

European Communities

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# Working Documents

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2 April 1984

DOCUMENT 1-77/84

REPORT

drawn up on behalf of the Committee on Budgetary Control

on clearance of the accounts of the EAGGF Guarantee  
section

Rapporteur: Mr Brian KEY

PE 87.671/fin.  
Or.En.



By letter of 28 March 1983 the Committee on Budgetary Control requested authorization to draw up a report on clearance of the accounts of the EAGGF Guarantee section following the Court of Auditors report (OJ No. C 313 of 29.11.82).

Authorization was given by the Bureau of the European Parliament on 13 March 1983.

On 3 November 1983 the Committee on Budgetary Control appointed Mr Key rapporteur.

It considered the draft report at its meeting of 19 March 1984 and unanimously adopted the motion for a resolution and the explanatory statement at that meeting.

Present: Mr AIGNER, chairman; Mrs BOSERUP and Mr PRICE, vice-chairmen; Mr GABERT (deputizing for Mr KEY, rapporteur); Mr ANSQUER, Mr BATTERSBY, Mr FRÜH, Mr GOERENS (deputizing for Mr JURGENS), Mr IRMER, Mr MART, Mr NOTENBOOM.

The deadline for the tabling of amendments to this report appears in the draft agenda for the part-session at which it will be debated.

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The Committee on Budgetary Control hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

on clearance of the accounts of the EAGGF Guarantee section

The European Parliament,

- A. aware of the fact that expenditure on the EAGGF Guarantee section constitutes more than half of the whole budget of the Community,
- B. noting that the Commission advances appropriations to Member States who undertake the disbursement of these funds, and that the Commission has ultimately to clear Member States' account of EAGGF Guarantee section spending,
- C. bearing in mind that the Commission each year refuses to accept certain expenditure as justified,
- D. aware particularly of the fact that delays which can amount to four years or more have built up in clearing Member States' accounts,
- E. anxious lest these delays in clearance should diminish the effectiveness of the discharge decision,
- F. having regard to the special report of the Court of Auditors concerning clearance of the accounts of the EAGGF Guarantee section,<sup>1</sup>
- G. having regard to the report by the Court of Auditors in response to the conclusions of the European Council of 18 June 1983,<sup>2</sup>
- H. having regard to the report of the Committee on Budgetary Control (Doc. 1-77/84),

With regard to the role of the clearance of accounts

1. Underlines that the ultimate responsibility for administering the EAGGF Guarantee section lies with the Commission, whilst recognising that the scale of the policy necessitates a decentralised management with the full cooperation and assistance of the Member States which also results in economies in the administration of the appropriations;

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<sup>1</sup> OJ C313, 1982

<sup>2</sup> OJ C287, 1983

2. Recognises that this decentralised administration necessarily involves the payment of advances with subsequent verification that expenditure was in accordance with the regulations being administered, and that the Commission therefore has to clear the expenditure made in Member States;
3. Stresses that the clearance of accounts is an inherent part of the Community's system of budgetary control which should not be devalued or treated as being of marginal interest;
4. Believes that, although the amounts not approved for payment by the Commission are not large, the clearance of accounts is an essential and integral feature in ensuring that (a) the EAGGF is a common policy in all Member States and (b) due regard is had to the competence, regularity and efficiency of Member States' administration;

With regard to delays in clearing the accounts

5. Regards the extent of the delays which have built up, and which have amounted to four years or more, to be quite intolerable;
6. Recognises that the Commission has introduced measures to reduce these delays, but notes that these have not led, so far, to any real or significant reduction in the average period of delay;
7. Prefers that the backlog of accounts to be cleared is dealt with by normal procedures rather than any special and reduced procedure;
8. Considers that the Commission should aim to clear accounts within the timetable laid down; recognises that certain difficulties exist in meeting the present deadline but believes that this should not lead to delays greater than one year;
9. Accepts provisionally the Commission assurances that progress is being made in reducing the backlog of accounts to be cleared, but resolves to review its acceptance of the Commission's approach to this problem in the spring of 1985 if by that time all accounts concerning the years up to and including 1982 have not been cleared finally;

10. Insists that the draft clearance decisions should be prepared on the basis of sound legal procedures and not by way of negotiated compromises and expects that these draft decisions shall, in future, be submitted to the European Parliament and to the Court of Auditors who shall react speedily to their content;

With regard to the suggestions of the Court of Auditors

11. Recognises that the Commission has made some detailed changes to its procedures as a result of the Court of Auditors' comments; reminds the Commission however, that it has made only limited progress in dealing with the backlog of accounts to be cleared; asks it therefore to review its resistance to the remaining findings of the Court of Auditors' report and to continue the dialogue in a constructive fashion;

12. Considers the suggestions made by the Court of Auditors in its response to the conclusions of the European Council of 18 June 1983 to be useful - concerning the accrediting of payment agencies, the desirability that national agencies report to the Community directly, and the integration of control systems - and asks the Commission to report on the feasibility of their implementation;

With regard to Parliament's decision on the discharge

13. Points out that the discharge is a political decision and that amounts contested during the clearance procedure have hitherto been of the order of 1-2% of EAGGF Guarantee section expenditure; furthermore, even if the timetable laid down is adhered to, it is not possible for accounts to be cleared in time for the discharge decision on a given financial year; notes (a) that it is an unavoidable consequence of the decentralised system and (b) that this problem occurs elsewhere in the discharge procedure;

14. Resolves in future to include in its consideration of the discharge an assessment of the progress towards clearance of EAGGF Guarantee section accounts for the year in question;

15. Instructs its President to forward this resolution to the Commission, the Court of Auditors and the Council of the EC.

## EXPLANATORY STATEMENT

### I- BACKGROUND

1. The preponderance of EAGGF Guarantee spending in the Community budget hardly needs to be spelt out in detail: it amounts to approximately two-thirds of the whole. The system of budgetary control runs as follows:

- the day-to-day operation of agricultural policy is in the hands of Member States, who receive from the Commission monthly advances of appropriations according to their estimate of what is needed;
- the Member States should forward to the Commission summaries of these financial operations for any given year (year n) in time for the Commission to include these figures in the revenue and expenditure account for 1 June of the following year (year n + 1);
- the Court of Auditors prepares its report on Community expenditure for the year in question in the months which follow, and this is published at the end of November (again, year n + 1);
- Parliament aims to give a discharge to the Commission by 30 April of the following year (i.e. year n + 2).

2. Member States are supposed to forward details of agricultural expenditure for a given calendar (financial) year by the end of March, that is a few months later. This is intended to allow the Commission to include the figures in the 1 June revenue and expenditure account, and allow time for whatever clarifications and discussions are necessary before the deadline for the Commission to "clear" agricultural expenditure at the end of the year. Thus by 31 December of year n + 1 the Commission should have made a definitive statement of what Member State expenditure has been accepted as eligible under the EAGGF, and what has been excluded. The EAGGF comprises of course an extremely complex series of instruments, and it is only realistic to administer it via Member State agencies. Given that the system operates by making advance payments to Member States, clearance of accounts is not merely a book-keeping exercise but is an integral part of managing the whole policy.

3. A new system of financing agricultural expenditure came into force at the beginning of 1971. At the time of the Court of Auditors' report (October 1982) agricultural expenditure during the first ten subsequent financial years should have been cleared. In fact, clearance decisions had only been taken for five of those years, affecting approximately 15 000 mEUA (that is 26%) of a total agricultural expenditure in those ten years of over 58 000 mEUA. These clearance decisions occurred as follows:

	Clearance foreseen ----- for	Clearance decision ----- effected
1971	31.12.72	2.12.75 (amended 28.7.78 and 30.10.79)
1972	31.12.73	2.12.75 (amended 28.7.78 and 30.10.79)
1973	31.12.74	12.10.79
1974	31.12.75	16.11.81
1975	31.12.76	16.11.81 (amended 7.11.83)

Decisions subsequent to the Court's report have added firstly the following:

1976	31.12.77	14.1.83
1977	31.12.78	14.1.83

These brought the amount cleared to 27 300 mECU out of a 1971-82 total of 81 700 mECU, that is 33%. It is of course true that the accelerating pace of EAGGF expenditure tends to exaggerate a little the amount uncleared compared with the number of years uncleared; nevertheless, these percentages represent a totally unsatisfactory situation. It should be noted that towards the end of 1982 - in its replies to the Court of Auditors Special Report - the Commission indicated that clearance decisions for 1976 and 1977 would be taken before the end of that year (actually taken in January 1983) and for 1978 and 1979 in "early 1983"; in fact, the decisions were taken as follows:

1978	31.12.79	8.2.84
1979	31.12.80	8.2.84

4. Clearance decisions are not even final when they are eventually taken. Some aspects of a Member State's expenditure may be provisionally refused, and although the amounts in question will be specified it is not always clear if or when refusal becomes permanent. In other cases, the Commission can indicate that enquiries are still in progress and might lead to revision of the figures for certain sectors and certain countries. These uncertainties would be acceptable if the provisional clearance decision was followed by totally explicit statements as to what had been accepted, what had been refused, and what was still under discussion (and in this latter case, the deadline for a decision). But this does not happen.

5. In short, the Court of Auditors comment at the end of paragraph 2.7 of its Special Report is a damning indictment of the system:

"In sum, none of the financial years which has been the subject of a clearance decision since the entry into force of the financing system established by Regulation (EEC) No. 729/70 can be considered with certainty to have been finally cleared."

6. As will become clear below, delays in the clearance procedure create a vicious circle and contribute to the unsatisfactory situation outlined above. For example, if the Community is so behind in clearing accounts that the Member States' own accounts have already been closed, then it is politically and/or legally difficult for a Member State to make corrections. Member States therefore tend to contest the Commission's interpretations, even to the extent of bringing cases at the Court of Justice, and this delays matters even further.

7. Needless to say, this situation has not gone unremarked and the Court of Auditors has commented on it regularly in its annual reports. The Commission has in reply defended the main features of the clearance system and - asking for additional staff - has since 1979 tried to cut into the backlog by taking two years together and using new auditing techniques.

8. How these intentions to do better in future have worked out in practice is indicated by the following table (derived from that in the Court of Auditors' report):

Financial year	Date foreseen for clearance	Delays (estimated or actual) in 1980	Delays (estimated or actual) in 1981	Delays (estimated or actual) in 1982	Delays (estimated or actual) in 1983
1974	end 1975	5 yrs	6	-	-
1975	" 1976	4	5	-	-
1976	" 1977	4	5	5	-
1977	" 1978	3	4	4	-
1978	" 1979	3	4	4	4
1979	" 1980	2	3	3	3
1980	" 1981	-	-	(due but not planned)	3
1981	" 1982	-	-		2
1982	" 1983	-	-	-	-
		av. = 3.5	av. = 4.5	av. = 4.0	av. = 3.0

This table would indicate that no really substantial progress has been made in reducing the backlog of decisions. The average delay in taking the clearance decision remains at around four years and will drop to three years only if the decisions for 1980 and 1981 are taken before the end of 1984. Even on the most optimistic forecasts, the system will not be running 'normally' - or rather, in accordance with the Regulation - much before the end of the decade.

## II PROBLEMS AND THEIR CONSEQUENCES

9. It is clear that the system of clearing accounts is not working as foreseen. The first question to ask is whether this matters, or if the problem is one of form rather than substance. The answer has to be that it is important, for the delays undermine the common nature of the CAP, the efforts to combat fraud, and the system of budgetary control in the Community.

### Common nature of the CAP

10. It has been an essential principle of the CAP since its inception that it be a policy applied in the same fashion in all Member States; indeed this was a precondition for allowing free movement of agricultural products. Notwithstanding the continued existence of substantial national aids to agriculture, this communalit: remains essential.

11. Inherent to the system of clearing EAGGF accounts is the concept of the Commission verifying that expenditure conforms to the common principles laid down. The first requirement is that the Commission be informed as to what Member States have done in managing the EAGGF. But not only is information forwarded late, it is often incomplete:

" ..... certain Member States systematically refrain from providing reports from the national audit bodies on the paying agencies, or on the operations financed by the EAGGF Guarantee Section, and only submit descriptions of the national management and control systems as required by Art. 5 of Reg. (EEC) 1723/72 themselves summary to the point where it is impossible to tell what precautions have been taken in the Member States by individual measure to ensure proper disbursement of the Community expenditure."

(Court of Auditors Special Report, para. 2.12(a))

12. The greater the period that passes before the Commission can scrutinise closely Member States' expenditure, the greater the risk that alternative interpretations of any given regulation have grown up and become established; they are consequently more difficult to revise and to bring into line with a common policy. Alternatively, some regulations of shorter duration may have expired before it becomes apparent that they have been differently applied. Indeed

national audits may have been already completed and this makes Member States even less willing or able to make corrections which have a retrospective financial impact. This partly explains Member States' readiness to challenge Commission interpretations, even to the point of going to the European Court of Justice.

#### Efficiency and the control of fraud

13. With the administration of the CAP shared by the Commission and the Member States, there has to be an efficient exchange of information if the policy is to be effectively managed. Commission officials on audit missions should be in a position not only to check on all aspects of management and control but also to get a good idea of what problems can arise in putting regulations into effect; prompt action can then lead to revision. Unfortunately, transmission of information is often late and minimal in nature, and on-the-spot audits concentrate on reconciling accounts rather than analysis of management and control. In addition, the lateness of the exercise makes any feedback out of date.

14. This exchange of information should be useful to Member States also, helping them interpret regulations and administer smoothly the common policy. In fact, of course, clearance occurs long after the expenditure has been incurred. Not only does this create problems as officials may have changed and files difficult to find, but - because the clearance exercise creates mainly problems for Member States - there has been a deterioration in the spirit of cooperation between Member States and the Commission.

15. The opportunity is therefore missed to look at the quality of Member States' administrative and financial management and control; but this has to be of a high level if the regulations concerned are to be equally applied in all Member States.

16. Similarly the Commission's distance from, and late realisation of, the problems of implementing regulations means that loopholes and fraudulent practice risk going uncorrected for longer than necessary. Nor is the clearance exercise - as it is carried out - likely to uncover fraud. The Court of Auditors (para. 2.13(b) of its Special Report)

criticises as inadequate the Commission's methods of audit, and typifies them as concentrating too much on the files of paying agencies and on reconciling accounts, and paying too little attention to management and control.

17. It may be argued that the prime purpose is clearing the accounts and not the improvement of management and control in themselves. But not only do these have to be improved at every opportunity, the assumption of adequate management and control is inherent in any concept of clearance.

#### Effect on the budget

18. The amounts concerned are not enormous in relation to the whole EAGGF budget. In 1971/2 for example, 47 mEUA was refused out of a total of 3 911 mEUA (that is, 1.20%), in 1973 18 mEUA was refused out of a total of 3 659 mEUA (0.49%), and in 1974/5 161 mEUA out of 7 457 mEUA (2.16%). Although these percentages are fairly limited, they are of course smaller than the proportion of expenditure called into question.

19. In addition the sums are not negligible - an average of around 80 mEUA in 1974 and 1975 - sums which would have supported a major Community effort in other fields such as, for example, energy or research. Moreover, as the Court of Auditors point out (para. 2.23 of its Special Report), the effect of inflation during the years before clearance decisions are taken can reduce the amount to be recovered by 80%. This is because the amounts are at nominal value and not updated. The loss in value is borne by the Community budget.

It should be noted that the longer a Member State continues in ignorance to apply a regulation erroneously, because clearance is not prompt, the greater the financial impact of any correction.

20. Any amounts recovered are entered in the budget as negative expenditure in the EAGGF section. As the amounts inevitably refer to earlier years, the normal budget principle of annuality can hardly be followed. In addition, the practice hitherto has been to include a single composite figure deriving from a mixture of unspecified corrections; this hardly assists budget clarity, and the Court of Auditors has suggested some improvements.

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21. Even if the amounts affected are not thought to be large, it has to be remembered that clearance is an essential feature of the Community's system of budgetary control. Although the payment of advances to Member States has given rise to numerous difficulties, it is clear that administration of the CAP can only be done on a decentralised basis. That inevitably implies an exercise to "clear" the accounts of the bodies responsible; although such an exercise cannot be avoided, it should be conducted effectively.

22. It is clear that, in the near future at least, accounts will not be cleared in time for Parliament to decide on whether the Commission<sup>should be given a</sup> discharge for any given year. The Court of Auditors considers that late clearance of accounts weakens the discharge considerably, and its views are quoted in the opening paragraph of this report. In short, it believes that the EAGGF accounts can only be book-keeping records of information sent in by Member States, that in these circumstances the Council resolution is affected by the ambiguous position of the Member States, and that Parliament grants a discharge in circumstances that deprive it of most of its significance.

23. It is true of course that the amounts recovered are entered in later budgets and that there is a discharge for these. But by this stage 8 or 9 years may have passed and - as the Court of Auditors have spelt out in some detail - it is sometimes impossible to trace decisions through all the stages of provisional clearance, provisional refusal with deadline and provisional refusal without deadline. This negates the relevance of this "second-stage" discharge for cleared accounts. On the other hand, even when the clearance is as fast as possible, the result inevitably appears in the accounts of a subsequent year and this separation reduces the political importance of clearance.

24. It is also true that the discharge is given on accounts that are 98-99% complete and that the aim is to accept what the Commission has done in putting a given policy into effect rather than carry out an audit. Nevertheless, the Court of Auditors' judgment should give Parliament cause for thought.

25. "The Parliament, by granting discharge to the Commission for its (i.e. the budget's) implementation, issues an opinion on information covering, for nearly three-quarters of the budget, financial operations for which the Commission has not yet assumed responsibility and which is therefore likely to be considerably amended at a later date.

'By exonerating the Commission from a responsibility which it has not yet really assumed, and by making its decision without being in possession of all the necessary information, the Parliament finds itself granting discharge in circumstances which deprive it of most of its significance. Discharge thus appears as a largely theoretical exercise, in that it relates to matters which are neither certain nor up to date.

"Thus, by April 1982, the Parliament has, for the purposes of successive discharges, needed to examine the global management of some 58 000 million EUA since the introduction of the current system of financing the EAGGF Guarantee Section. At the same date, and for the same management period of 1971 to 1980, the Commission has only finally committed itself in respect of 15 000 million EUA. It has nonetheless requested discharge for the 58 000 million EUA." (OJ C 313, 1982, Special Report of the Court of Auditors concerning clearance of the accounts of the EAGGF Guarantee section, paragraphs 2.26(a) (iii) and 2.26 (b) respectively.)

#### IV. RECTIFICATION

26. The Court of Auditors' Special Report spells out in detail why it believes the current system does not work well. On the one hand, a number of procedural problems are high lighted (built-in delays, memorandum intended to guide Member States in preparing their accounts but which is outdated, poor information from Member States, inadequate audit techniques and so on). On the other hand, clearance decisions become based on retrospective interpretation of regulations; linked with this, Member States' right of reply has evolved into an unproductive negotiation procedure.

27. The Commission, in reply, stresses the difficulties Member States have in meeting the deadlines set and the complexities both of the regulations concerned and of introducing new methods; it also places value on the dialogue with Member States. Nevertheless, although it contests some of the Court's views (e.g. on the role of the memorandum), the Commission has accepted that certain improvements need to be made. The general tenor of the Commission's reply is, however, that the troubles that have severely hampered efforts to achieve clearance within reasonable deadlines are "teething troubles" (see para. I.7) and that the backlog is being rapidly reduced.

28. Evidence so far would indicate that the Commission is over-optimistic about its ability to shorten drastically the delays in the clearance decisions, and the Court of Auditors has accordingly suggested not only

- faster updating of the memorandum
- a rationalisation of visits and auditing
- a greater effort to clarify the interpretation of regulations sooner

which are aimed at making the existing system work better, but also a number of more drastic changes.

29. These more drastic measures comprise:

- (a) To make up the delay by temporary measures. Considering that experience shows that hopes of making up the delay using current methods have been constantly disappointed, the Court of Auditors suggests (para. 4.7 of its Special Report) that a fresh start might be made with a system

improved along the lines it suggests and that the financial years closed but not yet cleared be scrutinised only to check that the various accounts tally.

The Commission rejected this proposal as this might prove harmful to Community financial arrangements, whilst acting in favour of those states whose files require investigation. As the Commission says, (para. I.1 of its reply in the Special Report)

"Experience has made it very clear that large amounts of expenditure are not properly handled and that there are significant differences of management between the Member States; very thorough Community auditing, at the time of clearance, must be regarded as indispensable."

(b) In its report in response to the conclusions of the European Council of 18.6.83 (OJ C 287, 1983), the Court of Auditors discussed the defects of the decentralised management of the EAGGF and recommended three reforms:

- that paying agencies be accredited by the Commission, so as to enhance the consistency of application of common policies
- that paying agencies be accountable to the Commission directly and not via national treasuries
- that national and Community controls be integrated in a more economical and reliable system.