



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

A7-0231/2014

21.3.2014

REPORT

on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2012
(C7-0327/2013 – 2013/2239(DEC))

Committee on Budgetary Control

Rapporteur: Petri Sarvamaa

CONTENTS

	Page
1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION.....	3
2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION.....	5
3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	7
OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS.....	12
RESULT OF FINAL VOTE IN COMMITTEE.....	15

1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

**on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2012
(C7-0327/2013 – 2013/2239(DEC))**

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2012, together with the Authority's replies¹,
- having regard to the Council's recommendation of 18 February 2014 (05849/2014 – C7-0054/2014),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities², and in particular Article 185 thereof,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)⁴, and in particular Article 64 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁵,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁶, and in particular Article 108 thereof,

¹ OJ C 365, 13.12.2013, p. 197.

² OJ L 248, 16.9.2002, p. 1.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 331, 15.12.2010, p. 84.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ OJ L 328, 7.12.2013, p. 42.

- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Economic and Monetary Affairs (A7-0231/2014),
1. Grants the Executive Director of the European Securities and Markets Authority discharge in respect of the implementation of the Authority's budget for the financial year 2012;
 2. Sets out its observations in the resolution below;
 3. Instructs its President to forward this Decision and the resolution that forms an integral part of it to the Executive Director of the European Securities and Markets Authority, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the Official Journal of the European Union (L series).

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

**on the closure of the accounts of the European Securities and Markets Authority for the financial year 2012
(C7-0327/2013 – 2013/2239(DEC))**

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2012, together with the Authority's replies¹,
- having regard to the Council's recommendation of 18 February 2014 (05849/2014 – C7-0054/2014),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities², and in particular Article 185 thereof,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)⁴, and in particular Article 64 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁵,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁶, and in particular Article 108 thereof,

¹ OJ C 365, 13.12.2013, p. 197.

² OJ L 248, 16.9.2002, p. 1.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 331, 15.12.2010, p. 84.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ OJ L 328, 7.12.2013, p. 42.

- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Economic and Monetary Affairs (A7-0231/2014),
1. Approves the closure of the accounts of the European Securities and Markets Authority for the financial year 2012;
 2. Instructs its President to forward this Decision to the Executive Director of the European Securities and Markets Authority, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the Official Journal of the European Union (L series).

3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

with observations forming an integral part of its Decision on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2012

(C7-0327/2013 – 2013/2239(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Securities and Markets Authority for the financial year 2012,
- having regard to the Court of Auditors' report on the annual accounts of the European Securities and Markets Authority for the financial year 2012, together with the Authority's replies¹,
- having regard to the Council's recommendation of 18 February 2014 (05849/2014 – C7-0054/2014),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities² ("the Financial Regulation"), and in particular Article 185 thereof,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority)⁴, and in particular Article 64 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁵,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament

¹ OJ C 365, 13.12.2013, p. 197.

² OJ L 248, 16.9.2002, p. 1.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 331, 15.12.2010, p. 84.

⁵ OJ L 357, 31.12.2002, p. 72.

and of the Council¹, and in particular Article 108 thereof,

- having regard to its previous discharge decisions and resolutions,
 - having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Economic and Monetary Affairs (A7-0231/2014),
- A. whereas, according to its financial statements, the budget of the European Securities and Markets Authority (“the Authority”) for the financial year 2012 was EUR 20 279 000, representing an increase of 19,53 % compared to 2011,
- B. whereas, according to its financial statements, the overall contribution of the Union to the Authority's budget for 2012 amounted to EUR 6 408 000, representing a decrease of 5,54 % compared to 2011,
- C. whereas the Court of Auditors has stated that it has obtained reasonable assurances that the Authority's annual accounts for the financial year 2012 are reliable and that the underlying transactions are legal and regular,
1. Recalls that Parliament was a key actor in the establishment of the Authority - together with the European Banking Authority and the European Insurance and Occupational Pensions Authority - as one of the three economic and financial European Supervisory Authorities which are still in a setting-up phase; therefore, considers that better coordination at European level is still needed;
 2. Believes that the Authority's role in promoting stable and safe financial markets and the stability of the financial system and in bringing about secure operation of European equities markets is essential for the economic recovery and the creation of sustainable jobs and growth in Europe;

Follow-up of the 2011 discharge

3. Notes from the Court of Auditors' report that in response to the nine comments made the Court in 2011, one corrective action is marked as 'outstanding', five as 'ongoing' and, as of September 2013, three were finalised; recalls that this process must be fully completed, including in what regards the cancellation of carry-overs, the lack of transparency of selection procedures and the inadequacies of budgetary planning;
4. Acknowledges from the Authority that:
 - the validation of accounting systems has been finalised by both the Authority's accountant and the Management Board,
 - a close monitoring of budget execution by the Authority's management has been

¹ OJ L 328, 7.12.2013, p. 42.

implemented in order to ensure that corrective actions related to low commitment execution rates are taken in due time; observes, furthermore, that a more rigorous verification and authorisation process for managing carry-overs has been established in 2012,

- the recruitment templates and guidelines have been revised and improved, with more rigorous controls and checks of supporting documents being undertaken in order to improve recruitment procedures,
- in order to avoid conflicts of interest, the Authority's conflicts of interest policy, due to be adopted by the Management Board, includes a provision that the Management Board members confirm that their awareness of their obligations in relation to conflicts of interest shall be made public;

Budget and financial management

5. Notes that budget monitoring efforts during the financial year 2012 resulted in a budget implementation rate of 86,12 % and that the payment appropriations execution rate was 65,22 %;
6. Stresses that the additional tasks entrusted to the Authority, as well as future tasks envisaged in the legislative proposals yet to be agreed upon, will require budgetary increases and new human resources in order to enable the Authority to properly fulfil its supervisory role; considers this to be extremely important, as the tasks of the Authority are likely to keep growing; notes that eventual increases in human resources should be, where possible, preceded or accompanied by rationalisation efforts such as reallocation to achieve efficiency gains;
7. Observes that the current financing arrangements of the Authority, based on a mixed financing system, are inflexible, create unnecessary administrative burdens and might jeopardise its independence;

Commitments and carry-overs

8. Notes with concern that according to the Court of Auditors' annual audit, EUR 2 800 000 (14 %) of total appropriations were cancelled and EUR 4 200 000 (21 %) of committed appropriations were carried over to 2013; acknowledges that the high level of cancellations results mainly from the fact that the budget was established on the basis of a fully implemented staff establishment plan at the beginning of 2012, whereas some recruitment were only made during the year, and from delays in IT procurements;
9. Notes with concern that the level of committed appropriations carried over is high at 39 % for Title II and at 52 % for Title III; acknowledges that for Title II, this was mainly caused by the fact that a significant contract for works on the Authority's premises was awarded in December 2012 (EUR 600 000) and that for Title III, the high level of committed appropriations carried over results from the multiannual nature of significant IT development projects and delays in related procurements;

Transfers

10. Notes with concern that the Authority made 22 budget transfers amounting to EUR 3 200 000, representing 16 % of total 2012 budget, which indicates weaknesses in budget planning;

Procurement and recruitment procedures

11. Regrets that according to the Court of Auditors' annual audit, there is considerable room for improving the timeliness and documentation of procurement procedures;
12. Notes with concern that according to the Court of Auditors' annual audit, the level of transparency of the Authority's recruitment procedures needs to be improved; calls on the Authority to implement corrective measures and to inform the discharge authority on the results of measures taken;

Prevention and management of conflicts of interests and transparency

13. Acknowledges that following the Court of Auditors' Special Report No 15/2012, the Authority revised its ethics guidelines, jointly with the European Banking Authority and the European Insurance and Occupational Pensions Authority, on the basis of the Commission's Guidelines on the Prevention and Management of Conflicts of Interests in EU Decentralised Agencies; welcomes the fact that those guidelines were assessed by the Commission's Internal Audit Service (IAS) in 2013 and were considered as best practices;
14. Observes that the CVs and declarations of interests of the members of the Board of Supervisors and members of the Management Board, as well as the declarations of interests of the Executive Director and senior management, are not publicly available; calls on the Authority to remedy the situation as a matter of urgency;

Comments on internal controls

15. Acknowledges that the Authority took an important step during its second year of activity with the adoption and implementation of the baseline requirements for all internal control standards; notes with concern that full implementation of the standards has not been achieved;

Internal audit

16. Acknowledges from the Authority that in 2012 the IAS carried out its first mission at the Authority, a full risk assessment of the Authority; notes that as a result, the IAS submitted a risk-based strategic audit plan for the Authority on 14 September 2012 and that the plan was endorsed by the Authority's Management Board on 5 November 2012;

Performance

17. Requests that the Authority communicate the results and impact its work has on the European citizens in an accessible way, mainly through its website;

o

o o

18. Refers, in respect of the other observations accompanying its Decision on discharge, which are of a horizontal nature, to its resolution of ... 2014¹ on the performance, financial management and control of the agencies.

¹ Texts adopted, P7_TA-PROV(2014).

21.2.2014

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on Budgetary Control

on discharge in respect of the implementation of the budget of the European Securities and Markets Authority for the financial year 2012
(C7-0327/2013 - 2013/2239(DEC))

Rapporteur: Antolín Sánchez Presedo

SUGGESTIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Recalls that the European Parliament was a key driver in the establishment of the ESMA and that the European Supervisory Authorities (ESA's) are still in a setting-up phase and therefore considers that better coordination at European level is still needed;
2. Believes that the Authority's role in promoting stable and safe financial markets, in the stability of the financial system and in bringing about secure operation of the European equities markets is essential for the economic recovery and the creation of sustainable jobs and growth in Europe;
3. Acknowledges that in the opinion of the Court of Auditors the Authority's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 and that the annual accounts for the year ended 31 December 2012 are legal and regular in all material respects;
4. Welcomes that as on September 2013 three corrective actions were finalised following the comments of the Court of Auditors in 2011 and recalls that this process must be fully completed including the suggested cancellation of carry-overs the transparency of selection procedures and the inadequacies of budgetary planning;

5. Notes that corrective actions as regards budgetary planning and implementation, the management of fixed assets and the transparency of recruitment processes are still ongoing and are definitely needed;
6. Points out that the validation of the accounting systems should be finalised, the full implementation of control standards should be completed, the smooth development of IT projects should be improved and the procurement procedures and pace must be ameliorated;
7. Stresses that the additional tasks entrusted to ESMA as well as future tasks envisaged in the legislative proposals yet to be agreed on will require budgetary increases and new human resources in order to fulfil their supervisory role in a satisfactory manner; considers this to be extremely important, as the tasks of the supervisory authorities are likely to keep growing and notes that eventual increases in human resources should be preceded or accompanied where possible by rationalisation efforts such as reallocation to achieve efficiency gains;
8. Concludes that the current financing arrangements of ESMA based on a mixed financing system are inflexible, create administrative burdens and might pose a threat to its independence therefore recommends and calls on the Commission to create an independent budget line funded from the EU budget and to consider the introduction of fees by market participants during the review of its regulation. .

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	20.2.2014
Result of final vote	+ : 24 - : 0 0 : 3
Members present for the final vote	Marino Baldini, Jean-Paul Basset, Sharon Bowles, George Sabin Cutaş, Rachida Dati, Leonardo Domenici, Diogo Feio, Ildikó Gáll-Pelcz, Jean-Paul Gauzès, Sven Giegold, Liem Hoang Ngoc, Jürgen Klute, Alfredo Pallone, Antolín Sánchez Presedo, Olle Schmidt, Theodor Dumitru Stolojan, Corien Wortmann-Kool, Pablo Zalba Bidegain
Substitute(s) present for the final vote	Fabrizio Bertot, Bas Eickhout, Sari Essayah, Ashley Fox, Sophia in 't Veld, Olle Ludvigsson, Thomas Mann, Nils Torvalds
Substitute(s) under Rule 187(2) present for the final vote	Marta Andreasen

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	17.3.2014
Result of final vote	+: 16 -: 3 0: 1
Members present for the final vote	Marta Andreasen, Jean-Pierre Audy, Zuzana Brzobohatá, Martin Ehrenhauser, Jens Geier, Gerben-Jan Gerbrandy, Ingeborg Gräßle, Rina Ronja Kari, Monica Luisa Macovei, Jan Mulder, Eva Ortiz Vilella, Paul Rübig, Petri Sarvamaa, Bart Staes, Georgios Stavrakakis, Derek Vaughan
Substitute(s) present for the final vote	Amelia Andersdotter, Philip Bradbourn, Markus Pieper
Substitute(s) under Rule 187(2) present for the final vote	Thomas Ulmer