



COMMISSION OF THE EUROPEAN COMMUNITIES

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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT

**on the follow-up to 2005 Discharge Decisions (Summary) - European Parliament
Resolutions**

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PREAMBLE

Due to translation constraints, the Commission's report on the follow-up to European Parliament (EP) Discharges given for the 2005 financial year¹ is being published in all EU official languages in this summarised form. The Commission's full answers to each specific Parliament recommendation available in a Commission working document² which is published in English, French and German. Both these follow-up reports relate to the resolutions adopted by the European Parliament on 24 April 2007.

Each chapter³ of this summary report includes cross-references to the relevant recommendation numbers in the full Commission working document mentioned above. These references will help readers to find in the working document all recommendations (and action planned or already taken by the Commission) which relate to a given chapter or are of particular interest to them.

Both reports have been drafted pursuant to Article 276(3) of the EC Treaty and Article 180b of the Euratom Treaty, and to Article 119(5) of the EDF Financial Regulation and similar provisions in the former ad hoc EDF Financial Regulation which state that the "Commission shall take all appropriate steps to act on the observations in the decisions giving discharge and on other observations by the European Parliament relating to the execution of expenditure, as well as on comments accompanying the recommendations on discharge adopted by the Council. At the request of the European Parliament or the Council, the Commission shall report on the measures taken in the light of these observations and comments and in particular on the instructions given to the departments which are responsible for the implementation of the budget. These reports shall also be forwarded to the Court of Auditors"⁴.

In the discharge decisions for the general budget, the EDF and the Agencies, the Commission has identified a total of 163 recommendations made by the European Parliament to the Commission. The Commission considers that for 52 recommendations the required action has already been taken, though in some cases results of the actions will need to be examined. For another 99 recommendations the Commission agrees to take the action recommended by Parliament. Finally, the Commission cannot accept 12 recommendations and will therefore not be taking the requested action⁵.

¹ 2005 General Budget Discharge, 2005 EDF Discharge, 2005 Agencies Discharge.

² Commission Staff Working Paper, Annex to the Report from the Commission to the European Parliament on the follow-up to the 2005 Discharge Decisions.

³ Both the present summarised report and the integral working document follow the structure of the resolutions containing the recommendations of the European Parliament.

⁴ See also Article 147 of the Financial Regulation for the general budget.

⁵ See recommendations 2, 8, 29, 33, 36, 68, 86, 107, 134, 153, 162 & 163.

I - COMMISSION RESPONSES TO THE RECOMMENDATIONS MADE BY THE EP IN THE GENERAL BUDGET DISCHARGE RESOLUTION

The following is a summary of the Commission's replies to the specific requests made by Parliament in its 2005 Discharge Resolutions.

A) HORIZONTAL ISSUES

Statement of assurance (Commission working document, points 1-7)

As regards the accounts, the Commission has corrected, where possible, for the errors that were highlighted by the Court during its 2005 audit. The Commission has also considered these errors and their causes while planning and performing its closure of the 2006 accounts, so as to try to avoid their recurrence. Regarding the pre-financing reports, the Accounting Officer of the Commission will furnish the budgetary authority with six-monthly reports on the pre-financing operations.

In shared management the Commission has asked Member States to ensure that beneficiaries of Structural Funds are made aware of controls and the risk of cancellation of funding. Further guidance on information that Member States will have to send to the Commission on recoveries and withdrawals of funding following irregularities has been issued and an amendment has been made to the regulatory reporting provisions. Closure guidelines for 2000-06 programmes were issued by the Commission in August 2006. Guidance illustrating good practices in first-level management checks and checks by paying authorities has also been issued.

Where the Commission finds deficiencies in national control systems for both agricultural and structural actions expenditure, it sets deadlines for the required improvements and failing prompt action can suspend payments or apply financial corrections. These measures encourage the Member States to ameliorate their controls. Moreover, the Commission has presented a proposal to the Council to amend Council Regulation (EC) No 1290/2005 on the financing of the Common Agricultural Policy (CAP), including a provision for a new transparent and effective mechanism which will allow it to further simplify the existing possibility to reduce or suspend payments to a Member State in case of serious and persistent deficiencies in the national control systems.

National management declarations (Commission working document, point 8)

Given the different governmental structure and management structures for EU funds under shared management of the 27 Member States, the Commission considers that the development of a single standard declaration would not yield significant benefits. The Commission will, however, continue to support such initiatives taken by national administrations in line with the revised Financial Regulation (Art 53, (3)), which provides that "Member States shall produce an annual summary at the appropriate national level of the available audits and declarations" for shared management. Model declarations are also included in relevant sectoral legislation.

Point 44 of the IIA (Commission working document, point 9)

The Annual Activity Reports of Directorates-General contain an assessment of the functioning of management and control systems. In the reports of Directorates-General implementing funds in shared management, this assessment also covers the Member State level.

Suspension of payments and financial corrections (Commission working document, points 10-21)

In line with the legislation, the Commission will continue its practice of suspending payments and imposing financial corrections when serious system deficiencies errors are detected in Member States in programmes under shared management. Under the rules for the Structural Funds for the 2007-2013 period a Director-General may interrupt payments to a programme for up to six months. The Commission has also presented a proposal to the Council to amend Council Regulation (EC) No 1290/2005 on the financing of the Common Agricultural Policy (CAP), including a provision for a new transparent and effective mechanism which will allow it to further simplify the existing possibility to reduce or suspend payments to a Member State in case of serious and persistent deficiencies in the national control systems. The 2006 annual accounts of the EC already include information about the financial corrections made by the Commission. For 2007, it is foreseen to add further information concerning the financial corrections made by the Member States.

The Commission's internal control system (Commission working document, points 22-26)

The Commission provided a mid-term scoreboard in July 2007, and a final report on the implementation of the Action Plan towards and Integrated Internal Control Framework is due in early 2008. The final report will take a first look at the impact of the different actions on assurance and will draw conclusions for the future consolidation of the Integrated Internal Control Framework. As the time limit for certain actions is end-December 2007, the Commission will require a limited time to assess and bring together the results of the different actions and it will therefore not be possible to deliver the final report before early 2008.

Political responsibility and administrative responsibility at the Commission (Commission working document, points 27-40)

As regards the annual activity reports, the Commission will continue to work towards harmonising the presentation of management and internal control systems and better explaining the consequences of the reservations expressed by the Directors-General. It will also continue developing indicators by on legality, regularity and sound financial management "families" of services. The presentation of Director-Generals' assurance at the level of the individual Member States is already Commission practice in cases were reservations refer to control weaknesses in particular Member States.

By adopting the synthesis report, the Commission assumes its political responsibility for management by its Directors-General and Heads of service, on the basis of the assurances and reservations issued by them in their annual activity report. A synthesis report signed by the Secretary General of the Commission, as recommended by the European Parliament, would not increase the accountability of the Commission as it would create confusion and possible

overlapping in the different tasks and responsibilities. The Commission's 2000 reform centred on ensuring Authorising Officers by Delegation were solely responsible for the execution of their activities. The division of management responsibilities between Authorising Officers by Delegation and the collegiate structure cannot be reconciled with the possibility of one Director-General judging the reliability of another's work.

The Commission will continue the implementation of its Transparency Initiative. It has already launched a number of initiatives, such as the publication of information on beneficiaries of EU grants.

B) SECTORAL ISSUES

Revenue (Commission working document, points 41-42)

The reservations on items in Member States' annual VAT statements are placed by the Commission in its control reports. The Commission continues to examine with the Member States, both individually and in the Advisory Committee on Own Resources, how they may be helped to provide more rapidly the information that the Commission needs in order to lift reservations.

As regards the GNI own resource, the Commission will perform more direct verification of selected national aggregates during the 2007-2009 round of GNI verification missions. Concerning Financial Intermediation Services Indirectly Measured (FISIM), the Commission will present a proposal for including allocated FISIM in GNI for own-resource purposes when it considers that all Member States are able to implement this adjustment in a uniform manner. This is expected to be the case in 2008.

Common Agricultural Policy (Commission working document, points 43-45)

Like the European Parliament, the Commission welcomes the Court's acknowledgement that, suitably applied, the Integrated Administrative Control System (IACS) constitutes an effective monitoring system for reducing the risk of error or of irregular expenditure within the Common Agricultural Policy (CAP). The Commission is continuing its efforts to monitor the full and correct application of the IACS in all Member States. In case of deficiencies, the Commission will not hesitate to impose financial corrections.

The ex-post checks are carried out on the basis of Regulation (EEC) No. 4045/89 which provides for an ex-post control system which is a complement to the sectoral pre-payment systems for a range of CAP measures. The system constitutes an extra layer of control that provides an assurance that transactions have been carried out in conformity with the rules or otherwise allows recovering any unduly paid amounts detected.

The Commission has taken steps to correct the problems identified in checks relating to the rural development and the export refund sectors. The Commission has also addressed the deficiencies found in the olive oil sector, and the clearance of accounts procedures are ongoing. The major part of the olive oil production has been integrated into the single payment scheme. Aid is thereby no longer paid on the basis of the quantity produced but is based on area and controlled within the framework of the IACS. This should significantly reduce any risk of error.

Structural measures (Commission working document, points 46-51)

The Commission is taking all the action recommended by the European Parliament. It carries out its supervisory role on an ongoing basis through audit work, coordination activities and the dissemination of guidance and good practice. Where it finds weaknesses in Member States' systems, it makes recommendations for improving them and, in serious cases, agrees remedial action plans which it closely monitors. If the weaknesses persist, it will suspend payments to the programme or Member State concerned. In April 2007, the Commission suspended ERDF payments to certain programmes in England. It will consider suspensions in other cases where appropriate. To correct past expenditure that has been affected by the system deficiencies the Commission asks the Member State to check this expenditure and to make corrections.

In keeping with its supervisory role, the Commission is focusing on bringing about improvements in the systems and on making the control system as a whole more effective. The Action Plan towards an Integrated Internal Control Framework has given further momentum to this process. The annual activity reports of the Directorates-General provide their assessment of the effectiveness of the control systems in different Member States based on the Commission's extensive audit work and indicate the cases where the Community budget is seriously at risk. For Member States and programmes on which reservations are entered in the Director-General's annual declarations, and for other systems showing serious deficiencies, the Commission monitors closely the implementation of agreed action plans.

Internal policies, including research (Commission working document, points 52-67)

The Commission fully shares the concerns expressed by Parliament on the persistence of problems detected in earlier years. It continues to improve its control systems in the context of the Action Plan towards an Integrated Internal Control Framework. A multi-annual approach to mitigating the inherent risk of reimbursement of overstated costs has been introduced in the research area, including a substantial increase in the number of ex-post audits. Furthermore, "agreed upon procedures" have been developed to provide a compulsory set of procedures for the certificates on the Financial Statements and the certificates on the methodology described in the model grant agreement for the Seventh Research Framework Programme (FP7). These actions are expected to lead to a reduction in the error rate through improved prevention, detection and correction.

Under FP7 steps have also been taken to simplify the rules for reimbursement of costs, including the use of lump sums for International Cooperation Partner Countries within grant agreements for indirect actions. The requirements for time recording of researchers are clearly specified in the terms of reference for the certificates of financial statements and on methodology annexed to the Grant Agreement and have to be certified by the auditors. The Commission has also in 2007 published guidance for beneficiaries.

In relation to National Agencies the decisions establishing the new generation of programmes in the fields of education, training and youth provide for a comprehensive set of checks and controls regarding respect of procedures and internal control mechanisms in order to ensure and verify the regularity and legality of transactions as well as the reality and eligibility of activities.

The Commission's detailed replies to the European Parliament's recommendations in the specific policy areas under internal policies can be found in the attached working document.

External actions (Commission working document, points 68-80)

The Commission is aware of the risks at project implementing organisation level and has taken a number of measures over the past years to mitigate its potential effects. These include the use and improvement of standard contract provisions. In early 2006, for instance, the standard grant and fee-based service contracts were revised. They now include standard terms of reference for auditors to perform expenditure verifications to be submitted by the beneficiaries of Community funds prior to final payments. These new terms of reference have been revised so as to reinforce the verification of compliance with the contract terms, including those relating to public procurement procedures. EuropeAid's Common Relex Information System (CRIS) allows relevant analyses to be performed, including by type of implementing organisation or management mode. The system is being constantly improved and refined, in line with evolving management needs.

The European Parliament's 2005 discharge resolution also contains a number of recommendations on development policy and external relations. The Commission's replies to these recommendations can be found in the attached working document under the points concerning external actions and the European Development Funds.

Pre-accession strategy (Commission working document, points 81-84)

As recommended by the European Parliament, the Commission will continue to monitor closely the effective functioning of the national supervisory and control systems for programme expenditure under the pre-accession strategy, in particular within the SAPARD/IPARD paying agencies. Moreover, when establishing joint projects with international institutions, the Commission is particularly attentive to the expertise and the added value that those institutions or the Commission can provide and to the full respect of the Financial Regulation.

Administrative expenditure and issues concerning the agencies (Commission working document, points 85-96 and 150-163)

The Commission is satisfied that the Court's audits found no significant error affecting the legality and regularity of administrative expenditure. As regards the cost of maintaining its buildings, the Commission will prepare a renovation planning forecast, which will be transmitted to the European Parliament and the Council. The Commission will also examine if it has fallen victim to the elevators cartel mentioned by the European Parliament. Moreover, the Commission confirms that invalidity pensions are granted and extended on medical grounds only.

On 27 June 2007 it adopted reports on the progress made by Bulgaria and Romania on accompanying measures following accession (COM(2007)377 and COM(2007)378), including in the areas of judicial reform, fight against corruption and organised crime, which have been transmitted to the Council and to the European Parliament.

The European Parliament has made a number of recommendations to the Commission concerning the regulatory agencies in the discharge resolution for the general budget as well as in the discharge resolutions for the individual agencies⁶.

The Commission shares the European Parliament's concerns about good governance and better regulation of the agencies. It considers that the adoption of the draft interinstitutional agreement on the operating framework for the European Regulatory Agencies (COM(2005)59) would go a long way towards accommodating the recommendations of Parliament on issues such as impact assessment, cost-benefit considerations, evaluation and annual reporting. The Commission therefore hopes that the Council can make further progress on this important issue in the near future. Whilst fully respecting the autonomy of the regulatory agencies, the Commission in the meantime continues to provide extensive guidance and support to these agencies. The Service Level Agreements drawn up with many regulatory agencies in 2006 in different areas of administration and training⁷ are an important example of this.

C) SPECIAL REPORTS ISSUED BY THE COURT OF AUDITORS

The European Parliament has made recommendations to the Commission concerning ten special reports published by the Court of Auditors in 2005 and 2006. The Commission's replies to these recommendations can be found in the Commission working document (points 97-131).

II - EP DISCHARGE ON EDF

The Commission has taken action or intends act on most of the issues raised by Parliament concerning the European Development Funds (EDFs). Detailed information is included in the Commission working document (points 132-149), but the Commission would like to highlight the following points:

Accounts

The Commission informs Parliament on a regular basis about the modernisation of its accounting system, including the IT platform for the accounts of the European Development Fund (see COM(2007)343 of 21.6.2007). After the migration, full information will be sent to the Court of Auditors and Parliament. The EDF annual accounts for 2005 and 2006 were drawn up in compliance with accrual-based accounting principles despite the delay in the migration.

Supervisory and control systems

The Commission's main supervisory and control systems have been continuously improved in recent years, inter alia on the basis of the recommendations made by the Court. The quality of the already extensive control checks at the level of project implementing organisations has

⁶ The discharge resolution for the general budget and the discharge resolutions for the individual agencies contain recommendations to the Commission both on horizontal matters concerning the agencies and on specific issues for individual agencies. The Commission's replies to these recommendations can be found in points 87-93 and 150-163 of the working document.

⁷ See also the other examples mentioned in point 152 of the working document.

been further improved, notably through the use and improvement of standard contract provisions. This includes, for instance, standard Terms of Reference and reporting model for external auditors to perform expenditure verifications to be submitted by the beneficiaries of Community funds prior to final payments, for grant and fee-based service contracts. These terms of reference have been revised so as to reinforce the verification of compliance with the contract terms. If need be, these actions will be followed by a review of EuropeAid's current audit strategy.

Cooperation with Member States

The new Financial Regulation will help to intensify cooperation and co-financing with Member States and increase the emphasis on aid effectiveness. The Commission already makes widespread use, in the implementation of its actions, of private enterprises which are selected on the basis of tendering procedures and whose technical and financial capacities are verified during the selection process.

III – RECOMMENDATIONS IN THE RESOLUTIONS CONCERNING INDIVIDUAL AGENCIES

The European Parliament has made a number of recommendations to the Commission concerning the regulatory agencies in the discharge resolution for the general budget as well as in the discharge resolutions for the individual agencies. A summary of the Commission's replies to some of the horizontal issues concerning the agencies is given above under the general budget. The Commission's replies to the recommendations on other horizontal matters and to recommendations addressed to it concerning individual agencies can be found in the Commission working document (points 87-93 and 150-163).

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