

Basic information**2010/2142(DEC)**

DEC - Discharge procedure

2009 discharge: EU general budget, Section III, Commission

Subject

8.70.03.07 Previous discharges

Procedure completed

Key playersEuropean
Parliament**Committee responsible****CONT**

Budgetary Control

RapporteurCHATZIMARKAKIS Jorgo
(ALDE)**Appointed**

23/03/2010

Shadow rapporteur

FJELLNER Christofer (PPE)

IVANOVA Iliana (PPE)

IVAN Cătălin Sorin (S&D)

STAES Bart (Verts/ALE)

SØNDERGAARD Søren Bo
(GUE/NGL)**Committee for opinion****AFET**

Foreign Affairs

Rapporteur for opinionDE KEYSER Véronique
(PSE)**Appointed**

27/11/2007

DEVE

Development

BERMAN Thijs (S&D)

05/10/2010

INTA

International Trade

The committee decided not
to give an opinion.**BUDG**

Budgets

The committee decided not
to give an opinion.**ECON**

Economic and Monetary Affairs

The committee decided not
to give an opinion.**EMPL**

Employment and Social Affairs

ŐRY Csaba (PPE)

22/09/2010

	ENVI Environment, Public Health and Food Safety	HAUG Jutta (S&D)	05/10/2010	
	ITRE Industry, Research and Energy	The committee decided not to give an opinion.		
	IMCO Internal Market and Consumer Protection	SCHALDEMOSE Christel (S&D)	01/12/2010	
	TRAN Transport and Tourism	GROSCH Mathieu (PPE)	10/11/2010	
	REGI Regional Development	GEIER Jens (S&D)	28/10/2010	
	AGRI Agriculture and Rural Development	The committee decided not to give an opinion.		
	PECH Fisheries	The committee decided not to give an opinion.		
	CULT Culture and Education	LØKKEGAARD Morten (ALDE)	27/09/2010	
	JURI Legal Affairs	The committee decided not to give an opinion.		
	LIBE Civil Liberties, Justice and Home Affairs			
	AFCO Constitutional Affairs	The committee decided not to give an opinion.		
	FEMM Women's Rights and Gender Equality	GARCÍA PÉREZ Iratxe (S&D)	28/10/2010	
Council of the European Union	Council configuration		Meetings	Date
	Economic and Financial Affairs ECOFIN		3045	2010-11-17
	Economic and Financial Affairs ECOFIN		3067	2011-02-14
European Commission	Commission DG		Commissioner	
	Budget		ŠEMETA Algirdas	

Key events

Date	Event	Reference	Summary
20/07/2010	Non-legislative basic document published	SEC(2010)0963 	Summary
07/10/2010	Committee referral announced in Parliament		
17/11/2010	Debate in Council		Summary
28/03/2011	Vote in committee		Summary
14/04/2011	Committee report tabled for plenary	A7-0134/2011	
10/05/2011	Decision by Parliament	T7-0194/2011	Summary
10/05/2011	Results of vote in Parliament		
10/05/2011	Debate in Parliament		
10/05/2011	End of procedure in Parliament		
27/09/2011	Final act published in Official Journal		

Technical information

Procedure reference	2010/2142(DEC)
Procedure type	DEC - Discharge procedure
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	CONT/7/03660

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	FEMM	PE452.868	01/02/2011	
Committee opinion	EMPL	PE452.787	02/02/2011	
Committee draft report		PE450.662	07/02/2011	
Committee opinion	DEVE	PE456.782	08/02/2011	
Committee opinion	IMCO	PE456.803	28/02/2011	
Committee opinion	TRAN	PE454.405	01/03/2011	
Committee opinion	LIBE	PE454.527	01/03/2011	
Committee opinion	CULT	PE454.376	08/03/2011	
Amendments tabled in committee		PE460.797	10/03/2011	

Committee opinion	ENVI	PE454.628	16/03/2011	
Committee opinion	AFET	PE460.660	16/03/2011	
Committee opinion	REGI	PE456.599	22/03/2011	
Committee report tabled for plenary, single reading		A7-0134/2011	14/04/2011	
Text adopted by Parliament, single reading		T7-0194/2011	10/05/2011	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	05891/2011	03/02/2011	Summary
Supplementary non-legislative basic document	05893/2011	03/02/2011	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	SEC(2010)0963 	20/07/2010	Summary
Document attached to the procedure	COM(2010)0447 	31/08/2010	Summary
Document attached to the procedure	SEC(2010)0994 	31/08/2010	Summary
Document attached to the procedure	COM(2010)0650 	18/11/2010	Summary
Document attached to the procedure	SEC(2010)1437 	18/11/2010	Summary
Document attached to the procedure	SEC(2010)1438 	18/11/2010	Summary
Document attached to the procedure	COM(2011)0104 	28/02/2011	Summary
Document attached to the procedure	SEC(2011)0262 	28/02/2011	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofA	Court of Auditors: opinion, report	N7-0083/2010 OJ C 303 09.11.2010, p. 0001	09/09/2010	Summary
CofA	Court of Auditors: opinion, report	N7-0087/2010 OJ C 334 10.12.2010, p. 0018	09/09/2010	

Additional information

Source	Document	Date
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European Commission	EUR-Lex	
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Final act	
Decision 2011/0550 OJ L 250 27.09.2011, p. 0031	Summary

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 18/11/2010 - Document attached to the procedure

FOLLOW UP TO THE DISCHARGE TO THE COMMISSION 2008 : FOLLOW UP TO THE RECOMMENDATIONS OF THE EUROPEAN PARLIAMENT

Preamble: this is the Commission's report to the European Parliament and the Council on the follow-up to the [discharge](#) for the 2008 financial year, pursuant to Article 319(3) of the TFEU. The Commission's replies to each specific request from Parliament and Council are available in two Commission staff working documents (SEC(2010)1437 and SEC(2010)1438 appearing on this procedure file.)

CONTENT: this report aims to respond to each question asked by the European Parliament in its discharge decision for 2008. The Commission states that it identified a total of 238 requests made to it by the European Parliament. **For 108 of these the Commission agrees to take the action requested by Parliament.** The Commission considers that for 120 requests the required action has already been taken or is taking place although, 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 10 requests. The Commission has also identified 126 requests made to it by the Council. As regards requests in the resolutions concerning the agencies, most horizontal issues raised are being addressed by the interinstitutional working group on agencies.

The Commission's responses may be summarised as follows :

1) *Horizontal issues:*

- **Statement of assurance:** generally, error rates in the Statement of assurance of the Court of Auditors (DAS) have been reducing in recent years due to concerted action by the Commission. **In some areas (notably cohesion policy), the error rate remains too high.** To reduce error rates, the Commission agrees to do its utmost to set the conditions for an increase in the European Court of Auditors' "green classification" by a further 20% of the budget by 2014. Any development will depend on a number of factors, notably the effect of continuing actions to reinforce control systems plans. In May 2010, Commissioner Šemeta presented his agenda on discharge and audit to the Budgetary Control Committee of the European Parliament. The agenda sets out the priority measures for the mandate of the Commission (until 2014), and includes notably: actions to simplify legislation, the establishment of European Trust Funds, management assurance from the Member States, cooperation with supreme audit institutions and national Parliaments, and **strong action on recoveries and financial corrections.** With regard to the issue of **simplification**, the Commission stresses that simplifying eligibility conditions, targeting expenditure on specific objectives and controlling the error rate to within 2% are sometimes conflicting objectives that must be carefully balanced. By the end of 2010, the Commission will adopt a Communication setting out broad principles for the preparation of post-2013 legislation, including on the balance between control requirements, eligibility conditions and risk. The concept of **tolerable risk of error (TRE)** is a vital part of the agenda, and the Commission has proposed tolerable risk levels towards the middle of the **range 2% to 5%** (the "yellow" zone) for rural development and research, energy and transport. While simplification is important, any simplifications decided take time to filter down into the annual error rates in the DAS and in some areas, such as rural development, will not be enough to reduce the error rate below the materiality threshold without the risk of jeopardising policy objectives. The Commission will present TRE proposals for the other major policy areas: administrative expenditure external aid, development and enlargement in the beginning of 2011 and that it awaits the response of the legislative authority on this matter.
- **Recoveries and suspension of payments:** in the Cohesion area, the data for 2009 as submitted to the Commission in the 1st half of 2010 has improved considerably. The Commission has audited national systems for withdrawals and recoveries in 19 Member States. The remaining will be audited in 2010. The Commission does not hesitate to use, where needed, the new possibility offered by the regulatory framework for 2007-2013 which allows the Commission immediately to interrupt individual payments before starting a suspension procedure. The total value of financial corrections in these areas amounted to EUR 3.8 billion for 2008 and 2009 compared to some EUR 3.6 billion during the years 2000-2007. Comprehensive information on recoveries from final beneficiaries and financial corrections imposed on Member States is already available in agriculture.
- **Annual Summaries and National Management Declarations:** the Commission considers that the management declarations proposed for the revision of the Financial Regulation are a more appropriate way of obtaining assurance from Member States than national declarations signed at political level. The Commission will, however, continue to encourage Member States to work on voluntary political assurance statements, covering all EU funds they receive, which document the controls and assess the effectiveness of their management and control systems.
- **Control systems:** the Commission has taken action to further improve the quality of Annual Activity Reports (AARs) and in particular the reasoning and evidence presented underlying the assurance provided. The 2009 AARs show a noticeable improvement across the Commission, both in terms of the quality of the evidence presented in support of the assurance and the readability of the reports. The Commission considers that the system implemented has reached maturity and that, globally, it provides the Commission and the other Institutions with a clear picture of the effectiveness of its internal control systems.
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- **Political responsibility and administrative responsibility at the Commission:** the Commission has announced a revision of the Code of Conduct for Commissioners in its political guidelines. Concerning the disclosure of beneficiaries of EU funds, the Commission and the Member States' administrations already provide that information to the public.

2) Sectoral issues:

- **Agriculture and natural resources:** the constant improvement of the Integrated Administration and Control System (IACS) is confirmed by the results of the conformity audits which the Commission has carried out over the past few years in Member States as well as by the low error rate indicated in the control statistics which it receives from Member States. All deficiencies found are followed up through conformity clearance procedures which ensure that the risk to the EU budget is adequately covered. As regards rural development, and notably agri-environmental measures, the Commission has taken several steps to simplify existing rules and to ensure effective and efficient implementation of the control rules.
- **Cohesion, employment and social affairs:** an indication on the results of the reinforced control framework is the Commission's audit of a sample of projects under the 2007-2013 period. The first preliminary results of this inquiry (based on payments until May 2009) reveal a clear decrease of the estimated error rate that suggests that actions taken are sound. Nevertheless, this result should be read with prudence.
- **Internal policies, including research:** the controls applied in the research area, including the audit strategy, the thorough implementation of its results and the correction of systematic audit findings for non-audited contracts (extrapolation) provide for a stringent control of the costs claimed, which has resulted in a reduction of the error rates over time. In the area of education, the Commission has sent updated guidance relating to the performance of secondary controls to the national authorities in December 2009. It has also reinforced its on-the-spot visits.
- **External actions, NGOs and development:** the Commission will continue to improve its supervisory and control systems, including improvements in its audit strategy and planning at EuropeAid. It fully supports the Court of Auditors' requests to obtain necessary supporting evidence from UN organisations. The Commission agreed with the UN in April 2010 that additional information, including extracts from internal and external audit reports, could be made available on request. It has also proposed to set up Trust Funds for external actions, which would intervene in emergency, post-emergency crisis operations or for thematic actions. Lastly, the Commission is revising its guidelines on budgetary support, where particular attention is given to supervisory and control systems.
- **Administrative expenditure:** in this area, most of the work focuses on the individual tight information system in order to address the weaknesses identified by the Court concerning the transfer of acquired pension rights.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 31/08/2010 - Document attached to the procedure

DISCHARGE 2009 – COMMISSION: ANNUAL REPORT ON INTERNAL AUDITS

This Commission Staff working document aims to complete the Annual Report of the Internal Audit Service (IAS) – 2009, which is presented at the same time (see the summary of COM(2010)0447).

This document contains a technical annex of audit engagements finalised by the IAS in 2009. It sets out a series of tables on the audits of the Directorates General (DG) of the Commission and the recommendations made to each of them to improve its governance.

In this synthesis report, the Commission also takes a position on the horizontal questions raised by the Internal Auditor, the European Court of Auditors, the Discharge Authority, and those identified by the audit committee or the Director-General of DG Budgets in the global report.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 17/11/2010

The Council took note of the presentation by the President of the Court of Auditors, Mr Vítor Caldeira, of the Court's annual report on the management of the EU's general budget.

The report, which covers the budget for 2009, indicates progress in some areas of budgetary management, in particular as regards cohesion policy expenditure, though the Court's opinion on the legality and regularity of underlying transactions remains unfavourable as in previous years.

The Council accordingly called on all parties involved in the management of the EU budget to persist in their efforts to improve controls and to reduce margins of error in budgetary payments.

It asked the Permanent Representatives Committee to examine the report in greater detail, and to oversee the preparation of a recommendation to the European Parliament on the discharge to be given to the Commission for implementation of the 2009 budget.

The Council is expected to adopt the recommendation at its meeting on 15 February 2011.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 03/02/2011 - Supplementary non-legislative basic document

In accordance with Council Regulation (EC) No 58/2003 laying down the statute for executive agencies to be entrusted with certain tasks in the management of Community programmes (see [CNS/2000/0337](#)) and with Commission regulation (EC) No 1653/2004 on a standard financial regulation

for the executive agencies pursuant to Council Regulation (EC) No 58/2003 (as last amended by Commission Regulation (EC) No 651/2008 of 9 July 2008), the Council is required to draw up recommendations to the European Parliament on a discharge to be given to the executive agencies.

Having examined the revenue and expenditure account for the financial year 2009 and the balance sheet at 31 December 2009 and the report by the Court of Auditors on the annual accounts of the Executive Agencies, the Council recommends that, in light of its examination, the **European Parliament should give discharge to the Director of each Agency** in respect of the implementation of the budget for the financial year 2009. It states that for each Agency the annual accounts present fairly, in all material aspects, the financial position as at 31 December 2009 and the results of operations and cash-flows for the year then ended, in accordance with the provisions of the Executive Agencies' Financial Regulation, and that, on the other hand, the underlying transactions for the financial year ended on 31 December 2009 are, in all material respects, legal and regular for the six Agencies.

The Council considers that a certain number of observations should be taken into account when granting discharge:

1. as regards the **Education, Audiovisual and Culture Executive Agency**, the Council reiterates its request to the Executive Agency to ensure more transparent and non-discriminatory recruitment procedures, by determining a priori the thresholds to be met by candidates to be invited to an interview or to be put on the reserve list;
2. as regards the **Executive Agency for Competitiveness and Innovation**, the Council notes with concern that, similarly to previous years, the Executive Agency's initial budget for 2009 was reduced by almost 11% in the fourth quarter mainly due to overestimated staff needs. It invites both the Executive Agency and the Commission to adopt a more realistic and effective approach when planning activities and related resources. Furthermore, the Council is concerned about the shortcomings identified by the Court in the Executive Agency's recruitment procedures and recalls the need to ensure their full transparency;
3. as regards the **Executive Agency for Health and Consumers**, the Council notes with concern that the level of carry-overs and the cancellation rate were high and calls on the Executive Agency to intensify its efforts to improve budget planning and implementation, thus complying strictly with the budgetary principle of annuality;
4. as regards the **Trans-European Transport Network Executive Agency**, the Council invites the Executive Agency to improve its financial programming, in order to limit the appropriations carried over to the next financial year to the minimum necessary, in line with the budgetary principle of annuality;
5. as regards the **Research Executive Agency**, the Council calls on the Executive Agency to improve the various weaknesses identified by the Court in the planning of its activities and human resources, and to comply with the budgetary principle of annuality when implementing its budget. It calls on the Executive Agency to improve its procedures for the follow-up of the use of appropriations and to take all necessary steps in order to avoid irregular transactions and carry-overs. Lastly, it invites the Executive Agency to take duly into account the remarks made by the Court concerning the weaknesses identified in its recruitment procedures and in particular with regard to the selection process;
6. as regards the **European Research Council Executive Agency**, the Council encourages the Executive Agency to continue to improve its budget forecasts management based on realistic assumptions. It notes the fact that the Executive Agency has in several situations not fully complied with the budgetary principle of annuality and welcomes the corrective measures suggested by the Executive Agency. Moreover it notes that the Executive Agency has put at risk the transparency of recruitment procedures by neither establishing the thresholds to be met, nor the maximum number of candidates to be put on the reserve lists, nor their period of validity. The Council stresses the need for justified and documented selection board decisions and for corrective measures to be put in place.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 18/11/2010 - Document attached to the procedure

FOLLOW-UP TO THE 2008 DISCHARGE TO THE COMMISSION:

FULL REPLIES TO REQUESTS FROM THE EUROPEAN PARLIAMENT :

This Commission Staff working paper completes the report from the Commission to the European Parliament and the Council on the follow-up to 2008 Discharge. It presents in detail the answers to the 238 specific requests made by the European Parliament in its [resolution of 5 May 2010](#), in the form of an annex to the general report.

A brief report of these responses may be seen in the summary of document COM(2010)0650.

This technical working document from the Commission is intended to provide detailed responses which are outlined in the main COM document.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 28/02/2011 - Document attached to the procedure

In respect of the Treaty, the European Court of Auditors (ECA), the EU's external auditor, provides annually a report containing the Statement of Assurance (DAS) on the reliability of the accounts and the legality and regularity of transactions.

On 9 November 2010, the report on the 2009 EU Budget was presented to the Council and the European Parliament. The Commission informed Member States of the Court's findings related to shared management transactions and asked them to provide replies to the ECA's findings. The letter sent to Member States contained 3 annexes:

- **Annex I** contained a questionnaire based on the paragraphs in the European Court of Auditors' 2009 Annual Report referring to each Member State.

- **Annex II** was a questionnaire based on the findings made by the Court during missions to Member States, describing the nature of the error and the transaction value.

Both annexes included questions referring to issues such as if action had been taken or not, the timing of any action taken, as well as issues regarding the completion of the action and any other comments.

- **Annex III - Annex III A and B** consisted of a two part: reply to some general questions concerning the shared management chapters of the report and general comments concerning the 2009 Annual report.

This Commission Staff Working Document summarises in particular the statements and replies to Annexes I and III.

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.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 03/02/2011

In accordance with Article 319(1) of the Treaty on the Functioning of the European Union (TFEU), the Council approved a recommendation concerning the discharge to be given to the Commission for the implementation of the general budget of the European Union 2009.

Analysis of expenditures:

- revenue amounted to EUR 117 625 569 759.42
- expenditure disbursed from appropriations amounted to EUR **116 578 956 036.54**
- cancelled payment appropriations amounted to EUR 2 790 917 571.71
- appropriations for payments carried over from 2009 to 2010 amounted to EUR 1 758 859 611.37
- positive budget balance amounted to EUR 2 264 213 443.61
- cancelled payment appropriations for the financial year amounted to EUR 1 688 491 608.32.

EUR 1 782 055 939.84 (84%) of the EUR 2 131 805 682.01 in appropriations for payments have been used.

Based on the observations contained in the report of the Court of Auditors, the Council recommends the European Parliament to **give a discharge to the Commission** in respect of the implementation of the EU budget for the financial year 2009.

DAS (Statement of Assurance): the Council welcomes the Court's Statement of Assurance (DAS) for the financial year 2009 which shows evidence of improvements in the implementation of the EU budget as a whole. It regrets, however, that payments from the budget continued to be materially affected by error, that supervisory and control systems for payments remained to be only partially effective, and that the principal objective of obtaining a positive DAS on the underlying transactions was still not achieved.

The Council welcomes the fact that, for the third consecutive year, the annual accounts of the European Union gave a fair presentation of the financial position and the results of operations and cash flows. Nevertheless, the Council draws attention to the necessity to continue monitoring closely the management and control of funds, in particular concerning the policy group "Agriculture and natural resources".

As in previous years, the Council stresses the need to concentrate efforts on simplification of programme structures and management systems. It calls on the Commission to propose, where appropriate, measures aiming at reducing the complexity of rules, in particular of those governing the practical administration of programmes. In addition, a thorough scrutiny of the inherently complex EU legislation on public procurement would be of particular importance. The Council recalls the importance of transparent and functioning systems for recovery and financial corrections, both in the Commission and in Member States, in the context of the multiannual character of expenditure. It encourages the Commission to immediately interrupt and suspend payments when it is duly justified, and to strictly follow up all corrective action.

Supporting information to the DAS:

- **Reliability of the accounts:** although the Council welcomes the favourable opinion given by the Court on the reliability of the annual accounts, it takes note of the missing or incomplete information in the management representation letters of three entities whose accounts are consolidated with those of the Commission. The Council encourages the Commission to assure, also in the coming years, that the high quality level of the EU accounts is maintained.
- **Legality and regularity of the underlying transactions:** the Council appreciates the Court's unqualified opinion for "Revenue", commitments for all policy groups, and payments for "Economic and financial affairs" and "Administrative and other expenditure". The Council notes the Court's statement that supervisory and control systems for "Revenue" and "Administrative and other expenditure" functioned effectively, and that the error range estimated by the Court for "Revenue", "Economic and financial affairs" and "Administrative and other expenditure" lays below the 2 % materiality threshold. It is satisfied with the improvements made in the area of "Cohesion", even though further efforts are needed. The Council is concerned that payments for the policy areas "Agriculture and natural resources" as a whole and "Education and citizenship" were materially affected by error, in addition to "Research, energy and transport" and "External aid, development and enlargement" for which the Court's opinion remained adverse. The Council encourages the Commission to increase transparency in these areas.

Revenue: the Council notes with great satisfaction the Court's conclusions that the revenue transactions were free from material error and that the related supervisory and control systems were assessed as effective. The Council reiterates its request to the Commission for a qualitative assessment of the administration, management and control of the traditional own resources and VAT own resources systems.

The Council then reviews each **budgetary area** and makes the following remarks:

- **Agriculture and natural resources:** the Council is concerned that, compared to 2008, the Court's audit results show an increase in its estimate of the most likely error concerning the transactions underlying the expenditure declared in this policy area. It notes that most of the quantifiable errors affected the transactions' accuracy, particularly with respect to declarations of eligible land, and had a limited financial impact. The Council considers that the Court's conclusions on the regularity of the 2009 transactions question neither the quality nor the persistency of the efforts made by the Commission and Member States in improving their supervisory and control systems. Nevertheless, these efforts should be stepped up in order to find adequate solutions to the weaknesses of the systems, most of which the Court assessed as partially effective. As regards the **effectiveness of systems related to regularity of transactions**, the Council considers that the Integrated Administrative Control System (IACS) is generally effective in limiting the risk of error or irregular expenditure and enables Member States' authorities to identify numerous errors. The results of the very extensive conformity audits carried out by the Commission support the effectiveness of IACS and its constant improvement. On the other hand, the Council, drawing from the Court's observations in this respect, considers that fully-fledged performance of IACS depends on its proper application and correct implementation by Member States. On **rural development**, the Council welcomes the declining error rate. However, it agrees with the Court that further efforts are required to continue simplifying rules and conditions, focussing particularly on defining clearer eligibility criteria and better guidance to beneficiaries. As regards the **effectiveness of systems related to recoveries and financial corrections**, the Council welcomes the considerable results obtained in the recovery of old debts following the application of the new clearance mechanism for irregularity cases. However, the Council demands faster recovery procedures for the immediate future and calls on Member States to move further in this direction. The Council strongly supports the Court in asking the Commission to continue its effort to limit flat-rate corrections to exceptional cases, and to base recoveries to the maximum possible extent, and particularly when large sums are at stake, on the actual amounts of irregular payments, subject to appropriate information being provided by Member States on the actual losses.
- **Cohesion:** Even if it regrets that still 36% of the audited projects in 2009 were affected by error, the Council notes with satisfaction that the trend for reduced error already registered in 2008 continued. The Council also welcomes the significant decrease, from at least 11% in 2008 and 2007 to at least **3% in 2009**, of the estimated proportion of the expenditure certified by Member States to the Commission which should not have been reimbursed according to the Court's findings. Nevertheless, the Council remains concerned about this excessive proportion and also about the most likely error rate estimated by the Court above 5%. The Council notes that a large part of quantifiable errors were linked to the **non-respect of public procurement rules**. It is convinced that training and simplification measures in this area could reduce the risk of misinterpretation and consequently the risk of error. Concerning the systems related to **recoveries and financial corrections**, the Council notes with satisfaction the better results, compared to previous years, in terms of recording and correcting errors and encourages the Commission and Member States to pursue their efforts in this area.
- **Research, energy and transport:** the Council regrets the material level of error in payments, as well as the weaknesses in supervisory and control systems identified by the Court's audit of this policy group managed mainly by centralised direct management. It encourages the Commission to pursue its efforts to simplify the financing rules for research projects. It stresses that the **diversity of research projects does not justify a diversity of financial rules and control systems** and expects this issue to be resolved in the next multiannual framework programmes. On the **regularity of transactions**, the Council regrets that payments in this area were still affected by material error and notes that, as in 2008, the principal source of error found in the audit continued to be the reimbursement of overstated personnel and indirect costs. The Council regrets that the supervisory and control systems were still only partially effective in ensuring the regularity of payments, but welcomes the improvements noted by the Court. It encourages the Commission to continue to reinforce its internal control systems. The Council is concerned that the Court again in 2009 found errors in cost statements which had received an unqualified opinion from the certifying auditor under FP6. It expects the Commission to pursue its measures to remedy this problem. It also regrets that the efforts of the Commission to simplify the audit certification under FP7 by the ex-ante certification of beneficiaries' costing methodologies did not lead to the expected results and suffered from consequent delays.
- **External aid, development and enlargement:** the Council regrets that the transactions relating to this policy area were still affected by a material level of error of legality and/or regularity. It takes note that, overall, most of the errors identified were non-quantifiable and that they were detected at the level of Union Delegations. On the other hand, the Council notes with satisfaction the improvement of the relations between UN agencies and the EU in the field of control and audits of projects implemented in this policy area by UN agencies, as requested by the Council in its recommendation for the 2008 discharge. On **ex-ante controls** and in particular concerning DG ELARG, the Council asks the Commission to take the necessary measures to correct the shortcomings identified by the Court concerning tendering procedures, the setting up and operation of the decentralised implementation system for Croatia and Turkey, the centralised management at Commission level, and the closure and clearance of the PHARE and CARDS programmes. As regards DG ECHO, and while welcoming the Court's

assessment that the ex-ante controls were generally effective, the Council invites the Commission to address the comments made by the Court, notably those concerning partners' control systems. The Council, while welcoming the various reinforcements to the ex-ante control procedures introduced by DG RELEX in 2009, underlines the importance to remedy the remaining weaknesses identified by the Court.

- **Education and citizenship:** the Council notes with regret that payments in this policy area were assessed by the Court as affected by material error. Supervisory and control systems in this policy area were evaluated by the Court as only partially effective in ensuring the regularity of payments. The Council regrets that a significant number of errors in the closures made during the year were left undetected and uncorrected. It takes note of the fact that those closures concerned actions undertaken in a previous programming period and calls on the Commission to reinforce the checks with regard to closure payments to prevent the reoccurrence of errors. The Council considers that the multiplicity of schemes for various thematic areas and types of projects raise the need for well-functioning supervisory and control systems. Simplified rules and extensive use of **lump-sum financing**, used in the current generation of programmes, should lead to reducing the risks linked to final payments in the future.
- **Economic and financial affairs:** the Council welcomes the clear progress made in the implementation of transactions in this policy area. The Council encourages the Commission to continue this approach, to further simplify the application of eligibility rules and to increase the awareness of beneficiaries. It takes note of the Court's remarks concerning the correctness of FP6 audit certificates and invites the Commission to continue to provide support and guidance to beneficiaries and auditors, also in the context of FP7.
- **Administrative and other expenditure:** lastly, the Council notes with satisfaction that, also in 2009, the administrative expenditure of the EU institutions and bodies remained free from material error and that their supervisory and control systems continued to comply with the requirements of the Financial Regulation.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 20/07/2010 - Non-legislative basic document

PURPOSE: presentation by the Commission of the consolidated annual accounts of the European Union for the financial year 2009, as part of the 2009 discharge procedure.

Analysis of the accounts of the EU Institutions: Section III – **European Commission**.

CONTENT: this Commission document sets out the consolidated annual accounts of the European Union for the financial year 2009 as prepared on the basis of the information presented by the institutions, organisations and bodies of the EU, in accordance with Article 129 (2) of the Financial Regulation applicable to the EU's General Budget, including the European Commission.

The document helps to bring insight into the EU budget mechanism and the **way in which the budget has been managed and spent in 2009**. It recalls that European Union's operational expenditure covers the various headings of the financial framework and takes different forms, depending on how the money is paid out and managed.

In accordance with the Financial Regulation, the Commission implements the general budget using the following methods:

- **direct centralised management:** direct implementation of the budget by the Commission services;
- **indirect centralised management:** the Commission confers tasks of implementation of the budget to bodies of EU law or national law, such as the EU agencies of public law or with public service missions;
- **decentralised management:** the Commission delegates certain tasks for implementation of the budget to third countries;
- **shared management:** under this method of management budget implementation tasks are delegated to Member States. The majority of the expenditure falls under this mode "Shared Management" involving the delegation of tasks to Member States, covering such areas as agricultural spending and Structural Actions;
- **joint management:** under this method, the Commission entrusts certain implementation tasks to an international organisation.

The document also presents the different financial actors involved in the budget process (accounting officers, internal officers and authorising officers) and recalls their respective roles in the context of the tasks of sound financial management.

Amongst the other legal elements relating to the implementation of the EU budget presented in this document, the paper focuses on the following issues:

- the way in which EU public expenditure is committed and spent;
- the means of recovery following irregularities detected;
- the *modus operandi* of the accounting system;
- the audit process followed by the European Parliament's granting of the discharge.

To recall, the final control is the discharge of the budget for a given financial year. The discharge represents the political aspect of the external control of budget implementation and is the decision by which the European Parliament, acting on a Council recommendation, "releases" the Commission from its responsibility for management of a given budget by marking the end of that budget's existence (please refer to the follow-up reports presented in this procedure file).

Lastly, the document presents a series of tables and detailed technical indicators on (i) the balance sheet; (ii) the economic outturn account; (iii) cashflow tables; (iv) technical annexes concerning the financial statements.

EU expenditure and recoveries of wrongly made payments: in addition to the legal elements on how EU expenses are implemented, the document highlights the basic accounting principles that govern the management and implementation of EU expenditure. Among the figures provided, the main issues concern the recovery of wrongly made payments (mainly in the agriculture or cohesion sectors).

At 31 December 2009, the amount of EAGF expenditure subject to future corrections following audits which were not yet finalised totalled **EUR 2.8 billion**. At 31 December 2009, **EUR 1.1 billion** is estimated as the amount of potential financial corrections in the process of being decided.

The document also clarifies the following:

- **undrawn commitments financial activities:** undrawn commitments financial activities amounted to EUR 5 733 at 31 December 2009 (against EUR 4 885 million the previous year): the main amounts relate to Balance of Payments loan agreements signed in 2008 and 2009 but not yet disbursed before year-end;
- **budgetary commitments made, payments still pending:** the budgetary RAL ("Reste à Liquider") is an amount representing the open commitments for which payments and/or de-commitments have not yet been made. At 31 December 2009 the budgetary RAL totalled **EUR 177 272 million**;
- **the amount of financial corrections:** for 2009, the Commission was able to recover **EUR 2 873 million** in financial corrections and **EUR 446 million** in recoveries, totalling an amount of **EUR 3 319 million (compared with EUR 2 873 million in 2008)**.

Implementation of appropriations under Section III of the budget for the financial year 2009 : the annexes include the following tables:

A) Table showing the commitment appropriations by heading (including the % of implementation):

1. Sustainable growth: EUR 62 444 million (97.69%)
2. Preservation & management of natural resources: EUR 61 484 million (98.03%)
3. Citizenship, freedom, security and justice: EUR 2 264 million (97.27%)
4. The EU as a global partner: EUR 8 481 million (97.34%)
5. Administration: EUR 7 662 million (95.48%)
6. Compensations: EUR 209 million (100%)

Total commitments: EUR 142 545 million (97.69%).

B) Table showing the implementation of payments by heading:

1. Sustainable growth: EUR 44 684 million (94.03%)
2. Preservation & management of natural resources: EUR 55 877 million (97.85%)
3. Citizenship, freedom, security and justice: EUR 1 993 million (91.66%)
4. The EU as a global partner: EUR 7 983 million (90.67%)
5. Administration: EUR 7 615 million (86.99%)
6. Compensations: EUR 209 million (100%)

Total payments: EUR 118 361 million (95.03%).

Lastly, the document states that the year 2009 saw the EU Budget still in transition, from one multi-annual Financial Framework to the next. Commitment appropriations reflected the spending orientations agreed for the new programming period 2007 – 2013, whereas the part of the payment claims still related to the previous 2000 – 2006 Financial Framework was close to 12%. For commitments, the initial budget and hence the political targets set were carried out virtually as planned. The implementation rate for payments, excluding unused Emergency Aid reserve, was 95% of the initial budget.

For further details on the budgetary implementation of expenditure of Section III of the budget, please refer to the [EU budget 2009 Financial Report](#) as well as the [Commission's annual activity reports](#).

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 10/05/2011 - Final act

PURPOSE: to grant discharge to the European Commission in respect of the implementation of the general budget of the European Union for the financial year 2009.

NON-LEGISLATIVE ACT: Decision 2011/550/Euratom on discharge in respect of the implementation of the general budget of the European Union for the financial year 2009, Section III – Commission.

CONTENT: with the present decision, the European Parliament grants discharge to the Commission on the implementation of the general budget of the European Union for the financial year 2009.

A parallel decision definitively closes the accounts for 2009.

In the resolution annexed to the discharge decision, the European 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, 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'** in preventing or detecting and correcting the reimbursement of overstated or ineligible costs.

If 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. Parliament takes the view therefore that these bodies are meant to be directly accountable at Union level to the Commission. It calls, as regards shared-management controls, for cooperation to be stepped up between national audit bodies and the Court of Auditors.

Parliament also makes a number of other observations in the resolution annexed to the discharge decision. For details of the content of these observations, please refer to the summary of the opinion dated 10 May 2011.

It should also be noted that with Decisions 2011/551/EU, Euratom; 2011/552/EU, Euratom; 2011/553/EU, Euratom; 2011/554/EU, Euratom; 2011/555/EU, Euratom and 2011/556/EU, Euratom, the European Parliament also grants 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.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 18/11/2010 - Document attached to the procedure

FOLLOW UP TO THE 2008 DISCHARGE TO THE COMMISSION:

FULL REPLIES TO REQUESTS FROM THE COUNCIL.

This Commission Staff working paper completes the report from the Commission to the European Parliament and the Council on the follow-up to 2008 discharge (see the summary of COM(2010)0650 of 18/11/2010.). It presents in detail the answers to the **126 specific requests made by the Council** in the comments accompanying its Recommendations on the discharges for the financial year 2008 (see [DEC/2009/2068](#), summary of 3 February 2010).

This working paper aims to give detailed replies to each request from the Council.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 28/02/2011 - Document attached to the procedure

This report sets out the Member States' Replies to the Court of Auditors' 2009 Annual Report.

The European Union's external auditor, the European Court of Auditors (the Court), under the terms of the Treaty provides a statement of assurance (the DAS) in its Annual Report. The DAS concerns the reliability of accounts and the legality and regularity of the underlying transactions and is provided to the European Parliament and the Council.

The Financial Regulation states that as soon as the Court has transmitted the Annual Report, the Commission shall inform the Member States concerned immediately of the details of that report which relate to management of the funds for which they are responsible, under the rules applicable. Member States should reply to the Commission within sixty days and the Commission transmits a summary of the replies to the Court of Auditors, the European Parliament and the Council before 28 February.

Following publication on 9 November 2010, the Commission duly informed Member States of details of the report. This information was presented in the form of a letter and three annexes:

- Annex I was a questionnaire on the paragraphs in the report referring to the individual Member States;
- Annex II was a questionnaire on the audit findings which refer to the individual Member State;
- Annex III was a questionnaire on general findings related to Shared Management for DAS 2009.

This report is an analysis of the Member States' replies and is accompanied by a Staff Working Document (SWD) which is a summary of the findings and the replies to Annex I and Annex III (see the summary of SEC(2011)0262 of the same date).

Main conclusions: the results of the Court's 2009 Annual Report illustrate the **continuing improvement of the performances of all actors involved in the management of the EU funds.**

The results show that:

- the estimate of error has fallen over recent years,
- for the third year in a row, a "clean opinion" on the accounts has been given;
- the error rate in Cohesion has fallen significantly, are all worth noting.

However, it is clear that there is a need for further sustained improvement, in particular, for the European funds under shared management between the Commission and the Member States.

Member States replies remarked positively on the improvements noted by the Court and, particularly, the significant decrease in the most likely error rate in the policy area Cohesion. However, Member States signalled that even closer cooperation with the Commission is desirable. For instance, in the complex field of procurement, guidance and support in the form of training programmes and targeted guidelines have been highlighted as key issues which need to be continually addressed.

The Commission remains firmly committed to improving EU financial management. The current Commission proposal for a recast Financial Regulation deals with the issues highlighted by both the Court and the Member States in their replies to the Court's findings. This is particularly relevant as regards the Commission proposals to **lay down the control and audit obligations of the Member States in the Financial Regulation** and to **further simplify and rationalise the rules applicable to the EU funds and programmes**. Together these two commitments are regarded as an important route to the significant improvement in the quality of spending.

At the same time, the Commission remains acutely attentive to the fact that simplification of programme structures and management systems at beneficiary level should not undermine assurance provided by a high effectiveness of controls.

The Commission is focused on sustaining the positive trend in the evolution of sound financial management. It is therefore of particular importance that the **Commission and the Member States cooperate even more closely** to address the findings highlighted by the Court.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 31/08/2010 - Document attached to the procedure

DISCHARGE 2009– COMMISSION : ANNUAL REPORT ON INTERNAL AUDITS

PURPOSE: [this report informs the Discharge Authority about the work carried out by the Commission's Internal Audit Service \(IAS\) in 2009, and focuses on significant risk exposures and control and corporate governance issues in the Commission.](#)

CONTENT: The report is based on IAS audit and consulting reports completed in 2009. It concerns solely the auditing of internal management and control systems within the Commission DGs and services and the regulatory and executive Agencies. It does not cover the results of audit work in other agencies or bodies audited by the IAS.

The Commission's reactions to the findings and conclusions of the Internal Auditor were covered in the synthesis report on the annual reports on DGs activities (see SEC(2010)0994).

Main conclusions: on the basis of the audits and related work, finalised in 2009, a series of conclusions and recommendations were made, with comments from the Commission. The conclusions are as follows:

Conclusion 1: further progress has been made, but more improvements are needed: the IAS saw continuous improvements in the Commission's internal control environment, linked to the efforts towards an unqualified DAS (declaration of assurance). However, the IAS noted that further improvements are needed on several aspects of financial management:

Shared management:

- **concerning the management of grants** under the Schengen Facility II, and despite the contract extension granted and changes decided on the repartition of funds between the Schengen part and the cash-flow, the risk profiles will have to be better defined;
- improvements should be made on the general co-ordination of audit strategies by the Commission services responsible for the management of structural funds policies, thereby improving the coverage of common audit authorities. The results of the enquiry launched in 2009 to review the audit authorities' work will allow the Commission to rely on the opinions provided and, consequently, reduce its own on the spot audits.

Direct management:

- regarding the inventory process, despite the strengths of its Public Procurement Advisory Group, the procurement process in Joint Research Council needs to be substantially improved, particularly regarding the documentation of exceptions, planning, the quality of ex post controls and the justifications provided for market captivity;
- in the research area attention was drawn to the need for a strategy for fraud detection and prevention and for improving guidance on the implementation of financial viability checks. Nevertheless, a number of improvements have already been made in the internal control systems for the management of the 7th Framework programme (e.g., the balance between ex ante and ex post controls and the completion of a procedure for the management of the Guarantee Funds).

Indirect centralised management - implementation of CFSP actions: progress was made on the requirements to be met by CSDP missions in relation to indirect centralised management, on the set-up, support and monitoring of CSDP missions, and on the closure procedure for CSDP contracts. Further actions still need to be implemented by DG RELEX in order to fully comply with indirect centralised management requirements. Moreover, guidance and methodology for assessments of civilian crisis management missions and on the setting up of financial management systems for missions will have to be developed, and ex post controls on missions will need to be strengthened.

It is the IAS opinion that an overview is necessary at the level of the institution if common processes, such as risk analysis and business continuity management, are to be effective in protecting the institution as a whole. The IAS recommends that appropriate bodies be made responsible for gaining this overview, and for making appropriate recommendations. The Commission considers that corporate oversight is already in place or planned for certain processes. It further considers that any allocation of this type of responsibilities to central services would dilute the responsibility of each Director-General and Head of Service.

Conclusion 2: risk management: the IAS noted the progress made since the Commission's adoption of a risk management framework in 2005, but considered that its implementation needs to be better embedded in the management processes of each service. This should be combined with an enhanced overview of cross-cutting risks and improved guidance at central level.

The Commission could not accept this recommendation in its entirety, as they considered parts of it to be inconsistent with the Commission's governance framework. The Commission considers that within the current governance structure **the central services already provide an overview of cross-cutting risks** and guidance on the risk management framework and implementation.

Conclusion 3: corporate business continuity: the IAS audit showed that the Commission needs to keep up the momentum in its efforts to ensure business continuity in the event of serious disruptions, in particular through enhanced steering, coordination and testing of the recovery of critical activities. The Commission shares this point of view.

Conclusion 4: corporate IT approach: the IAS has demonstrated the need to strengthen IT strategic decision-making and IT project management processes, in order to ensure that IT projects are properly aligned with the Commission's objectives, provide value for money and are implemented in a timely manner. The Commission shares this analysis.

Lastly, the Internal Audit Service submitted its **Strategic Audit Plan for the period 2010–2012**, the aim of which is to cover the main risks identified, and achieving the necessary coverage to support the Internal Auditor's overall opinion on financial management.

2009 discharge: EU general budget, Section III, Commission

2010/2142(DEC) - 09/09/2010

PURPOSE: to present the Court of Auditor's report on the implementation of the budget concerning the financial year 2009 (section III - Commission).

CONTENT: the Court of Auditors published its 33rd annual report on the implementation of the general budget of the EU for the financial year 2009.

The report is presented in two parts:

1. the first part is taken up with the Court's work on the reliability of the annual accounts and on the regularity of transactions;
2. the second part concerns audit findings of EU revenue and expenditure (arranged by groups of policy areas which correspond broadly to the headings used in the 2007-13 Financial Framework).

The statement of assurance (the 'DAS') on the reliability of the annual accounts and on the regularity of transactions makes up the central part of the report.

It should be noted that the Court is this year, for the first time, forwarding its Annual Report to national parliaments at the same time as to the Council and the European Parliament, as provided for in the Treaty of Lisbon.

DAS: the Court states an unfavourable opinion regarding payments: overall, the Court considers that payments are materially affected by error (the most likely error rate is between 2 % and 5 % of payments made) and concludes that the supervisory and control systems are generally partially effective.

Accounts: generally, the Court considers that the Annual Accounts of the EU present fairly, in all material respects the financial position of the Union as of 31 December 2009, and the results of their operations and cash flows for the year then ended. Without calling into question this opinion, the Court notes that weaknesses in the accounting systems of certain Directorates-General of the Commission (in particular accounting for pre-financing and the related cut-off as well as for invoices/cost claims) still need to be resolved.

Legality and regularity of the transactions underlying the accounts: in the Court's opinion, 'Revenue', commitments for all policy groups and payments underlying the accounts for the policy groups 'Economic and financial affairs' and 'Administrative and other expenditure' for the year ended 31 December 2009 in all material respects are legal and regular.

However, payments underlying the accounts for the policy groups (i) agriculture and natural resources; (ii) cohesion; (iii) research, energy and transport; (iv) external aid, development and enlargement; and (v) education and citizenship are materially affected by error. The supervisory and control systems are partially effective in preventing or detecting and correcting the reimbursement of overstated or ineligible costs.

Analysis of budget implementation by policy group and Court's recommendations:

- **Agriculture and natural resources** (EUR 56.3 million): the Court specifies that out of 241 transactions examined, 27 % were affected by error. Whilst some quantifiable errors concerned the eligibility of payments, most were accuracy errors and most of the latter were over-declarations of eligible land. In view of the significant number of material errors, the Court recommends that the systems weaknesses identified are resolved, regarding deficiencies in the Single Payment Scheme (SPS) and the Single Area Payment Schemes (SAPS). It discusses the following measures: (i) to overcome the systems weaknesses leading to errors relating to ineligible land or over-declarations of land as well as inaccurate entitlements; (ii) to ensure that all IACS databases provide a reliable and full audit trail for all modifications made; (iii) to clarify and enforce further the rules so that EU direct aid is not paid to claimants who have neither used the land for farming nor maintained it in GAEC; (iv) to set at EU level minimum annual maintenance requirements for grassland to be eligible for EU direct aid. Further efforts are also required in the area of Rural Development to simplify the rules and conditions.
- **Cohesion** (EUR 35.5 million): the Court notes that in 2009 this policy group, where the level of material error has been significantly higher than other policy groups for some years, has shown a decrease in the error rate (36% instead of 43% in 2008). However, it is the area most affected by errors. Audited weaknesses were noted with regard to verifications carried out by Managing Authorities and/or systems audits

undertaken by Audit Authorities. The Court recommends that the Commission : (i) encourage national authorities rigorously to apply the corrective mechanisms prior to certification of the expenditure to the Commission; (ii) ensure that the substitution of ineligible with new expenditure (withdrawal) does not result in new irregular expenditure being declared by Member States; (iii) ensure effective functioning of the national management and control systems for the 2007-2013 programming period; (iv) monitor closely the correct application of the EU Directives on public procurement in Member States.

- **Research, energy, transport** (EUR 8 million): the principal source of errors for this policy group concerns the reimbursement of overstated personnel and indirect costs in research projects. The Commission's control system for research expenditure also appears inefficient. The Court encourages the Commission to continue its efforts to ensure rigorous application of effective control systems. In this context the Commission should: (i) review the operation of the system for the certification of beneficiaries' costing methodologies; (ii) reduce the backlog in recovering undue amounts paid, **imposing sanctions where necessary**. The Court notes the complex funding mechanisms for research, and welcomes the Commission's proposals for further simplification of the research funding rules.
- **External aid, development, enlargement** (EUR6.6 million): the most significant errors identified concern quantifiable eligibility errors and non-quantifiable errors. Eligibility errors include inclusion of ineligible expenditure in the project cost claims and irregularities in the tendering and contract award procedures. Non-quantifiable errors concern irregularities in procurement procedures, non-compliance with the contract award criteria, and lack of an adequate audit trail. In general, the supervisory and control systems of the different DGs were ineffective. The Court recommends that the relevant DGs: (i) put in place mechanisms to facilitate the analysis and follow up of the results of the monitoring missions carried out; (ii) devote sufficient resources to the analysis of the outstanding final declarations submitted under PHARE and the Transition Facility in the new Member States; (iii) improve the documentation of assessments of proposals for humanitarian aid actions.
- **Education and Citizenship** (EUR 2.2 million): the Court found that 24% of the closures audited contained quantifiable errors. The most common type of quantifiable error found was errors of eligibility, the most widespread being eligibility errors at national level. The Court concludes that the supervisory and control systems were partially effective and recommends checks on closures to ensure that errors are corrected.
- **Other policies**: the Court considers that payments of policy groups including 'Economic and Financial Affairs' (EUR 0.7 million) and 'Administrative and other expenditure'(EUR 9.1 million) were free from material error.