2010 discharge: EU general budget, Section III, Commission

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FOLLOW-UP TO THE 2009 COMMISSION DISCHARGE: FOLLOW-UP ON THE EUROPEAN PARLIAMENT AND COUNCIL RECOMMENDATIONS

Preliminary comment: this document is the Commission's report to the European Parliament (EP) and the Council on the follow-up to the discharge for the 2009 financial year, pursuant to Article 319(3) of the Treaty on the Functioning of the European Union. The Commission's replies to the key requests from the EP and the Council are available in two Commission Staff Working Documents (SEC(2011)1350 and SEC (2011)1351 attached to this procedure file).

This report summarise the Commission's responses to the main requests of the European Parliament and the Council (a total of 298).

CONTENT: the report indicates that in the EP discharge resolutions the Commission has identified a total of **213 requests addressed to it by the European Parliament.** For 89 of these, the Commission agrees to take the action requested by Parliament. The Commission considers that for 112 requests the required action has already been taken or is ongoing, though in some cases the results of the actions will need to be assessed. Lastly, for reasons related to the existing legal framework or its institutional prerogatives, the Commission cannot accept **12 requests**.

The Commission has also identified **85 requests addressed to it by the Council** in its recommendation to the Parliament. For 43 of these the Commission agrees to take the action requested by the Council. The Commission considers that for 42 requests the required action has already been taken or is ongoing, though in some cases the results of the actions will need to be assessed. **There are no requests that the Commission cannot accept** for reasons related to the existing legal framework or its institutional prerogatives.

The Commission's replies to the requests of the EP and Council may be summarised as follows:

1) Priority actions: in its resolution, the Parliament specifically highlighted seven priority actions of institutional and organisational nature.. These relate to the following points:

1. **reform of the current discharge procedure**: the shortening of the whole discharge procedure is part of the discussion on the current review of the Financial Regulation (FR). The Commission has already invited the Discharge Authority, the Council and the European Court of Auditors to set up a working group in order to elaborate on a comprehensive reform of the discharge procedure, aiming at a shorter timetable that leaves sufficient time for the institutions involved to prepare and present their respective contributions;
2. **national management declarations**: to further reinforce Member States' accountability under Article 317 of the TFEU, the Commission included in its proposal for the triennial revision of the FR (Article 56) the requirement for the responsible bodies accredited in the Member States to provide annual management declarations **covering all funds in shared management**, following an approach similar to that successfully applied in the agricultural sector. In the Commission's view, management declarations, audited by an independent auditor, are more appropriate to obtain assurance from Member States than the present national declarations;

3. **completion of the Commission's governance structure**: the College delegates budget implementation to the Directors-General and Heads of Service, who are responsible for the sound and efficient management of resources and for ensuring effective control systems in their services. They report on the performance of their duties in the Annual Activity Reports (AAR), which include a signed declaration of assurance covering the legality and regularity of financial transactions. The Commission considers that the management responsibility assigned to Directors-General should not be diluted by adding signatures of Commissioners or the President;
4. **systematic activation of interruption and suspension of payments**: interruptions of payment deadlines are a more flexible instrument to have Member States to correct weaknesses, as they are immediate and do not require a formal decision by the College. The Commission has taken steps to ensure that this instrument is used more systematically. This policy on interruption and suspension of payments has been illustrated in the examples brought to the Committee on Budgetary Control, which clearly show that the sequence in the procedural and legal steps triggering interruptions and suspensions is followed systematically and without disruption by the Commission;
5. **improvement of corrective mechanisms**: for a number of years already, financial corrections have been imposed when necessary, the quality of the Member States' data on financial corrections and recoveries has been improved and the Commission has made efforts to promote the use of best practices so to ensure an improved recovery mechanism at Member State and EU level. The Commission underlines that, in the Cohesion domain, all amounts which have been agreed upon by Member States as financial corrections will be implemented. In case the Commission does not have sufficient assurance that all corrections have been effectively implemented, it will suspend the closure process and request appropriate actions by the Member State. The report also indicates that, even where this is not possible because the financial corrections only relate to deficiencies in the Member States' management and control systems, financial corrections are an important means to improve these systems and, thus, to prevent or detect and recover irregular payments to final beneficiaries. The possibility to interrupt payment deadlines and impose financial corrections also acts as an incentive for the Member State to improve the management and control systems and implement the necessary financial corrections themselves. The proposals for the next generation of programmes include proposals aiming at **compelling Member States to recover financial corrections from final beneficiaries each time this is possible**. The aim is to allow the Commission to exclude from EU funding any expenditure which is in breach of applicable Union and national law;
6. **performance evaluator**: the Commission will present, before the end of 2011 the first evaluation report under Article 318 of the TFEU. The Commission will use its established working methods for publishing and transmitting the report to the EP;
7. **introduction of a new spending logic**: the Commission considers that obtaining an overall statement of assurance for each Multiannual Financial Framework would not add value to the existing annual governance structure under which a full and agreed accountability process for spending is already in place. For multi-annual programmes, the Commission monitors the resulting residual error rate after corrections, i.e. at the end of the control cycle.

2) Sectorial issues: the Commission states that it has put in place an accounting system that has for the last 3 years resulted in an unqualified opinion on the reliability of the accounts. Through the establishment of an *ex-ante* approval procedure of the management and control systems and the setting up of programme audit authorities, the Commission is now in a position to assure the legality and regularity of operations audited independently.

As far as a **tolerable risk of error** is concerned, this concept is meant as a managerial tool to measure effectiveness of controls. The Commission does however pursue a **zero-tolerance** approach to all cases of mismanagement and fraud. It also indicates that that it is fulfilling the requirements of transparency. The Commission is of the opinion that the Synthesis Report is not the right instrument to report on the monitoring of the follow-up by Member States of their obligations to publish data on beneficiaries in a timely manner. Such follow-up would best be annexed to the DGs' AARs.

The Commission then addresses the following sectorial issues:

- **agriculture and natural resources**: the Commission considers that the reduction in the error rate in the domain of Agriculture can already be considered as a trend. In this sense, an error rate which over the recent years is close to 2% confirms the overall positive assessment of previous years. The Commission will of course continue its efforts to reduce the error rate for agriculture expenditure below materiality, in particular by concentrating efforts in areas of expenditure with a higher incidence of errors, such as certain rural development measures.The Commission is on a continuing basis working, together with Member States, on further improving the functioning of the Integrated Administration and Control System (IACS) and the **reliability of the Land Parcel Identification System (LPIS)** therein. Whilst 2010 was the first year of application, this exercise has proved useful for Member States as regards the identification of areas requiring attention;
- **cohesion**: regional policy has been particularly concerned by irregularities linked to incorrect application of public procurement rules. The Commission is taking action to overcome identified difficulties. For the 2007-2013 period the Commission has made a significant upfront investment in terms of guidance, training and support to the Member States. It will maintain its efforts in this respect, and best practices are being exchanged. The Commission calls on the Member States to already demonstrate their commitment to improving accountability by reinforcing where necessary control measures, in particular as regards management verifications before certifying expenditure to the Commission and by following its guidance on annual summaries to make them a valuable additional source of assurance. While the legal base for the annual summaries does not require an overall assurance statement, the Commission encourages all Member States to follow the example of those that in 2010 included assurance statements;
- **research, energy, transport, economic and financial affairs and education and citizenship**: while waiting for the implementation of the new proposals for the next Framework Programme, the Commission has addressed the problems caused by complex eligibility rules by adopting a Decision on 24 January 2011on three measures for simplifying the implementation of the FP, also related to research funding for SMEs. The **use of average personnel costs by beneficiaries** has been facilitated within the existing legal framework. The simplification measures introduced are expected to further reduce the error rate. The Commission has devised a control strategy aimed to ensure the legality and regularity of expenditure on a multiannual basis for the detection of any errors that could not be identified before making the payment. This is achieved by ex-post auditing and rigorously recovering any amount found to be overpaid to the audited beneficiaries. As regards education, the new Education Europe programme, Erasmus for All, will also bring about a significant simplification through the elimination of sub-programmes, a reduction in the overall number of activities and an increased use of lump sums;
- **external aid, Development and Enlargeme**nt: even if progress has been made in fighting corruption, conflicts of interest and other bad practices, these aspects must still be considered to be a problem. The legal framework has progressively been put in place and the renewed institutions and systems becoming operational. A culture of political accountability is emerging through recent judicial initiatives taken in the beneficiary countries. Concerning humanitarian aid, the Commission is increasing the monitoring of the use of humanitarian procurement centres and has launched a working group on the assessment of humanitarian aid proposals in February 2011. The methodology for ex-post controls has been completed by the Service for Foreign Policy Instruments (FPI) - successor of DG RELEX- for operational expenditure and will be further improved throughout 2011 based on experience gained;
- **agencies:** the discussions within the Inter-Institutional Working Group on Agencies aim at improving agencies' efficiency and effectiveness overall and streamlining the general governance structure within the agencies and in relation with the EU institutions. Its work is expected to be finalised by the end of 2011. Concerning a possible merging of the College of European Police (CEPOL) with Europol, the Commission will present the outcome of its impact assessment in the course of 2012.