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## REPORT

on the Commission report on the measures taken in the light of the observations of the European Parliament in its 1998 discharge resolution (COM(2000) 558 – C5-0560/2000 – 2000/2263(DEC))

Committee on Budgetary Control

Rapporteur: Gabriele Stauner



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## PROCEDURAL PAGE

On 30 October 2000 the Commission submitted to Parliament, pursuant to Article 89(8) of the Financial Regulation, its report on the measures taken in the light of the observations of the European Parliament in its 1998 discharge report (COM(2000) 558 – 2000/2263(DEC)).

At the sitting of 13 November 2000 the President of Parliament announced that she had referred that report to the Committee on Budgetary Control as the committee responsible and to all committees concerned for their opinions (C5-0560/2000).

At its meeting of 5 December 2000 the Committee on Budgetary Control appointed Gabriele Stauner rapporteur.

It considered the Commission report and the draft report at its meetings of 7 February 2001, 27 February 2001, 12 March 2001, 20 March 2001, 21 March 2001 and 27 March 2001.

At the last meeting it adopted the motion for a resolution unanimously.

The following were present for the vote: Diemut R. Theato, chairman; Freddy Blak and Herbert Bösch, vice-chairmen; Gabriele Stauner, rapporteur; Mogens N.J. Camre (for Isabelle Caullery), Paulo Casaca (for Anne Ferreira), Bert Doorn (for Carlos Costa Neves), Salvador Garriga Polledo (for José Javier Pomés Ruiz), Christopher Heaton-Harris, Helmut Kuhne, John Joseph McCartin (for Brigitte Langenhagen), Jan Mulder (for Antonio Di Pietro), Giovanni Pittella (for Eluned Morgan), Heide Rühle (for Claude Turmes), Bart Staes, Esko Olavi Seppänen (for Marianne Eriksson), Ursula Schleicher (for Thierry B. Jean-Pierre), Rijk van Dam, Michiel van Hulten and Kyösti Tapio Virrankoski (for Lousewies van der Laan).

The report was tabled on 27 March 2001.

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

## MOTION FOR A RESOLUTION

### European Parliament resolution on the Commission report on the measures taken in the light of the observations of the European Parliament in its 1998 discharge resolution (COM(2000) 558 – C5-0560/2000 – 2000/2263(DEC))

*The European Parliament,*

- having regard to its resolution of 6 July 2000<sup>1</sup> 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 Union for the 1998 financial year,
  - having regard to the Commission report (COM(2000) 558 - C5-0560/2000),
  - having regard to Article 276 of the EC Treaty,
  - having regard to Article 89(8) of the Financial Regulation,
  - having regard to Annex V(6) to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A5-0112/2001),
- A. whereas the decision on the 1998 discharge was postponed on 13 April 2000<sup>2</sup> and was not taken until 6 July 2000<sup>3</sup>,
- B. whereas Parliament during the 1998 discharge procedure was unable to verify whether:
- (a) the Commission had fully informed the competent national judicial authorities about suspected cases,
  - (b) the Commission had met its obligation under Articles 73 and 74 of the Financial Regulation and taken the necessary steps to have the officials liable make good the financial harm for which they were responsible,
- C. whereas, in spite of the postponement of discharge, it was not possible to obtain a full picture of the events in connection with what is termed the 'Flécharde case', and whereas the Committee on Budgetary Control has therefore decided to conclude both examination of the case and the question of possible consequences, and further examination of general questions in connection with the case, as part of the discharge procedure for 1999,

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<sup>1</sup> Texts Adopted, Item 5.

<sup>2</sup> OJ C40 of 7 February 2001, p. 383.

<sup>3</sup> Texts Adopted, Item 5.

- D. whereas for 1998 too, and thus for the fifth consecutive time, the Court of Auditors had declined to provide an assurance that the transactions underlying the payments for the financial year had been legal and regular, taken as a whole, and that the funding directly managed by the Commission had been no less affected by the problems than the expenditure indirectly effected under Member State management,

### ***Statement of assurance***

1. Reaffirms the call on the Commission, made in paragraph 5 of its resolution of 6 July 2000, to arrive at a positive statement of assurance (DAS) for the financial year 2003 at the latest;
2. Regrets that the Commission, although it has presented an action plan to improve financial management, has neither expressly committed itself to that objective nor formulated any verifiable intermediate objectives towards that goal; calls therefore on the Commission to submit a phased plan before 1 October 2001 on realising that objective;
3. Points out to the Commission that so non-committal an announcement conflicts with its own reform strategy, under which, to a greater extent than hitherto, measurable and verifiable performance and achievements are to be expected of Commission officials and servants;

### **Common agricultural policy**

4. Notes that the Commission, in submitting its proposals recasting the Financial Regulation and amending Council Regulation 1258/99 (EAGGF), has taken a number of important steps towards complying with the calls made in paragraphs 9 and 10 of Parliament's resolution<sup>1</sup> of 6 July 2000;

### **Structural operations**

5. Welcomes the adoption by the Commission of three Regulations laying down detailed rules for the implementation of Regulation 1260/1999 which seek to:
  - (a) determine the eligibility of expenditure of operations co-financed by the Structural Funds<sup>2</sup>,
  - (b) permit a more efficient procedure for the Community for making financial corrections to assistance granted under the Structural Funds<sup>3</sup> and
  - (c) provide for a number of changes in the management and control systems for assistance granted under the Structural Funds in order to make the Member States shoulder their obligation to a greater extent to ensure that there is a sufficient audit trail for expenditure involving Community funds<sup>4</sup>;notes further in this connection that the objectives of these Regulations are commensurate with what Parliament called for in its resolution of 6 July 2000;

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<sup>1</sup> Texts Adopted, Item 5.

<sup>2</sup> OJ L 193, 29.7.2000, p. 39.

<sup>3</sup> OJ L 64, 6.3.2001, p. 13.

<sup>4</sup> OJ L 63, 3.3.2001, p. 21.

6. Again reaffirms the call contained in paragraph 18 of its resolution of 6 July 2000 for monitoring of the Structural Funds to be more effective and for mid-term evaluation to be a genuine instrument for sound financial management;
7. Takes note of the Commission consultation paper on reform of the disciplinary procedure; notes that the proposal it contains essentially complies with the calls made in paragraph 35 of its resolution of 30 November 2000<sup>1</sup>, in particular as regards a more efficiently structured procedure and the involvement of an independent assessor;

### ***Officials' financial liability***

8. Stresses that, even without prior amendment of the Treaty, provision could be made for a procedure under which the Court of Auditors would be asked for an opinion prior to any decision on the financial liability of officials; calls on the Commission now to submit appropriate proposals without delay;

### ***Independent financial control***

9. Recalls recital F of its resolution of 30 November 2000<sup>2</sup>, in which it noted that the effectiveness of the reform proposed in the White Paper would be judged by, inter alia, the application of the relevant financial provisions being monitored and implemented with appropriate supervisory and sanction mechanisms;
10. Reaffirms paragraphs 27 and 28 of the same resolution<sup>3</sup>, in which it noted with satisfaction the Commission's decision to decentralise financial control within each directorate-general, subject to a number of conditions being met; considers it essential that the Internal Audit Service be entrusted with the task of coordinating and supervising the internal audits carried out within directorates-general and of ensuring and monitoring the professional independence of these internal audits;

### ***PerryLux affair***

11. Calls upon the Commission to clarify why, in the proceedings before the Belgian courts in connection with what is termed the 'PerryLux affair', the Commission has to date not appeared as joint plaintiff and thus has no access to the files; calls on the Commission now to appear without delay as joint plaintiff in Belgium, too, as it has already been doing for some time in the corresponding proceedings before the Luxembourg courts;
12. Is concerned that despite the action evidently being taken on the basis of an OLAF report against the officials and servants who allegedly falsified reports for an adviser to a former Commissioner, after the event, in order to justify his actions as a visiting scientist, action is not being taken against those who prepared, authorised and signed the contracts with the adviser, although he manifestly lacked the requisite high degree of scientific competence to be awarded such a contract;

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<sup>1</sup> Texts Adopted, Item 16

<sup>2</sup> Texts Adopted, Item 15.

<sup>3</sup> Texts Adopted, Item 15.

13. Welcomes the announcement by the Commission<sup>1</sup> that an administrative inquiry has been initiated to clarify the circumstances which led to the award of contracts to another 'special adviser', who is also reported to have played a key role in the Elf/Leuna affair, to the former Commissioner; regrets that this inquiry is only taking place now, though UCLAF/OLAF was informed as long ago as December 1998, on the basis of a witness statement, about the possible existence of a second 'special adviser';
14. Reminds the Commission of its undertaking to reopen disciplinary proceedings if new facts become known;

### ***Deficiencies in respect of the handling of nuclear material***

15. Notes that the outcome of the administrative inquiry into deficiencies in the handling of nuclear material at the Joint Research Centre<sup>2</sup>, put in hand by way of follow-up to paragraph 1(j) of its resolution of 13 April 2000, was that no irregularities at all could be established; regrets that the Commission has hitherto not acted on the request to forward the inquiry report; notes that, for this reason, it is not possible to check the accuracy or otherwise of accusations that the inquiry was not conducted with the requisite objectivity;

### ***Provision of information to Parliament***

16. Regrets that, even after the conclusion of the framework agreement, the Commission does not forward confidential information in a way that would allow Parliament to meet in full its verification obligations under the discharge procedure and that, instead, the provisions of the framework agreement are being used to drive a wedge between MEPs by circulating certain information on a targeted basis to selected office-holders only;
17. Reaffirms its call<sup>3</sup> that Parliament needs at least as much access to confidential documents and information as the European Court of Auditors;
18. Instructs its President to forward this resolution to the Commission, the Council and the Court of Auditors.

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<sup>1</sup> Mr Kinnock's reply of 21 February 2001 to Written Question E-4073/00.

<sup>2</sup> Mr Busquin's reply of 21 February 2001 to Written Question E-4072/00.

<sup>3</sup> Paragraph 25 of its resolution of 16 January 2001 on the follow-up to the 1997 discharge, Texts Adopted, Item 6.

## EXPLANATORY STATEMENT

Submission of this report by the Committee on Budgetary Control winds up the discharge procedure for 1998. It is the first discharge procedure to which Romano Prodi's Commission has been subjected.

As his Commission did not take office until autumn 1999, following the resignation of its predecessor, the discussion focused on the issue of whether the necessary conclusions have been drawn from the problems and serious shortcomings exposed in 1998.

As there were doubts surrounding this, the discharge decision was initially postponed, on 13 April 2000, and made conditional on compliance with a number of conditions. Discharge was subsequently granted on 6 July 2000.

However, discharge was granted with the express proviso that the 'Fléhard case' be taken up again and further examined as part of the discharge procedure for 1999. That has occurred, which is why it has been possible to leave the case out of the follow-up report on the 1998 discharge.

This follow-up report therefore focuses above all on the following two issues:

### *Statement of Assurance (DAS)*

For 1998, for the fifth consecutive time, the Court of Auditors had declined to provide an assurance that the transactions underlying the payments for the financial year had been, taken as a whole, legal and regular. Accordingly, we reaffirm the call for the Commission to arrive at a positive DAS from the Court of Auditors for the financial year 2003 at the latest.

That means that, reckoning from the Court of Auditors' first DAS audit, the Commission will have been given a total of 10 years to reform and improve its financial management.

The committee regrets that, in spite of this very generous period of time, the Commission has as yet failed to commit itself explicitly to that objective.

### *Improvement in control systems*

In this connection, the committee reaffirms Parliament's position that financial control in the individual directorates-general must be decentralised, subject to a number of conditions being met.

Furthermore, the Internal Audit Service must be entrusted with the task of coordinating and supervising the audits carried out within directorates-general and ensuring that these internal audits are independent.

In addition, effective mechanisms for penalties for improper conduct are strongly advised. The committee would point out that provision could be made for a procedure for the Court of Auditors to be systematically asked for an opinion prior to decisions on officials' financial

liability. Contrary to the Commission's claim, the Treaties would not have to be amended beforehand.

### ***PerryLux affair***

In the report, the committee also returns to what is termed the 'PerryLux affair', which concerns the possible involvement of a former Commissioner in shady dealings, too.

As was recently revealed, that Commissioner's private office included, in addition to a dentist who was supposedly a highly qualified researcher, at least one more 'special adviser', with a role that seems to be have been extremely suspicious, who has been linked with the Elf-Leuna affair.

Against this backdrop, the Commission is called on inter alia to appear as joint plaintiff in the relevant proceedings before the Belgian courts in order to gain access to the investigation files.

### ***Criticism of the framework agreement***

Lastly, the report clearly criticises what has been achieved to date by the Parliament-Commission framework agreement. In the view of the Committee on Budgetary Control, the Commission has mainly used the agreement, to date, to drive a wedge between MEPs by circulating certain information on a targeted basis to selected Parliament office-holders only.

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