



EUROPEAN PARLIAMENT

2009 - 2014

Committee on Budgetary Control

2012/2214(DEC)

28.1.2013

DRAFT REPORT

on discharge in respect of the implementation of the budget of the European Union Agencies for the financial year 2011: performance, financial management and control of European Union Agencies
(2012/2214(DEC))

Committee on Budgetary Control

Rapporteur: Gerben-Jan Gerbrandy

CONTENTS

Page

PROPOSAL FOR A EUROPEAN PARLIAMENT RESOLUTION..... 3

PROPOSAL FOR A EUROPEAN PARLIAMENT RESOLUTION

on discharge in respect of the implementation of the budget of the European Union Agencies for the financial year 2011: performance, financial management and control of European Union Agencies (2012/2214(DEC))

The European Parliament,

- having regard to the report of 14 November 2011 from the Commission to the European Parliament and the Council on the follow-up to the discharge for the 2009 financial year (COM(2011)0736) and the accompanying Commission Staff Working Documents (SEC(2011)1350 and SEC(2011)1351),
- having regard to the Commission Roadmap on the follow-up to the Common Approach on EU decentralised agencies,
- having regard to its resolution of 10 May 2013 on the 2011 discharge: performance, financial management and control of EU Agencies¹,
- 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,
- 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 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 Communities⁴, and in particular Article 96 thereof,
- having regard to Special Report No 15/2012 of the Court of Auditors entitled 'Management of Conflict of Interest in selected EU Agencies',
- having regard to the specific annual reports⁵ of the Court of Auditors on the annual accounts of the decentralised Agencies for the financial year 2011,
- having regard to its study entitled "Opportunity and feasibility of establishing common support services for EU Agencies" issued on 7 April 2009,
- having regard to its resolution of 15 September 2011 on the EU's efforts to combat corruption⁶, its Written Declaration 2/2010 on the Union's efforts in combating

¹ OJ L 286, 17.10.2012, p. 388.

² OJ L 248, 16.9.2002, p. 1.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 357, 31.12.2002, p. 72.

⁵ OJ C 368, 16.12.2011.

⁶ Texts adopted, P7_TA(2011)0388.

corruption¹, and to the Communication from the Commission to the European Parliament, the Council and the European Economic and Social Committee on Fighting corruption in the EU (COM(2011)0308);

- 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 opinions of (A7-0000/2013),
- A. whereas this resolution contains for each body, within the meaning of Article 185 of Regulation (EC, Euratom) No 1605/2002, the horizontal observations accompanying the discharge decisions in accordance with Article 96 of Regulation (EC, Euratom) No 2343/2002 and Article 3 of Annex VI to Parliament's Rules of Procedure,
- B. whereas there has been a tenfold increase in the number of agencies over the last decade, from three in 2000 to 30 in 2011,
1. Stresses the importance of the tasks performed by agencies, and their direct impact on the daily lives of citizens, for example relating to the quality of medicines, food safety, aviation security, the control of outbreaks of infectious diseases; emphasises, in this context, the utmost importance of their autonomy, in particular of the regulatory agencies and those with the function of independent information collection, and recalls that the main reason for establishing agencies was for the purpose of making independent technical or scientific assessments;
 2. Recalls that Union institutions have drawn up a joint position on the future of agencies and the reform of existing agencies; believes that the joint position should be further developed in a more concrete manner;
 3. Welcomes the Commission's 'Roadmap on the follow-up to the Common Approach on EU decentralised agencies' (the Roadmap) in this context and invites all involved parties to take on board the ideas expressed there, inter alia, when negotiating the new multiannual budget for the Union;
 4. Welcomes the Court of Auditors' reports; notes with satisfaction that the audit reports contain more detailed information than in previous years; encourages the Court of Auditors to continue this positive trend and to further develop performance audit elements, both in its annual audit reports as well as in dedicated Special Reports of the Court of Auditors;
 5. Commends the good cooperation with the responsible committee from the side of the Union Agencies Network (“the Network”), a forum for coordination, information exchange and agreement of common positions on issues of common interest for agencies, and encourages the strengthening of the Network; notes with satisfaction the availability and openness of the directors of the agencies contacted in the framework of the annual discharge procedure; proposes that the Network be supported by an external independent coordinator, for example a former Executive Director of one of the agencies, when further discussing and implementing the Roadmap;

¹ P7_DCL(2010)0002

6. Emphasises the need to focus on effectiveness in the discharge exercise; and invites all involved parties – the Court of Auditors, the Council, the agencies and the Network – to approach the discharge from that position; emphasises that the focus shift towards performance should by no means hamper regularity and sound financial management;
7. Points out, in this context, the relationship between administrative weight and the output of the agencies; believes that small agencies with large and costly management boards should be considered as potential merger candidates with larger agencies, or alternatively, be integrated into the Commission; believes that the agencies should seek synergies, should further exchange good practices and should share services whenever possible;
8. Suggests that the financial rules applicable to the Agencies should be simplified, which would allow the agencies' administrative staff costs to be limited; calls on the Commission to draw up proposals to that effect and to encourage the agencies to use the simplification option as regards recruitment procedures where the standard procedure is designed for a larger scale organisation and presents an excessive burden for an agency;
9. Notes with concern that there are a number of problems identified in many instances by the Court of Auditors, each of which affect a number of Agencies, i.e.:
 - carryovers which are not supported by commitments or which appear excessively high,
 - lack of transparency or rigour in recruitments,
 - problems with procurement and contract management,
 - potential conflicts of interest on boards;
10. Notes, in this context, the reply of the Network; welcomes the coordinated action of the agencies and their intention to tackle the challenges identified by the Court of Auditors and the setting up of specialised sub-networks of the Network which will be involved to guarantee technical expertise; commends the identified approach aiming to share best practices and, wherever possible, draft guidelines that can be voluntarily adopted by each Agency or that can be a starting point for the Commission for further activities in the area;
11. Urges the Network, as well as the individual agencies, to report back to the discharge authority on the progress of the implementation of those ideas and approaches to assess whether the chosen approach have proved effective in resolving the outstanding issues as identified by the Court of Auditors and to report to the discharge authority on both the individual and collective actions addressing the Court of Auditors' findings, and the results thereof;

Budget and financial management

12. Reminds the agencies that the persistent problem of carryovers has yet to be addressed; takes note of the Agencies' explanations as regards the difficulty in avoiding carryovers in operational expenditure, believes, nevertheless, that in a number of cases, there remains room for improvement, in particular by means of more stringent budgetary discipline and regular overview of spending;

13. Stresses, in this context, that the hierarchy of norms is to be taken into account; believes that sound financial management should take precedence over annuality; recognises, in this context, that the current financial rules place the fee-earning Agencies in an unfavourable position and calls upon the Commission to take this issue into account when the next revision of the rules will take place;
14. Notes with concern that the lack of flexibility within the budget has been recognised as a weakness by certain agencies, which suggests that savings could be made if there was enough flexibility within the budget from title to title; calls upon the Commission to closely examine the situation and to come forth with proposals addressing this issue;
15. Notes that the agencies undergo numerous different audit and control procedures in the course of the year which are often very unevenly distributed and which may create difficulties for the agencies; believes that the matter should be addressed primarily by better coordination of those various audits, as reflected in action point 53 of the Roadmap; believes that Agencies should be consulted in order to find practical solutions which would not hamper the performance of their core tasks; invites the Court of Auditors, the Commission, the agencies and the Network to come up with an approach suitable for all involved parties;

Conflicts of interest

16. Welcomes the Court of Auditors' Special Report on Management of Conflict of Interest in selected EU Agencies (Special Report 15/2012), which stems from Parliament's request to undertake a comprehensive analysis of the Agencies' approach to the management of situations where there are potential conflicts of interest; notes that the Court of Auditors evaluated policies and procedures for the management of conflict of interest in four Agencies: European Aviation Safety Agency (EASA), European Chemicals Agency (ECHA), European Food Safety Agency (EFSA) and the European Medicines Agency (EMA);
17. Notes that the Court of Auditors aimed to answer two questions: firstly, were adequate policies and procedures in place, and secondly, were those policies and procedures adequately implemented; notes, furthermore, that the Court of Auditors based its work on the definition of conflict of interest as provided in Organisation for Economic Co-operation and Development (OECD) guidelines, and that the reference network for minimum requirements was also derived from OECD guidelines;
18. Notes that conflicts of interest can also occur between the members of the Management Board and the Agency itself, due to national or institutional interests, which endanger the proper functioning of the Agency;
19. Regrets that according to the findings of the Court of Auditors, at the time of completion of the field work (October 2011), none of the four selected agencies had adequately managed conflict of interest situations, and while EMA and EFSA had developed more advanced policies for managing of conflict of interest, ECHA's policies were incomplete and EASA did not have such policies;

20. Notes with concern that the Court of Auditors reported a number of shortcomings, in particular, as regards the implementation of policies and procedures for staff and the board of appeal (ECHA), transparency with respect to the publication of annual declarations of interest (EASA), training on conflicts of interest (ECHA and EASA), and finally, only EMA had a policy on gifts and invitations;
21. Welcomes the Court of Auditors' recommendations to the selected agencies; welcomes the fact that following the Court of Auditors' audits, the selected agencies had taken a number of steps to address their individual deficiencies; urges the agencies to report to the discharge authority to further follow-up the implementation of the policies and procedures, as well as any further developments as regards the management of conflicts of interest;
22. Endorses the Court of Auditors' recommendation inviting all Union institutions and decentralised bodies to examine whether the recommendations of the Special Report 15/2012 are relevant and applicable to them;
23. Welcomes the Court of Auditors' recommendation for the Union legislator to consider further developing the Union regulatory framework dedicated to the management of conflict of interest situations, notes, however, that the OECD guidelines, on which the Court of Auditors has based its work on Special Report 15/2012, while offering an international benchmark on the issue, are not fully applicable to an agency and they do not fully meet the specific needs of the decentralised agencies as a large variety of actors are involved in its work;
24. Commends the Commission's intention to come up with guidelines on the management of conflicts of interest, as indicated in the Roadmap; invites the Commission to bear in mind the need to maintain balance between the risks and the benefits, in particular as regards the management of conflicts of interest, on one hand, and the objective to obtain the best possible scientific advice, on the other;

Commission Roadmap

25. Welcomes the Roadmap, and fully supports its objectives of achieving more balanced governance, improved efficiency and accountability and greater coherence; welcomes the anticipated actions, in particular regarding the streamlining of management boards, the efforts to find synergies between the agencies, the possible merging of agencies and improving agencies' accountability;
26. Welcomes the Commission's predicted actions on conflicts of interest, in particular, "Guidelines for a coherent policy on the prevention and management of conflicts of interest for members of the Management Board and Directors, experts in scientific committees, and members of Boards of Appeal", a task for which the Commission itself has taken responsibility and has set 2013 as a target year; notes with satisfaction that this task is one of the priority actions and milestones; urges the Commission to keep to the set target year, and to report to the discharge authority on the results of this action before the end of 2013;
27. Notes with satisfaction that two actions to be undertaken by the agencies, to "[a]dopt and implement a clear policy on conflicts of interest and, in particular, exchange

experience and possibly develop a coordinated approach to common problems concerning scientific committees and boards of appeal, and define transparent and objectively verifiable criteria for the impartiality and independence of the members of Boards of Appeal" and to "[r]eview selection procedures for members of scientific committees" are anticipated for 2013; urges the Agencies to report to the discharge authority on the state of play as regards those tasks before the end of 2013;

28. Notes, however, that the Roadmap, while being a good starting point, still lacks a comprehensive assessment of the current agencies landscape, as well as a clear vision and strategy addressing the need to modernise the agencies; believes that the Commission could have been more ambitious and demanding when it comes to specific actions targeting individual agencies or types or groups of agencies; regrets that the lengthy work of the Interinstitutional Working Group has led to a rather modest outcome at this stage and regrets that the Council has not been more open to a more ambitious approach; is convinced that a more ambitious and forward looking approach leads to considerably more added value;

Independence

29. Stresses the utmost importance of the agencies' independence; recalls that the agencies should be able to independently execute their mandate and regrets that this is not always the case; believes that the Commission's Directorates General should be seen as partners of the agencies and notes with concern that the Commission's interventions at times cast doubt on the objectivity of the agencies' decisions and performed actions, especially when high risks are involved such as disease control;

Democratic accountability

30. Considers that the democratic accountability of the agencies should be streamlined, in particular the way that the agencies report to the discharge authority (for example, inconsistencies are still present in way of presentation of financial information, in submission of discharge follow-up (FR Art. 96.2 reports), etc); believes that the "liaison" system between Parliament and the agencies would benefit from a stronger system through structured reporting from the agencies to Parliament, as the current situation is rather fragmented and too often, contact and reporting takes place only on an ad-hoc basis,

Possibilities for closer cooperation and eventual merging of certain agencies

31. Believes that common elements between the European Police College (CEPOL) and the European Police Office (EUROPOL) should be further explored; taking into account the fact that in 2014, CEPOL is to leave its current premises; requests that the Commission explore a possible relocation of CEPOL to the premises of EUROPOL and present those proposals to Parliament and the Council;
32. Invites the Commission to explore further, together with the European Institute for Gender Equality (EIGE) and the European Union Agency for Fundamental Rights (FRA) to further explore the synergies that exist between EIGE and FRA and to report to the discharge authority on the possible deeper integration of the two agencies; believes that a merger of the Institute and FRA should be considered as an option in order to

enhance EIGE's impact and avoid duplication and reduce overhead costs; invites EIGE, FRA and the Commission to analyse gains and losses arising from the merger scenario and to evaluate to what extent the merger could contribute to economies of scale and the optimisation of performance in the area of fundamental rights, women's rights and equality between women and men;

33. Invites the Commission, together with the European Training Foundation, the European Centre for the Development of Vocational Training and the European Agency for Safety and Health at Work to further explore the synergies that exist between those agencies and to report to the discharge authority on the possible deeper integration of those three agencies; invites those agencies and the Commission to evaluate whether closer cooperation could lead to economies of scale and optimisation of their performance;

Sharing best practices

34. Stresses the need to ensure that newly-formed agencies (e.g. the Agency for the Cooperation of Energy Regulators, the European Banking Authority (EBA), the European Insurance and Occupational Pensions Authority (EIOPA) and the European Securities and Markets Authority (ESMA), all founded in 2011) benefit from best practices of older, established agencies in order to avoid recruitment, procurement and financial regulation problems;
35. Notes with satisfaction that newly formed agencies are participating in the Network's meetings three times a year and those meetings comprise sharing best practices; notes, furthermore, that newly established agencies are invited to sub-networks which are set up to discuss issues requiring technical knowledge, in particular the sub-network of the Heads of Administration which meets with the same frequency as the Network and deals with issues of recruitment, procurement and financial regulations;
36. Takes note of the two study visits organised by ESMA which took place at the European Railway Agency (ERA) in 2011 and at the European Maritime Safety Agency (EMSA) in 2012, in which ESMA staff had the opportunity to learn best practices from those well-established agencies; notes the development of frequent contact between ESMA, EIOPA, and EBA, sharing experiences, aligning practices and profiting from synergies;
37. Invites the Network's coordinating agencies to liaise with the Commission in order to explore the possibilities of organising common training for agencies aimed at to overcoming the financial problems identified by the ECA in 2011 and avoiding those problems when the new Financial Regulation is implemented in January 2013;

Financial agencies

38. Notes with concern that the applicable provisions of the Financial Regulation are not fully adapted to the financial agencies' financing scheme, as 55% to 60% of their budget is financed by contributions from Member States and the European Free Trade Association countries; believes that the issue should be addressed in the revision of the Financial Regulation as regards agencies and calls on the Commission to evaluate this situation and report on this to the discharge authority;

39. Stresses the importance of adequately matching the allocated budget and available posts on one hand and the tasks entrusted to the Authorities on the other, as a mismatch may necessitate suboptimal solutions as regards recruitment on the one hand and involvement of national experts on the other; is concerned that the Commission altered the establishment plans proposed by the agencies without a clearly indication; urges the Commission to be fully transparent on this and other issues which may potentially hamper the independent functioning and effectiveness of the financial agencies;

Equality between women and men

40. Stresses the importance of putting in place policies ensuring that women and men are properly represented on the agencies' governing bodies; urges the coordinating agencies to introduce and promote general guidelines regarding best practices, even where no specific indications are given in the founding regulations;
41. Notes with concern that in most cases, neither the coordinating Agency nor the Network can promote gender equality as regards the composition of the governing boards, as it is the responsibility of Members States to select their representatives on those boards; invites Members States to bear in mind principles of equality between women and men when appointing the representatives to the governing bodies of Agencies; invites, furthermore, the Executive Directors to raise the awareness of the members of the board on this topic when the Chair and Vice-Chair are to be elected; notes with satisfaction that two of the current Troika agencies have a woman as Chair of their governing board;

Complex IT systems

42. Stresses the need for the Agencies, as well as the Commission, to coordinate and to share best practices and experiences in order to overcome the technical and management challenges presented by complex IT systems which have to operate on a Union-wide basis;
43. Draws the Commission's attention to the difficulties encountered by the Agencies with complex IT systems like accrual-based accounting (ABAC) and SYSPER2, due to fact that those systems are designed to satisfy the Commission's needs, rather than those of the agencies; welcomes the actions of the agency sub-networks dealing with the consequences of this, in particular, the EU Agencies Information and Communication Technology Network (IT issues), and the Heads of Administration sub-network (ABAC and SYSPER2) and invites the Commission to cooperate more closely with the agencies on this issue;
44. Proposes that the agencies should have the option to use the human resources software of the Commission instead of having to purchase their own expensive software;
- o
o o
45. Instructs its President to forward this resolution to the agencies subject to this discharge procedure, the Council, the Commission and the Court of Auditors.