) on regularity.

Assessment of project performance

5. The Council welcomes the Court's finding that all Member States examined in 2018 had set up performance monitoring systems. However, the Council notes with concern that result indicators are not always an integral part of the design of performance systems at project level, which makes it difficult to assess a project's overall contribution to specific operational programme objectives.

CHAPTER 7
NATURAL RESOURCES

1. The Council regrets that the estimated level of error reported by the Court continues to be above materiality at the same level as last year (2.4 %) after having gone down from 2.9 % in 2015 and 2.5 % in 2016.
2. The Council welcomes the fact that the corrective measures applied by the Commission and Member States reduced the estimated level of error by 0.6 percentage points. The Council also takes note of the Court's findings that the estimated level of error would have been an additional 0.6 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 error is deemed to be fully justified.

EAGF - Direct support

4. The Council notes with satisfaction that the direct support expenditure, which represents 72 % of all the expenditure under heading 2, was not affected by material error in 2018. The Council regrets that, as in 2017, the only indication given by the Court of the error rate in 2018 for the direct support expenditure is that the estimated level of error is below 2 %. This makes it more difficult for the Council to assess the evolution of the situation 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 that the introduction of the geo-spatial aid application in the Integrated Administration and Control System has also helped to bring down the level of error in direct payments.

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

6. The Council regrets that the level of error for payments under these spending areas is still above the materiality threshold of 2 %. The Council notes that the share of this error-prone policy area in the size of sample for the whole heading is larger than last year, while the estimated level of error for heading 2 has not increased. The Council acknowledges 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.

Performance

7. The Council notes with concern the Court's findings on the weaknesses in the way in which the Commission and Member States applied the Common Monitoring and Evaluation Framework result indicators to measure and report on the performance of agricultural and rural development spending. The Council supports the Court recommendation to the Commission to address the weaknesses in performance measurement and reporting.
8. The Council notes the Court's findings on the low use of simplified cost options (SCOs) when financing rural development projects. It recalls that, in its conclusions on Special Report No 11/2018, the Council underlined the need for clear rules to allow 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.

CHAPTER 8
SECURITY AND CITIZENSHIP

1. The Council welcomes the fact that the Court has presented, for a third consecutive year, its findings regarding the "Security and Citizenship" policy area in a separate chapter of its annual report. The Council, however, regrets that the Court's examination was not designed to be representative of the full range of spending under this MFF heading and that, consequently, the Court did not estimate an overall error rate.
2. While recognising that, despite the complex policy environment, Member States have significantly increased the implementation rate of their national programmes under the Asylum, Migration and Integration Fund (AMIF) and the Internal Security Fund (ISF), the Council expresses concern about the increasing value of unspent amounts under these programmes. In view of the continuing importance of this policy area and the growing available budget, the Council urges the Court to enlarge its audit scope to a representative sample, in order to provide an error rate and performance assessment in the coming years.
3. The Council notes that the Court has found the Commission's management and control systems for AMIF and ISF, as well as for the Food and Feed programme, to be in general sufficient and effective. The Council is, however, concerned that the Court has identified some system weaknesses related to implementation delays, reasonableness of actions or costs, procurement-related controls and delays in updating unit costs and ceilings.
4. The Council welcomes the Court's recommendation and calls on the Commission to ensure the proper examination of documentation it required from beneficiaries in order to properly control procurement procedures, as well as to provide clear instructions in this regard to Member State authorities responsible for AMIF and ISF national programmes.

CHAPTER 9
GLOBAL EUROPE

1. The Council welcomes the continued assessment of the performance aspects in relation to the chapter on Global Europe and appreciates the Court's consciousness as regards the costs of its audit activities. Nevertheless, the Council regrets that the Court has again chosen not to establish an estimated level of error for this chapter and calls on the Court to provide such an estimated level of error in future years with a view to allowing year-on-year comparison of the risk to the EU financial interests.
2. The Council welcomes and supports the recommendations of the Court, especially with regard to the need to take steps for effective cooperation of international organisations with the Court during the audit procedure. It notes the actions the Commission intends to take in order to establish immediate contacts with international organisations with a view to ensuring full information of the Court for carrying out its audit tasks.
3. The Council welcomes the Court's assessment of the residual error rate study of DG NEAR and fully supports the Court's recommendation to limit full reliance in that study on previous control work. The considerable increase of transactions where full reliance was placed on the audit work of others could have an impact on the calculation of the residual error rate in a chapter, where there is also only a limited review of transactions by the Court. The Council, therefore, urges the Commission to implement the Court's recommendation.
4. Finally, the Council is concerned about a possible overstatement of DG ECHO's corrective capacity and the occurrence of undetected errors and urges the Commission to follow up on the Court's recommendation in that regard.

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. The Council notes with satisfaction that no material levels of error were identified by the Court in the examined annual activity reports.
2. The Council regrets that the number of internal control weaknesses in the management of family allowances for staff members has increased compared to previous years. The Council calls on the Commission to improve its procedures to manage staff costs and statutory family allowances.
3. The Council regrets the Court's observations on the weaknesses in the procurement procedures of the European Parliament related to improving the security of people and premises. The design of the European Parliament's framework contract in this context has allowed the European Parliament to order works not included in the original price schedule on the basis of a single quotation which in turn may have meant that the works were not procured at the lowest price. Regrettably, the same type of findings was reported by the Court in 2017.
4. The Council also regrets the Court's observation that in two of the five audited cases related to procurement procedures to improve the security of people and premises in the Commission, the Commission had used the negotiated procedure although the criteria of the Financial Regulation for its use were not met. In addition, in three examined procedures by the Court, there were shortcomings related to the evaluation process, namely that minimum requirements of the tender specifications were not met and there were no proper checks for compliance with the exclusion and selection criteria. The Council urges the Commission to improve its procurement procedures to avoid similar shortcomings in the future.
5. The Council takes note of the observations and recommendations made by the Court in its report on the annual accounts of the European Schools for the financial year 2018³.

³ European Court of Auditors' report on the annual accounts of the European Schools for the financial year 2018 together with the Schools' replies (<https://www.eca.europa.eu/en/Pages/DocItem.aspx?did=52580>).