

BUDGETARY CONTROL

Budgetary control is performed in each EU institution and at Member State level. Important control work is carried out, at different levels, by the Court of Auditors and by the Parliament. Each year the latter examines the implementation of the budget with a view to granting discharge to the European Commission.

LEGAL BASIS

- Articles 317, 318, 319, 322 and 325 TFEU;
- Articles 180b and 183 of the Euratom Treaty;
- Financial Regulation, Part One, Title VII, Chapters 1 and 2 (Council Regulation (EC, Euratom)1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities, last amended by Regulation (EU, Euratom)1081 of the EP and of the Council of 24 November 2010);
- Interinstitutional Agreement of 17 May 2006 between the EP, the Council and the Commission on budgetary discipline and sound financial management, paragraph 44;
- Rules of Procedure of the EP, Title II, Chapter 7, Rules 76, 77 and 78; Title IV, Chapter 2, Rule 112; Annex VI.

OBJECTIVES

To guarantee the legality, accuracy and financial soundness of budget operations and financial control systems, as well as the sound financial management of the European budget (economy, efficiency and effectiveness).

ACHIEVEMENTS

A. Control at national level

Initial control of income and expenditure is exercised partly by national authorities. These have kept their powers, particularly on traditional own resources (*1.5.1.), for they have the necessary procedures for collecting and controlling these sums. Member States retain 25% of traditional own resources as a collection fee (this figure was 10% before the ‘own resources decision’ 2000/597 of 29 September 2000, which came into force on 1 March 2002). Collection of traditional own resources is nevertheless a matter of great importance to EU institutions. It was in this connection that the EP established a Committee of Inquiry on Transit (see below). Operational expenditure under the European Agricultural Guidance and Guarantee Fund (EAGGF) and the Structural Funds is also controlled in the first instance by the authorities of the Member States, which often have to bear part of the cost of such interventions.

B. Control at Community level

1. Internal

In each institution, control is exercised by authorising officers and accountants and then by the institution's internal auditor.

2. External: by the Court of Auditors (*1.3.10)

External control is carried out by the European Court of Auditors (ECA), which submits each year to the budgetary authority detailed reports in accordance with Article 287 TFEU. These are:

- the 'statement of assurance as to the reliability of accounts and the legality and regularity of the underlying transactions' (known as the DAS);
- the annual report relating to implementation of the general budget, including the budgets of all institutions and satellite bodies;
- special reports on specific issues;
- specific annual reports relative to EU agencies and bodies.

The ECA also reports on lending and borrowing operations and the European Development Fund.

3. Control at political level: by the European Parliament:

Within the EP, the Committee on Budgetary Control is in charge of preparing the position of the EP and in particular of:

- the control of the implementation of the budget of the EU and of the European Development Fund (EDF);
- the closure, presenting and auditing of the accounts and balance sheets of the Union, its institutions and any bodies financed by it;
- the control of the financial activities of the European Investment Bank (*1.3.13.);
- monitoring the cost-effectiveness of the various forms of Community financing in the implementation of the Union's policies;
- consideration of fraud and irregularities in the implementation of the budget of the Union, measures aiming at preventing and prosecuting such cases, and the protection of the Union's financial interests in general.

It also prepares the decisions on discharge.

The discharge procedure

Once a year, Parliament, on the Council's recommendation, gives discharge to the Commission on the implementation of the budget for the year n-2, after having examined the ECA's annual report and the replies from the Commission and the other institutions to its questions (Article 319 TFEU). The Commission and the other institutions are obliged to take action on EP's observations in its discharge resolutions (Article 147 of the Financial Regulation). The EP gives discharge annually to the other institutions as well as to the agencies. The EP gives discharge to the Commission separately for the implementation of the EDF as these are not yet integrated into the general budget. The EP's discharge decision and resolution concerning the implementation of the EU general budget Section I – EP is addressed to the President of the EP.

Parliament considers the discharge reports in plenary before 15 May (article 145 Financial Regulation). Thus the votes on the granting of the discharge are taken during the May part-session and, in the event of their being held over, during the October part-session. If a proposal to grant discharge is not carried by a majority, or if EP decides to defer its discharge decision, EP informs the institutions or agencies concerned about the reasons for deferring the discharge

decision. They are required to take measures without delay to eliminate the obstacles to the discharge decision. Then, within six months, the Committee on Budgetary Control submits a fresh report containing a new proposal to grant or refuse discharge.

4. Anti-fraud measures: by OLAF

The Office for the Fight against Fraud (known as OLAF) was established in 1999 (Commission Decision 1999/352). It is competent to carry out investigations independent of the Commission. At the instigation of the EP it has been reinforced. Its role is to protect the Union's financial interests, with a responsibility for fighting fraud involving EU funds in all institutions and for coordinating the bodies responsible in the Member States. Within the framework of Regulations 1073/1999 and 1074/1999 regarding OLAF's investigations, on 25 May 1999 EP, the Council and the Commission signed an Interinstitutional Agreement regarding internal investigations. This Agreement stipulated that each institution should establish common internal rules intended to ensure the smooth running of OLAF's investigations. A part of these rules which is now integrated into the EU institutions' Staff Regulations oblige staff to cooperate with OLAF and include a certain amount of protection for staff members who divulge information regarding possible fraud or corruption. This is also known as protection of 'whistleblowing'.

A reform of OLAF and its regulatory framework was proposed by the Commission in 2006. On 20 November and 18 December 2008 the EP adopted resolutions, both with an overwhelming majority, in which it underlined the need for *"considerable improvement in the efficiency and quality of OLAF investigations through the strengthening of procedural guarantees, the role of the Supervisory Committee, the presumption of innocence, the right of defence of those under investigation and the rights of informers, the adoption of clear and transparent investigative rules and the improvement of cooperation with the competent national authorities and the EU institutions"* and called upon the Council to open negotiations on a recasting of EU anti-fraud legislation. However, the dossier stayed blocked in the Council. On 17 March 2011 the Commission adopted a new proposal to reform the EU's Anti-Fraud Office, in order to *"improve the efficiency, effectiveness and accountability of OLAF, while safeguarding its investigative independence"*.

Article 325 TFEU requires close and regular cooperation between Member States and the Commission, as well as opening the way to specific Council measures to afford equivalent and effective protection in the Member States for the EU's financial interests.

ROLE OF THE EUROPEAN PARLIAMENT

A. Development of powers

From 1958 to 1970 the EP was simply kept informed of decisions on discharge given by the Council to the Commission on its implementation of the budget. In 1971, it won the power to grant the discharge together with the Council. Since 1 June 1977, when the Treaty of 22 July 1975 entered into force, it alone has the power to give discharge on the accounts, after the Council has given its recommendation. It should also be mentioned here that the EP, through its competent committees, hears Commissioners-designate, and the Committee on Budgetary Control hears Members-designate of the Court of Auditors as well as the short-listed candidates for the post of Director of OLAF. These posts cannot be filled without these hearings at the Parliament.

B. Use of the discharge

The EP may decide to defer discharge where it is dissatisfied with particular aspects of the Commission's management of the budget. Refusal of discharge can be considered as tantamount to requiring resignation of the Commission. This threat was put into effect in December 1998:

following a vote in plenary at which the discharge motion was rejected, a group of five independent experts was established, which reported on accusations of fraud, mismanagement and nepotism against the Commission; the Commissioners then resigned en bloc on 16 March 1999. Members of the Committee on Budgetary Control specialise in particular Community policies and prepare the EP's response to ECA special reports, often in the form of working papers for the guidance of the general rapporteur on the discharge.

Although the Treaty only refers to the discharge to the Commission, for reasons of transparency and democratic control the EP also grants separate discharge to the other institutions and bodies and to each agency or similar entity (Annex VI of the EP Rules of Procedure). At the EP's part-session of April 2009, during the discharge procedure for 2007, it deferred the discharge to the Council of Ministers, *inter alia* because the latter refused to provide EP with relevant information that would have enabled it to grant the discharge; the discharge was eventually granted in November 2009, once the Council had made progress in meeting EP's requests. However, the procedures for the discharge of the Council for the financial years 2008 and 2009 again encountered considerable difficulties. Therefore, the report on discharge for the implementation of the Council's budget in 2009, adopted unanimously on 28 March 2011 in the Committee on Budgetary Control, again proposes to postpone its decision on granting discharge to the Secretary-General of the Council and *'Reiterates that the expenditure of the Council ought to be scrutinised in the same way as that of the other EU institutions, and suggests that the most appropriate approach would be as indicated in its resolution of 16 June 2010, in particular, that "such scrutiny is based on the following written documents submitted by all institutions:*

- *accounts of the preceding financial year relating to the implementation of the budget,*
- *a financial statement of the assets and liabilities,*
- *annual activity report on their budget and financial management,*
- *annual report of the internal auditor,*

as well as an oral presentation given in the meeting of the Committee responsible for the discharge procedure'.

As stated above, the Commission, the other institutions and the agencies must report on the measures taken in the light of the observations of the discharge resolutions. The Member States must inform the Commission on the measures they have taken following the EP's observations and the Commission must take these into account when writing its follow-up report (Article 147 of the Financial Regulation). As described in the Fact Sheet on the Court of Auditors (*1.3.10.), following the absence of an unqualified positive statement of assurance by the Court of Auditors for many years in a row, the EP has fostered the development of an integrated control framework comprising also shared management with the Member States.

C. Other instruments

Parliament's specialised committees are also contributing to ensuring that Community funds are spent in an efficient way in the best interest of the European taxpayer.

On a number of occasions, the members of the Committee on Budgetary Control have also held discussions with representatives of the corresponding committees of parliaments in the Member States, with national auditing authorities and with representatives of customs departments; on-the-spot enquiries have also been carried out by individual members to ascertain the facts underlying particular problems.

In December 1995 the EP exercised for the first time its right acquired under the Treaty to establish a Committee of Inquiry. This committee reported on allegations of fraud and

maladministration under the Community transit system. The committee's 38 recommendations received wide support.

Following the fact that several EU officials who had divulged information on possible fraud, corruption or mismanagement had not been adequately protected by the aforementioned whistleblowing protection rules, the EP's Committee on Budgetary Control has suggested to the Commission that these rules be revised.

The Treaty of Lisbon strengthens the control facilities **oriented on results achieved** by the EU programmes implemented using the Union's finances. Article 318 TFEU obliges the Commission to submit a comprehensive evaluation report to Parliament and the Council, taking account of their observations, as indicated in the annual discharge procedure.

In addition, paragraph 44 of the Interinstitutional Agreement of 17 May 2006 between the EP, the Council and the Commission on budgetary discipline and sound financial management recognises the *"importance of strengthening internal control without adding to the administrative burden"* and requests that *"In this context, priority will be given to sound financial management aiming at a positive Statement of Assurance, for funds under shared management with the Member States, which therefore undertake to produce an annual summary at the appropriate national level of the available audits and declarations"*.

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04/2011