

EUROPEAN PARLIAMENT

1999



2004

Session document

12 January 2000

FINAL
A5-004/2000

REPORT

on giving discharge to the Commission in respect of the implementation of the general budget of the European Communities for the 1997 financial year (Section I – Parliament, II – Council, III – Commission, IV – Court of Justice and V – Court of Auditors) (SEC(1998) 520 – C4-0350/1998, SEC(1998) 522 – C4-0351/1998, SEC(1998) 519 – C4-0352/1998)

Committee on Budgetary Control

Rapporteur: Lousewies van der Laan

CONTENTS

Page

PROCEDURAL PAGE	3
I. PROPOSAL FOR A DECISION giving discharge to the Commission in respect of the implementation of the general budget of the European Communities for the 1997 financial year (Section I – Parliament, II – Council, III – Commission, IV – Court of Justice and V – Court of Auditors)	4
II. PROPOSAL FOR A DECISION closing the accounts relating to the implementation of the general budget of the European Communities for the 1997 financial year	5
III. MOTION FOR A RESOLUTION containing the comments which form an integral part of the decision giving discharge to the Commission for the implementation of the general budget of the European Communities for the 1997 financial year	11
EXPLANATORY STATEMENT	17
Opinion of the Committee on Industry, External Trade, Research and Energy	

PROCEDURAL PAGE

On 29 April 1998 the Commission submitted to Parliament, pursuant to Articles 78d of the ECSC Treaty, Article 275a of the EC Treaty and Article 179a of the EAEC Treaty, the revenue and expenditure account and the financial statement for the 1997 financial year, together with the report on the implementation of the general budget (SEC(1998) 520, SEC(1998) 522, SEC(1998) 519).

On 16 November 1998 the Court of Auditors submitted to Parliament its report on the 1997 financial year, which refers to several special reports.

At the sitting of 14 December 1998 the President of Parliament announced that he had referred these documents to the Committee on Budgetary Control as the committee responsible and to all the committees concerned for their opinions (C4-0350/1998, C4-0350/1998, C4-0351/1998).

At its meeting of 29 October 1998 the Committee on Budgetary Control had appointed Laurens Brinkhorst rapporteur.

On 15 March 1999 the Council forwarded to Parliament the recommendation concerning the discharge to be given to the Commission in respect of the implementation of the general budget for the 1997 financial year (C4-0156/1999).

At its meetings of 26 November 1998, 19 January, 23 February, 15/16 March, 12 and 20 April 1999 the Committee on Budgetary Control considered the revenue and expenditure account and the financial statement for the 1997 financial year, the report on the implementation of the general budget, the report of the Court of Auditors, the working documents drawn up by members of the committee on the various sectors of Community activity, the recommendation of the Council, the draft report and the opinions of the committees consulted.

At the sitting of 4 May 1999 Parliament decided to postpone the discharge decision (A4-0201/1999).

By letters of 8 October 1999, 12 November 1999 and 6 December 1999 the Commission informed Parliament of the measures it had taken in response to this resolution.

At its meeting of 21 September 1999 the Committee on Budgetary Control appointed Lousewies van der Laan rapporteur.

At its meetings of 6 December 1999 and 11 January 2000, it considered the draft report.

At the latter meeting it adopted unopposed, with 1 abstention, the proposal for a decision giving discharge to the Commission in respect of the general budget of the European Communities for the 1997 financial year; unanimously adopted the proposal for a decision closing the accounts relating to the implementation of the general budget of the European Communities for the 1997 financial year; adopted unopposed with 1 abstention, the motion for a resolution; and adopted unopposed, with 1 abstention, the report as a whole.

The following were present for the vote: Theato, chairman; van der Laan (rapporteur and vice-chairman); Bösch, vice-chairman; Blak, vice-chairman; Camre, Dell'Alba, Folias (for Costa), van

Hulten, Kuhne, Langenhagen, Mastorakis (for Hollande), McCartin (for Khanbhai), Mulder (for Di Pietro), Pomés-Ruiz, Rühle (for Staes), Stauner and Turmes (pursuant to Rule 153).

The opinion of the Committee on Industry, External Trade, Research and Energy is attached.

The report was tabled on 12 January 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

I. PROPOSAL FOR A DECISION

Decision of the European Parliament giving discharge to the Commission in respect of the implementation of the general budget of the European Communities for the 1997 financial year regarding sections

I-Parliament, II-Council, III-Commission, IV-Court of Justice and V-Court of Auditors

The European Parliament,

- having regard to the budget of the European Communities for the 1997 financial year,
 - having regard to the revenue and expenditure account and the financial statement of the European Communities for the 1997 financial year (SEC(1998)0520 - C4-0350/1998, SEC(1998)0522 - C4-0351/1998, SEC(1998)0519 - C4-0352/1998),
 - having regard to the report of the Court of Auditors for the 1997 financial year¹ and the special reports pertaining to it, accompanied by the Institutions' replies,
 - having regard to the statement of assurance provided by the Court of Auditors, on the basis of Article 248 of the EC Treaty, as to the reliability of the accounts and the legality and regularity of the underlying transactions,
 - having regard to the Council recommendation of 15 March 19992 (C4-0156/1999),
 - having regard to its resolution of 4 May 1999 on postponement of the discharge for the 1997 financial year³,
 - having regard to the explanations and information provided by the Commission on the measures taken in response to this resolution,
 - having regard to the ECSC Treaty, and in particular Article 78g thereof,
 - having regard to the EC Treaty, and in particular Article 276 thereof,
 - having regard to the EAEC Treaty, and in particular Article 180b thereof,
 - having regard to Rule 93 and Annex V to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Industry, External Trade, Research and Energy (A5-0004/2000),
1. Gives the Commission discharge in respect of the implementation of the general budget of the European Communities for the 1997 financial year;

¹ OJ C 349, 17.11.1998

² OJ L (not published in the OJ)

³ OJ C 279, 1.10.1999, p. 119

2. Records its comments in the accompanying resolution which forms an integral part of this decision;
3. Instructs its President to forward this decision and the resolution containing its comments to the Commission, the Council, the Court of Justice, the Court of Auditors and the European Investment Bank and to have it published in the 'Legislation' series of the Official Journal of the European Communities.

II. PROPOSAL FOR A DECISION

Decision of the European Parliament closing the accounts relating to the implementation of the general budget of the European Communities for the 1997 financial year regarding the sections I-Parliament, II-Council, III-Commission, IV-Court of Justice and V-Court of Auditors

The European Parliament,

- having regard to the budget of the European Communities for the 1997 financial year,
 - having regard to the revenue and expenditure account and the financial statement of the European Communities for the 1997 financial year (SEC(1998)0520 - C4-0350/1998, SEC(1998)0522 - C4-0351/1998, SEC(1998)0519 - C4-0352/1998),
 - having regard to the report of the Court of Auditors for the 1997 financial year⁴ and the special reports pertaining to it, accompanied by the Institutions' replies
 - having regard to the statement of assurance provided by the Court of Auditors, on the basis of Article 248 of the EC Treaty, as to the reliability of the accounts and the legality and regularity of the underlying transactions,
 - having regard to the Council recommendation of 15 March 1999⁵ (C4-0156/1999),
 - having regard to its resolution of 4 May 1999 on postponement of the discharge for the 1997 financial year⁶,
 - having regard to the ECSC Treaty, and in particular Article 78g thereof,
 - having regard to the EC Treaty, and in particular Article 276 thereof,
 - having regard to the EAEC Treaty, and in particular Article 180b thereof,
 - having regard to Rule 93 and Annex V to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of Committee on Industry, External Trade, Research and Energy (A5-0004/2000),
- A. whereas, pursuant to Article 275 of the EC Treaty, the responsibility for drawing up the accounts relating to the implementation of the budget lies with the Commission,
1. Notes that the authorised revenue and expenditure for the 1997 financial year amounted to:

⁴ OJ C 349, 17.11.1998

⁵ OJ L (not published in the OJ)

⁶ OJ C 279, 1.10.1999, p. 119

	<u>ECU</u>	<u>ECU</u>
- Revenue: estimates entered in the general budget		
. including EFTA/EEA	p.m.	82 365 535 317.00
- Appropriations for commitments:		
. Appropriations authorised in the general budget	89 208 385 339.96	
. Appropriations carried over from 1996	491 487 792.94	
. Appropriations made available as a result of cancellation, in 1996, of commitments entered into in previous financial years	1 665 000.00	
. Appropriations made available as a result of repayment of deposits	0.00	
. Appropriations corresponding to revenue from services rendered to third parties	110 408 343.67	<u>89 811 946 476.57</u>
- Appropriations for payments		<u>83 817 479 886.34</u>

2. Notes the following data compiled by the Commission in closure of the accounts for the 1997 financial year;

(a) **Revenue:** general budget

. including EFTA/EEA	<u>80 547 697 832.85</u>
----------------------	--------------------------

(b) **Expenditure**

. Payments made for the financial year including EFTA/EEA	79 301 508 479.80 (54 964 579 21)	
. Appropriations carried over to 1998	701 596 075.97	
. EFTA/EEA appropriations carried over from 1996 to 1997	343 290.60	<u>80 003 447 846.37</u>

(c) **Balance for the 1997 financial year**

- Revenue for the financial year		<u>80 547 697 832.85</u>
. Payments from the appropriations for the financial year including EFTA/EEA	79 301 508 479.80 (54 964 579.21)	
. Appropriations carried over to 1998	701 596 075.97	
. EFTA/EEA appropriations carried over from 1996 to 1997	343 290.60	<u>-80 003 447 846.37</u>
. Appropriations carried over from 1996 which have lapsed		+323 055 251.30
. Exchange differences during the 1997 financial year		+95 023 529.87
. Overrun on non-differentiated appropriations carried over:		
- Commission		0.00
- Other institutions		-71.33
Balance for the 1997 financial year		<u>962 328 696.32</u>

This balance reflects the accounting situation only and does not include expenditure actually incurred during the financial year

(d) Utilisation of appropriations for commitments 86 627 226 875.25

(e) Balance sheet as at 31 December 1997

ASSETS

(in ECU)

		31.12.1997
I.	Initial costs	0.00
II.	Intangible fixed assets	3 329 094.58
III.	Tangible fixed assets	2 243 068 143.21
IV.	Investments	1 235 070 520.12
V.	Long-term assets	4 932 858 972.96
VI.	Stocks	90 198 397.73
VII.	Short-term assets	4 959 905 396.41

VIII.	Cash investments	99 358 920.48
IX.	Disposable assets	6 307 822 531.81
X.	Suspense accounts	357 537 626.20
	TOTAL	20 229 149 603.50

LIABILITIES

(in ECU)

		31.12.1997
I.	Own capital	6 408 083 324.21
II.	Provisions for risks and liabilities	872 391 061.38
III.	Long-term liabilities	4 762 748 990.14
IV.	Short-term liabilities	7 664 113 931.95
V.	Suspense accounts	521 812 295.82
	TOTAL	20 229 149 603.50

3. Closes the accounts relating to the implementation of the general budget of the European Communities for the 1997 financial year;
4. Instructs its President to forward this decision to the Commission, the Council, the Court of Justice, the Court of Auditors and the European Investment Bank and to have it published in the 'Legislation' series of the Official Journal of the European Communities.

III. MOTION FOR A RESOLUTION

Resolution of the European Parliament containing the comments which form an integral part of the decision giving discharge to the Commission for the implementation of the general budget of the European Communities for the 1997 financial year

The European Parliament,

- having regard to Article 276 of the EC Treaty,
 - having regard to Article 89(7) of the Financial Regulation, pursuant to which each Community institution is required to take all appropriate steps to act on the comments appearing in the decisions giving discharge,
 - whereas pursuant to paragraph 8 of the same article the institutions are also required to report, at the request of the European Parliament, on the measures taken in the light of these comments and particularly on the instructions given to those of their departments which are responsible for the implementation of the budget,
 - having regard to the report of the Court of Auditors for the 1997 financial year⁷ and the special reports pertaining to it,
 - having regard to the Council recommendation of 15 March 1999 (C4-0156/1999)⁸,
 - having regard to its resolution of 4 May 1999⁹ informing the Commission of the reasons for postponing the discharge in respect of the implementation of the general budget of the European Union for the 1997 financial year,
 - having regard to Rule 93 of and Annex V to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Industry, External Trade, Research and Energy (A5-0004/2000),
- A. whereas the turnout in European elections is declining systematically in many European countries,
- B. whereas at the time of the European elections allegations of fraud, mismanagement and nepotism in the European Commission were the subject of public debate in several Member States,
- C. whereas it decided to postpone the discharge for the 1997 financial year pending commitments from the new Commission regarding reform,
- D. whereas with regard to subjects which are essential to the reform of the Commission, criticisms were expressed and measures called for in the second report of the Committee

⁷ OJ C 349, 17.11.1998

⁸ OJ (not published in the OJ)

⁹ OJ C 279, 1.10.1999

of Independent Experts and in the annex to Parliament's resolution on the postponement of the discharge,

- E. whereas in response to these criticisms and demands, the Commission has entered into commitments and adopted certain measures which should be assessed,
 - F. whereas in February the Commission will submit a reform programme which should deal in a comprehensive manner with all aspects of its organisational and management structures; whereas this discharge will therefore make it possible to ascertain the current commitments and measures with a view to comparing them with the final programme of February 2000,
 - G. whereas the citizens of Europe will regain their faith in the European institutions only if major reforms are carried out in the near future,
 - H. whereas the Commission has in the past appeared to regard the annual report of the Court of Auditors as an irritating ritual rather than a useful contribution to the improvement of financial management,
1. Reminds the Commission that the discharge which is being given to it is based on the assumption of the full implementation of its commitments under the reform programme;
 2. Indicates to the Commission the guidelines which it must respect in drafting this programme in certain particularly sensitive areas;

Closure of accounts

3. Recalls the statement of assurance annexed to the Court of Auditors 1997 Annual Report, which includes the following points:
 - (a) that the total volume of assets corresponding to amounts owed to Community bodies by Member States, which is entered as € 1 756.5 million in the consolidated balance sheet, is incorrectly reflected in the accounts (points 8.10-8.11 of the Annual Report),
 - (b) that the Community's cash account balances are inaccurately presented in the balance sheet, since amounts totalling several hundred million Euro held in some third countries are recorded as definitive payments charged to the budget rather than as imprest advances, and that the amount for the PHARE Programme alone in this context is at least € 370 million (point 8.12),
 - (c) that the value of commitments still to be settled is overstated by a net amount of at least € 530 million (points 8.18-8.22),
 - (d) that the total amount of advances and payments on account recorded during the year as payments charged to the budget is understated by at least € 4 126 million (points 8.23-8.24);
4. Recalls that the audit carried out by the Court of Auditors in the context of the statement of assurance (see points 8.34-8.40 of the Annual Report) once again revealed an unacceptably high percentage of significant errors which have distorted the figures relating to procedures on which payments are based;

5. Declares that it will be unable to close the accounts for the 1999 financial year if the Commission has failed to rectify the accounting errors identified by the Court of Auditors;

Institutional problems of management and supervision

6. Calls on the Commission to develop a system whereby the recommendations of the Court of Auditors are systematically followed up and reviewed; where complaints are repeated two years in a row, the Commission should hold management accountable for persistent failure to improve the situation;
7. Calls on the Court of Auditors to monitor systematically, each year, the response to the criticisms expressed in its previous reports;
8. Calls on the Court of Auditors to negotiate framework agreements with national courts of auditors whereby the latter carry out complementary checks on Community policies conducted in partnership, on the basis of a programme drawn up by common agreement;
9. Observes that the powers of financial control and auditing powers need to be separated in a new Financial Regulation, and that auditing and inspection structures need to be separate and answerable to different Commissioners;
10. Considers that every Directorate-General should present annual reports and accounts along standardised lines, which should include the following year's qualitative and quantitative targets;

Staff policy

11. Accepts the commitment given by the Commission to define the staff and structures needed on the basis of objectives ranked in order of priority, but calls on the Commission to state clearly in its reform programme all its priorities and the criteria for the selection of the resources to be assigned thereto (staff employed pursuant to the Staff Regulations; external resources), on the basis of a system which can combine activity-based budgeting with an integrated resource-management system;
12. Calls on the Court of Auditors to assess the administrative decentralisation policy which the Commission has embarked upon as part of the MAP 2000 programme;
13. Notes that the Commission has adopted codes of conduct for the Commissioners and their private offices which entail major improvements with regard to the financial interests of Commissioners and the staff composition of the private offices, but calls on the Commission to undertake, in its reform programme:
 - to supplement the codes with more precise provisions concerning incompatibility in cases where a Commissioner has a direct personal interest in an act of recruitment, administration or implementation of the budget for which he and his departments are directly responsible.

- to make the codes binding by means of a regulation to be adopted by the Commission on the basis of opinions delivered by Parliament, the Council and the Court of Auditors;
14. Welcomes the Commission's plans to protect whistleblowers and calls on the Commission to ensure that staff are encouraged to help work towards a professional climate in which whistleblowing will no longer be necessary; calls on the Commission, however, to identify, in connection with the code of conduct, the fundamental duties of officials so that the latter can oppose any instructions from their hierarchy which are illegal or unethical;
 15. Notes the strategic guidelines for administrative reform presented by the Commission with the aim of establishing a more effective disciplinary procedure for budgetary irregularities; calls on the Commission to propose rules to ensure the certainty of the procedure and the absolute impartiality of the body responsible for managing it;

Technical Assistance Offices (TAOs)

16. Notes the Commission's attempt to rationalise the TAOs by establishing a more restrictive legislative and budgetary framework and by introducing a vade-mecum which prohibits subcontracting of public-administration responsibilities and steps up supervision and monitoring of these bodies;
17. Is only partially satisfied, however, and hopes that the Commission will include in its reform programme these further improvements:
 - (a) the vade-mecum should be binding and thus be an element in the revision of the Financial Regulation;
 - (b) the TAOs must be excluded from any European public-service functions (even those which are purely preparatory, such as assessment of bids) and be confined to implementation;
 - (c) relations with TAOs must be governed by transparent provisions laid down in standard and model contracts;
 - (d) any function entailing discretionary assessment must be entrusted to executive agencies which operate as decentralised organs of the Commission and will make use of officials and specialised private staff who are entirely subject to the authority, supervision and monitoring of the Commission;
18. Stresses that, pending codification of the new criteria governing delegation of Commission tasks, the Commission must honour its contractual obligations towards existing TAOs and rectify delays in payment, which cause serious financial problems, particularly for small businesses;
19. Notes that the Commission has ended the contract with the TAO Agenor and resumed responsibility for managing the Leonardo programme, with the assistance of some of Agenor's staff; considers that this action by the Commission demonstrates some elements of the executive agency formula;

20. Calls on the Commission to bring a parallel civil action before the Belgian courts if the Public Prosecutions Department decides to institute criminal proceedings in the four fraud cases denounced by the Commission;

The discharge authority's access to information

21. Recalls that Article 276(2) of the EC Treaty states that the Commission, in connection with the exercise of its powers over the implementation of the budget, must submit any necessary information to the European Parliament at the latter's request;
22. Notes that the EC Treaty provides for no such right to information for the Council in the area of the budget, so that Parliament's right to information in this area is thus more far-reaching than that of the Council;
23. Notes that there is general consensus on the right of the discharge authority to full access to information on the implementation of the budgets and considers that the formal and practical arrangements which need to be put in place to facilitate this right should be set out both in Parliament's rules and in an agreement with the Commission on the basis of the principles to be laid down in the framework agreement on relations between the Commission and the European Parliament;
24. Calls on Parliament's Secretary General and the Constitutional Affairs Committee, in their respective areas of competence, to bring forward proposals for the necessary formal and practical arrangements (including changes to Parliament's Rules of Procedure, notably Annex VII) to ensure Parliament's unfettered rights under Article 276 TEC and to create appropriate general procedures for handling documents of a necessarily confidential nature;
25. Calls on the Commission to bring forward proposals for the classification of documents and consider other ways - drawing on the experience of the relationship between the executive and the legislative in Member States - in which full transparency with Parliament can be respected whilst minimising the risks of prejudicing ongoing court cases or transgressing the rights of individual staff members, etc.;
26. Points out to the Commission as of now, however, that:
- (a) Parliament will consent to the agreement's providing for exceptional restrictions only with regard to the procedures for forwarding, disseminating and collecting data and not with regard to the subject of the information;
 - (b) the principle must apply that Parliament, as the discharge authority, has at least as much access to Commission documents as the Court of Auditors, whose task it is to support Parliament in monitoring the implementation of the budget;
 - (c) the Commission must undertake, pending the introduction of the new rules, to provide all information which the discharge authority requests from it, on the basis of ad hoc agreements designed to ensure respect for confidentiality;

The discharge and management of Community policies in partnership (SEM 2000)

27. Notes the Commission's undertaking to forward to Parliament all information, both concerning measures under the SEM 2000 programme regarding budgetary management

in partnership and concerning the responses of national administrations to the comments of the discharge authority;

28. Considers these undertakings only partially satisfactory, however, and calls on the Commission to commit itself, in its reform programme, to:
- (a) arrange for observers from Parliament to attend meetings of the body responsible for the SEM 2000 programme when the functions of Parliament as a legislative, budgetary or budgetary control authority are at issue;
 - (b) establish, under the SEM 2000 programme, a procedure whereby Member States can be informed of the comments of the discharge authority;
 - (c) seek to ensure that national administrations submit to the discharge authority their comments on the cooperation they have afforded to the Commission as referred to in Article 274 of the EC Treaty;
29. Notes the Commission's proposals to deal in an ad hoc dialogue with any legislative matter or problem of budgetary control considered by SEM 2000, and expects the Commission, together with Parliament and the Council, to take rapid steps to establish this practice;

Combating fraud and corruption

30. Notes that the Commission has not yet produced a full list of cases in which it is suspected that Commission officials or other employees may be involved in fraud or corruption; calls on the Commission to present such a list in time for the 1998 discharge procedure and at the latest by 1 March 2000;
31. Notes that the Commission has not yet complied with its request to notify the national judicial authorities of all cases where it is suspected that Commission officials or other employees may be involved in fraud or corruption; calls on the Commission to present such a list in time for the 1998 discharge procedure and at the latest by 1 March 2000;

External aid; aid to Palestine

32. Considers that the Commission still needs to take a number of measures with regard to its aid to Palestine by 31 March 2000, including :
- opening of Gaza hospital;
 - work to begin at the site for the construction of the seat of the Palestinian parliament;
33. Notes that the Commission has given its guarantee to the International Management Team's (IMT) plans to have the Gaza hospital available for use by precise dates (15 July 2000 for out-patient consultations, 15 October 2000 for in-patients); reminds the Commission that it must constantly monitor the work of IMT, for which it bears the ultimate responsibility;
34. Calls on the Commission to submit by 31 March a programme setting out in detail the strategies it intends to pursue with regard to external aid in accordance with predetermined priorities.

EXPLANATORY STATEMENT

E. THE DISCHARGE FOR 1997: A TURNING POINT

On 4 May 1999, the European Parliament decided to postpone granting the European Commission discharge in respect of the 1997 financial year¹⁰. This marked a turning point in institutional relations between the European Parliament and the Commission. Parliament's decision not to give the Commission discharge for the 1996 financial year and to appoint a committee of independent experts and the resignation of the Commission in response to the criticisms expressed by the experts, accompanied by the impending threat of censure, had already inaugurated a radical change in relations between the two institutions: the Commission's responsibility for the implementation of the budget became political at the highest level, and could therefore lead to censure.

The Parliament concluded that a caretaker Commission could not be given a discharge, as it could not take commitment for future policies (paragraph 3 of the resolution of 4 May). It also followed that it was necessary to wait until the new Commission assumed political responsibility and gave specific commitments for reform (paragraph 3).

In the meantime a new Commission is in place and has embarked on an ambitious programme of reform. A large number of commitments have been taken and it is on this basis that the current discharge was discussed. The Commission has undertaken to present a major reform programme in February 2000, which will pertain to various aspects of its organisation and management. The comments that the Parliament is now presenting are therefore of a preliminary nature. They are meant to ascertain what measures have so far been taken and what ideas worked out, with the aim of making a comparison with the definitive programme of February 2000.

In order to increase the impact of the discharge procedure, the rapporteur has chosen to focus on a limited number of subjects, going for quality rather than quantity. These main points were chosen because they were raised at the time of the postponement decision (in the document which formed an integral part of the resolution adopted) and form a crucial element in Parliament's relationship with the Commission,

1. Institutional problems of management and supervision
2. staff policy and codes of conduct;
3. Technical Assistance Offices (TAOs) ;
4. The discharge authority's access to information - (particularly regarding actions which might constitute fraud or similar offences);
5. the discharge and management of Community policies in partnership (SEM 2000).
6. External aid including aid to Palestine.

The Commission's commitments were assessed in the light of the criticisms expressed and the measures called for in the document annexed to the resolution postponing the discharge (hereafter referred to as 'the resolution'), and in the second report of the independent experts, to which the resolution in question refers (para. 2)¹¹. For this purpose, the written and oral replies given by the Commissioners responsible (Mr Kinnock, Mrs Schreyer) were considered, *inter alia*, together with the written replies¹² which the Commission gave concerning the priorities

¹⁰ OJ C279, 1.10.1999, p. 25 + 119

¹¹ Each reference to this report will be accompanied by the number of the point concerned.

¹² Hereafter referred to as 'the Commission's replies'.

stated. Lastly, two specific subjects will be considered which emerged as being particularly sensitive and which have not yet been clarified: the Leonardo programme and the management of aid to Palestine.

The discharge procedure has gained in political importance since 1996, when the refusal of the European Parliament to grant the discharge led to the downfall of the Santer Commission. It is time for the Commission to regard the Court of Auditors' report and Parliament's recommendations as an opportunity to improve its management and to drive forward reforms, rather than as a tedious annual chore. The Commission needs to have an efficient system for taking on board the Court's and Parliament's recommendations and to report back on the improvements made. If problems arise repeatedly in a certain policy area, management need to be aware of the fact that this can adversely affect their careers. At the same time the Court should structure its annual report to facilitate the following-up of recurrent problems.

Improving management and accountability will be a crucial factor in determining whether Europe can re-establish its relationship of trust with European citizens and thus maintain their support for the European project. Finally, while this report focuses its criticism on the Commission, this Parliament needs to maintain its work on putting its own house in order. If our institution can be faulted it will undermine our ability and credibility with regard to reform in the other institutions.

II. THE COMMISSION'S STAFF POLICY

Among the various aspects of the Commission's staff policy, we shall consider those which are of direct relevance to correcting budgetary management and rendering it effective: an adequate staff establishment, decentralisation of structures, and the status of Commissioners, their private offices and Commission staff.

Staffing levels

Adequate staffing (from both the quantitative and the qualitative point of view) is needed to cope with the tasks entrusted to the Commission. For this purpose the resolution called on the Commission to 'establish staffing needs ... in relation to the Union's political priorities'. The same demand is made in the committee's report, which observes that 'the Commission must have the means to perform its responsibilities in full' (8.1) and that 'the lack of any assessment of the institution's resources and actual requirements has adversely affected both the organisation of the staff and the conditions required for the development of a genuine quality policy' (6.2.11).

The Commission has made an initial response by means of the DECODE exercise¹³, which comprised a critical analysis of the Commission's organisation and practices. The DECODE assessors recognised that setting priorities was not a feature of the Commission's mentality (2.1), and recommended setting priorities for the use of the available staff.

Mr Kinnock, the Commissioner responsible for the reform of the Commission, said in his written replies to the questionnaire submitted before the hearing of the Commissioners-designate¹⁴ that a hierarchy of priorities should be established and that budget proposals and the allocation of

¹³ References to DECODE will be accompanied by the numbers of the points concerned in the summary.

¹⁴ The references to the written replies refer to the number of the question.

resources should take them into account (question 21). At his hearing, Mr Kinnock said that this would be done gradually, and that the staff establishment would be increased only where there was no alternative. Among the possible alternatives he mentioned agencies and offices – bodies which have the advantage of flexibility and which therefore adjust as needs change. Mr Kinnock's ideas were confirmed in the replies by the Commission, which said that it was already reallocating human resources on the basis of the highest priorities, while an overview of requirements would be provided after the presentation, in February 2000, of the reform programme.

These undertakings seem a satisfactory point of departure, provided that the Commission states in connection with its reform programme what its priorities are and what criteria it will apply in selecting the resources to be used in it (staff, agencies, TAOs, etc.).

Decentralisation of structures

This decentralisation was initiated as part of the Commission's MAP 2000 programme, and is intended to render Directors-General and their staff more accountable by giving them full management autonomy. This approach was confirmed by Mr Kinnock in his written replies. However, in order to avoid any danger of undesirable developments arising from the greater discretionary power accorded to departments, decentralisation presupposes the existence of common rules and guidelines for the various Directorates-General, as well as highly effective means of monitoring. This has been made clear by the Committee of Independent Experts (6.3.23 – 6.3.25). Are these conditions met? It was in order to answer this question, which is very important to the success of the decentralisation programme, that Parliament advocated a critical evaluation by the Court of Auditors of the implementation of this programme. It should be possible to repeat this request to the Court.

The status of Commissioners, their private offices and Commission staff

In order to ensure that there are adequate staff and that they are competent and impartial, the resolution postponing the discharge advocated that the Commission adopt internal rules and provisions dealing with:

- 'cases of incompatibility in the field of recruitment and performance of budgetary and administrative tasks' (para. 5,g), not only for staff but also for Commissioners and their private offices;
- the number of members of private offices, whose tasks should be codified and the plurinational factor boosted (para. 5,h).

The same recommendations figured in the committee's report:

- the number of members of private offices should be reduced to a maximum of 6 officials, and the Commissioner should ensure that his private office was of a multinational character (7.16.3);
- Commissioners who abused their influence to favour fellow nationals or national interests should be subject to sanctions (7.16.5) ;
- Commissioners' responsibility extended to the implementation of policies by their departments (7.16.11).

The Commission has responded to these requests by publishing codes of conduct for Commissioners and their private offices. A draft code of conduct for officials has also been drawn up.

The demands concerning the composition of private offices are satisfied in full in the code concerned: the maximum number is set at 6 (9 in the case of the President), of 3 different nationalities; in addition, the chef de cabinet or his deputy should preferably be of a different nationality from the Commissioner.

However, the codes are far less precise when it comes to conflicts of interest and the incompatibilities arising from them. Whereas the draft applicable to officials is exhaustive¹⁵, that which concerns Commissioners is not. The code adopted by the Commission confines itself to requiring Commissioners to publish those of their assets which might give rise to conflicts of interest, banning them from accepting paid work, and imposing limits on the acceptance of gifts: however, there are no more general provisions concerning the incompatibility which should be deemed to exist where a Commissioner has a direct interest (whether private or in relation to his nationality) in an act of recruitment, administration or implementation of the budget for which he or his departments are directly responsible. On the basis of the existing rules, the Berthelot affair, although morally reprehensible (and without prejudice to the inquiry currently being conducted by OLAF into the veracity of the documents produced) would probably not have conflicted with the code of conduct.

The Commission has presented proposals to protect whistleblowers. The code of conduct for officials should not only provide such protection but also defend officials against any pressure from their hierarchy to violate the law or ethical principles. With this in mind, the code should define the fundamental duties of officials and the limits beyond which they cannot be required to act.

Disciplinary procedures are still slow and their outcome uncertain, as has been indicated in the Commission's first strategic guidelines for administrative reform. The Commission's comments on the uncertainty attendant upon the procedure and the non-existence of outside organisations corroborate the criticisms made by Parliament in the past, when it called for specific rules and for the setting-up of a budgetary disciplinary board to call to account, in particular, parties involved in the budgetary procedure.

Finally, in contrast with the Staff Regulations of Officials, the codes of conduct for Commissioners and their private offices take the form of internal Commission acts and do not present a basis for binding provisions enforceable by judicial bodies such as the Court of Justice. The ethics committee which the Commission proposes to set up to monitor the application of the codes would not possess any legal and judicial powers in this sense.

The codes for the Commissioners and their private offices should therefore be converted into regulations, as called for in para. 6,d) of the resolution postponing the discharge. This operation, to which Commissioner Kinnock said in his written replies that he was open (question 21,j), should make it possible to supplement the rules on conflicts of interest, possibly on the basis of an opinion delivered by Parliament, the Council and the Court of Auditors.

¹⁵ It applies the Staff Regulations, which already contain precise rules in Articles 11, 12 and 13.

III. TECHNICAL ASSISTANCE OFFICES (TAOs)

The TAOs – external contractors to which the Commission delegates certain functions – came in for strong criticism in the resolution postponing the discharge, which called - 6 a), b), c), d) – for TAOs:

- to be subject to incompatibility rules;
- not to be used for any European public-service task;
- subject to the application of binding Community provisions (of an extracontractual nature).

The Committee of Independent Experts (2.3.1-2.4.15) endorsed this position of Parliament's. The experts accepted that staff shortages and the diversification of tasks justified a policy of externalisation, but stressed that public-service requirements must be respected.

The Commission hopes to gain the necessary control by means of a 'vade-mecum' for TAOs laying down basic rules legitimising their use and regulating their operation:

- a) legislative and budgetary authorisation for TAOs operating in the mutual interest of the Commission and of beneficiaries of programmes (with a ceiling to be imposed on expenditure);
- b) definition of public-service criteria;
- c) setting-up of a monitoring centre for TAOs to monitor centrally the application of the rules on the use of TAOs and on supervision thereof;
- d) establishment of strict rules applicable to contracts to avoid conflicts of interest;
- e) assignment of supervisory responsibilities at various levels to Commission departments responsible for management and Commission 'resources', to the financial controller and to audit bodies (the function of the Court of Auditors remaining as laid down in the Financial Regulation).

The vade-mecum represents a step forward. The demarcation of responsibility for supervision and monitoring for which it provides, at various levels, seems to afford an adequate guarantee to prevent the mismanagement of the past (cf. below the specific case of Leonardo).

Nonetheless, in other respects this internal Commission instrument does not seem to meet the expectations of Parliament and the Committee of Experts:

- because the vade-mecum is not a legally binding instrument and its application is therefore not backed up by penalties and powers of supervision similar to those which apply when legislation is applied. The provisions of the vade-mecum which might lend themselves to transformation into legislative precepts could form an ad hoc section of the new Financial Regulation which the Commission is preparing to propose. Commissioner Kinnock expressed himself in favour of this solution during his hearing;
- because the identification of the essential functions of the Commission, which cannot be subcontracted, is not acceptable. The Commission reserves the right to decide on the drawing up of criteria for the eligibility of actions and the formal acts closing selection procedures (approval of applications for funding, signature of contracts); otherwise, the Commission retains all powers of supervision, but it proposes to subcontract such activities as:
 - preliminary studies to identify projects;

- arrangements for implementing projects;
- drafting of specifications;
- evaluation of proposals and bids;
- monitoring implementation and checking declared expenditure.

However, all these activities entail discretionary assessment; performing such assessments is the very essence of public administration, even if they serve only to prepare for the final act adopted by the Commission. The Committee of Experts strongly upholds this concept (2.3.15: ‘If a contract delegates the examination of files to a TAO, the Commission’s power to approve applications for funding is merely a token one’; 2.3.19: ‘the difficulty lies in determining what constitutes public service responsibilities’).

On the other hand, it cannot be denied that the Commission needs support staff for specialised tasks which cannot be covered by officials.

How can these requirements be met? The committee proposes a reform¹⁶ which Commissioner Kinnock likewise advocated during his hearing: setting up implementing agencies consisting of officials and staff under private contract. In our view, these agencies should be decentralised Commission bodies operating for as long as is necessary to carry out a task. As Commission bodies, they could perform European public service functions while using specialised staff who were appointed temporarily and would work under the supervision and responsibility of Commission officials.

TAOs, on the other hand, should be used only for purely executive tasks which do not involve the exercise of discretionary powers.

Leonardo

The Leonardo vocational training programme was managed by the TAO Agenor. Checks by the DG responsible (DG XXII) and the financial controller revealed that irregularities had probably been committed which were indicative of breaches of contract and of Community and national law (the national law being that of the country where the seat was located: Belgium), as well as instances of favouritism. Moreover, it became apparent that in reality Agenor was performing European public service functions which were incompatible with its private character. The Commission responded to this discovery by terminating Agenor’s contract and transferring the management of the programme back to the DG responsible, which appointed some of Agenor’s staff.

After the termination of the contract, Agenor was declared bankrupt. The Commission had by this time appointed additional staff (62 of them), in order to start selecting projects for 1999, finalise or follow up contracts relating to projects in previous years, and make payments. These staff were co-ordinated by Commission officials. Although delays had occurred in payments, because of the transfer of responsibility for administration, it was possible for the Commission to take over this task without any major problems. This suggests that the formula of a specialised agency consisting of temporary and auxiliary staff co-ordinated by Commission officials is realistic; this formula could make it possible to establish ad hoc (and therefore flexible) bodies, which would have two advantages in comparison with TAOs:

- the Commission could exercise closer supervision;
- it would be significantly cheaper.

The Commission brought legal proceedings relating to the four suspected cases of fraud at the TAO Agenor. It should continue to observe the proceedings before the Belgian courts in these cases, and bring a parallel civil action if the Belgian Public Prosecutions Department decides to institute criminal proceedings.

IV. INFORMATION TO THE DISCHARGE AUTHORITY

‘Access to information and documentation should only be refused in exceptional, duly motivated circumstances and in accordance with procedures agreed between the institutions’. (7.14.1-13). The Committee’s recommendation is clear and consistent with what was said in the resolution postponing the discharge (paras. 3 and 4 of the working document).

The replies given by Mr Kinnock (question 20) and the Commission confirm that the Commission is ready to co-operate in solving the problem: there would be a full right to information, albeit with restrictions regarding procedures for divulging data in exceptional, particularly sensitive cases (protection of professional confidentiality, investigative secrecy and individual rights).

To this end, rules should be adopted. Firstly an agreement should be negotiated with the Commission which could be applied as part of the Institutions’ internal rules. Such an agreement could be negotiated on the basis of the principles to be laid down in the framework agreement on relations between Parliament and the Commission, with the proviso that the following three requirements are fundamental, a point which should be made as of now:

- the limits negotiated regarding the provision of information should concern not the subject of the information but the procedures for passing it on and disseminating it;
- the principle that the European Parliament and the Court of Auditors are to be treated equally must be laid down in the agreement as brooking no exception;
- pending the finalisation of the ‘code of conduct’, the Commission should undertake to provide Parliament with all the information it requires, on the basis of agreements concerning procedures to ensure confidentiality.

V. THE DEVELOPMENT OF BUDGETARY CONTROL AND THE DISCHARGE PROCEDURE: MANAGEMENT IN PARTNERSHIP (SEM 2000)

A significant proportion of the Union’s budget is managed under the partnership system: in the fields of the CAP and cohesion policies, national bodies take decisions on financing within a legal framework laid down by the Community and subject to monitoring by Community bodies (clearance of accounts for the EAGGF, new financial adjustment procedure for the Structural Funds).

It is in this context that the resolution postponing the discharge advocated measures to involve the national administrations concerned in the discharge procedure. Para. 2 called, in particular, for negotiations to begin with the Council, Commission, Court of Auditors and Member States to make such involvement possible, particularly in the following ways:

- it should be possible for national representatives to be heard by the discharge authority, either at the latter's request or on their own initiative;
- accordingly, the discharge procedure should be brought forward and spread over a longer period;
- the discharge authority should be informed of the measures taken by national authorities to comply with the comments of the discharge authority.

The aim here is not to detract from the principle established by Article 274 of the EC Treaty (whereby the Commission is responsible for the implementation of the budget), but to recall that this responsibility is to be fulfilled with the co-operation of the Member States, as laid down in the second sentence of the first paragraph of that article. While ultimate responsibility lies solely with the Commission, it is essential that the discharge authority should be able to obtain information about problems of management and supervision experienced by the national administrations which are co-operating, and that it should be able to do so through direct contact with those authorities. It is also vital that the discharge authority should be aware of the responses of national authorities to the comments in the discharge resolution which concern them.

One problem concerns the participation of representatives of the European Parliament in work on the SEM 2000 (Sound and Efficient Financial Management 2000) programme. This programme, which will now extend beyond 2000, has been considering management in partnership, under the authority of a Working Party of Personal Representatives of Ministers of Finance (GRP), chaired by the Commission. The Court of Auditors is invited to attend the Working Party's meetings when a point which concerns it is to be dealt with. A representative of the Committee on Budgetary Control has always been invited to meetings which were held in a relaxed atmosphere on the margins of the formal meetings of the GRP.

Clearly, Parliament must not confuse its role as a legislative, budgetary and discharge authority with the role of the managers. Thus, quite rightly, it ought not to participate in decision-making on SEM 2000, as this would constitute a confusion of roles and prejudice the performance of its own tasks. But it is precisely in the interests of the proper performance of these tasks that Parliament should be informed promptly of any initiative which may affect its functions and should recall the political positions it has adopted on the subject.

An observer from Parliament should therefore be invited to attend meetings of the GRP when points are to be considered which may have implications for the performance of Parliament's functions (budgetary, budgetary control and legislative). This point was proposed in para. 17 of the document accompanying the resolution postponing the discharge.

The Commission's replies are only partially satisfactory; in its replies it gave the following undertakings.

1. re the discharge procedure:

that it would include in the report on the follow-up to the discharge decision the replies of the Member States, to the extent that they responded to the comments of the discharge authority. This

commitment is too vague: the Commission should establish a procedure for informing Member States of Parliament's comments and asking them to make observations on them, as has already been done for the comments of the Court of Auditors in connection with the consultations on SEM 2000. Moreover, during the discharge procedure it should seek to ensure that the national administrations concerned can comment (at their own request or at the initiative of the discharge authority) on the co-operation they have afforded to the Commission in accordance with the requirement laid down in Article 274 of the EC Treaty.

2. re attendance by a representative of Parliament at SEM 2000 meetings, the Commission undertook to provide full information to Parliament, while it will continue to invite the Court of Auditors to attend meetings on subjects falling within its remit. This discrimination seems unacceptable; the Commission, which presides over the partnership work of SEM 2000, should promise to do all it can to ensure that Parliament is informed and presents its position when work is in progress regarding SEM 2000 which relates to its competences.

The frequency of management in partnership does not only affect the discharge. Relations between the Community and national authorities also need to be improved in the field of management and monitoring.

The Commission should be called upon to redouble its efforts, in the context of SEM 2000, to step up co-operation with management bodies (particularly regarding the EAGGF and Structural Funds) and with national controllers. The Court of Auditors should negotiate agreements with its national counterparts under which the latter would carry out extra checks on the management of Community policies on the basis of a programme drafted jointly by the Community and national authorities.

VI. AID TO PALESTINE

The Committee on Budgetary Control sent a delegation to study the problems with aid to Palestine on the spot. The following problems had come to light:

- lack of co-ordination, including in relations with the Palestinian national authorities;
- difficulties in preparing, implementing and evaluating the programme; delays in establishing the International Management Team (IMT).

These administrative shortcomings had led, inter alia, to two major problems:

- difficulty in getting the European hospital in Gaza operational, despite the fact that the project was already 97% complete in 1996: not a single patient has so far been admitted;
- difficulties in creating the infrastructure for the Palestinian Parliament because of a series of technical problems (the site of the new building, the selection and expenses of technical assistance experts, etc.).

These problems undermine the credibility of the European Union as a major actor in the Middle East. A failure to translate commitments into well run programmes in time has been a feature of two flagship projects in Palestine, namely the European Gaza Hospital and the Palestinian Parliament.

The Commission should draw lessons from this experience for the whole area of foreign assistance and make plans for fundamental reforms. Some of the main issues that emerge include the following:

- Prioritising aid to support key EU interests and goals
- a need to distinguish between core and periphery functions
- Decentralisation of power
- more flexible implementation mechanisms
- resisting member states desire to overburden procedures
- Adequate human resources
- Performance targets
- clearer tendering and other procedures
- reducing bureaucracy and procedures to what is needed to ensure adequate financial control.

In particular, we expect the Commission, by 31 March 2000, to:

- take the necessary measures to ensure that Gaza Hospital is opened and the infrastructure of the Palestinian Parliament is created;
- present a first comprehensive indication of its plans to fundamentally reform its foreign aid programmes.

EUROPEAN PARLIAMENT

9 December 1999

OPINION

(Rule 162 of the Rules of Procedure)

for the Committee on Budgetary Control

on the discharge concerning the 1997 budget; report by Lousewies van der Laan

Committee on Industry, External Trade, Research and Energy

Draftsman: Mrs Linda McAvan

PROCEDURE

At its meeting of 1 September 1999 the Committee on Industry, External Trade, Research and Energy appointed Mrs Linda McAvan draftsman.

It considered the draft opinion at its meetings of 13 October 1999, 24 November 1999 and 7 December 1999.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Carlos Westendorp Y Cabeza, chairman; Renato Brunetta, Nuala Ahern and Peter Michael Mombaur vice-chairmen; Linda McAvan, draftsman; Konstantinos Alyssandrakis, Alexandros Baltas, Niels Busk (for Colette Flesch, pursuant to Rule 153.2), Yves Butel, Massimo Carraro, Giles Brian Chichester, Nicholas Clegg, Harlem Désir, Jonathan Evans (for Godelieve Quisthoudt-Rowohl), Concepción Ferrer, Christos Folias, Glyn Ford, Jacqueline Foster (for Rouva Marjo Matikainen-Kallström), Carles-Alfred Gasoliba I Böhm (for Willy De Clercq), Malcolm Harbour, Roger Karoutchi, Alain Lamassoure, Peter Liese (for Werner Langen), Rolf Linkohr, Caroline Lucas, Eryl Margaret McNally, Nelly Maes, Erika Mann, Elizabeth Montfort, Luisa Morgantini, Simon Francis Murphy, Angelika Niebler, Hervé Novelli (for Guido Bodrato), Yves Piétrasanta, Elly Plooijs-Van Gorsel, John Purvis, Daniela Raschhofer, Imelda Mary Read, Christian Foldberg Røvsing, Paul Rübig, Jacques Santer (for Michel Hansenne), Gilles Savary (for François Zimeray), Umberto Scapagnini, Konrad Schwaiger, Claude Turmes (for Ilka Schröder), Jaime Valdivielso De Cué, W.G. van Velzen and Anders Wijkman.

INTRODUCTION

At the meetings mentioned above, the Committee on Industry, External Trade, Research and Energy discussed the annual report of the Court of Auditors concerning the financial year 1997¹⁷, two special reports of the Court of Auditors concerning its responsibilities,¹⁸ the minutes of the Committee on Budgetary Control mission to the Ispra site of the Joint Research Centre of the European Communities,¹⁹ the second report of the Committee of Independent Experts and the replies of the Commission in view of the discharge of the 1997 budget.

In recent months a whole series of allegations and investigations has been brought against the European Commission, by external sources such as the media but also by internal services such as UCLAF and by the two reports of the Independent Experts' Committee. Some of these allegations directly concern European funds in the fields of research and technology as well as energy policy and assistance programmes such as TACIS and PHARE. Following the debate on the 1996 discharge, a Committee of Independent Experts examined the ways in which the Commission detects and deals with fraud and mismanagement, and drew its conclusions in the two above-mentioned reports. In its resolution of 4 May 1999 informing the Commission of the reasons why the discharge could not at present be given in respect of the implementation of the general budget of the European Communities for the 1997 financial year, the EP noted "that discharge cannot be granted to an outgoing Commission which has no authority to enter into any commitments towards the European Parliament in respect of future policy; believes that discharge should be granted to the new Commission in response to the reform undertakings it gives, pursuant to Article 89(4) of the Financial Regulation, between now and 15 October 1999".

Both the Court of Auditors and the Committee of Independent Experts have identified problems regarding use of the budget lines which fell under the competence of this committee in 1997. Of these the Committee has chosen to bring to your attention:

- Programmes on renewable energies (Joule-Thermie, Altener)
- Ispra Site of the Joint Research Centre (JRC)
- Nuclear safety in Eastern Europe
- PHARE, TACIS and MEDA

The main problems identified are not unique to 1997 and two common strands run through them. Firstly, there has been a tendency for the Commission to embark on ambitious programmes without sufficient assessment of the practicalities of their implementation, particularly in relation to programmes in third countries. Secondly there have been serious managerial shortcomings in the Commission, particularly in relation to coordination across departments and management of external contracts.

¹⁷ OJ C349 of 17.11.1998

¹⁸ Special reports nr 17/98, on support for renewable energy sources in the shared-cost actions of the JOULE - THERMIE programme and the pilot actions of the ALTENER programme, and nr 25/98, on the operations undertaken by the European Union in the field of nuclear safety in Central and Eastern Europe (CEECs) and in the Newly Independent States (NIS)

¹⁹ Doc. PE 228.715

The Committee is not unaware of the management pressures on the Commission and understands that all institutions bear some responsibility for the huge increase in programmes. Nevertheless, the Committee believes that the events surrounding the resignation of the Commission earlier this year underline the need for increased vigilance in the way European taxpayer's money is accounted for and spent. We note that following the resignation of the Commission in 1997, work is now underway in the Commission to address management problems. New management procedures and controls are being put in place – though care should be taken to ensure that these are not too over bureaucratic and cumbersome. These changes in the Commission are long overdue but welcome. This Committee will watch progress with interest.

At the same time, this Committee recognises that Parliament too must improve its monitoring and scrutiny procedures. Members of our Committee have therefore agreed to introduce new mechanisms for monitoring the use of budget lines attached to this Committee and would welcome any additional guidance from the Committee on Budgetary Control for future discharge procedures.

Programmes on Renewable Energy Sources

Both in its Annual Report on the Budget 97 and in its special report number 17/98, the Court of Auditors focussed its attention on these programmes, identifying problems which can be summarised as follows:

- Poor cooperation across the DGs responsible for these programmes, despite a Council decision to merge the programmes
- Confused management arrangements and poor accounting and project selection procedures

These problems meant that in the Court of Auditor's view, it was impossible to evaluate the success or failure of these programmes – programmes to which the Parliament attaches great importance. This is clearly totally unsatisfactory.

The Research Directorate has since taken steps to tackle these problems and has put in place a whole series of initiatives to improve interdepartmental working and the transparency of project selection/evaluation under the Fifth Framework programme. Recruitment procedures for specialist/temporary staff, shown to be extraordinarily lax in the report of the Committee of Independent Experts, are also being tightened up – again long overdue. The Committee will follow these welcome changes carefully and with interest.

ISPRA site

In recent years, the JRC site at Ispra was given increasing autonomy in its budgetary planning and decision-making in an attempt to make it more open and competitive in the research funding market. However, this has also led to a rising number of allegations concerning outsourcing and personnel matters, culminating in a visit to the site by the Budget Control Committee in October 1998.

The Committee shares the concerns expressed by the Budgetary Control Committee following that visit. It encourages your committee to continue investigations into these problems (in particular in respect of the dismantling of the nuclear equipment and the cost/benefit ratio of the ECOCENTRE Plan) and asks to be fully involved in these activities.

The Committee also notes that two of the cases concerning contract irregularities and one of the cases concerning breaches of staff regulations led to disciplinary sanctions; the examination of a third case related to irregularities is still in progress. However, it believes that examination of these administrative problems should not hinder the development of a new scientific strategy for the JRC.

Nuclear Safety in Eastern Europe

Major problems in relation to these programmes have been examined by both the Court of Auditors and the Committee of Independent Experts. These problems can be summarised as:

- Insufficient human resources at the Commission both in terms of expertise and numbers, compounded by the rules on fixed-term contracts which means that no sooner are staff fully operational, that they are leaving
- Problems surrounding contracting, particularly the lack of competitive tendering and associated risks of poor cost controls which make it difficult to ensure that the costs were allocated in the best possible way and money well spent.

Work on Central and Eastern European nuclear facilities is, of course, complex and difficult. However, the Court of Auditors found a great number of weaknesses and problematic issues both in the design and implementation of these programmes which it felt could not be excused even by the very difficult circumstances. For its part, the Committee of Independent Experts, whilst discounting allegations of fraud or serious irregularities, casts doubt on the Commission's ability to adequately manage nuclear safety programmes in Eastern Europe, – and this despite management changes made in the last two years. These comments give rise to serious concerns. Proper safety at Central and Eastern European nuclear plants is vital for the safety of our citizens and the international community. We must get this right. Procedures must be established to allow the budgetary authority the means of assessing the effectiveness of community interventions as a matter of urgency. Our Committee will follow these matters very closely indeed.

Management of External Actions

Top priority in the budgetary year 1997 was given to the countries of Central and Eastern Europe and to the Southern Mediterranean countries (Phare, Tacis and Meda programmes) and the Committee is focusing on these items. Problems again appear to arise from the tendency to embark on ambitious operations out of proportion with the Commission's administrative, financial and logistical capacity to manage them. An additional problem has been the lack of a clear assessment of the beneficiaries' needs and absorption capacity. This has led to low take-up rates and unsatisfactory final results, though there was some progress compared with previous years.

The Committee is aware that steps were taken by the Commission to deal with these problems, notably the creation of STAP (Technical and Administrative Support for Programmes) to serve Phare, Tacis and Meda. However, STAP had failed to achieve its objectives by the end of 1997: limits on support expenditure way exceeded the budgeted amounts and some management costs were still not being properly charged to STAP.

Level of utilisation of appropriations

As a result of advances paid under PHARE, an intermediate cash fund (approx. ECU 370 m at 31 December 1997) was established between the Commission and the final recipients, over which the public authorities exercised control indirectly. This situation is a serious symptom of programme implementation difficulties of a more general nature. Some progress was made, however with respect to the previous budgetary years. In the case of TACIS and PHARE, the amounts contracted in 1997 were 52% and 22% higher respectively than for 1996, while payments under TACIS and PHARE for the period 1996-1997 were, respectively, 16% and 11% higher than for 1994-1995.

MEDA

The volume of outstanding commitments at the end of 1997 increased by 162% from ECU 475.0 m to ECU 1 244.7 m. Of a total amount of ECU 211.6 m paid from this budget chapter in 1997 (67% of the payment appropriations), ECU 155 m related only to four rapid-disbursement projects: ECU 130 m was intended to pay instalments as part of support for structural adjustment in Jordan, Morocco and Tunisia, and ECU 25 m was accounted for by a special cash facility for the Palestinian Authority. These figures show that the amounts paid for other, more traditional projects were modest and lower than forecast.

CONCLUSIONS

In view of these serious problems and the urgent need to secure a fundamental improvement in the Commission's performance in these areas, the Committee on Industry, External Trade, Research and Energy calls on the Committee on Budgetary Controls to take the following conclusions into account when drafting its report.

Renewable Energies

- Believes that improved management and coordination across the Commission is essential to ensure the effectiveness of these programmes.

Fifth Framework Programme

- Welcomes moves within the Research Directorate to tackle the problems but believes progress should be closely monitored with regular reporting to the responsible Committee.

Ispra

- Believes that developments at ISPRA, including the ongoing enquiry into alleged irregularities, must be carefully monitored and urges your Committee to continue its work in this area in close cooperation with this committee.
- Encourages the Commission to continue work to make ISPRA more competitive in the research market whilst ensuring that proper controls are in place, particularly over contract procedures.

Nuclear Safety in Eastern Europe

- Believes that this is an area of key concern to European Citizens and expresses serious concerns at the problems identified by the Court of Auditors and the Committee of Independent Experts.

- Calls on the Commission to undertake a fundamental restructuring of those departments responsible for these programmes and equip them with staff resources appropriate to the complexity of the scale of the task in hand, thereby avoiding undue reliance on external contractors.
- Calls for improved cooperation across relevant Commission departments to ensure optimal use of staff resources.

Management of External Actions

- Regrets that appropriations made available under Phare, Meda and Tacis continued to be underutilised, notwithstanding some progress in take-up.
- Recognises that problems with these programmes were not solely due to the Commission's managerial short-comings but were also attributable to the local conditions in the recipient countries.
- Calls on the Commission to step up its efforts to stop late payment of contracts and in particular asks that valid invoices are paid within the normal period.
- Acknowledges the Commission's attempts to improve take-up and management by initiatives such as STAP but urges the Commission to recognise that measurable progress and results are needed.

General

- Urges the Commission to undertake a sound and thorough reform of its management and staffing structures to make them appropriate to the complexity of the programmes for which it is responsible.
- Welcomes the announcement of overdue reform proposals currently being drawn up in the Commission which seeks to address these shortcomings and calls for progress to be kept under careful review by the European Parliament.
- Considers that the European Parliament's Committees should be regularly provided with the requisite information to enable them to more closely monitor expenditure on budget lines in their subject areas, and that improved procedures to facilitate this must be put in place.