

# 2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 10/05/2011 - Text adopted by Parliament, single reading

The European Parliament adopted by 506 votes to 132, with 20 abstentions, a decision granting discharge to the Commission in respect of the implementation of the general budget of the European Union for the financial year 2009. It also adopted separate decisions granting discharge to the directors of the executive agencies “Education, Audiovisual and Culture”; “Competitiveness and Innovation”; “Health and Consumers”; “Trans-European Transport” and “Research” for the implementation of their respective budgets for the financial year 2009.

Parliament also adopted by 570 votes to 75, with 13 abstentions, a resolution containing a number of observations which forms an integral part of the discharge decision. These observations may be summarised as follows:

*1) Overall findings:* Parliament is pleased to note that the annual accounts of the Union present fairly, in all material respects, the financial position of the Union as of 31 December 2009 and the results of operations and cash flows. However, it considers it abnormal for the annual accounts to be presented with negative own capital of EUR 44.7 billion and wonders whether the amounts to be requested from Member States should not be entered as assets, given that the estimated EUR 37 billion in staff pensions is clearly a commitment.

**Statement of Assurance:** Parliament calls on the Court of Auditors to provide it with, in the future, a **single Statement of Assurance** regarding the legality and regularity of the underlying transactions in the same way that it does for the reliability of the accounts.

**Legality and regularity:** Parliament notes that, while the Commission implements the Union budget on its own responsibility, in the present understanding of ‘shared management’ most of the management functions are carried out by national bodies not directly accountable at Union level and over which the Commission has limited powers of enforcement. It takes the view therefore that **these bodies are meant to be directly accountable** at Union level to the Commission. However, Parliament insists that this does not absolve the Commission of its responsibility for the implementation of the Union budget but on the contrary requires it to take a hard line with any Member States not fulfilling their responsibilities under ‘shared management’. It calls, therefore, as regards shared-management controls, for cooperation to be stepped up between national audit bodies and the Court of Auditors. Parliament also proposes the examination of the possibility of national audit bodies, in their capacity as independent external auditors, issuing **national audit certificates for the management of Union funds, which would be submitted to Member State governments**. Parliament recalls, in this regard, that the Member States have primary responsibility for day-to-day management and control of Union expenditure under shared management.

As regards the other aspects of the Statement of Assurance, Parliament notes that payments for the policy groups ‘Agriculture and natural resources’, ‘Cohesion’, ‘Research, energy and transport’, ‘External Aid, development and enlargement’ and ‘Education and citizenship’ are materially affected by error and that the supervisory and control systems are only ‘partially effective’. It recalls that, according to the Court, the error rate is probably between 2% and 5% for the policy groups ‘Agriculture and natural resources’ (EUR 56.318 billion), ‘Research, energy and transport’ (EUR 7.966 billion), ‘External Aid, development and enlargement’ (EUR 6.596 billion) and ‘Education and Citizenship’ (EUR 2.153 billion). The most likely error rate in payments estimated by the Court of Auditors for the policy group ‘Cohesion’ (EUR 23.081 billion reimbursed certified expenditure) is above 5%.

Given these recurring problems, Parliament calls on the Commission and the Member States to make annual improvements in the most likely error rates in implementing the EU budget, **the aim being to bring the rate below the materiality threshold, thus securing a positive declaration of assurance from the Court of Auditors.** It recalls its repeated invitations to the Commission to present a proposal for the introduction of mandatory national management declarations (NMDs) issued and signed at ministerial level, made public and duly audited by an independent auditor. A proposal is awaited in September 2011.

**Recovery mechanism:** Parliament welcomes the fact that the Commission has responded to Parliament's requests by including more detailed information about recoveries and financial corrections. Parliament notes that the vast majority of the corrections by value involve financial corrections on the Member States or third countries, rather than recoveries from individual beneficiaries who received Union funds incorrectly. It considers that future rules applicable to the Union budget and programmes should provide that **unspent Union funds are not returned to the Member States if a Member State has not paid back to the Union amounts incorrectly received.** Parliament suspects that, under the present system, which does not include fines and makes it possible to substitute most of the expenditure found to be ineligible by the Commission or the Court of Auditors, the Member States seem to have limited interest in developing efficient control systems that could result in a reduction of their share of Union spending. It reiterates its view that **reallocation of ineligible expenditure should only be allowed if it was discovered by the Member States themselves.** Parliament welcomes the fact that the Commission has made use of the new possibility to immediately suspend payments, in the case of doubt. Parliament is aware of the fact that suspension of payments can sometimes create a trade-off with quick implementation, but is convinced that in cases where high risk is already established, reliability should take precedence over speed.

**Responsibility and transparency:** given what may often be large differences between the Member States' systems of control, Parliament calls on the Commission to make available clear evaluations of efforts by the Member States to detect irregularities so as to make sure that those Member States detecting higher irregularities due to more onerous control systems are not discredited at any point. It asks the Court of Auditors to deliver an opinion on the quality of the national audit authorities as regards shared management, with particular reference to technical expertise and independence. It believes that it is of utmost importance to analyse if certain errors occur in all the Member States with more or less the same frequency and how to deal with this. The plenary proposes that the **Court of Auditors should carry out occasional audits based on the same matrix model so that all 27 Member States would be audited for a specific policy area** which would allow the quality of controls to be evaluated comparatively. Parliament also stresses the need for transparency in the way that Union expenditures are implemented by Member States. In this regard, it calls on the Commission to make the Member States' annual summaries publicly available to present a meaningful picture of the financial management performance of the latter.

**Tolerable risk of error:** even if control systems cannot aim at zero risk in all spending areas, not only because it would be extremely expensive, but also because it is unlikely that zero risk in all spending areas will ever be achieved, Parliament accepts that a certain risk of error will always exist when implementing any spending programmes. It reaffirms that the Commission must pursue a **zero-tolerance approach** to all cases of mismanagement and fraud. It calls on the Commission to identify weaknesses in present management and control systems as well as to analyse the cost and benefits of various possible changes. It also calls for a study of the distinction between the materiality threshold, which is associated with the holding of an audit and therefore subject to assessment by the Court of Auditors, and the acceptable error rate, which is a concept associated with internal audits for which the Commission is responsible. Parliament regrets that the Commission uses the notion 'tolerable risk of error' exclusively to manage the risk of error and as a basis to decide what level of irregular use of funds should be considered as acceptable ex-post. This concept of 'tolerable risk of error' would include in the Financial Regulation a requirement for the Commission to match spending proposals with an assessment of the irregularity risks.

Parliament also calls for:

- the strengthening of the Commission's Internal Audit Service (IAS);
- the introduction of a single audit model whereby audits are carried out, recorded and reported to a common standard (single audit);
- transparency measures with the creation of a single and comprehensive online system (a central database) which can be accessed easily by any individual and would therefore allow the public to have easy access to full and complete information about the expenditure of the Union by budget line and by beneficiary;
- the review of the evaluation systems which evaluate the effectiveness of expenditure programmes to assess whether they are adding value, delivering value for money, and achieving the objectives for which they were established.

**Whistleblowers:** in an amendment adopted in plenary, Parliament calls on the Commission to review the briefing and training given to staff regarding 'Title II: Rights and Obligations of officials' of the Staff Regulations so as to ensure that all staff are fully conversant with its terms and particularly with the obligations in respect of **whistleblowers**. Parliament notes that the last reform of the Staff Regulations did not adapt its provisions to a changed working environment nor lead to a remuneration policy that provides for equal pay for equal work. It notes in particular that the Staff Regulations still include outdated perks and benefits and, therefore, they need to be reviewed.

**2) Specific findings:** Parliament make a series of comments on the main areas of expenditure which were problematic during 2009:

- **Agriculture and natural resources (EUR 56.3 billion):** although Parliament welcomes the fact that the Commission has succeeded in bringing the error rate down to around 2% in recent years, it notes that the error rate increased slightly in 2009. It calls upon the Commission to take steps to ensure that the reduction in the error rate becomes a trend that is maintained year-on-year so as to ensure that the irregularities cease. Measures are proposed on a technical level to improve the reliability of controls, review the guidelines as regards the work to be performed by certification bodies, and to simplify procedures;
- **Cohesion (EUR 35.5 billion):** once again, Parliament calls for the management of cohesion expenditure to be shared with the Member States who co-finance the projects. It recalls that the Court of Auditors estimates that the most likely error rate for the Cohesion policy area is above 5%, a rate that is declining. Once again, it notes the complexity of the regulatory framework of Cohesion, requiring conformity with a number of different levels of power. Parliament also notes that a major proportion of the estimated error rate is attributable to eligibility errors and serious failures to respect public procurement rules. Member States are called upon to cooperate with the Commission to overcome the difficulties identified. To increase Member States' responsibility in **shared management**, Parliament invites the Commission, in connection with the revision of the Financial Regulation, to look into the effectiveness of NMDs as incentives and/or deterrents and the advantages and improvements they could bring in terms of sound financial management. Such an instrument should enable the Commission to fulfil its duty to supervise the Member States and to ensure an effective functioning of the national management and control systems. The obligation to publish the NMDs should also promote a greater level of responsibility and accountability of national authorities;
- **Research, energy and transport (EUR 8 billion):** Parliament notes that the most likely error rate estimated by the Court of Auditors for this policy area is between 2% and 5% and that the main source of error in this policy group remains the reimbursement of overstated personnel and indirect costs to research projects. Parliament is worried about the fact that the Court of Auditors found errors in 43% of the audited cost statements - both in 2009 as well as in 2008. It invites the Commission to ensure that the independent auditors who have incorrectly certified cost statements are made aware of the eligibility criteria for declared costs. Research funding rules should be further

simplified. Parliament asks the Commission rapidly to resolve prior situations and to base the FP8 on a radical change of view including the introduction of a bonus system partially replacing the current upfront payment system and better access to venture capital in order to enhance efficiency;

- **External aid, Development and Enlargement (EUR 6.6 billion):** Parliament calls on the Commission to closely cooperate with candidate and potential candidate countries in order to effectively improve management and control systems, to promote best practices for fighting fraud. Overall, although the control systems work well, Parliament calls on specific DGs to review their control methods;
- **Education and Citizenship (EUR 2.2 billion):** Parliament invites the Commission to continue to reinforce the checks on closures to ensure that errors are detected and corrected and prevent the reoccurrence of previously identified errors;
- **Economic and Financial Affairs (EUR 700 million):** Parliament recalls that the majority of the actions under FP6, FP7 and CIP are funded through a grant agreement with the Commission. In this context, the main risk to regularity is that eligible costs in the cost statements are overstated and that this is not detected by the Commission's supervisory and control systems. Parliament calls on the Commission to examine a series of measures aiming to improve the quality of its ex-ante controls on the procurement procedures.

**3) Priority actions:** Parliament calls on the Commission to present to Parliament's competent committee a plan presenting the actions that it intends to take regarding national management declarations (NMDs), the completion of the Commission's governance structure, systematic interruption and suspension of payments as well as lifting of the measure and the improvement of the corrective mechanisms. It also calls, in particular, for the **reform of the current discharge procedure**. The Commission is called upon to organise an interinstitutional discussion with a view to embarking on a comprehensive debate on the current discharge procedure system. Proposals should be put forward proposals for reducing the periods involved in the discharge process, so that the vote in plenary can be held in the year following the financial year under review.

Parliament also focuses on the following issues:

- **national management declarations** which are to be understood as an instrument facilitating greater national accountability for Union spending by giving both national parliaments and national audit institutions an opportunity to participate in ensuring legality, regularity and performance of Union spending. These declarations (requested by the Parliament since 2005) should be issued and signed by each national finance minister. These declarations already exist in some Member States (namely Denmark, the Netherlands, the United Kingdom and Sweden). Parliament underlines that not only the Union manager but also the national manager should be held to account for the spending **in as far as about 80% of the budget is implemented by national authorities**;
- **completion of the Commission's governance structure:** the Commission is invited to complete its governance structure by adding the signature of the responsible Commissioner to the Director-General's Annual Activity Report and by having the Synthesis Report - which also shall include a "scoreboard" on the quality of controls per Member State and policy area - signed by the President of the European Commission;
- **systematic activation of interruption and suspension of payments as well as lifting of the measure:** Parliament invites the Commission to introduce a systematic activation of interruptions and suspensions of payments as soon as evidence suggests a significant deficiency in the functioning of the Member States' management and control systems;
- **improvement of corrective mechanisms:** the resolution insists that the Commission improve the corrective mechanisms ensuring that the financial consequences of incorrectly made payments are borne by the beneficiaries and not the taxpayers;
- **establishment of a performance evaluator:** the Commission is invited to appoint a "performance evaluator" with responsibility for the preparation of the evaluation report. The report shall be drawn up so that the relation between the key performance indicators, their legal/political basis, the amount

of expenditure and the results achieved is clear and transparent, that the methodology to be used for the production of this report should be audited by the IAS which should also assess the work done, and that the key performance indicators used by all departments in the Commission shall be publicly available. It should be presented in Plenary;

- **introduction of a new spending logic:** lastly, Parliament calls for the introduction of a new spending logic aimed at improving the quality of spending and ensuring that funds provided by Union taxpayers are spent both correctly and wisely.