Basic information

2011/2201(DEC) DEC - Discharge procedure	Procedure completed
2010 discharge: EU general budget, Section III, Commission **Subject** 8.70.03.07 Previous discharges	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	FJELLNER Christofer (PPE)	03/03/2011
	Shadow rapporteur GEIER Jens (S&D) CHATZIMARKAKIS Jorgo (ALDE) STAES Bart (Verts/ALE) CZARNECKI Ryszard (ECR) SØNDERGAARD Søren Bo (GUE/NGL) ANDREASEN Marta (EFD) EHRENHAUSER Martin (NI)	

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	NEYTS-UYTTEBROECK Annemie (ALDE)	05/10/2011
DEVE Development	BERMAN Thijs (S&D)	11/10/2011
INTA International Trade	ŠŤASTNÝ Peter (PPE)	11/10/2011
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)	08/09/2011
ENVI	Environment, Public Health and Food Safety	HAUG Jutta (S&D)	05/10/2011
ITRE	Industry, Research and Energy	The committee decided not to give an opinion.	
IMCO	Internal Market and Consumer Protection	BUŞOI Cristian-Silviu (ALDE)	06/10/2011
TRAN	Transport and Tourism	AYALA SENDER Inés (S&D)	11/10/2011
REGI	Regional Development	DEUTSCH Tamás (PPE)	06/10/2011
AGRI	Agriculture and Rural Development	The committee decided not to give an opinion.	
PECH	Fisheries	MILANA Guido (S&D)	26/10/2011
CULT	Culture and Education	LØKKEGAARD Morten (ALDE)	04/10/2011
JURI	Legal Affairs	The committee decided not to give an opinion.	
LIBE	Civil Liberties, Justice and Home Affairs	VAN DE CAMP Wim (PPE)	23/11/2011
AFCO	Constitutional Affairs	The committee decided not to give an opinion.	
FEMM	Women's Rights and Gender Equality	MATERA Barbara (PPE)	24/10/2011
PETI	Petitions	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3153	2012-03-13
Economic and Financial Affairs ECOFIN	3148	2012-02-21

European Commission	Commission DG	Commissioner
	Budget	ŠEMETA Algirdas

Key events

Date	Event	Reference	Summary
26/07/2011	Non-legislative basic document published	COM(2011)0473	Summary
12/10/2011	Committee referral announced in Parliament		
13/03/2012	Debate in Council		Summary
26/03/2012	Vote in committee		
02/04/2012	Committee report tabled for plenary	A7-0098/2012	Summary
10/05/2012	Decision by Parliament	T7-0153/2012	Summary
10/05/2012	Results of vote in Parliament		
10/05/2012	Debate in Parliament		
10/05/2012	End of procedure in Parliament		
17/10/2012	Final act published in Official Journal		

Technical information

Procedure reference	2011/2201(DEC)
Procedure type	DEC - Discharge procedure
Stage reached in procedure	Procedure completed
Committee dossier	CONT/7/06929

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee opinion	ENVI	PE476.049	24/01/2012	
Committee opinion	FEMM	PE476.138	30/01/2012	
Committee opinion	INTA	PE478.612	31/01/2012	
Committee draft report		PE473.810	06/02/2012	
Committee opinion	TRAN	PE476.064	07/02/2012	
Committee opinion	AFET	PE480.575	07/02/2012	
Committee opinion	LIBE	PE478.340	10/02/2012	

Committee opinion	EMPL	PE478.510	15/02/2012	
Committee opinion	IMCO	PE478.615	29/02/2012	
Committee opinion	REGI	PE478.709	29/02/2012	
Committee opinion	CULT	PE473.868	01/03/2012	
Committee opinion	PECH	PE478.514	01/03/2012	
Committee opinion	DEVE	PE478.620	01/03/2012	
Amendments tabled in committee		PE483.775	07/03/2012	
Committee report tabled for plenary, single reading		A7-0098/2012	02/04/2012	Summary
Text adopted by Parliament, single reading		T7-0153/2012	10/05/2012	Summary

Council of the EU

Document type	Reference	Date	Summary
Supplementary non-legislative basic document	06084/2012	08/02/2012	
Document attached to the procedure	06081/2012	17/02/2012	Summary

European Commission

Document type	Reference	Date	Summary
Supplementary non-legislative basic document	COM(2011)0472	26/07/2011	
Non-legislative basic document	COM(2011)0473	26/07/2011	Summary
Document attached to the procedure	COM(2011)0643	07/10/2011	Summary
Document attached to the procedure	SEC(2011)1189	07/10/2011	Summary
Document attached to the procedure	COM(2011)0736	14/11/2011	Summary
Document attached to the procedure	SEC(2011)1350	14/11/2011	Summary
Document attached to the procedure	SEC(2011)1351	14/11/2011	Summary
Document attached to the procedure	COM(2012)0080	27/02/2012	Summary
Document attached to the procedure	SWD(2012)0024	27/02/2012	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
		N7-0107/2011		

CofA	Court of Auditors: opinion, report	OJ C 326 10.11.2011, p. 0001	08/09/2011	Summary

Additional information		
Source	**Document**	**Date**
European Commission	EUR-Lex	

Final act	
Decision 2012/0546 OJ L 286 17.10.2012, p. 0029	Summary

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 08/09/2011

PURPOSE: presentation of the Court of Auditors' report on the implementation of the budget in 2010 (Section III - Commission).

CONTENT: the Court of auditors presents its 34th Annual Report on the implementation of the EU budget for the year 2010.

The report contains two parts:

1. the first part contains a summary of the results of the Court's audit on the reliability of accounts and on the regularity of transactions;
2. the second part provides detailed audit findings of EU revenue and expenditure (by groups of policy areas which correspond broadly to the headings used in the 2007-2013 Financial Framework) and an analysis of the expenditure of the other EU institutions and organs.

The central part of the annual report is the Court's statement of assurance (the 'DAS') on the reliability of the annual accounts of the EU and on the legality and regularity of transactions.

DAS: payments, basis for the Court's adverse opinion: the Court considers that overall the supervisory and control systems are **partially effective** in ensuring the legality and regularity of payments underlying the accounts. On the other hand, taken together, the **Court's best estimate of the rate of error for overall spending in 2010 is 3.7%.**

Specific observation: pre-financing: a significant component of payments made by the Commission provide funding in advance for costs which will be incurred by outside bodies at a later date. There has been a substantial increase of pre-financing in the EU budget during the last financial framework period. The Commission corrected material problems concerning the completeness of pre-financing through cut-off bookings and adjustments. **Nonetheless, the lack of current information on the EU funds actually used by the Member States reduces significantly the usefulness for management of the accounting information,** notably for the Commission in its responsibilities for implementing the budget. The increased use of pre-financing makes it urgent for the Commission to revisit the relevant accounting rule in order to provide adequate guidance on the recognition and clearing of pre-financing. This should be accompanied by improved supervision.

The legality and regularity of transactions underlying the accounts: in the Court's opinion, revenue underlying the accounts for the year ended 31 December 2010 is legal and regular in all material respects. On the other hand, the Court concludes that overall the supervisory and control systems are only partially effective in ensuring the legality and regularity of **payments** underlying the accounts.

The following policy areas: (i) agriculture and natural resources (ii) cohesion, energy and transport are **materially affected by error**. The Court's estimate for the most likely error rate for payments underlying the accounts is 3.7%. The rate of error is:

- 7.7% for policy group 'cohesion, energy and transport'
- 2.3% for the policy group 'agriculture and natural resources.'

The Court's estimate of the most likely error concerning the payments for the other policy groups remained relatively stable. Direct payments to farmers covered by the IACS (Integrated Administration and Control System) were free from material error.

Generally, the Court considers that during the planning of EU expenditure programmes, the Commission and the Member States should pay greater attention to defining SMART objectives - specific, measurable, achievable, relevant and timed - as well as to identifying and mitigating the risks which may occur during implementation.

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

- **Agriculture and natural resources**: (EUR 56.8 million) the Court states that the payments tested in this group are materially affected by error. The most likely error resulting from transaction testing estimated by the Court is 2.3%. However, direct payments (EUR 39.7 million) covered by IACS were not found to contain material error. The Court notes that Rural Development expenditure is particularly prone to error. In the EAGF, 27% of transactions sampled were affected by errors, but with regard to Rural Development expenditure, 50% were affected by errors. The type of error most often noted concerned the **over-declarations of eligible land by beneficiaries**. Furthermore, the Court found out that there are still weaknesses in paying agencies, particularly the LPIS and in the quality of on-the-spot checks by national inspectors. The Court calls upon the Commission to ensure that: (i) the use of ortho-photos becomes mandatory and that the LPIS is regularly updated on the basis of new ortho-photos; (ii) the paying agencies remedy the weaknesses identified where the control systems and IACS databases were found to be deficient; (iii) the quality of inspections is adequately checked and reported by the certification bodies.
- **Cohesion (EUR 40.6 million)**: the Court notes that payments relating to the policy group 'Cohesion, energy and transport' were materially affected by errors: 49% of the payments audited were affected by such errors, the most likely rate of error being 7.7%. With regard to payments related to 'Cohesion' Member States' authorities are encouraged to rigorously apply the corrective mechanisms prior to certification of the expenditure to the Commission. The Court considers that sufficient information was available for the Member State authorities to have detected and corrected at least some of the errors (prior to certifying the expenditure to the Commission) for 58% of the transactions affected by error. In addition, the Court found projects, which were wholly ineligible in 3% of the transactions audited. One fifth of transactions were affected by breaches of public procurement rules. Serious failures to respect these rules were identified in 5% of the transactions audited. They account for 24% of all quantifiable errors and make up approximately 31% of the estimated error rate for this policy group. Moreover, the Court found other errors related to the set-up of financial engineering instruments. Accordingly, the Court recommends that the Commission: (i) continues to monitor compliance with the eligibility requirements particularly the correct application of public procurement rules; (ii) encourages national authorities to rigorously apply the corrective mechanisms prior to certification of the expenditure to the Commission; (iii) carry out an assessment of the use of national eligibility rules in view of identifying possible areas for further simplification and to eliminate potential sources of errors for the period after 2013; (iv) provide further guidance to audit authorities for on sampling and the scope of verifications to be undertaken for audits of projects and the reporting of audit findings.
- **External Aid, Development and Enlargement**: (EUR 6.5 million): the Court considers, that the payments for External aid, Development and Enlargement were free from material error. The most likely rate of error estimated by the Court is 1.7%. However, interim and final payments were subject to material error. An increased rate of non quantifiable errors were identified concerning errors in procurement procedures and extension of contracts by the Commission. The Court recommends: (i) DG ELARG defines in more detail the criteria for lifting ex- ante control and suspending the 'conferral of management' to decentralised countries and tests the performance of the systems used by national authorities; (ii) the DG develop a tool to facilitate the consolidation of the visit outcomes related to legality and regularity issues; (iii) DG ELARG increases ex-post reviews of transactions for centralised management. The Commission must define a coherent methodology for the calculation of the residual error rate by the external relations directorates based on which Directors-General deliver their management representation.
- **Research and other Internal Policies (EUR 9 million):** this group of polices was also free from material error, the most likely error rate being 1.4%. However, interim and final payments for the research framework programmes (FPs) were subject to material error. The Court's testing of its sample of transactions found 39% to be affected by error. Most of these errors (88%) were noted in interim and final payments and 95% of quantifiable errors related to reimbursement of ineligible costs and incorrectly calculated costs in the field of research. For the 33 cost claims audited at beneficiary level for which a certificate had been provided, the Court compared the results of its own audit with the certificate provided. In 27 cases for which the independent auditor had issued an unqualified opinion the Court detected errors. In 14 of the cases the errors had significant financial impact. With regard to **education,** the Court notes that national agencies do not wholly implement primary controls regarding education and lifelong learning programmes. It recommends that the Commission: (i) in the area of the FPs on research, further enhance the Commission's ex-ante controls with the aim of identifying payments with a relatively high-risk profile; (ii) in the area of the LLP, continue to give emphasis to the implementation of primary controls.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 07/10/2011 - Document attached to the procedure

DISCHARGE 2010 – COMMISSION: ANNUAL REPORT ON INTERNAL AUDITS

This Commission staff working paper accompanies the Annual Report to the Discharge Authority on internal audits carried out in 2010, presented in parallel to the following document (please refer to COM(2011)0643).

It consists of a technical annex containing a synthesis of the audit carried out by the Commission's Internal Audit Service (IAS) in 2010.

The document proposes in particular a series of analytic tables on the audits of the Directorates-General (DG) of the Commission as well as recommendations made to each of them to improve governance issues.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 07/10/2011 - Document attached to the procedure

DISCHARGE 2010 – 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 2010. It is based on IAS audit and consulting reports completed in 2010 relating to Commission departments and executive agencies. It does not cover the results of audit work in other agencies or bodies audited by the IAS, for which separate annual reports are drawn up.

The Commission’s replies to the remarks and findings of the internal auditor are contained in the summary report of the annual activity reports of the Directors-General (that are covered by the summary of the document SEC(2011)1189 of 7 November 2011).

CONTENT: the work of the IAS contributes to a culture of efficiency and effectiveness. Its audit work helps the Commission to identify synergies as well as risks, and consequently **strengthens the Commission's management**.

Implementation of the IAS's coordinated audit plan: the Commission notes the positive co-operation between the IAS and the audited DGs and with their Internal Audit Capabilities. Implementation of the action plans drawn up this year and in previous years in response to audit recommendations contributes to steady improvement of the Commission's internal control framework.

The report also underlines that the Strategic Audit Plan for 2008-2010 was regularly updated to take account of specific needs (the first overall opinion, the results of management’s annual risk assessment and other changes in the external and internal environments). In 2010, **the IAS completed 88% (compared with 87% in 2009) of its work programme** and 85 reports were issued (30 audits, 49 follow-ups, 1 consultancy, 4 management letters and 1 report on the overall opinion). In 2010, the acceptance rate of critical and very important audit recommendations by the auditees was 100% (98.8% in 2009).

Main IAS findings for 2010: as far as IAS findings for 2010 are concerned, the report highlights the two main points that follow:

1) Control procedures: the highlights the need to **obtain adequate information from the Heads of Delegation in order to substantiate the assurance** provided annually by the Authorising Officer by Delegation (AOD) to assess the adequacy and effectiveness of DG AIDCO’s control strategy; it also indicates a need for DG EAC to avoid unnecessary overlaps of controls conducted by its services and by National Agencies.

DG ELARG should complement its initiative requiring Heads of Delegation to submit an Annual Assurance Strategy by developing checklists applicable to all delegations.

The IAS recommended to DG REGIO and DG EMPL improvements deemed necessary in order to obtain adequate assurance for multi-annual programmes.

At the level of **control strategies** the Commission has adopted an important number of measures to allow its services to set up adequate audit and control systems. Action plans have been drawn up and implemented in the domains where the risks are highest, allowing for better planning and monitoring of control activities, eliminating administrative burdens and overlaps and improving the effectiveness of the Commission's internal control systems.

Controls for checking compliance with **legal time limits for payment** were less effective in some DGs where. the shorter time limits requested by the Commission were not always applied. Management needs to improve its monitoring over the proper implementation of control procedures for the processing of payments. The Commission has taken several measures to improve both payment performance and associated control mechanisms, namely at the levels of the IT system (ABAC), of the validation of local IT systems and of the guidelines and by means of regular and more effective monitoring.

The IAS’s work has raised issues for consideration with the aim of improving the efficiency and effectiveness of IT start-up projects in order to further enable the Commission to achieve its goals in a cost-effective, efficient and secure manner.

Following the recommendations of the Task Force on IT, the Commission has reformed its **IT governance**: the ABM + IT Steering Committee was set up in 2010 followed by the *Information Systems Project Management Board* and High Level Committee on IT in 2011, which represent a major improvement in the way IT strategy is designed and implemented.

The IAS’s audit work on recently **split-up DGs** has identified lessons which should be learned ahead of any future divisions of DGs in order to soften the impact of change on DGs, central and horizontal services and staff. The Commission considers it is too early to draw definitive conclusions on the benefits/drawbacks of shared directorates and it will take stock, later on, when the services concerned have gained more experience with the new organisational structure.

Fraud: in this area, the IAS’s efforts have highlighted, in particular the lack of clarity in organisational accountability for fraud prevention and detection and the need for an **updated anti-fraud strategy at Commission level**. A new anti-fraud strategy, prepared by OLAF in cooperation with the central services and operational DGs, has been adopted by the Commission and fully addresses the issues raised by the IAS.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 14/11/2011 - Document attached to the procedure

FOLLOW-UP TO THE COMMISSION’S 2009 DISCHARGE : REPLIES TO REQUESTS FROM THE EUROPEAN PARLIAMENT AND THE COUNCIL

This Commission staff working paper seeks to complement the Commission’s report on the follow-up to the European Parliament and Council’s recommendations on the 2009 discharge. It presents in detail the 85 specific requests made by the Council in its remarks accompanying its recommendations regarding the 2009 discharges.

An outline of these replies is provided in the summary of the document COM (2011)0736 (please refer to the summary of the document in question).

This Commission working document which is of a technical nature, only seeks to detail the responses already covered in the main COM document.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 14/11/2011 - Document attached to the procedure

FOLLOW-UP TO THE COMMISSION'S 2009 DISCHARGE : REPLIES TO REQUESTS FROM THE EUROPEAN PARLIAMENT AND THE COUNCIL

This Commission staff working paper seeks to complement the Commission's report on the follow-up to the European Parliament and Council's recommendations on the 2009 discharge. It includes all of the Commission's replies to each of the 213 recommendations formulated by Parliament in its resolution of 10 May 2011, in the form of an annex to the general report.

An outline of these replies is provided in the summary of the document COM (2011)0736 (please refer to the summary of the document in question).

This Commission working document which is of a technical nature, only seeks to detail the responses already covered in the main COM document.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 17/02/2012

In accordance with Article 319 of the Treaty on the Functioning of the European Union, the Council approved a recommendation on the discharge to be given to the Commission in respect of the implementation of the general budget of the European Union for the financial year 2010.

Breakdown of the expenditure:

- revenue amounted to EUR 127 795 326 628.52
- expenditure disbursed from appropriations amounted to **EUR 121 212 689 332.56**
- cancelled payment appropriations amounted to EUR 740 844 913.80
- appropriations for payments carried over from 2010 to 2011 amounted to EUR 2 792 592 118.31
- the positive budget balance amounted to EUR 4 548 703 222.91

Cancelled payment appropriations for the financial year amounted to EUR 740 844 913.80.

EUR 1 018 014 697.57 (58 %) of the EUR 1 758 859 611.37 in appropriations for payments carried over have been used.

Based on the observations contained in the report by the Court of Auditors, the Council calls on the European Parliament to **grant discharge to the Commission** in respect of the implementation of the 2010 budget. However, the Council issues a series of comments that need to be fully taken on board when granting discharge.

Statement of assurance (DAS): the Council notes that for the fourth consecutive year, the annual accounts of the EU gave a fair presentation of the financial position of the Union and the results of its operations and cash flows. Nevertheless, it draws attention to the **implications of the substantial increase in pre-financing payments**, in particular to create or to contribute to financial engineering instruments, and the need to record their establishment and clearance properly in the accounts. It recalls the importance of having comprehensive, consistent and timely information on the actual use of pre-financed amounts available. It asks the Commission to continue to improve its supervision of the use of pre-financed amounts, to revisit the relevant accounting rules, and to systematically collect the necessary data from Member States in a timely manner.

The Council regrets that, in the overall assessment made by the Court of Auditors, **payments from the budget continued to be materially affected by error** and that supervisory and control systems for payments audited by the Court remained only partially effective in ensuring the legality and regularity of transactions. However, it welcomes the Court of Auditors' Statement of Assurance (DAS) on the implementation of the budget for the financial year 2010 which shows evidence of a **generally stable quality in the implementation of the budget** compared to the financial year 2009, and of a most likely error rate level considerably lower than found in years prior to 2009. It deduces from the Court's findings that there has been an improvement in the evolution of financial management by the Commission and Member States over recent years. It nevertheless reaffirms its wish to see year-on-year improvements creating the **basis for an unqualified audit opinion from the Court**.

The Council urges the Commission to i) fully assume its responsibilities in the implementation of the budget, and to carefully exercise its supervisory role within the existing legal provisions in order to limit the risks to the legality and regularity of transactions, notably through the interruption and suspension of payments whenever significant deficiencies in the functioning of management and control systems are identified; ii) correct identified errors without delay through the recovery of amounts unduly paid and through financial corrections ; and iii) report about the progress made in the implementation of corrective action.

The Council also encourages the Commission to **thoroughly evaluate the functioning of existing regulations**, to identify weaknesses and possibilities for improvement, and to propose the necessary modifications in the context of the ongoing revision of the Financial Regulation. The Council recalls the importance of **simplifying policy objectives**, thus enabling a subsequent simplification of programme structures and management systems at the level of beneficiaries. In this regard, Council underlines the need to modernise the rules relating to public procurement.

The Council takes note of the considerable increase in the volume of **outstanding budgetary commitments** and calls on the Commission to settle or decommit them as soon as possible.

It also makes the following remarks:

- **Reliability of the accounts**: the Council welcomes the favourable opinion given by the Court on the reliability of the accounts for the financial year 2010. It takes note of the change in the Commission's accounting policy concerning pre-financing payments establishing or contributing to financial engineering instruments, which required the Commission to review the accounts for the financial year 2009. It encourages the Commission to continue to assure that the high quality of the accounts is also maintained in the coming years;
- **Legality and regularity of the underlying transactions**: the Council notes that the Court's audit findings, based on the audited sample of underlying transactions and of supervisory and control systems, is consistent with the **positive evolution observed in recent years** and expresses its wish to see year-on-year improvements in error rates and financial management systems. It regrets the higher frequency of errors and the increase in the most likely error rate for payments as a whole from 3.3 % in 2009 to **3.7 % in 2010**. It therefore encourages the Commission to **further reinforce supervision and control structures**, to further strengthen its cooperation with Member States and to continue to improve guidance to national managing authorities, in order to bring down the level of error in Union spending in the years to come.

Revenue: the Council notes with satisfaction the Court's conclusions that EU revenue was free from material error and that overall the related supervisory and control systems were assessed as effective in ensuring the regularity of transactions. It encourages the Commission to continue to improve its management in order to reduce the risk of budget losses from waivers of amounts to be recovered. It encourages the Commission to further improve the management of reservations, in order to pursue lifting VAT reservations.

The Council then returns to each of the **budget areas** and makes the following comments:

- **Agriculture and natural resources:** the Council regrets that the payments examined by the Court in this policy group were still affected by material error and that the most likely error rate amounted to 2.3 %. It also regrets that still 37 % of the transactions audited by the Court in 2010 were affected by error and that, despite some improvement, "Rural Development" expenditure still suffered from a higher incidence of error. In this context, it requests that efforts of remedial action should be focused on this area. It notes that a large part of quantifiable errors in 2010 were related to problems of eligibility and accuracy, the latter mainly due to **over-declarations of eligible land**. It encourages the Commission and Member States to continue their efforts to ensure the reliability and completeness of data. It also notes that **weaknesses detected in the Integrated Administration and Control System (IACS) and in the Land Parcel Identification System (LPIS)** and calls for more controls on the ground. It highlights the significant work already made by the Commission, in collaboration with Member States, to decrease the error rate through more effective supervisory and control systems. It insists on the need for additional measures of simplification which should notably reduce the complexity of eligibility criteria. Lastly, in the context of the reform of the Common Agricultural Policy after 2013, it asks the Commission, when proposing measures to improve the systems, to avoid unnecessary administrative burden and to simplify procedures as much as possible;
- **Cohesion, energy and transport**: in this area, the Council regrets the significant levels of error even if notable progress has been made over the past two years: this level is at 7.7%. It notes, moreover, that for 58% of the transactions affected by error, Member States should have been in a position to detect at least some of them prior to certification of expenditure to the Commission. More effective management verifications must therefore be put in place by national managing authorities. It recalls the importance of applying a **strict policy of interruption and suspension of payment**s whenever significant deficiencies in the functioning of management and control systems are identified. The incorrect application of eligibility criteria and failures to comply with public procurement rules being the most common errors identified by the Court over the period 2006-2010, the Council invites the Commission and Member States to continue their efforts in monitoring compliance with EU and national eligibility requirements and public procurement rules. At the same time, the Council encourages Member States to simplify as much as possible the eligibility rules set out at national level and to actively promote the use of the existing simplified cost options. The Council welcomes the Court's specific evaluation of **contributions to Financial Engineering Instruments (FEI)** but is concerned about the deficiencies it has identified. The Council invites the Commission to continue to take corrective action, whenever appropriate, in order to ensure that national Audit Authorities deliver high quality audit results in a timely manner ;
- **External aid, development and enlargement**: the Council notes with satisfaction that the Court's audit revealed that payments in this area were free from material error. However, it is concerned about the significant level of errors found in interim and final payments which had not been detected by the Commission's controls. In addition, it recalls that the inclusion of pre-financing/advance payments in the Court's audit sample also in this policy group affects the comparability between policy areas. It is concerned that supervisory and control systems in this policy group were only partially effective in ensuring the legality and regularity of payments. More specifically, concerning **DG ELARG**, the Council asks the Commission to take the necessary measures to correct the shortcomings identified by the Court concerning **tendering procedures** and the definition of more detailed criteria for lifting ex-ante controls and suspending the "conferral of management" to third countries;
- **Research and other internal policies**: the Council regrets that interim and final payments relating to the 6th and 7th Research Framework Programmes (RFP) were subject to material error. Although it notes that the Commission has adopted measures to simplify the implementation of the 7th RFP, it calls for new measures to further simplify the existing framework. As regards the regularity of transactions, the Council notes that the main source of error in interim and final payments was the **reimbursement of ineligible or inaccurately declared costs** to projects funded from the RFP. It regrets the recurrence of the principal source of error, the incorrect calculation of personnel and indirect costs, but also the other types of error which included ineligible indirect taxes, the incorrect application of the depreciation of non-current assets methodology, and under-declared interest on bank accounts. It also regrets that the supervisory and control systems remained only partially effective in ensuring the regularity of payments. For what specifically concerns the **RFPs**, it notes that the amounts to be recovered have significantly increased. It welcomes the Commission's more extensive use of corrective measures and the Court's positive assessment of the procedures ensuring that ineligible costs are recovered. As regards the other internal policies, the Council invites the Commission to continue to strengthen the implementation of primary controls in close collaboration with national agencies;
- **Administrative and other expenditure**: lastly, the Council notes with satisfaction that, again in 2010, the administrative expenditure of EU institutions and bodies continued to remain free from material error and that their supervisory and control systems continued to be effective in ensuring compliance with the requirements of the Financial Regulation.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 21/02/2012

The Council adopted a recommendation to the European Parliament on the discharge to be given to the Commission for implementation of the EU's general budget for 2010. Some delegations emphasised the importance of **EU resources being correctly accounted for**, in particular in times when Member States are making significant budgetary consolidation efforts.

The recommendation was prepared on the basis of the Court of Auditors' annual report.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 13/03/2012

The Council was informed by the Danish presidency of issues discussed when it presented the Council's **recommendation on discharge of the EU's general budget for 2010** to the European Parliament's committee on budgetary control.

The recommendation was adopted by the Council on 21 February 2012. (Please see the summary of the recommendation.)

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 27/02/2012 - Document attached to the procedure

This document sets out Member States' replies to the Court of Auditors' Annual Report for the year 2010.

In accordance with the Treaty, the Court of Auditors, in its annual report, issues a Statement of Assurance (DAS). This is submitted to the European Parliament and the Council and is the Court's formal opinion on the reliability of the accounts and on the legality and regularity of the underlying transactions.

The Financial Regulation applicable to the General Budget of the European Union states in Article 143(6) that as soon as the Court of Auditors 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 of the following year.

Following publication on 10 November 2011 of the Court's Annual Report for the budgetary year 2010, the Commission duly informed Member States of details of the report. This information was presented in the form of a letter and three questionnaires which Member States were required to complete:

- Annex I was a questionnaire on the paragraphs in the report referring to individual Member States;
- Annex II was a questionnaire on the audit findings which refer to each individual Member State and
- Annex III was a questionnaire on general findings related to the policies and programmes under shared management.

This report is an analysis of the Member States' replies and is accompanied by a Staff Working Document which comprises Member States' replies to Annex I and Annex III (see SWD(2012)0024).

Main conclusions: the results of the Court's 2010 Annual Report are generally encouraging since they indicate that the overall most likely **error rate for all EU spending is below 4%.** These results are particularly positive for policies directly managed by the Commission. Policy areas such as research and other internal policies, external aid, development and enlargement as well as administrative and other expenditure indicate continuous improvement.

In policy area **"agriculture and natural resources",** the situation remained relatively stable with a level of error close to the materiality threshold of **2%**.

In the policy area **"cohesion, energy and transport",** it is important to emphasise that the error rate was **still below the rates for DAS years 2006 - 2008**. This is an indication that the management and control systems in the policy area, although still partially effective, are working more efficiently for the current programming period, as compared to the previous period.

Member States replies to the report indicate that there is a continuing trend towards improvement in the management of EU funds. They outlined several initiatives taken and also stated their commitment to even further improvements. Simplification and training at all levels remain a top priority. In addition, some Member States provided some complementary suggestions with regard to ensuring efficient management of EU funds and a more transparent discharge procedure.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 02/04/2012 - Committee report tabled for plenary, single reading

The Committee on Budgetary Control adopted the report by Christofer FJELLNER (EPP, SE) in which it recommends the European Parliament to grant the Commission discharge in respect of the implementation of the general budget of the European Union for the financial year 2010 as well as to the Directors of the Education, Audiovisual and Culture Executive Agency, the Executive Agency for Competitiveness and Innovation, the Executive

Agency for Health and Consumers, the European Research Council Executive Agency, the Trans-European Transport Network Executive Agency on the implementation of their respective budgets for the financial year 2010.

The Commission also recommends that the European Parliament gives closure to the accounts of the general budget of the European Union for 2010.

- In a series of general observation, Members make a number of recommendations budget that need to be taken into account when the discharge is granted. Amongst these include the achievement of the following priority actions:
- close monitoring of the use of Financial Engineering Instruments (FEIs) by granting priority to the evaluation and the transparency of the implementation of these instruments;
- improvement and strengthening of the reliability of the accountability chain by delivering a political declaration in which it accepts its final and overall responsibility for the implementation of the budget;
- reconsidering the increased use of pre-financing as well as control and audit mechanisms;
- creation of an effective sanctioning mechanism in the area of Cohesion policy:

1. The Court of Auditors' Statement of Assurance:

- **Accounts – clean opinion**: firstly Members note that the annual accounts of the Union for the financial year 2010 present fairly in all material respects the position of the Union as of 31 December 2010, and the results of its operations and its cash flows for the then completed year. They note the emphasis of matter in relation to a change in the Commission's accounting policy with regard to financial engineering instruments (FEIs), which shows that risks of material misstatements remain, although the accounts have received an unmodified opinion since 2007.
- **Legality and regularity of payments – adverse opinion**: they regret deeply that payments remain materially affected by an error rate which is estimated to be most likely 3.7%. Members are worried about this increase because it reverses the positive trend observed in the past few years. They attribute this development mainly to the increase of the most likely error rate in the area of Cohesion, Energy and Transport, which marked a significant increase to 7.7%.

II. Horiziontal issues:

Financial Engineering Instruments (FEIs): Members recall that the Commission promotes an increased use of FEIs for the next multiannual financial framework despite the fact that the Commission itself considers FEIs to be of high risk. They understand that FEIs complement rather than replace existing grant funding and have the potential benefit of being able to be used more than once. They deplore the absence of formal reporting requirements and note that FEIs with a total commitment of approximately EUR 8.1 billion have been created and have received payments of approximately EUR 5.2 billion from 2007-2013 operational programmes. Members regret the lack of transparency which characterises the implementation of these instruments and the uncertainty as regards the legal basis. Members invite the Commission to consider it a priority action to closely monitor the use of FEIs inter alia by:

- evaluating objectively and critically the experiences with FEIs in the Cohesion policy for the programming period 2007-2013 so far;
- providing a risk assessment considering different FEIs separately as well as taking into account the risk structure of the beneficiary of the FEIs;
- completing the process of gathering information from Member States on issues not yet fully covered, such as the exact number and size of specific funds and relevant indicators on the effectiveness, efficiency and economy of FEIs;
- reporting annually to Parliament, in the context of the discharge procedure, on the use of FEIs in Member States.

Responsibility of the Commission and its management representations: Members stress once again that **the Commission therefore has the primary responsibility in the management of the Union funds** concerned and that, as a consequence, the Commission has the obligation to take measures that are aimed at ensuring legality and regularity as well as sound financial management. For Members, it is not possible for the Commission to transfer its financial responsibility to the Member States, even in cases where a managerial weakness or irregularity has been identified at the level of a Member State.

They note the close link between the **Commission's ultimate responsibility** for implementing the budget and the significance of the discharge procedure and stress that the Commission's final responsibility regarding the implementation of the budget also covers weaknesses in Member States' management and control systems. **Financial responsibility is and shall remain indivisible**.

Members underline that the **College and the Commissioners** thereby take the final responsibility for the reliability and completeness. They consider that the Commission has made great progress as regards adequate corporate governance within the Commission. Further, they invite **the Commission to consider it a priority action to improve and strengthen the accountability chain**, inter alia by:

- providing the Committee on Budgetary Control full insight into the Member States annual summaries;
- delivering a political declaration in which it accepts its final and overall responsibility for the implementation of the budget, including the part of the budget which is implemented under shared management;
- establishing the AARs in accordance with the principle of objectivity, avoiding optimistic estimations;
- providing mandatory, complete and relevant guidance to the Directorates-General, in particular regarding the way residual error rates and residual risks;
- providing in each AAR a complete and reliable explanation of the relationship between the residual risk or the residual error rate and the Court of Auditors' error rate.

Responsibility of Member States: Members recall that the Commission implements the Union budget on its own responsibility but also in cooperation with Member States. They underline that the two policy areas prone to the highest error rates (‘Cohesion, transport and energy’ and ‘Agriculture and natural resources’) are implemented under shared management, and deplore the fact that the estimated most likely error rates amount to 7.7 % and 2.3 %, respectively.) They welcome the fact that for the first time it is possible to identify the errors and their origin: for ERDF and Cohesion Fund, three Member States (Spain, Italy and the UK) have contributed 59 % to the cumulative quantifiable errors identified during this period and for the ESF four

Member States (Spain, Portugal, the UK and Germany) have contributed 68 % to the cumulative quantifiable errors. The committee recalls its repeated invitations to the Commission to present a proposal for the **introduction of mandatory national management declarations (NMDs) issued, made public and duly audited by the responsible audit authority**, as part of the Commission's final and overall responsibility for the implementation of the Union budget. It notes that NMDs should contain full information about the use of Union funds.

It proposes that the substance of national declarations signed at directorate-general level should comply with international auditing standards and that those declarations should be used by the Court of Auditors in its audit work and based on, among other things, the declarations by authorities to which management power is delegated. Members point to the existence of significant differences in Member States' administrative performance in the field of revenue and expenditure in shared management, especially related to detecting irregularities, fraud and errors and financial follow-up in both the customs field and spending of Union funds. They note that the Commission so far monitors administrative performance in a reactive way and on case level and thus does not perform **sufficient trend analysis** to identify fields of risk. They call on the Commission to apply the method of trend analysis to identify financial risks and to take measures to improve Member States' administrative performance.

The committee notes with great concern the cases of **Bulgaria and Romania** where there are serious cases of alleged fraud and high levels of corruption. It calls on the Commission to increase pressure on the Romanian government to implement the Commission's recommendations and to ensure that the Romanian government's efforts to develop a consistent jurisprudence in public procurement trials are increased.

Pre-financings: noting that pre-financings are considered necessary in order for beneficiaries to start the agreed action, Members are nevertheless concerned about the influence pre-financings have had mainly in the policy areas 'External aid, Development and Enlargement' and 'Research and Internal Policies'. They believe that by paying high volumes of pre-financings, **the Commission takes on an increased financial risk**, for example in cases of insolvency of beneficiaries, as well as an increased risk to legality and regularity as acceptance of the cost declared by beneficiaries is postponed to a later date. Since it is more efficient to prevent irregularities than to correct undue payment ex-post through recoveries. Members invite the Commission to make it a **priority action to reconsider the increased use of pre-financing** as well as control and audit mechanisms by adapting the level of pre-financings in the various programmes to a level that will ensure the necessary float for the beneficiary to start the project, while also safeguarding the financial interest of the Union and informing Parliament accordingly.

Outstanding budgetary commitments (RAL): Members recall that outstanding budgetary commitments are commitment appropriations made, but not used (i.e. paid) and that they derive mainly from multi-annual programmes (e.g. Cohesion) where commitments are made in the earlier years of the programming period while the corresponding payments are made gradually during the whole programming period. A high level of outstanding commitments might indicate difficulties experienced by Member States in absorbing the amounts allocated. They note that in 2010, those outstanding commitments increased by nearly 10 % to approximately **EUR 194 billion**. There is a risk that the committed funds will have to be spent quicker than usual, thereby increasing the risk of error.

Members invite the Commission to provide information on the size of outstanding commitments per Member State as well as on its cooperation with the Member States to identify and address risk areas in relation to absorption and regularity.

Budgetary contribution to decentralised agencies and joint undertakings: Members note that the Union contribution for the financial year 2010 amounted to over EUR 620 million to the decentralised Agencies and to over EUR 500 million for the Joint Undertakings. As these sums are quite considerable, they expect the Commission, in such time of financial crisis, to avoid increases in the Agencies' budgets and to **even consider reducing the Union contribution to their budgets** based on an assessment of its priorities. They also call on the Commission to provide Parliament with a detailed overview of the criteria and verification mechanisms applied to avoid conflicts of interest and 'revolving door' cases for Agencies/Joint Undertakings.

Union budget and the financial and budgetary crisis: in view of the continuing financial and budgetary crisis in Member States and the difficulties faced by Greece, Hungary, Ireland, Latvia, Portugal and Romania, some of these countries are receiving assistance in the form of balance of payments (BOP) facility loans (loans disbursed as at 31 December 2010 amounting to approximately EUR 12 billion). Members are concerned about the fact that the Court of Auditors did not pay sufficient attention to these new challenges in the Union in its annual report on 2010. They recall that there is no guarantee fund established to protect the budget from calls on those guarantees and therefore invite the Commission to evaluate the potential need to set up a guarantee fund to cover for potential losses similarly to the Guarantee Fund for External Actions with the aim to protect the Union budget. They are of the opinion that the more severe the financial situation in certain Member States becomes, **the more difficult it will be for those Member States to contribute to the Union budget**. They believe that this puts at risk the revenue of the Union budget stemming from 'Member States in difficulties'. They criticise the fact that the Council used Article 122 of the TFEU in 2010 for setting up the European Stability Facility (EFSF) because that Article is only applicable for natural disasters and not for economic catastrophes; is concerned that the EFSF neither contains **an element of democratic control by Parliament** nor gives the Court of Auditors any audit rights. They reiterate their invitation to the Council and Member States to ensure in the by-laws of the ESM appropriate arrangements for public external audit of legality, regularity as well as performance in line with internationally accepted auditing standards, to ensure the reliability of data and statistics, to clarify the responsibility and reporting arrangements of all actors whose liabilities will be involved in the establishment of the mechanism and to urge the Commission to report to Parliament and the Council twice a year on the risk that is incurred on the Union's budget by its guarantee to the EFSM.

Transparency: Members reiterate the vital role transparency plays in ensuring accountability for the use of public funds and recalls that it is one of the main instruments in achieving legal and regular expenditure. They also reiterate their call for **all grant payments from Union funds to be recorded in a user-friendly online database** paying due regard to data protection law. They believe that the payment of Union funds should be explicitly conditional on the acceptance by the beneficiaries that the basic details be a matter of public record. They note that in the policy area Cohesion full transparency of beneficiaries of ERDF and Cohesion Fund is not ensured. Improvements in this regard are therefore expected in the context of the next financial framework.

Statement of Assurance methodology: Members consider that the Commission, the Court of Auditors, the Parliament and other stakeholders should focus their attention and make recommendations concerning those areas in which the management needs to improve, in particular the areas of Cohesion and agriculture. They stress once again the need to closely examine pre-financings which they believe are exposed to a lower level of risk to legality and regularity than interim or final payments. They also note that the Court of Auditors applies a common methodology to quantify public procurement errors in the two policy areas Agriculture and natural resources, on the one hand, and Cohesion, Energy and Transport, on the other.

They call on the Commission and the Court of Auditors to harmonise the treatment of public procurement errors in these two policy areas urgently and to report back to the Parliament's competent committee on the progress made by the end of 2012.

III. Specific issues:

Performance: Getting results from the Union budget: Members welcome the new Chapter in the Annual Report including the Court of Auditors' observations on the Commission's se-assessment of performance in its AARs. They take the view that those important findings illustrate that **Parliament cannot fully rely on the Commission's reporting on performance**. They invite the Court of Auditors to consider whether it would be possible to include the new insight on performance on the different policy groups in the related chapters of the Annual Report. The Commission is invited to improve its reporting on performance. Members reiterate the call for 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.

Members also focus on each of its policies individually. The following is noted:

- Cohesion, energy and transport – adverse conclusion: Members are concerned about the increase of the error rate to 7.7% in the policy area 'Cohesion, energy and transport' and call on the Court of Auditors to present error rates for the European Regional Development Fund, the Cohesion Fund, the European Social Fund, energy and transport separately and not on an aggregate basis. They deplore the fact that, year after year, non-respect of public procurement rules accounts for a large proportion of the errors. They call on the Commission to pursue the ongoing reform of public procurement taking due account of these worrying results and to follow up on infringements rigorously.

Other issues concern:

- deficiencies in some audits;
- the fact that the Commission has no power to impose penalties on Member States or regions which have repeatedly failed to implement Structural Funds and the Cohesion Fund correctly;
- the error rate in Cohesion, and in particular in Regional Policy, has increased despite the increased use of interruptions;
- that financial corrections implemented by a Member State have a "virtual character" with little sanctioning effect.

The Commission is invited to consider it a priority action to support Parliament in its efforts in the ordinary legislative procedure concerning the proposal for a regulation laying down common provisions on the structural instruments to create an effective sanctioning mechanisms so that the Commission can fully assume its final and overall responsibility for the implementation of the budget. This should, inter alia, include the following elements: (i) making net reductions the rule for financial corrections imposed by the Commission and abolishing the possibility to declare retrospective projects; (ii) obliging Member States to recover ineligible expenditure from final beneficiaries as far as possible so that final beneficiaries bear the consequences of ineligible expenditure and not the national taxpayer; (iii) allowing the Commission to give Member States incentives not only to comply with the rules; (iv) ensuring that a full range of sanctions (interruptions, suspensions, financial corrections, and penalties) are available for all funds.

- Agriculture and natural resources – qualified conclusion: Members recall that IACS must ensure that correct and traceable payments are made to farmers which doesn't seem to be the case. They encourage the Commission to further reduce the duration of the conformity clearance procedure while ensuring that Member States' right of defence is preserved. They reiterate the belief that agricultural funds unduly paid have to be recovered from the final beneficiaries as much as possible to avoid the taxpayer being hit twice. These systems should be examined.

- External aid, development and enlargement – qualified conclusion: Members state that the overall most likely error estimated by the Court of Auditors is 1.7%. They regret, however, that a material level of error was found in interim and final payments. They recall that the main risks linked to budget support (risk to effectiveness of the aid as well as risks of fraud and corruption) also do not materialise in the Statement of Assurance audit. The committee invites the Commission to encourage EuropeAid to complete as soon as possible the work on a methodology to calculate the level of 'residual error' which might remain after all controls have been executed.

Members note that the Heads of Union Delegations, where they are the only EEAS staff in a delegation, may not delegate, even on a temporary basis, their powers as authorising officers for the Union Delegation's administrative expenditure when they are absent. In addition, the UN is expected to grant intergovernmental donor organisations similar rights to access internal audit reports as are granted to UN Member States.

- Research and other internal policies – qualified conclusion: Members understand that the Commission estimates the representative error rate without prefinancings on a multi-annual basis to be 3.4% for Framework Programme 6 and the provisional representative error rate for Framework Programme 7 to be a little above 4 % on a multi-annual basis. They note that the Commission is simplifying ex ante control procedures as far as possible with a view to facilitate the processing of payments with the consequence that only administrative requirements and **arithmetical checks can be made**. They are worried that even in the case of doubt about the eligibility of cost declared, only limited ex ante checks were carried out. A balance has to be struck between facilitating payments and controlling the eligibility of cost declared.

IV. Views from specific policy perspectives: lastly, Members make a series of observations on the Commission's sectoral policies:

- **Development policies**: noting the Commission's supervisory and control systems for external aid and development were again only partially effective, Members encourage the Commission to develop a coherent methodology for the external relations' directorates to calculate the residual error rate, and to uphold the highest control standards possible. Particular efforts are needed: (i) to improve the effectiveness of Union aid to the basic education sector in Sub-Saharan Africa and South Asia; (ii) to fight the large-scale fraud cases uncovered by the Global Fund to Fight AIDS, Tuberculosis and Malaria in Mali, Mauritania, Djibouti and Zambia; (iii) to ensure the greater involvement of parliaments and consultation with civil society in partner countries when drawing up projects;
- **Employment and Social Affairs Policy**: recalling that the proper usage of funds by Member States must be ensured, Members call on the Court of Auditors to present error rates for the European Regional Development Fund and the ESF separately and not on an aggregate basis.

- **Internal Market and Consumer Protection Policy**: underlining the complexity of rules as a major source of errors in the 'Research and Other Policies' chapter, the committee asks the Commission to explore different options to improve the balance between simplification and control in order to reduce the administrative burden for SMEs.
- **Transport and Tourism Policy:** Members call on the Commission to present, on an annual basis, lists of tourism and transport infrastructure projects, co-financed by cohesion and regional funds, as is already the case for TEN-T funds, and, as a result, make information on Union co-funding easily accessible and transparent for other Institutions and the taxpayer.
- **Foreign Affairs policy**: Members considers that, above and beyond the efforts required to improve the regularity of payments, the Commission should, for all interventions, carry out systematic evaluations through the prism of cost/benefit ratio. They stress, however, that the cost/benefit ratio cannot always be considered, in itself, as a sufficient criterion for assessing the appropriateness of the Union's assistance in a third country, and foreign policy goals should include additional criteria - such as, for example, the strategic interests of the Union, the need for a Union presence on the ground, or the implementation of projects and actions fostering Union values and fundamental principles.
- **Regional Development Policy**: the committee regrets that regional policy was part of an error-prone group, among the policy areas of Union expenditure. It notes that the non-compliance with both public procurement rules and eligibility rules accounts for a high proportion of the estimated error rate (31 % and 43 %, respectively). It underlines the need for the Commission to simplify the rules in order to ensure more user-friendly procedures and not to discourage potential beneficiaries from participating in projects. Member States are asked to improve training of officials responsible for management.
- **Fisheries:** Members emphasise that there is a need for effective monitoring of Union-funded activities that provide sectoral support in the context of international agreements. Given Parliament’s legislative and budgetary role, they ask to be more closely involved in fisheries policy.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 10/05/2012 - Text adopted by Parliament, single reading

The European Parliament adopted by 427 votes to 134, with 66 abstentions, a decision to grant discharge to the Commission discharge in respect of the implementation of the general budget of the European Union for the financial year 2010. It also adopted separation decisions granting discharge to the Directors of the Education, Audiovisual and Culture Executive Agency, the Executive Agency for Competitiveness and Innovation, the Executive Agency for Health and Consumers, the European Research Council Executive Agency, the Trans-European Transport Network Executive Agency on the implementation of their respective budgets for the financial year 2010.

At the same time, Parliament closed the accounts of the general budget for the European Union for 2010.

Parliament also adopted, by 552 votes to 75, with 15 abstentions, a resolution including a series of recommendations that need to be taken into account when the discharge is granted.

Amongst these include the achievement of the following priority actions:

- close monitoring of the use of Financial Engineering Instruments (FEIs) by granting priority to the evaluation and the transparency of the implementation of these instruments;
- improvement and strengthening of the reliability of the accountability chain by delivering a political declaration in which it accepts its final and overall responsibility for the implementation of the budget;
- reconsidering the increased use of pre-financing as well as control and audit mechanisms;
- creation of an effective sanctioning mechanism in the area of Cohesion policy:

1. The Court of Auditors' Statement of Assurance:

- **Accounts – clean opinion**: firstly, Parliament notes that the annual accounts of the Union for the financial year 2010 present fairly in all material respects the position of the Union as of 31 December 2010, and the results of its operations and its cash flows for the then completed year. It notes the emphasis of matter in relation to a change in the Commission's accounting policy with regard to financial engineering instruments (FEIs), which shows that risks of material misstatements remain, although the accounts have received an unmodified opinion since 2007.
- **Legality and regularity of payments – adverse opinion**: Parliament regrets deeply that payments remain materially affected by an error rate which is estimated to be most likely 3.7%. It is worried about this increase because it reverses the positive trend observed in the past few years. Members attribute this development mainly to the increase of the most likely error rate in the area of Cohesion, Energy and Transport, which marked a significant increase to 7.7%.

II. Horizontal issues:

Financial Engineering Instruments (FEIs): Parliament recalls that the Commission promotes an increased use of FEIs for the next multiannual financial framework despite the fact that the Commission itself considers FEIs to be of high risk. It understands that FEIs complement rather than replace existing grant funding and have the potential benefit of being able to be used more than once. It deplores the absence of formal reporting requirements and note that FEIs with a total commitment of approximately EUR 8.1 billion have been created and have received payments of approximately EUR 5.2 billion from 2007-2013 operational programmes. Members regret the lack of transparency which characterises the implementation of these instruments and the uncertainty as regards the legal basis. Members invite the Commission to consider it a priority action to closely monitor the use of FEIs inter alia by:

- evaluating objectively and critically the experiences with FEIs in the Cohesion policy for the programming period 2007-2013 so far;
- providing a risk assessment considering different FEIs separately as well as taking into account the risk structure of the beneficiary of the FEIs;
- completing the process of gathering information from Member States on issues not yet fully covered, such as the exact number and size of specific funds and relevant indicators on the effectiveness, efficiency and economy of FEIs;
- reporting annually to Parliament, in the context of the discharge procedure, on the use of FEIs in Member States.

Responsibility of the Commission and its management representations: Parliament stresses once again that **the Commission therefore has the primary responsibility in the management of the Union funds** concerned and that, as a consequence, the Commission has the obligation to take measures that are aimed at ensuring legality and regularity as well as sound financial management. For Members, it is not possible for the Commission to transfer its financial responsibility to the Member States, even in cases where a managerial weakness or irregularity has been identified at the level of a Member State. Parliament notes the close link between the **Commission's ultimate responsibility** for implementing the budget and the significance of the discharge procedure and stress that the Commission's final responsibility regarding the implementation of the budget also covers weaknesses in Member States' management and control systems. **Financial responsibility is and shall remain indivisible**. Parliament underlines that the College and the Commissioners thereby take the final responsibility for the reliability and completeness of the reservations made by the Directors-General and Heads of Units acting as 'Authorising Officers by Delegation' and stresses that the act of delegation in no way takes away **final responsibility from the College and the Commissioners**.

Plenary recalls, in this regard, that mandatory national management declarations issued and signed at ministerial level and duly audited by an i **ndependent auditor are a necessary mean to counter some national authorities' lack of responsibility as regards the use and management of Union money**.

Members underline that the **College and the Commissioners** thereby take the final responsibility for the reliability and completeness. They consider that the Commission has made great progress as regards adequate corporate governance within the Commission.

Further, Parliament invites **the Commission to consider it a priority action to improve and strengthen the accountability chain**, inter alia by:

- providing the Committee on Budgetary Control full insight into the Member States annual summaries;
- delivering a political declaration in which it accepts its final and overall responsibility for the implementation of the budget, including the part of the budget which is implemented under shared management;
- establishing the AARs in accordance with the principle of objectivity, avoiding optimistic estimations;
- providing mandatory, complete and relevant guidance to the Directorates-General, in particular regarding the way residual error rates and residual risks.

Commission's administration: Parliament calls on the Commission to clarify its relocation plans, the costs this will entail, how much office space will become available and how much will be added, and the number of staff in each Directorate-General who will be affected. Plenary also calls on the Commission to complete, without delay, the reclassification scheme for all the temporary staff of the European Anti-Fraud Office on open-ended contracts. Parliament points out that in 2010, during the procedure to approve flexitime and compensatory leave as a voluntary benefit, the Commission approved around 90 000 additional days of leave for its staff, which is the equivalent of some 445 posts – even though the Staff Regulations states that overtime worked by certain staff shall not be compensated.

Responsibility of Member States: Parliament recalls that the Commission implements the Union budget on its own responsibility but also in cooperation with Member States. It underlines that the two policy areas prone to the highest error rates ('Cohesion, transport and energy' and 'Agriculture and natural resources') are implemented under shared management, and deplores the fact that the estimated most likely error rates amount to 7.7 % and 2.3 %, respectively.) It welcomes the fact that for the first time it is possible to identify the errors and their origin: for ERDF and Cohesion Fund, three Member States (Spain, Italy and the UK) have contributed 59 % to the cumulative quantifiable errors identified during this period and for the ESF four Member States (Spain, Portugal, the UK and Germany) have contributed 68 % to the cumulative quantifiable errors. Plenary recalls that the finance ministers of Greece, Italy and Spain were invited to an exchange of views in Parliament's Committee on Budgetary Control and regrets that none of the invited finance ministers appeared to discuss with members of that committee the Court of Auditors' results with a view to improving the management of Structural Funds and eventually the legal basis. It calls on its President to address, at the next meeting of the Heads of State, the refusal by those finance ministers to discuss these important matters in public with Parliament's responsible committee. Members recall its repeated invitations to the Commission to **present a proposal for the introduction of mandatory national management declarations** (NMDs) issued, made public and duly audited by the responsible audit authority, as part of the Commission's final and overall responsibility for the implementation of the Union budget. They note that NMDs should contain full information about the use of Union funds. Parliament proposes that the substance of national declarations signed at directorate-general level should comply with international auditing standards and that those declarations should be used by the Court of Auditors in its audit work and based on, among other things, the declarations by authorities to which management power is delegated. It points to the existence of significant differences in Member States' administrative performance in the field of revenue and expenditure in shared management, especially related to detecting irregularities, fraud and errors and financial follow-up in both the customs field and spending of Union funds. It notes that the Commission so far monitors administrative performance in a reactive way and on case level and thus does not perform **sufficient trend analysis** to identify fields of risk. It calls on the Commission to apply the method of trend analysis to identify financial risks and to take measures to improve Member States' administrative performance.

Members note with great concern the cases of **Bulgaria and Romania** where there are serious cases of alleged fraud and high levels of corruption. They call on the Commission to increase pressure on the Romanian government to implement the Commission's recommendations and to ensure that the Romanian government's efforts to develop a consistent jurisprudence in public procurement trials are increased.

Pre-financings: noting that pre-financings are considered necessary in order for beneficiaries to start the agreed action, Members are nevertheless concerned about the influence pre-financings have had mainly in the policy areas 'External aid, Development and Enlargement' and 'Research and Internal Policies'. They believe that by paying high volumes of pre-financings, **the Commission takes on an increased financial risk**, for example in cases of insolvency of beneficiaries, as well as an increased risk to legality and regularity as acceptance of the cost declared by beneficiaries is postponed to a later date. Since it is more efficient to prevent irregularities than to correct undue payment ex-post through recoveries. Members invite the Commission to make it a **priority action to reconsider the increased use of pre-financing** as well as control and audit mechanisms by adapting the level of pre-financings in the various programmes to a level that will ensure the necessary float for the beneficiary to start the project, while also safeguarding the financial interest of the Union and informing Parliament accordingly.

Outstanding budgetary commitments (RAL): Parliament recalls that outstanding budgetary commitments are commitment appropriations made, but not used (i.e. paid) and that they derive mainly from multi-annual programmes (e.g. Cohesion) where commitments are made in the earlier years of the programming period while the corresponding payments are made gradually during the whole programming period. A high level of outstanding commitments might indicate difficulties experienced by Member States in absorbing the amounts allocated. It notes that in 2010, those outstanding commitments increased by nearly 10 % to approximately **EUR 194 billion**. There is a risk that the committed funds will have to be spent quicker than usual, thereby increasing the risk of error. Members invite the Commission to provide information on the size of outstanding commitments per Member State as well as on its cooperation with the Member States to identify and address risk areas in relation to absorption and regularity.

Budgetary contribution to decentralised agencies and joint undertakings: Parliament notes that the Union contribution for the financial year 2010 amounted to over EUR 620 million to the decentralised Agencies and to over EUR 500 million for the Joint Undertakings. As these sums are quite considerable, they expect the Commission, in such time of financial crisis, to avoid increases in the Agencies' budgets and to **even consider reducing the Union contribution to their budgets** based on an assessment of its priorities. It also calls on the Commission to provide Parliament with a detailed overview of the criteria and verification mechanisms applied to avoid conflicts of interest and 'revolving door' cases for Agencies/Joint Undertakings.

Union budget and the financial and budgetary crisis: in view of the continuing financial and budgetary crisis in Member States and the difficulties faced by Greece, Hungary, Ireland, Latvia, Portugal and Romania, some of these countries are receiving assistance in the form of balance of payments (BOP) facility loans (loans disbursed as at 31 December 2010 amounting to approximately EUR 12 billion). Members are concerned about the fact that the Court of Auditors did not pay sufficient attention to these new challenges in the Union in its annual report on 2010. They recall that there is no guarantee fund established to protect the budget from calls on those guarantees and therefore invite the Commission to evaluate the potential need to set up a guarantee fund to cover for potential losses similarly to the Guarantee Fund for External Actions with the aim to protect the Union budget. They are of the opinion that the more severe the financial situation in certain Member States becomes, **the more difficult it will be for those Member States to contribute to the Union budget**. They believe that this puts at risk the revenue of the Union budget stemming from 'Member States in difficulties'. They criticise the fact that the Council used Article 122 of the TFEU in 2010 for setting up the European Stability Facility (EFSF) because that Article is only applicable for natural disasters and not for economic catastrophes; is concerned that the EFSF neither contains **an element of democratic control by Parliament** nor gives the Court of Auditors any audit rights. They reiterate their invitation to the Council and Member States to ensure in the by-laws of the ESM appropriate arrangements for public external audit of legality, regularity as well as performance in line with internationally accepted auditing standards, to ensure the reliability of data and statistics, to clarify the responsibility and reporting arrangements of all actors whose liabilities will be involved in the establishment of the mechanism and to urge the Commission to report to Parliament and the Council twice a year on the risk that is incurred on the Union's budget by its guarantee to the EFSM.

Transparency: Parliament reiterates the vital role transparency plays in ensuring accountability for the use of public funds and recalls that it is one of the main instruments in achieving legal and regular expenditure. It also reiterates its call for **all grant payments from Union funds to be recorded in a user-friendly online database** paying due regard to data protection law. It believes that the payment of Union funds should be explicitly conditional on the acceptance by the beneficiaries that the basic details be a matter of public record. Members note that in the policy area Cohesion full transparency of beneficiaries of ERDF and Cohesion Fund is not ensured. Improvements in this regard are therefore expected in the context of the next financial framework.

Statement of Assurance methodology: Parliament considers that the Commission, the Court of Auditors, the Parliament and other stakeholders should focus their attention and make recommendations concerning those areas in which the management needs to improve, in particular the areas of Cohesion and agriculture. It stresses once again the need to closely examine pre-financings which it believes are exposed to a lower level of risk to legality and regularity than interim or final payments. Parliament also notes that the Court of Auditors applies a common methodology to quantify public procurement errors in the two policy areas Agriculture and natural resources, on the one hand, and Cohesion, Energy and Transport, on the other. They call on the Commission and the Court of Auditors to harmonise the treatment of public procurement errors in these two policy areas urgently and to report back to the Parliament's competent committee on the progress made by the end of 2012.

III. Specific issues:

Performance: Getting results from the Union budget: Members welcome the new Chapter in the Annual Report including the Court of Auditors' observations on the Commission's se-assessment of performance in its AARs. They take the view that those important findings illustrate that **Parliament cannot fully rely on the Commission's reporting on performance**. They invite the Court of Auditors to consider whether it would be possible to include the new insight on performance on the different policy groups in the related chapters of the Annual Report. The Commission is invited to improve its reporting on performance. Members reiterate the call for 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.

Members also focus on each of its policies individually. The following is noted:

- Cohesion, energy and transport – adverse conclusion: Members are concerned about the increase of the error rate to 7.7% in the policy area 'Cohesion, energy and transport' and call on the Court of Auditors to present error rates for the European Regional Development Fund, the Cohesion Fund, the European Social Fund, energy and transport separately and not on an aggregate basis. They deplore the fact that, year after year, non-respect of public procurement rules accounts for a large proportion of the errors. They call on the Commission to pursue the ongoing reform of public procurement taking due account of these worrying results and to follow up on infringements rigorously.

Other issues concern:

- deficiencies in some audits;
- the fact that the Commission has no power to impose penalties on Member States or regions which have repeatedly failed to implement Structural Funds and the Cohesion Fund correctly;
- the error rate in Cohesion, and in particular in Regional Policy, has increased despite the increased use of interruptions;
- that financial corrections implemented by a Member State have a "virtual character" with little sanctioning effect.

The Commission is invited to consider it a priority action to support Parliament in its efforts in the ordinary legislative procedure concerning the proposal for a regulation laying down common provisions on the structural instruments to create an effective sanctioning mechanisms so that the Commission can fully assume its final and overall responsibility for the implementation of the budget. This should, inter alia, include the following elements: (i) making net reductions the rule for financial corrections imposed by the Commission and abolishing the possibility to declare retrospective projects; (ii) obliging Member States to recover ineligible expenditure from final beneficiaries as far as possible so that final beneficiaries bear the consequences of ineligible expenditure and not the national taxpayer; (iii) allowing the Commission to give Member States incentives not only to comply with the rules; (iv) ensuring that a full range of sanctions (interruptions, suspensions, financial corrections, and penalties) are available for all funds.

- Agriculture and natural resources – qualified conclusion: Members recall that IACS must ensure that correct and traceable payments are made to farmers which doesn't seem to be the case. They encourage the Commission to further reduce the duration of the conformity clearance procedure while ensuring that Member States' right of defence is preserved. They reiterate the belief that agricultural funds unduly paid have to be recovered from the final beneficiaries as much as possible to avoid the taxpayer being hit twice. These systems should be examined.

- External aid, development and enlargement – qualified conclusion: Parliament states that the overall most likely error estimated by the Court of Auditors is 1.7%. It regrets, however, that a material level of error was found in interim and final payments. It recalls that the main risks linked to budget support (risk to effectiveness of the aid as well as risks of fraud and corruption) also do not materialise in the Statement of Assurance audit. The Commission is invited to rigorously monitor those risks; however, considers sectoral budget support an effective measure for long-term capacity building. Parliament calls on the Commission to introduce budget support only **under rigorous and well-defined conditions**.

Parliament invites the Commission to encourage **EuropeAid** to complete as soon as possible the work on a methodology to calculate the level of 'residual error' which might remain after all controls have been executed.

Other more technical recommendations are made, such as:

- allowing a Deputy Head of Delegation, usually coming from a Member State, where one exists, to deputise for the Head of Delegation in his absence for all matters except the implementation of operational expenditure
- expecting UN agencies to grant intergovernmental donor organisations similar rights to access internal audit reports as are granted to UN Member States;
- calling for a detailed report from the Commission on the total cost of advertising for EU enlargement, together with a correspondingly detailed report and breakdown of costs.

Union's aid to Haiti: in a number of amendments adopted in plenary, Parliament recalls the earthquake in Haiti and its disastrous consequences. It regrets the insufficient level of coordination of humanitarian aid and development aid (linking relief, rehabilitation and development) and takes the view that provision of humanitarian aid should be based on an exit strategy. The Commission should direct its efforts and funding to rehabilitation and development. Members regret the **insufficient coordination between the Union Delegation and the ECHO representation** and support a reinforced coordination between all Union actors in the country. The Commission is urged to ensure better coherence and complementarity between humanitarian aid and development aid, both at a policy level and in practice. Parliament deplores the lack of sustainability of some projects and stress that projects should principally aim at creating employment and sustainable growth which would allow the Haitian State to increase its own revenues in order to depend less on foreign assistance. It therefore requests the Commission to provide Parliament with a list of projects which have been carried out during the last 15 years in Haiti with a detailed assessment of their current situation in order to see how sustainable they are since. Lastly on this issue, Parliament points to the lack of visibility of the Union aid in Haiti. It takes the view that, in order to enhance visibility, not only the flag but also the name of the European Union should appear in PR documents rather than simply that of the Commission or of DG ECHO, which are much less identifiable to average Haitian citizens.

- Research and other internal policies – qualified conclusion: Members understand that the Commission estimates the representative error rate without prefinancings on a multi-annual basis to be 3.4% for Framework Programme 6 and the provisional representative error rate for Framework Programme 7 to be a little above 4 % on a multi-annual basis. They note that the Commission is simplifying ex ante control procedures as far as possible with a view to facilitate the processing of payments with the consequence that only administrative requirements and **arithmetical checks can be made**. They are worried that even in the case of doubt about the eligibility of cost declared, only limited ex ante checks were carried out. A balance has to be struck between facilitating payments and controlling the eligibility of cost declared.

IV. Views from specific policy perspectives: lastly, Parliament makes a series of observations on the Commission's sectoral policies:

- **Development policies**: noting the Commission's supervisory and control systems for external aid and development were again only partially effective, Parliament encourages the Commission to develop a coherent methodology for the external relations' directorates to calculate the residual error rate, and to uphold the highest control standards possible. Particular efforts are needed: (i) to improve the effectiveness of Union aid to the basic education sector in Sub-Saharan Africa and South Asia; (ii) to fight the large-scale fraud cases uncovered by the Global Fund to Fight AIDS, Tuberculosis and Malaria in Mali, Mauritania, Djibouti and Zambia; (iii) to ensure the greater involvement of parliaments and consultation with civil society in partner countries when drawing up projects.
- **Employment and Social Affairs Policy**: recalling that the proper usage of funds by Member States must be ensured, Parliament calls on the Court of Auditors to present error rates for the European Regional Development Fund and the ESF separately and not on an aggregate basis.
- **Internal Market and Consumer Protection Policy**: underlining the complexity of rules as a major source of errors in the 'Research and Other Policies' chapter, Parliament asks the Commission to explore different options to improve the balance between simplification and control in order to reduce the administrative burden for SMEs.
- **Transport and Tourism Policy**: Parliament calls on the Commission to present, on an annual basis, lists of tourism and transport infrastructure projects, co-financed by cohesion and regional funds, as is already the case for TEN-T funds, and, as a result, make information on Union co-funding easily accessible and transparent for other Institutions and the taxpayer.

- **Foreign Affairs policy**: Members considers that, above and beyond the efforts required to improve the regularity of payments, the Commission should, for all interventions, carry out systematic evaluations through the prism of cost/benefit ratio. They stress, however, that the cost/benefit ratio cannot always be considered, in itself, as a sufficient criterion for assessing the appropriateness of the Union's assistance in a third country, and foreign policy goals should include additional criteria - such as, for example, the strategic interests of the Union, the need for a Union presence on the ground, or the implementation of projects and actions fostering Union values and fundamental principles.

- **Regional Development Policy**: Parliament regrets that regional policy was part of an error-prone group, among the policy areas of Union expenditure. It notes that the non-compliance with both public procurement rules and eligibility rules accounts for a high proportion of the estimated error rate (31 % and 43 %, respectively). It underlines the need for the Commission to simplify the rules in order to ensure more user-friendly procedures and not to discourage potential beneficiaries from participating in projects. Member States are asked to improve training of officials responsible for management.
- **Fisheries**: Parliament emphasises that there is a need for effective monitoring of Union-funded activities that provide sectoral support in the context of international agreements. Given Parliament's legislative and budgetary role, they ask to be more closely involved in fisheries policy.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 14/11/2011 - Document attached to the procedure

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

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

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

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

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

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

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

1. **reform of the current discharge procedure**: the shortening of the whole discharge procedure is part of the discussion on the current review of the Financial Regulation (FR). The Commission has already invited the Discharge Authority, the Council and the European Court of Auditors to set up a working group in order to elaborate on a comprehensive reform of the discharge procedure, aiming at a shorter timetable that leaves sufficient time for the institutions involved to prepare and present their respective contributions;
2. **national management declarations**: to further reinforce Member States' accountability under Article 317 of the TFEU, the Commission included in its proposal for the triennial revision of the FR (Article 56) the requirement for the responsible bodies accredited in the Member States to provide annual management declarations **covering all funds in shared management**, following an approach similar to that successfully applied in the agricultural sector. In the Commission's view, management declarations, audited by an independent auditor, are more appropriate to obtain assurance from Member States than the present national declarations;
3. **completion of the Commission's governance structure**: the College delegates budget implementation to the Directors-General and Heads of Service, who are responsible for the sound and efficient management of resources and for ensuring effective control systems in their services. They report on the performance of their duties in the Annual Activity Reports (AAR), which include a signed declaration of assurance covering the legality and regularity of financial transactions. The Commission considers that the management responsibility assigned to Directors-General should not be diluted by adding signatures of Commissioners or the President;
4. **systematic activation of interruption and suspension of payments**: interruptions of payment deadlines are a more flexible instrument to have Member States to correct weaknesses, as they are immediate and do not require a formal decision by the College. The Commission has taken steps to ensure that this instrument is used more systematically. This policy on interruption and suspension of payments has been illustrated in the examples brought to the Committee on Budgetary Control, which clearly show that the sequence in the procedural and legal steps triggering interruptions and suspensions is followed systematically and without disruption by the Commission;
5. **improvement of corrective mechanisms**: for a number of years already, financial corrections have been imposed when necessary, the quality of the Member States' data on financial corrections and recoveries has been improved and the Commission has made efforts to promote the use of best practices so to ensure an improved recovery mechanism at Member State and EU level. The Commission underlines that, in the Cohesion domain, all amounts which have been agreed upon by Member States as financial corrections will be implemented. In case the Commission does not have sufficient assurance that all corrections have been effectively implemented, it will suspend the closure process and request appropriate actions by the Member State. The report also indicates that, even where this is not possible because the financial corrections only relate to deficiencies in the Member States' management and control systems, financial corrections are an important means to improve these systems and, thus, to prevent or detect and recover irregular payments to final beneficiaries. The possibility to interrupt

payment deadlines and impose financial corrections also acts as an incentive for the Member State to improve the management and control systems and implement the necessary financial corrections themselves. The proposals for the next generation of programmes include proposals aiming at **compelling Member States to recover financial corrections from final beneficiaries each time this is possible**. The aim is to allow the Commission to exclude from EU funding any expenditure which is in breach of applicable Union and national law;

6. **performance evaluator**: the Commission will present, before the end of 2011 the first evaluation report under Article 318 of the TFEU. The Commission will use its established working methods for publishing and transmitting the report to the EP;
7. **introduction of a new spending logic**: the Commission considers that obtaining an overall statement of assurance for each Multiannual Financial Framework would not add value to the existing annual governance structure under which a full and agreed accountability process for spending is already in place. For multi-annual programmes, the Commission monitors the resulting residual error rate after corrections, i.e. at the end of the control cycle.

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

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

The Commission then addresses the following sectorial issues:

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

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 26/07/2011 - Non-legislative basic document

PURPOSE: presentation by the Commission of the consolidated annual accounts of the European Union for the financial year 2010, as part of the 2010 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 2010 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.

(1) Purpose: the document helps to bring insight into the EU budget mechanism and **the way in which the budget has been managed and spent in 2010** . 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.

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:

- accounting principles applicable to the management of EU spending (business continuity, consistency of accounting methods, comparability of information ...);
- consolidation methods of figures for all major controlled entities (institutions and agencies);
- the recognition of financial assets in the EU (tangible and intangible assets, financial assets and other miscellaneous investments);
- the way in which EU public expenditure is committed and spent, including pre-financing;
- 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.

(2) Balance sheet of financial implementation: achievements and difficulties of implementation: in addition to the legal elements of how expenditure of the Union is executed, the document highlights the difficulties as regards the management and the implementation of certain expenditure of the Union:

(a) the issue of pre-financing: Pre-financing is a payment intended to provide the beneficiary with a cash advance, i.e. a float. If the beneficiary does not incur eligible expenditures, he has the obligation to return the prefinancing advance to the European Union.

At year-end, outstanding pre-financing amounts are valued at the original amount(s) paid less: amounts returned, eligible amounts expensed, estimated eligible amounts not yet cleared at year-end, and value

reductions. Total Pre-financing at the year end amounted to EUR 49 421 million compared to EUR 48 827 million in 2009. The most significant long-term pre-financing amounts relate to **Structural Actions** for the 2007-2013 programming period. In this regard, it was found that although initially these payments had been made, until 2010 included, as expenditure in the accounting system of the Commission, all resources were not used. The Commission therefore considers that it would be more appropriate to consider them as assets on the balance sheet. It also found a lack of information on the intended destination of these amounts (the Member States are not required to submit specific reports on these funds). Further details are expected in the future. Other direct effects of the increase of pre-financing amounts, appears in increased amounts to be paid by Member States within the budget of around EUR 2.6 billion.

(b) irregularities and financial corrections: the document highlighted the correction of errors and irregularities discovered, especially in the part of the EU budget that is implemented under the shared management mode (about 80% of the total budget). Financial corrections are made by the European Commission so as to exclude from EU funding expenditure that is not in accordance with applicable rules and regulations. The total financial corrections for cohesion policy alone amounts to **EUR 925 million for 2010**.

(c) recoveries: based on data received so far, in terms of EU contribution, Member States have reported a total of some **EUR 5.1 billion** of cumulative financial corrections resulting from their national audit work for the 2000-2006 programmes (of which withdrawals total some EUR 4 billion and recoveries approximately EUR 1.1 billion). The on-the-spot audit work undertaken by DG Regional Policy for recoveries related to the 2000-2006 programming period was completed in 2010 for the six remaining Member States, having covered thus all 25 concerned Member States (there was no reporting obligation for Bulgaria and Romania for the 2000-2006 period). Significant weaknesses still existed in respect of the completeness of data and the system for recording and reporting irregularities for some 2000-2006 programmes in Italy, Spain, France and the Netherlands. To a lesser extent, weaknesses also existed in programmes in the UK, Slovenia, Finland, Sweden and Latvia. Even if improvements have been identified in all

Member States during the years 2007-2010 by the Commission audits, the Commission remains prudent at closure and requested all programmes authorities to report on the follow-up (including financial corrections) that was made at national level for all irregularities registered for each programme. The Commission will not close programmes until it assesses this information as being consistent and complete.

The main amount, **EUR 1 775 million**, relates to shared management and is made up of:

- EUR 1 331 million concerning the European Agricultural Guarantee Fund (EAGF),
- EUR 19 million for TRDI,
- EUR 146 million for SAPARD,
- EUR 279 million for Structural Actions.

(d) RAL (**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 2010, the RAL amounted to **EUR 194 395 million** compared to EUR 177 272 million at the end of 2009.

(3) Implementation of appropriations under Section III of the budget for the financial year 2010 : the annexes include the following tables:

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

1. Sustainable growth: EUR 64 453 million (97.3%)
2. Preservation & management of natural resources: EUR 60 251 million (96.69%)
3. Citizenship, freedom, security and justice: EUR 1 795 million (94.2%)
4. The EU as a global partner: EUR 8 247 million (97.97%)
5. Administration: EUR 7 797 million (95.3%)

Total commitments: EUR 142 744 million (96.93%).

(b) Table showing the implementation of payments by heading:

1. Sustainable growth: EUR 48 828 million (93.71%)
2. Preservation & management of natural resources: EUR 56 647 million (95%)
3. Citizenship, freedom, security and justice: EUR 1 373 million (84.93%)
4. The EU as a global partner: EUR 7 487 million (92.41%)
5. Administration: EUR 7 896 million (87%)

Total payments: EUR 122 231 million; 93.64%.

(c) budget implementation - conclusions: lastly, the document provides details on budget implementation itself (in more political terms). The year 2010, the fourth year of the current programming period, saw programmes reaching their cruising speed and the start of the final closure of old programmes. At the end of the year outstanding commitments made before 2007 represent some 10% of the total RAL.

For commitments, the initial budget and hence the political targets set were carried out virtually as planned. **The implementation rate**, excluding the unused reserve of EUR 415 million for European Globalisation Adjustment Fund and EUR 28 million of unused provisional appropriations (amounts placed in reserve pending the fulfilment of certain conditions, which remain in reserve at the end of the budgetary year) reached **99.4%.** Adjustments during the year concerned EUR 80 million for the European Solidarity Fund, unforeseeable expenditure by nature, and for administrative expenditure EUR 10 million related to the setting-up of the European External Action Service and EUR 10 million for the European Parliament following the entry into force of the Lisbon treaty.

The total implementation of EUR 140 554 left EUR 554 million unused. After the carryover of EUR 259 million to 2011, the largest item being Energy Projects to aid Economic Recovery for EUR 147 million, an amount of EUR 295 million lapsed.

The implementation rate for payments, excluding un-mobilised Emergency Aid Reserve (EUR 193 million) and provisional appropriations (EUR 48 million), was 97.4% of the budget.

Contrary to previous years, there was no reduction in payment appropriations via an amending budget at the year-end. The main adjustment was carried out via the global transfer which reinforced Regional policy by EUR 1 125 million by reducing appropriations for Rural Development. The Commission reinforced also the Cohesion Fund with some EUR 600 million via internal transfers. The unused voted appropriations, excluding reserves, amounted to EUR 3 243 million and after the carryover of EUR 1 513 million, a total of EUR 1 730 million spread across the Multi-annual Financial Framework ("MFF") headings lapsed.

For more detailed information as regards the budgetary implementation of expenditure of Section III of the budget, please refer to: EU budget 2010 Financial Report and the Commission's annual activity reports.

2010 discharge: EU general budget, Section III, Commission

2011/2201(DEC) - 10/05/2012 - Final act

PURPOSE: to grant discharge to the European Commission for the financial year 2010.

NON-LEGISLATIVE ACT: Decision 2012/546/EU of the European Parliament on discharge in respect of the implementation of the European Union's General Budget, section III – Commission, for the financial year 2010.

CONTENT: with the present decision, and in accordance with Article 318 of the Treaty on the Functioning of the European Union, the European Parliament grants discharge to the Commission in respect of the implementation of the budget for the financial year 2010.

The parallel decision 2012/553/EU approves the closure of the accounts for the financial year in question.

In its resolution annexed to the discharge decision, the European Parliament notes that the annual accounts of the Union for the financial year 2010 present fairly in all material respects the position of the Union as of 31 December 2010 and the results of its operations and its cash flows for the then completed year. Parliament notes, however, that **payments are affected by an error rate which is estimated to be most likely 3.7%** rendering it impossible to provide a favourable statement of assurance.

Parliament considers that certain priority actions need to be taken in order to improve the implementation of the budget:

- close monitoring of the use of **Financial Engineering Instruments (FEIs)** by granting priority to the evaluation and the transparency of the implementation of these instruments;
- improvement and strengthening of the reliability of **the accountability chain** by delivering a political declaration in which it accepts its final and overall responsibility for the implementation of the budget;
- reconsidering the increased use of **pre-financing** as well as control and audit mechanisms;
- creation of an **effective sanctioning mechanism in the area of Cohesion policy**.

Parliament also makes a series of other observations in a resolution annexed to the discharge decision. For further details concerning these observations, please refer to the summary of the opinion dated 10/05/2012.

It should also be noted that with Decisions 2012/547/EU, Euratom, 2012/548/EU, Euratom; 2012/549/EU, Euratom, 2012/550/EU, Euratom, 2012/551 /EU, Euratom, and 2012/552/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 Networks For Transport", "European Research Council" and, lastly, "Research" in respect of the implementation of their respective budgets for the financial year 2010.