

EUROPEAN PARLIAMENT

ANSWERS TO QUESTIONNAIRE FOR COMMISSIONER DESIGNATE

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(Administrative Affairs, Audit, Anti-Fraud)

Part B – Specific questions

- 1. Further to question 7 in the general questionnaire and against the backdrop of recent cases of irregularities (i.e. Eurostat), would you be prepared to accept the principle of individual political responsibility of a Commissioner for serious wrongdoings in his/her area(s) of responsibility, in addition to the political responsibility of the college of Commissioners? Would you be prepared to resign, if you lose the confidence of the European Parliament?**

Individual commissioners are responsible for the policies they set, whereas Directors-General hold responsibility for implementing policy and for routine financial or management decisions. Mutual trust and loyalty are the key ingredients for this relationship to work, and I will do my best to ensure that my relations with the Directorates-General for which I am responsible are governed by trust and loyalty.

I welcome that, as a result of the Eurostat case, a system has been put in place according to which, on the one hand, Directors-General must inform their commissioner on audit and control issues and must adequately identify and report serious issues and, on the other hand, it is the duty of each Commissioner to actively make sure that (s)he is informed and take whatever action may be necessary. The Commission has also established a formal obligation that each Commissioner shall discuss these issues at least once every sixth months. I intend to arrange more frequent discussions and, as chair of the Audit Progress Committee and Commissioner with special responsibility in this field, I will not hesitate to draw the attention of my colleagues to any audits which may require follow-up in their respective areas. If necessary, I will bring such issues before the college.

If, notwithstanding these improved procedures, serious wrongdoings occur affecting the trust of the European Parliament, the President of the Commission will assess whether there is any political responsibility to be placed. In this context, Mr Barroso made the clear commitment before the Parliament that, if a Commissioner clearly fails in his or her duties, he would not hesitate to ask him to resign. Accordingly, if I were to lose the confidence of the European Parliament and the President of the Commission asked me to resign, I would be prepared to do so.

2. In the early 1990s, when you were President of the Bank of Estonia, allegations were made that you may have been responsible for the mishandling of \$ 10 million in an investment scheme. You were later acquitted of these allegations in court. Would you give us your own account of the events?

I was Governor of the Central Bank of Estonia from 1991 to 1995. The Central Bank is the main banking regulatory and supervisory authority in Estonia. In 1993, the commercial bank North-Estonian Bank (PEP) made a financial investment of USD 10 million, of which USD 8 million was lost. The loss became evident in early 1995.

My role in this event and handling the crises was scrutinised in investigations launched in 1997 by the police, when I had become a member of parliament. Whereas my political opponents held strong views on my role, the court handled it in depth in all instances, and I was unconditionally acquitted of all charges in all court instances. All court proceedings and documents have been made public and can be consulted.

In immediate follow-up to the PEP events, my administration made suggestions leading to a substantial strengthening of the supervision of the commercial banks of Estonia. Several laws and regulations were adopted by the Estonian Parliament and the Bank of Estonia in order to make Estonian commercial banking sound, and to protect the rights of depositors. Today, the banking sector in Estonia is considered healthy and sound by all international rating agencies, money markets and international monetary authorities (IMF) and the European Commission. I believe the possibility of similar situations occurring again has been greatly reduced, and I believe I have played a central role in strengthening the regulation of the banking sector in my country.

The PEP events and the Court case were the focus of extensive media coverage and public scrutiny. I note that the Estonian public reaffirmed their confidence in me by twice entrusting me with a strong democratic mandate in the Estonian Parliament.

3. In the context of good governance and sound financial management, how do you think the areas of budget execution, budgetary control and internal audit should be organised in the Commission to provide for management, control and audit tasks to be effectively carried out? More specifically:

I believe that the Commission's post-reform organisation in the area of budget execution, control and audits is fundamentally sound. We have a strong basic control environment, with clear attribution of responsibilities, reporting and accountability. But as with any system, management should regularly review the adequacy in the light of latest practice. The new Financial Regulation has been in force for less than two years, so experience may yet show that further adjustments to the system are necessary. In the light of financial and management information, risks need to be assessed and preventive or detective procedures installed to mitigate economic and reputational damage.

a How do you evaluate the potential conflict of interest between being the Commissioner in charge of audit and anti-fraud, while holding at the same time the portfolio for the Commission's administration, responsible for following-up internal OLAF investigations?

I am pleased that by separating the competences for drawing up the budget and keeping accounts from the responsibility for combating fraud, my “triple-A” portfolio as Vice-President for Administration, Audit and Anti-Fraud addresses a key concern often expressed by the European Parliament. With regard to the joint responsibility for administration and audit, I am aware of the concern and I intend to address it by acting as the guardian of the operational independence of the Internal Audit Service (IAS) and even more OLAF. I will also arrange for a transparent discussion in the Audit Progress Committee of any “administration” issue raised by the IAS. To do so, I will pass the chair to another member when such issues are discussed.

Also, the portfolio potentially offers a number of synergies that I will try to achieve, such as ensuring that audit and discharge recommendations are followed-up in a coherent manner, and that the administrative aspects of such recommendations are given political attention.

Besides the investigation and detection where OLAF is independent, the fight against fraud also includes fundamentally important work on prevention. Bringing together the knowledge of the various services further allows for an improved risk analysis and strategic intelligence. The synergy in the portfolio would allow me to root the protection of financial interests even deeper in staff behaviour.

Finally, on disciplinary matters, OLAF does investigation work only, whereas binding disciplinary measures can only be taken by the Appointing Authority after an OLAF or IDOC (Investigation and Disciplinary Office of the Commission) report. So I see no conflict: Rather, the portfolio would allow me to monitor that the relevant services are well-coordinated on all individual cases.

b Will you forward the annual activity report of the Internal Audit Service directly to the European Parliament?

The Annual Activity Report of the IAS is always transmitted to the European Parliament along with the Annual Activity Reports of all other Commission Directorate-Generals. They are also available on the Europa website. It is my intention to further develop transparency and openness by implementing the e-government concept in the Commission.

With regard to the Annual Audit Report of the IAS, this report is addressed to the Commission under article 86(3) of the Financial Regulation. It is – in line with the internationally accepted standards on internal auditing - an internal management tool not intended for distribution outside the Institution. The Discharge Authority is informed of internal audit work carried out by way of the report from the Commission foreseen in article 86(4) of the Financial Regulation. This report is based on the Commission internal report from the IAS mentioned above and includes the Commission's responses to the Internal Auditor's recommendations. I will look into ad-hoc possibilities - in line with the applicable rules - to provide the European Parliament appropriately with information which is relevant to ensure a high degree of transparency and accountability.

c Will you grant the Commission's accounting officer the necessary independence for his/her work by creating a distinct Directorate-General?

The independence of the accounting officer is clearly guaranteed by the Financial Regulation and this is also working in practice.

President Barroso has opted for maintaining the current administrative organisation, accounting reform stays within Directorate-General for Budget, under the responsibility of Mrs Grybauskaite. I will give my full support to these arrangements.

d Will you grant the Commission's accounting officer direct authority over the Internal Audit Capacities in the Commission's Directorates-General?

The Internal Audit Capabilities (IAC) are established to assist the management and provide independent advice to Directors-General, in order to support their annual assurance statements. Unlike the accounting officer, who performs executive tasks, the IACs are therefore not involved in the management of the control systems.

The Commission has recently decided to strengthen the reporting obligations of the IACs to the Internal Audit Service. I recognise the importance of bringing knowledge together, and I am committed to ensuring proper information flows between the internal audit capacities and the central services, including the accounting officer as necessary.

4. How do you intend to improve the shared financial management between the Commission and the Member States? Would you agree that Member States should be obliged to issue a positive Statement of Assurance (DAS) for European Community money they manage? Which measures will you take to obtain such a statement?

Given the size of the budget implemented through shared management, any progress will come from a co-ordinated effort of the different levels of audit and control. It is in the interest of both the Commission and Member States to improve the public perception of the EU's financial management. Unfortunately, in spite of the control systems in place, including the clearance-of-accounts procedures or financial correction whereby the Commission has the possibility to withhold or compensate payments, the Court of Auditors has made almost every year a 'negative' statement of assurance on the underlying transactions within agriculture, structural funds, internal and external policies, i.e. mostly in domains of activities where shared management is the rule and where the big spending from the EU budget occurs.

The road towards a 'positive' statement of assurance requires strong inter-institutional cooperation, in particular with a view to providing the Court with evidence that the Commission and Member States have put in place supervisory and control systems adequately designed to keep the risk of irregularity within reasonable limits. There is considerable scope for making the systems more efficient, through the coordination of audits; the adoption of common standards, and the pooling of audit reports. This would allow all parties to have an informed opinion on the reliability of the management and control systems in place, and

hence on the legality and regularity of the underlying transactions. The Commission has addressed these problems in its recent communication on the responsibilities of the Member States and the Commission in the shared management of the Structural Funds and the Cohesion Fund (COM 2004/580 of 6 September 2004).

For the next programming period for structural funds 2007-2013, the Commission has proposed that Member States should provide the necessary information on supervisory and control systems in the context of a so-called “contract of confidence”. Member States will then be in a position to provide statements on their control systems in place for EU funds they manage in this complex system. I am optimistic that Member States can be convinced that this is the way forward; provided that the efforts requested stay within reasonable limits and that we do not install a system of control over-kill. I will actively work in this direction.

5. Current criteria make it difficult for the Court of Auditors to issue a positive Statement of Assurance (DAS) in general. Should the financial risk linked to Commission activities be evaluated and politically discussed with a view to identifying an 'acceptable error rate', thereby making it possible to give a positive DAS (acceptable level of assurance)? Do you believe that Parliament, as discharge authority should be informed of sectoral error rates as a measurement for annual performance indicators?

I certainly agree that an agreement on annual performance indicators would be a tremendous step forward towards a positive DAS, and I am willing to work closely with the Parliament, Member States and the Court in order to arrive at an agreed methodological basis for a systematic use of these indicators over time.

I also fully accept that checks of transactions are an important input to the work of the Court of Auditors. I note, however, that the previous methodology for reporting “error rates” was unsatisfactory for a number of well-known reasons, and that the Court has ceased to publish error rates. In this sense, I am afraid that if we sought to obtain statistically reliable error rates for each sector in the budget, the Court would incur prohibitive sampling costs.

Beyond this practical limitations set by available resources, I am more concerned that even reliable “error rates” would not offer much feed-back on how to improve the performance, nor do they indicate how performance was affected by changes in the underlying risks. In this sense, I welcome the recent move by the Court of Auditors towards an approach of checking the systems, rather than only transactions. A free and open discussion of the relevant facts should enable us to progress towards an understanding with the Court of Auditors as to an acceptable level of assurance in different domains, taking into account risk assessment in all different sectors and circumstances. This requires the input of the European Court of Auditors, based on their knowledge of the control systems in question, and agreement in the context of the Discharge that everything reasonably possible and cost-effective has been done to mitigate the risks. This should then enable the Court of Auditors to provide a positive DAS and allow Parliament to monitor improvements made.

6. To your mind, how should the European Anti-Fraud Office (OLAF) develop in the medium-term future? In this context, what importance do you attribute to the European Prosecutor's Office? How should the functioning of OLAF be improved in the immediate future? Should OLAF retain any formal, administrative link to the Commission services?

OLAF is a recent organization, faced with a complex mandate and a challenging workload from its inception. At this point, I believe OLAF needs organizational stability and to be allowed to work on its core business of conducting and concluding investigations.

In its internal investigative work, the information flow with the Commission has been improved, so as to allow them to take protective measures while an inquiry is still ongoing. Externally, OLAF is consolidating cooperation with Member States, who are primarily responsible for the fight against fraud on the ground, and building up links with Europol and Eurojust. New Member States are assisted with judicial and technical expertise and operational cooperation.

As a Commission service OLAF is coordinating between Member States dealing with cross border crime affecting the Community's financial interests and developing its intelligence analysis to provide them with a value added service.

I am ready to look at how further to strengthen the functional separation between OLAF's role as a Commission service on the one hand and the independent investigative responsibility on the other hand. And like you, I am very attentive to the question of the judicial control and protection of individual rights.

The advantages and disadvantages of the mixed statute of the Office are well-known and openly discussed. The Commission has tabled a proposal to improve the legal basis of OLAF, and as we await the finalization of the complementary evaluation and the audit of the Court of Auditors, I look forward to discussing these themes with all stakeholders. I would be pleased to take part in the hearing envisaged by Parliament's Committee on Budgetary Control, which would allow account to be taken of the experiences of all actors.

Beyond the medium-term, I support the proposed creation of the European Prosecutor for the protection of the EU's financial interests. The constitutional Treaty contains an express legal basis to that end. Should this succeed, I believe the structure of OLAF would have to be rethought at that stage.

7. What is your view on the role of whistleblowers in highlighting alleged failings in the Institutions? Do the new procedures provide adequate forms of redress and protection of whistleblowers and protect the identities of those accused? How would you recommend handling cases of alleged maladministration and possible wrongdoing brought to light by an official?

I would like the Commission to be an institution where staff would feel free to raise concern and critique, fostering a culture where reporting on wrong-doings and proposals on how to improve the system are considered both welcome, necessary, safe and acceptable.

Whistleblowing should not be necessary in such a system, and it certainly should not become a substitute for internal grievances procedures, nor should whistleblowing rules be invoked for dealing with disagreement over policy.

This said, I am not in a position to categorically rule out a scenario in which a staff member feels that he or she has no other option than to take the allegations outside the institution. This being the case, we need to ensure that the possibility exists, and that our procedures adequately protect and are trusted to protect the individual concerned. This requires, among other things, protection of confidentiality and career perspectives, means of redress, and the right to bring concerns to the Ombudsman or to the Presidents of the Council, Parliament or the Court of Auditors. It also requires careful investigation of all cases raised. These provisions have been put in place in the Commission, and through the Staff Regulations, extended to all institutions.

In short, I consider whistleblowing the last and least desirable option, which must however exist with procedures offering credible protection to the staff member concerned. I do believe the revised Staff Regulations offer these guarantees.