

2011 discharge: EU general budget, Section III, Commission and executive agencies

2012/2167(DEC) - 03/10/2012 - Document attached to the procedure

FOLLOW-UP TO THE COMMISSION DISCHARGE FOR 2010: FOLLOW-UP TO THE EUROPEAN PARLIAMENT'S 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 2010 financial year, pursuant to Article 319(3) of the Treaty on the Functioning of the European Union, Article 147 of the Financial Regulation (FR) and Article 119(5) of the European Development Funds (EDF) Financial Regulation.

The report focuses on the **four priority actions highlighted by the European Parliament** in its general discharge resolutions as well as on other key requests. It is accompanied by two Commission Staff Working Documents (CSWDs) containing the Commission replies to each specific request from the EP and Council (428 in total).

Compared to the [2009 discharge](#) resolutions and recommendation, this represents an increase of 44% of requests addressed to the Commission.

N.B. this summary confines itself to the manner in which the Commission responded to the European Parliament's requests.

CONTENT: the report specifies that out of these 428 requests, a total of 337 are contained in the EP resolution and 91 in the Council recommendation. The Commission **agrees to start new actions on 119 requests** (95 from the EP and 24 from the Council). It considers that **for 283 requests** (217 from the EP and 66 from the Council), the required action has **already been taken or is on-going**. Lastly, for reasons related to the existing legal and budgetary framework or its institutional role or prerogatives, **the Commission cannot accept 26 requests** (25 from the EP and 1 from the Council). A justification is provided in the two attached CSWDs where the Commission has not accepted the requests made by Discharge Authority.

The **Commission's responses to the EP's requests** may be summarised as follows:

1. Priority actions: in its resolution, Parliament specifically highlights four priority actions of institutional accountability and financial nature:

- **Financial engineering instruments (FEIs):** Parliament invited the Commission to closely monitor the use of FEIs through a set of different actions. In February 2012, the Commission sent a staff working documents to the EP which provides an assessment of the experience by both the Commission and the MS in implementing FEIs in Cohesion Policy. Based on available audit results, this document includes lessons learned and measures taken by the Commission and the MS under the current programming period and also those proposed for the future. However, experience has also shown that clearer rules and more guidance are necessary to ensure sound financial management. This is why **the Commission addressed these recommendations by including the concept and rules for leverage and recycling into the proposals for the Common Provisions (CP) of the structural instruments for the 2014-2020 programming period**. It also ensured as

much as possible consistency between the framework for financial instruments under the CP and the one for EU level instruments under the EU FR (and will continue to ensure consistency in the implementing subsequent Delegated Acts).

At the beginning of 2011, the Commission also undertook a comprehensive exercise of gathering information from the Member States to identify the volumes of funding delivered through FEIs and the types of instruments implemented. These exercises showed that the legal framework needed to be improved and the Commission initiated in July 2011 a revision of Council Regulation (EC) No. 1083/2006. This fast track revision ended in December 2011, with the introduction of requirements making the reporting by the Member States on financial and implementation issues a regular, standardized and compulsory procedure under the annual reporting on the implementation of programmes.

- **Accountability chain:** the Parliament invited the Commission to provide the Committee on Budgetary Control (CONT) with a full insight into the MS annual summaries (AS). As a result, all AS were made available to the EP under the discharge procedure. It will continue to do so up to the end of the current 2007-2013 Multiannual Financial Framework.

As for the Commission's political declaration in which it accepts responsibility for the implementation of the EU budget, the **Commission confirms that it fully assumes this responsibility as foreseen in Article 317 of the TFEU**. It formally and collegially adopts the Annual Synthesis Report covering the overall responsibility for the EU budget. The Commission is committed to continuously improve the quality, readability and comparability of the AARs, which are its main accountability and management reporting instrument. However, concerning the request to add the responsible Commissioner's signature to the AAR of his/her related department, **the Commission recalls that this is in contradiction to its internal governance structure**. Based on a decision of the College, the primary responsibility for managing financial and human resources is individually assigned to the Directors General or Heads of Service.

- **Increased use of pre-financing:** the EP called on the Commission to be informed on the increased use of pre-financings between 2005-2010 and to adapt its level in the various programmes for ensuring the necessary float for the beneficiaries to start the project. The increased use of pre-financing over the recent years reflects the spending cycle of multiannual programmes, and is **mostly due to the beginning of the 2007-2013 programming period**. In fact, the level of pre-financings in the various programmes should ensure the necessary float for the beneficiary to start the project, while safeguarding the financial interests of the EU. The EP and Council agreed to amend the rules in the new Financial Regulation (FR) where it will be foreseen that **pre-financing should be regularly cleared following the timing and economic substance of the underlying projects**. Alternatively, for projects exceeding EUR 5 million, the authorising officer shall obtain at least once a year from the beneficiaries information on the cumulative spending. Lastly, the latest information shows that the **global amount of pre-financings has slightly decreased in 2011**, which confirms that the increase witnessed in the early years of the 2007-2013 Financial Framework is also a normal development linked to the spending profile of multiannual programmes.
- **Effective sanctioning mechanisms in the area of Cohesion policy:** the EP invited the Commission to create effective sanctioning mechanisms by making net reductions a rule, abolishing retrospective projects as well as obliging Member States to recover ineligible expenditure from beneficiaries. **The Commission considers that these sanctioning mechanisms should be applied with minimal scope for discretion, involve adequate reporting from Member States** and allow it to impose penalties, discontinue non-compliant operational programmes and bring legal action against Member States in breach of their obligations under Article 258 TFEU. It also considers that the preventive and corrective measures already at hand (interruptions, suspensions, financial corrections) contribute effectively towards these aims although it acknowledges that the tools it has at its disposal should be further strengthened in some areas. The Commission's legislative proposals

for the 2014-2020 period put focus on results and effectiveness of the Cohesion policy. The Commission has also made a proposal to reinforce the accountability of Member States and its supervisory role by clarifying the use of different sanctioning mechanisms at its disposal. However, **it did not propose a system to impose penalties on Member States or to discontinue operational programmes in Member States or regions which have repeatedly failed to implement Structural Funds and the Cohesion Fund correctly.** It considers that its existing proposals for improved tools, including net corrections, allow it to supervise adequately the implementation of each programme at the level of Member States.

2) *Horizontal issues*: several questions were addressed in this regard:

- **Corporate governance of the Commission**: Parliament requested the President of the Commission to sign the accounts and to present together with them a description of the risks which could affect the achievement of the policy objectives as well as a statement in which the President, together with the College of Commissioners, accepts responsibility for risk management and a formal Corporate Governance declaration. The Commission has already expressed its views about the way it takes overall political responsibility in this regard. As for the signature of the accounts by its President, the Commission points out that any additional statement by the President and/or the other Members of the College, which remain politically responsible would dilute the clear assignment of the actual management responsibilities to the Director-Generals.
- **Responsibility of Member States**: Parliament requested the Commission to present a proposal for the introduction of mandatory national management declarations. As a result of the negotiations on the new FR, **it is now foreseen that Member States may provide to the Commission declarations, signed at the appropriate level**, based on the information submitted annually to the Commission (accounts, management declarations, annual summary of the final audit reports and of controls, audit opinion). These **voluntary declarations** would be issued in addition to the mandatory management declarations as from 2014.
- **European Financial Stabilisation Mechanism (EFSM)**: the Commission was asked to report to EP and Council twice a year on the risk that is incurred on the Union's budget by its guarantee to the EFSM. The cash management of the Commission and its right to draw on Member States for contributions, under the provisions of Article 12 paragraph 3 of Regulation 1150/2000, ensures timely payment of all obligatory expenditures, including debt service for the bonds issued by the EU. Any funds mobilised in this way would be proposed to be budgeted under the line 01 04 01 03 "European Union guarantee for Union borrowings for financial assistance under the EFSM". The EP as an arm of the Budgetary Authority would be part of this decision.
- **Transparency**: the EP requested that all grant payments from the EU budget should be recorded in a user-friendly online database, paying due regard to data protection law. The Commission considers that it is fulfilling the requirements of transparency as defined in the FR, with due regard to data protection law and European Court of Justice case law. This information is available through the Financial Transparency System (FTS), a central online search engine.

3) *Specific issues*: the Commission highlights the following observations:

- **performance**: the EP recalls its suggestion that the Commission should appoint a "performance evaluator" in order to establish clear ownership of its Evaluation report. The Commission considers that there is no lack of ownership of the evaluation report, as it is adopted by its College and reiterates its commitment to present the evaluation report in full compliance with Article 318 of the TFEU;
- **cohesion**: the EP called on the Commission to analyse the weaknesses in the Member States and regions affected by high error rates. The Commission indicates that the Directors-General for Regional Policy and Employment have put reservations on a significant number of programmes in their 2011 AARs and subsequently interrupted and/or suspended payments to these programmes. This approach follows the general objective to strengthen the Commission's supervisory role. The

EP also called on the Commission **to resume interrupted payments only if sufficient appropriate audit evidence gathered on the spot proves that weaknesses were remedied**. The Commission underlines that it does not resume payments until it has confirmation that systems are corrected for the future and that financial corrections have been implemented on past expenditure, based on formal written commitments;

- **agriculture and natural resources:** the EP invited the Commission to take the necessary measures to ensure that bartering arrangements if to be continued at all are transparent and cost effective. As regards the food aid programme for the most deprived people, Regulation (EU) No 121/2012 allows the continuation of the current scheme until the completion of the 2013 annual plan. According to the MFF proposal for 2014-2020, as of 2014 the food aid programme will be financed by the Cohesion budget;
- **external aid including the European Development Funds (EDF):** concerning the Union's aid to Haiti, the EP asked the Commission to ensure better coherence and complementarity between humanitarian aid and development aid. In parallel, Parliament requested a list of the projects carried out in Haiti with a detailed assessment of their current situation. The instructions for EDF/DCI for the period 2014-20 sent to EU delegations aim at ensuring a comprehensive, consistent and effective approach towards partner countries and enhancing coordination and complementarity between geographical and thematic programmes/instruments. Parliament also called on the Commission to accompany budget support instruments with **rigorous and well-defined conditions**. This had already been addressed in the Commission's communication on the future approach to EU budget support to third countries and more specifically in guidelines for designing and implementing budget support programmes. As part of these guidelines, the Commission prepared together with the Member States a common risk assessment framework covering political governance, macroeconomic stability, public financial management, corruption etc. This framework has proved to be a useful tool for designing and implementing budget support operations. Lastly, as for the **integration of the EDF into the Union budget**, the Commission considers that, as the Cotonou agreement is due to expire in 2020, the 2014-2020 period should rather be used for redefining the principles and the architecture of the EUACP partnership and for preparing the integration of cooperation with ACP countries into the budget for the post Cotonou period;
- **decentralised agencies / joint undertakings:** several EP requests concern issues that have been discussed by the Inter-Institutional Working Group on agencies (IIWG) and are addressed in the common approach recently adopted by the EP, the Council and the Commission. The Commission will present a roadmap on the implementation of the Common Approach with concrete timetables for the planned initiatives by the end of 2012. It will indicate in this roadmap how it will follow-up on the issues raised by the EP. Agencies will be responsible for the implementation of those issues which are within their remit.