2008 discharge: EU general budget, section III, Commission

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The Committee on Budgetary Control adopted the report by Bogusaw LIBERADZKI (S&D, PL) recommending the European Parliament to grant the Commission discharge in respect of the implementation of the European Union general budget for the financial year 2008 as well as the Directors of the following executive Agencies: “Education, Audiovisual and Culture”; “Competitiveness and Innovation”; “Health and Consumers”; “Trans-European Transport” for the implementation of their respective budgets for the financial year 2008.

Network

The committee recommends that the Parliament should close the accounts of the European Union general budget for the financial year 2008. However, it remains concerned, at the start of the new Commission’s term of office, about the accumulated problems deriving from the previous Commission, notably:

- continuing high rates of error in payments,
- slowness in recoveries of undue payments, and
- carryovers at unprecedented high levels.

Although the committee welcomes the initial signs of a collegial approach from the new Commission promising action in the areas of: Member State statements of assurance, proposals for tolerable risk of error, simplification and transparency, and trust funds covering external actions, it further believes that this must cover further action in the area of corrections and recoveries, and internal control systems.

In general, Members believe that errors in expenditure hinder effectiveness in achieving EU policy targets. They consider that this is still an inadequate level of improvement year on year and points out that, despite some areas of improvement, an error rate above 5 % remains in policy groups which account for 31 % of the budget, and a rate of between 2 % and 5 % for a further 22 %. It is for this reason that they call on the Commission to prepare and submit to Parliament a new Agenda for 2010 onwards, providing for an acceleration in the reduction of error rates so as to ensure that a **further 20 % of the budget can be given a 'green' classification** from the Court of Auditors by 2014, with interim changes called for from the Court of Auditors for a new methodology to show specific error rates within the Cohesion budget chapter and differentiating between payments made under the 2000-2006 and the 2007-2013 legislation. They consider that reaching this target is an essential part of getting full value for EU expenditure in the future and progressing towards a positive DAS.

HORIZONTAL ISSUES

Statement of Assurance (DAS): although Members note with satisfaction the Court’s positive opinion concerning the reliability of the final annual accounts, they consider it abnormal that the annual accounts should be presented with negative own capital of EUR 51.4 billion. Members regret that the DAS still remains qualified (negative) in extremely important Community spending areas of the budget for the 2008 financial year (Rural development, Structural measures, Research, energy and transport, External actions at the level of implementing organisations and Enlargement). They welcome the Commission’s efforts made by the Commission since the implementation of the Action Plan and they call on it to provide a series of indicators and descriptors to measure the impact of this Action Plan.

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information and framework of the DAS: the committee welcomes the work done by the Court to further improve the clarity of the DAS approach. Nevertheless, it considers that having **only one global and annual assessment does not reflect the complex structure of the European Communities' finances**, and further considers that to continue to have a negative annual assessment after 15 consecutive years may have negative repercussions amongst citizens who do not understand why the Court always gives a negative opinion;

- **revision of the Treaties: reform of the DAS**: noting that, according to Article 48(2) of the EU Treaty, as modified by the Lisbon Treaty, Parliament has an enhanced role in the procedure of revision of the Treaties, Members call for reflection on the **feasibility of separate statements of assurance in the future**, to be provided both by sector/policy area and by multiannual programme, in order to provide a better match between the Court's methodology and the multiannual and sectoral nature of the European Communities' finances;
- **budgetary management: considerable RAL**: Members are concerned that outstanding budgetary commitments (unused commitments carried forward to be used in future years), mainly on multiannual programmes, increased in 2008 by EUR 16.4 billion (11.8 %) to EUR 155 billion, whilst acknowledging that this is due in certain cases to delays in the start-up phase of the new programmes while in others it reflects a poor budget planning process. They welcome the fact that automatic de-commitment should prevent problems in the current funding period but remains concerned that the highest proportion of outstanding budgetary commitments ("RAL") is related to the cohesion area associated with the lack of any de-commitment procedure for the 2000-2006 period. This should change in the future. The Commission is called upon to provide Parliament with an overview of budgetary support granted, by country and by fund, for the years 2005 to 2009;
- **recoveries**: Members note some improvement in recoveries, but nevertheless remain concerned about the problems which subsist regarding irregularly disbursed Community funds and the poor quality of the information supplied on the correction mechanism applied at Member State level. They drawn attention to the urgent need to aim for a **100 % recovery rate** in respect of funds that have been falsely issued. They also call on the Commission to enhance the efficiency and effectiveness of multiannual recovery systems, including at Member State level, and to consolidate data on recoveries and financial corrections in order to provide reliable figures which can be compared between the various policy areas and fund management procedures. The committee recalls its demand that the Commission produce an **annual fund-by-fund grading per Member State**, specifying the error rate established;
- **suspension of payments**: Members assure their full support in the rigorous application of the legislation on suspension of payments and drawn attention to the example of Greece, where significant financial corrections brought about by Commission decision appear to have resulted in better performance in some areas. They agree that the suspension of payments, as a means of pressure, will contribute to greater involvement of the Member States in the correct use of EU funds received;
- **annual summaries**: Members stress the need to strengthen the role of annual summaries in the upcoming review of the Financial Regulation as well as to improve the quality, homogeneity and comparability of the data provided by Member States so as to ensure their added value in the field of the control of EU funds. They consider that a comparative analysis should be forwarded to Parliament, the Council and the Court by late 2010;
- **national management declarations**: Members welcome the voluntary initiatives taken by Denmark, the Netherlands, Sweden and the United Kingdom to draw up national management declarations. They recall their demand for the introduction of national management declarations and call on the Commission to propose, within the framework of the review of the Financial Regulation, the obligation for Member States to issue national management declarations signed at an appropriate political level and certified by their national supreme audit body, as a means of administrative relief as well as improved administration of funds under shared management. Members are deeply concerned about the proven manipulation of financial statistics and tax evasion in Greece.

The Commission's internal control system: with regard to internal control, Members made the following observations:

- **the Action Plan for an Integrated Internal Control Framework** : notwithstanding the progressive improvement in the DAS since 2003, Members remain concerned by the Court's assessment that it is not yet possible to determine whether the Action Plan has had a measurable impact on the supervisory and control systems. Further efforts are required on this matter;
- **balance between operational expenditure and the cost of the EU funds' control system** : Members call on the Commission to carry out in 2010 a more complete and exhaustive evaluation of the resources given over to control systems in certain areas in order to assess what future improvements can be achieved and at what cost, as recommended by the Court of Auditors for achieving progress on the question of tolerable risk of error;
- **tolerable risk of error** : returning to this question, Members reuire clarification on the definition of "tolerable risk of error" and underline the following : (i) the definition of a possible tolerable risk of error is only one of several elements to be explored with a view to improving financial management in the EU, the other elements being better use of existing control systems, an increase in what are generally very low control costs, simplification and concentration; (ii) the quality of the information available from the Member States is currently not sufficient as a basis for the establishment and approval of a tolerable risk of error; (iii) the Council's position on the question is not known. In general, the Commission should evaluate the relationship between the resources available for each particular policy, and the part of those resources dedicated to the control systems broken down by area of expenditure. It must also identify areas of high political sensitivity (with high "reputational risk") where a quality approach to rates of error (rather than an economic one) should be adopted;
- **interinstitutional debate on the current discharge procedure system** : Members call on the Commission to organise an interinstitutional discussion at the highest level, involving Member States, with a view to embarking on a comprehensive debate on the current discharge procedure system.

Political responsibility and administrative responsibility at the Commission

- **transparency and ethics:** insisting on the importance of annual activity reports for the directorates-general of the Commission, Members also generally stress the need to ensure the transparency of working methods and also of beneficiaries of EU funding. They also emphasise once again the need to revise the present Code of Conduct of the Members of the Commission in order to remedy shortcomings such as: (a) the absence of any definition of the term "conflict of interest", (b) the failure to prescribe a course of action if a conflict of interest arises, (c) a lack of clarity with regard to the acceptance of gifts and hospitality, and (d) the absence of any body designated to look into complaints as well as to relieve the President from the (possible) duty of self-assessment. It expects the Commission to begin the process of consulting Parliament on revision of the present Code of Conduct of the Members of the Commission by August 2010. The Code should incorporate the necessary ethical rules and the principal guidelines to be observed by Commissioners in the conduct of their office;
- **governance and administrative reform**: Members urge the Commission to submit an establishment plan implementing a 3 % reduction in this field by the end of the term of office of the Barroso II Commission. They make some suggestions for alternative methods for the adjustment of the pay of officials, and also propose that the Commission split the hierarchical power between people with accounting responsibility and those responsible for transferring funds in application of the normal security rules for internal control in treasury management;
- **OLAF**: the committee welcomes the undertakings by the new Commission to unblock discussions in the Council about the reform of OLAF and reiterates the importance of taking into account Parliament's first-reading position. It emphasises that OLAF should remain within the Commission whilst retaining its independence and its director-General should be appointed in full respect of Parliament's prerogatives

SECTORAL ISSUES

- **Revenue**: Members take note, with deep concern, of the Commission's report on the Greek government deficit and debt statistics and asks the Commission to present its plans on the future handling of operations with the Greek administration;
- **The common agricultural policy**: Members welcomes the positive assessment by the Court, based on its audit work, that, save as regards Rural Development, the payments for the year ended 31 December 2008 for the Agriculture and Natural Resources policy group were free from material error. They are pleased to note that the average EU 27 error rate is below the 2 % threshold tolerated by the Court. They note with concern the extreme spread of on-the-spot error rates by Member State in the implementation of area aids and insist that the overall credibility of the system must not be jeopardised. They call for well directed, immediate measures resulting in both administrative relief for outperforming Member States and effective counter measures. Members reiterate, as in previous years, that the IACS is generally an effective control system for limiting the risk of error or irregular expenditure, but nevertheless regrets that the Court found significant weaknesses in selected paying agencies in three Member States: Bulgaria, Romania and the United Kingdom (Scotland). They regret the fact that the Land Parcel Identification System (LPIS) applied by national authorities is still not correct in some Member States in which substantial deficiencies were reported by the Court (in Bulgaria, Spain, Poland and the United Kingdom). They note that different measures have been taken at national level to address the deficiencies. Members note the Commission raised shortcomings in respect of the debtors' accounts for one quarter of the paying agencies and has proposed financial corrections amounting to some EUR 25.3 million. They further note that these corrections represent some 1.95 % of the EUR 1 295 million that are to be recovered as at the end of financial year 2008.
- **Cohesion**: Members are concerned that errors in the area of Cohesion funding indicate that at least 11% of the total amount reimbursed should not have been paid out. They regret that financial corrections and recoveries are only partly functional, in particular for 2000-2006 programming period. Members deplore the fact that the Member State returning the highest error rate and receiving the largest share of structural funds received EUR 59 billion between 2000 and 2006 and only had to repay EUR 1.5 billion to the EU (that is less than 3%). They are concerned that the cost of maintaining proper control systems manifestly exceeds this amount, which means that this is a negative incentive. They reiterate its call for further simplification of the rules proposed by the Commission and, at the same time, for the introduction of more efficient controls at national and EU level, with a view to effective implementation of the Structural and Cohesion Funds. Members consider that, despite the marked improvement in the management and control systems introduced by the 2008 action plan, which strengthened the Commission's supervisory role in structural actions, the fact that, as observed by the Commission, only 31% of systems work well and that more than 60 % require improvement is unsatisfactory. Although the action plan has enabled progress to be made in a number of fields, Members call for improvements to be so as to avoid infringement of public procurement rules (one of the most frequent reasons underlying irregularities). Members deplore the slow start-up of programmes related to the 2007-2013 programming period due to the late submission by Member States of compliance assessment reports and audit strategies. As regards **financial corrections**, Members regret that the system of financial corrections has little dissuasive effect on Member States since any ineligible expenditure identified by the Commission or the Court can be substituted for eligible expenditure by a Member State. Noting that no case of fraud was communicated to the Commission in respect of projects audited, Members invite the Court of Auditors to assess how the external evaluations in respect of the Structural and Cohesion Funds are performed by the managing authorities, and to pay particular attention to the independence of the evaluation when it is paid for by the evaluation beneficiary.
- **Employment and social affairs**: highlighting a lower error rate in the ESF, Members encourage the Commission to put its own figure on the ESF error rate and to examine the possibility of greater autonomy for the ESF in the forthcoming financing period. They call for assurances that national

judicial authorities will also continue to investigate and punish instances of fraud in the ESF. Noting that the error rate does not necessarily refer solely to fraud, Members consider the failure to provide accountability reports, or the provision of incomplete reports, by national administrative and control bodies, as well as any contravention of the minimum requirements laid down in the financial regulations, to be unacceptable and punishable. The Commission is called upon: (i) to develop proposals to improve and expand the existing reporting requirements, incorporating a **sanctions mechanism**; (ii)to take steps to enforce the rules on the prevention of conflicts of interest in the allocation process by providing national administrations with adequate resources.

Internal policies: this budgetary field covers the main policies:

- **Research, Energy and Transport**: welcoming the fact that the Court has found that the Commission has considerably improved its performance in 2008 in making timely payments to beneficiaries, Members still notes with concern that, in general, as regards research, energy and transport the Court's audit once again reveals a material level of error in payments to beneficiaries and in the Commission's supervisory and control systems, which do not sufficiently mitigate the inherent risk of reimbursement of overstated costs. They are also concerned that the EU's public image may suffer as a result of the stakeholders' realisation that stricter control systems are applied to the agricultural domain than to research implementation. Members are concerned that the current regulation of the existing Framework Programme does not correspond to the needs of a modern research environment and believe that further modernisation and simplification are essential for a new Framework Programme. They consider that **simplification of the calculation rules for claimed costs** is necessary in order to improve the situation. Lastly, they stress that the Commission must ensure rigorous application of the controls, in particular by improving the reliability of audit certificates and through effective implementation of its ex-post audit strategy, imposing penalties where appropriate and making timely recoveries or adjustments in cases of undue reimbursement of claimed costs;
- **Environment, Public Health and Food Safety**: Members consider that there is still room for improvement in the Commission's management of LIFE + so as to ensure the sustainability of co-financed projects. They call on the Commission to develop further assistance and specific training for applicants and user-friendly guidelines. They consider that calls for tenders must be clear and user-friendly, in order to avoid project applications which are clearly not eligible for funding due to their size and associated high costs or which are of poor quality;
- **Internal Market and Consumer Protection**: Members reiterate that, in many situations, errors made in the implementation of the budget are a consequence of the excessive complexity of expenditure rules and procedures. Efforts must be made to simplify the legal framework. They also deplore the fact that the frequency of physical checks done by Members States on imports remains very low;
- **Transport and Tourism**: Members regret the exceptionally low take-up rate of payment appropriations for transport safety and passenger rights. The same can be said for the Galileo programme. They call on the Commission to provide a detailed explanation of this under spending and to give an account of the measures it will take to ensure that the problem does not recur in future. They regret the lack of data on actions in the field of tourism;
- **Culture and Education**: Members support the guidance provided by the Commission to national authorities as regards the supervision of the work of national agencies with a view to further facilitating programme management in Member States. They call on the Commission, in the interests of transparency and cost control, to separate the organisational and staff costs of national agencies from funds to be paid in grants. They also draw attention to the dangers of control measures which are disproportionate to the budgets administered. They call on the Commission to review the bureaucratic obstacles impeding the 'Youth in Action' Programme and to consider the introduction of a new mode of allocation of funding under the 'Youth in Action' Programme so as to make funding available to small-scale and youth projects which are unable in the current situation to raise their own finance.

- **Civil Liberties, Justice and Home Affairs**: Members note a relative decrease in the level of implementation of commitments of the budget for the Area of Freedom, Security and Justice in 2008 compared to 2007. They concentrate on the following issues:
    1. **SIS II**: Members are very concerned about the delays in setting up the second-generation SIS II and the implications of these delays for the EU budget and the Member States' budgets. Members invite the Court of Auditors to carry out an in-depth audit and to present a special report evaluating the management of the SIS II project by the Commission, from the beginning of the project starting with the initial call for tenders. The committee reserves the right to hold in reserve the funds to be allocated for the development of SIS II in the 2011 annual budget, in order to ensure full parliamentary scrutiny and oversight of the process.
    2. **Women Rights and Gender Equality**: Members regret that gender budgeting has still not been implemented. They therefore reiterate their demand to the Commission to take further steps towards ensuring that gender mainstreaming becomes a reality in budgetary planning. They call on the Commission to make further efforts to develop gender-specific data that can be included in the budget discharge reports.
- **External actions**: Members call on the Commission to submit, before the end of the 2008 discharge procedure, concrete, detailed and all-encompassing plans for the staffing, organisational and control structure of the EEAS. They are strongly in agreement with the view that Parliament's right of scrutiny as discharge authority should in no way diminish with the setting-up of the EEAS and expect the Commission to bear this in mind when proposing the review of the current Financial Regulation. Members note with great concern that the Court's overall assessment that the supervisory and control systems of all DGs concerned (AIDCO, RELEX, ELARG and ECHO) are still only **partially effective**. They call on the DGs to make improvements to their supervisory and control systems and draw attention to the substantial number of possible fraud cases (102 cases) under investigation by OLAF in this policy group. They deplore the delays in achieving transparency over EU funds administered by international organisations and especially by the UN (in "joint management") and call for this situation to change. Overall, they express concern that the Commission does not convincingly demonstrate beforehand whether the choice of a UN organisation is in fact more efficient and effective than other ways of delivering aid. They call on the Commission to implement a **more transparent and objective process for selecting aid implementation channels**. In addition, the **Commission is called upon to give itself the possibility of managing multi-donor trust funds itself** in the forthcoming revision of the Financial Regulation. They suggest the possibility for making external policy budgets more flexible (in view of the budget surpluses and the still growing needs in this field of policy).

They also make reference to the following key issues:

1. **Development and humanitarian aid**: Members deplore the finding by the Court's audit that **budget support commitments** were affected by a high level of non-quantifiable errors. They insist that the Commission should assess these payments even more rigorously. The Commission is called upon, as regards budget support, to bolster supervisory and control systems for ensuring the regularity of payments, to monitor more closely organisations implementing EU-funded projects, to carry out more effective audits, with rigorous follow-up, and to develop more results-oriented budget support guidelines. Members urge the Commission to help partner countries develop parliamentary control and audit capacities, in particular when aid is provided via budget support. The report points out that the Parliament's role as regards budget support is to hold the Commission accountable for the results of spending, and that budget support is an aid instrument which requires a paradigm shift in oversight behaviour, moving from control over inputs to the checking of results against indicators. They reiterate their request that development aid in general and budget support in particular should be progressively linked to an *ex-ante* country disclosure statement, issued by the recipient country's government and signed by its finance minister. Members stress the need to increase aid effectiveness and to reduce aid fragmentation

(some 40 000 projects managed by the Commission and Member States). They urge the Commission to ensure better visibility for EU-funded activities overseas.

2. **Enlargement expenditure**: Members are concerned by the weaknesses in the management of pre-accession funds by national authorities in Bulgaria and Romania. They support the suspension by the Commission of payments in Bulgaria under the three preaccession programmes, Phare/Transition Facility, ISPA and SAPARD. They urge Bulgaria to adopt a detailed **action plan** in close cooperation with the Commission and under close supervision by an independent auditor. They stress that this action plan should create transparent procurement rules which meet international standards. They stress that the lessons learned from problems concerning the implementation of pre-accession funds in Bulgaria and Romania should help the Croatian authorities, with the Commission's assistance, to avoid similar difficulties when implementing the pre-accession funds in respect of their country. Members are also disappointed by the fact that key weaknesses which have resulted in a 'moderately unsatisfactory' overall performance as regards pre-accession assistance in Turkey. The report notes the steps taken by the Commission in the candidate countries and other countries in the Western Balkans to fight corruption. The Commission is asked to continuously monitor and report to the budgetary authority on the backlog and number of new criminal charges and verdicts and the backlog and number of new court cases brought on charges of infringement of public procurement laws in Croatia and in FYROM. The report concludes that the need for constant, objective and transparent progress monitoring remains. In this regard, it calls on the Commission in the event of accession proceedings to establish a starting-point in key areas relevant for accession and to use that starting-point as a reference and benchmark throughout the accession process.

- **Administrative expenditure**: Members note with satisfaction that the Court's audits brought to light no material errors affecting the legality and regularity of administrative expenditure.