

# EUROPEAN PARLIAMENT

1999



2004

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*Session document*

FINAL  
**A5-0024/2002**

23 January 2002

## **REPORT**

the action taken by the Commission on the observations contained in the resolution accompanying the decision giving discharge in respect of the implementation of the general budget of the European Union for the 1999 financial year  
(COM(2001) 696 - C5-0577/2001 - 2001/2123(DEC))

Committee on Budgetary Control

Rapporteur: Freddy Blak



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## PROCEDURAL PAGE

At its sitting of 4 April 2001 Parliament adopted the decision giving discharge to the Commission in respect of the implementation of the general budget of the European Communities for the 1999 financial year, and the resolution containing the observations which form part of that decision.

By letter of 19 November 2001, the Commission forwarded to Parliament, pursuant to Article 89(8) of the Financial Regulation, its follow-up report on the European Parliament 1999 discharge resolution for the Commission (COM(2001) 696 - 2001/2123(DEC)).

At the sitting of 28 November 2001, the President announced that she had referred this report to the Committee on Budgetary Control as the committee responsible and to all other committees interested for their opinion (C5-0577/2001).

At its meeting of 11 September 2001 the Committee on Budgetary Control confirmed the appointment of Freddy Blak as rapporteur.

It considered the draft report at its meetings of 9 October 2001, 27 November 2001 and 23 January 2002.

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

The following were present for the vote: Diemut R. Theato (chairman), Paulo Casaca (vice-chairman), Freddy Blak (vice-chairman and rapporteur), María Antonia Avilés Perea, Jean-Louis Bourlanges, Brigitte Langenhagen, Emmanouil Mastorakis (for Helmut Kuhne), John Joseph McCartin (for Christopher Heaton-Harris), Eluned Morgan, Jan Mulder (for Antonio Di Pietro), Michel-Ange Scarbonchi, Bart Staes, Gabriele Stauner, Ole Sørensen and Michiel van Hulten.

The report was tabled on 23 January 2002.

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

## MOTION FOR A RESOLUTION

### **Resolution of the European Parliament on the action taken by the Commission on the observations contained in the resolution accompanying the decision giving discharge in respect of the implementation of the general budget of the European Communities for the 1999 financial year (COM(2001) 696 - C5-0577/2001 - 2001/2123(DEC))**

#### The European Parliament,

- having regard to its resolution of 4 April 2001 containing the observations which form an integral part of the decision concerning discharge in respect of the implementation of the general budget of the European Union for the 1999 financial year (Commission)<sup>1</sup>,
  - having regard to the Commission's follow-up report (COM(2001) 696 - C5-0577/2001<sup>2</sup>),
  - having regard to Article 276 of the EC Treaty,
  - having regard to Article 89(8) of the Financial Regulation,
  - having regard to Annex V, Article 6, of its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A5-0024/2002),
- A. whereas Article 276 of the EC Treaty clearly lays down that 'the Commission shall submit any necessary information to the European Parliament, at the latter's request',
- B. whereas imposing limits on the obligation the Treaty places on the Commission to give Parliament any necessary information undermines Parliament's fundamental role as the discharge authority and invalidates the entire discharge procedure,
- C. whereas an open, clear, comprehensible and complete discharge procedure is a precondition for ensuring that the European taxpayer and electorate can have confidence in the European institutions and hence in those institutions' democratic legitimacy,
- D. whereas, although the Commission alone is responsible for implementing the budget and so has sole responsibility as far as the discharge of the budget is concerned, over 80% of the Community budget is managed by the Member States, and whereas it is therefore the Member States who are in actual fact largely responsible for ensuring correct implementation of the budget and effective use of resources,
1. Welcomes the Commission's follow-up report and congratulates the Commission on the substantial effort it has made, in a relatively short period, to satisfactorily and adequately reply to, and comment on, the questions put and the observations made by Parliament in its report concerning discharge for the 1999 financial year;

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<sup>1</sup> OJ L 160, 15.6.2001, p. 2.

<sup>2</sup> OJ ...

2. Is therefore confining this resolution to those areas where it wishes to receive further information or where it wants to see another form of follow-up;

### *Access to information*

3. Considers that it follows directly from Article 276 of the EC Treaty that it is the monitoring body which decides whether the information forwarded by the body subject to monitoring is sufficient and adequate; does not therefore consider that it falls to the Commission to take the final decision as to whether the information it forwards to the discharge authority is sufficient to enable the latter to properly exercise its power of scrutiny of the Commission's implementation of the budget;
4. Maintains that Parliament, as the discharge authority, must have the same access to Commission documents as the Court of Auditors has; maintains also its criticism of the framework agreement and reiterates the call it made in its discharge resolution for a revision of the framework agreement, as it does not provide a satisfactory framework for interplay between the monitoring body and the body being monitored;
5. Is pleased that the Commission has improved its reporting, inter alia by forwarding weekly implementation figures to Parliament; calls on the Commission, however, to make its reports still more usable, for instance by fulfilling its promise to translate the 'Revenue and Expenditure Account and Balance Sheet. Analysis of Financial Management' into more Community languages, so that the discharge authority and European taxpayers have better and more direct access to information on how their money is being used;

### *Reporting and evaluation*

6. Is pleased to learn that 'the development of audit, evaluation, control and reporting tools will enable the Commission to supply more detailed information' (p. 8); calls therefore on the Commission to explain to the Committee on Budgetary Control what the aims of the new instruments are and to provide regular information on the progress made;
7. Looks forward in particular to the development of an evaluation function and is pleased that the Commission is willing to 'present results of evaluations carried out' (p. 60);
8. Expects the Commission's efforts in this area to result in better and more 'customer-oriented' **reporting** on budget implementation which also includes information on the value-for-money aspect and the effectiveness of established monitoring systems; calls on the Commission to investigate best practice in the Member States and to inform the Committee on Budgetary Control within six months of the how it intends to improve reporting;

### *DAS and error rates*

9. Welcomes the Commission's introduction of certifying declarations per Directorate-General, but reiterates its request to be informed of their annual error rates; furthermore, considers the Commission's commitment to 'improve the DAS as quickly as possible' to

be insufficient and calls upon the Commission to cut the error rate considerably and to ensure that it achieves a positive statement of assurance for the budget year 2003 at the latest;

### ***EAGGF - Guarantee Section***

10. Welcomes the Commission's positive attitude to Parliament's proposal for extending the recovery period from 24 to 36 months and asks the Commission to inform the Committee on Budgetary Control of developments in this area;
11. Points out that compliance with Community legislation should be a matter of course and is pleased that the Commission is looking into possibilities of applying increasing financial corrections where weaknesses in control systems recur; asks the Commission to inform the Committee on Budgetary Control of developments in this area;

### ***Adulterated butter***

12. Asks to be informed exactly when and to what amount financial corrections are applied in the cases involving adulterated dairy products;

### ***Flax***

13. Takes note of the Commission's account of developments concerning flax; reiterates its intention to carry out an appropriate follow-up in due course;

### ***Denmark - export refunds***

14. Is pleased that the Commission put pressure on the Directorate for Food, Fisheries and Agro-business to set up an action plan to deal with the backlog relating to export refunds after Parliament had noted that the number of unconcluded guarantees had reached an unacceptably high level in Denmark; acknowledges the Directorate's substantial efforts to work through the accumulated backlog of cases and is pleased that the number of cases in progress has fallen to the normal level; regrets, however, that there are still too many guarantees outstanding; is pleased that the Commission will carry out a follow-up audit to ensure that the Directorate is continuing to fulfil the pledges it gave and that the problem is resolved; calls on the Committee on Budgetary Control to follow up this matter as part of the discharge procedure for 2000;

### ***Structural Funds***

15. Notes that the Commission has 'commenced audits of Member States' systems to ensure that they meet the standards required by the new regulations' (p. 21), nos. 438/2001 and 448/2001; would like to be kept informed of the result of such audits;
16. Notes that the Commission has applied the Article 24 procedure for the reduction, suspension and withdrawal of assistance in the Netherlands and Spain; calls on the Commission to inform the Committee on Budgetary Control of the steps it has taken, or

intends to take, to remedy any underlying weaknesses in the system these cases might have revealed;

17. Notes the Commission's assertion that certain parts of the EAGGF clearance of accounts system have already been transposed into the new management and control systems guiding the Structural Funds; invites the Court of Auditors to draw up an opinion on how the EAGGF clearance of accounts system could further complement and reinforce the control system of the Structural Funds;

### ***European Anti-Fraud Office***

18. Notes that OLAF 'has taken the initiative of drawing up a draft document on its communication policy' and that the draft is now under discussion 'in the appropriate Commission services and has been submitted to the OLAF Supervisory Committee' (p. 26); regrets that Commission departments are receiving preferential treatment as compared with Parliament's responsible committee, the Committee on Budgetary Control which has a substantial legitimate interest in being informed of the establishment of OLAF's communication policy;
19. Notes that the Commission's accounts of the situations obtaining as regards the 'illicit traffic in butter-based products', 'European Migrants Forum', 'ESF' and 'Berlaymont' cases; asks to be kept fully and adequately informed of developments in these cases;

### ***Commission***

#### Principle of proportionality

20. Welcomes the adoption by the Commission of a communication on guidelines for the application of the proportionality principle (SEC(2001) 1857); is pleased that the guidelines introduce clear and transparent procedures for the writing-off of debts, in accordance with Parliament's wishes; regrets, nevertheless, that the transmission of the communication to Parliament has been too late for an assessment of its substance to be included in this report;

#### Enlargement

21. Regrets the Commission's reticent response to Parliament's call for it to be ensured that, before accession, all applicant countries have introduced effective control systems in areas where management of EU resources is shared; stresses that effective protection of the Community's financial interests in the applicant countries should be an absolute priority in the next few years; calls on the Commission to make a special effort to ensure that, before accession, all applicant countries have introduced proper control systems in the areas of shared management of Community funds and to inform Parliament regularly of progress in chapter 28 (financial control) of the accession negotiations;

#### Stockholm representation



22. Recalls that, in its discharge resolution, Parliament urged that audit quality be improved<sup>1</sup>, as it considered it remarkable that allegations of malpractice following reports in the press in November 1999 proved to be partly true, even though the Commission's general audit in March 1999 had apparently revealed no problems;
23. Does not consider the Commission's reply to be satisfactory and calls on the Commission to explain to the Committee on Budgetary Control the principles governing the conduct of audits and to explain how it was possible for the Commission audit to overlook circumstances that were the subject of allegations eight months later;
24. Takes note of the Swedish judicial authorities' investigations and the disciplinary cases in progress in the Commission; calls on the Committee on Budgetary Control to follow this matter up in the discharge procedure for the financial year 2000;
25. Calls on the Court of Auditors to evaluate the audit reports concerning the representations in Helsinki, Vienna, Madrid and Barcelona, as well as the recommendations and the action taken by the Commission to follow them up; welcomes the fact that the Commission intends to carry out audits of the representations in the other Member States, and expects to receive copies of the relevant reports;

#### Washington delegation

26. Regrets that the Directorate-General responsible did not ask the ACPC (Advisory Committee on Procurements and Contracts) for its opinion beforehand; considers this to be a serious matter, as the ACPC can function effectively only if, in accordance with the rules, it is consulted in advance; does not understand what value there is in obtaining opinions from the ACPC on agreements that have already been entered into; welcomes the Commission's assurances that this is a one-off case;

#### IRELA

27. Regrets the Commission's hesitant reaction to the warning signs of problems in IRELA; holds that the Commission cannot disclaim responsibility for what has happened in IRELA; looks forward to receiving OLAF's internal investigation on possible disciplinary action and expects the Commission to take steps to ensure that unduly paid taxpayers' money is paid back;

#### ACEAL

28. Rejects in the strongest possible terms any form of favouritism or any other form of distortion of competition as regards the award of contracts; welcomes the Commission's guarantee that disciplinary or other appropriate measures will be taken if the ongoing investigation should give grounds for such action;

#### Invalidity pensions

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<sup>1</sup> OJ L 160, 15.6.2001, p. 12, point (x)(a).

29. Notes the Commission's detailed reply; doubts, however, that the current system is working as well as it should; calls on the Commission, in connection with the ongoing modernisation of the Staff Regulations, to undertake a radical reform of the invalidity pension arrangements, especially with regard to the relative ease with which staff are awarded invalidity pension and the differentiation in rates according to the Member State in which the recipient of invalidity pension is registered;

#### Fellowships in the USA

30. Welcomes the detailed reply to its question concerning the EU/US fellowship programme; is still of the opinion, however, that the programme's alleged benefits are exaggerated and has doubts as to the programme's cost-effectiveness;

#### *Ten-point plan*

31. Wishes to continue to lend active support to the Commission's reform efforts; calls on the Vice-President responsible for reform to continue the good work; appreciates that it will be a long and tough process; draws the Commission's attention, however, to the following points:

#### Delays in annual declarations and evaluations of A1 officials

32. Regrets that the first evaluation of A1 officials and the signing of the annual declarations has been delayed and will not be possible until 2002;
33. Expects that not only the 'summary report' (p. 58), but also the individual Directors-Generals' annual activity reports and declarations certifying that departments are operating correctly, will be forwarded to the Committee on Budgetary Control; maintains that, as the Commission has delegated many of its resources and duties to delegations, it should be ensured that members of such delegations also sign an annual declaration;

#### Application of Article 51 of the Staff Regulations

34. Draws the Commission's attention to the fact that both lack of aptitude for carrying out specific tasks and promotion to a level in excess of a promotee's abilities can place a huge strain on the individual concerned, which may be reflected in the form of absence or invalidity; notes that, in 2001, not a single official left the service pursuant to Article 51, under which members of staff can be dismissed or demoted on grounds of incompetence; calls on the Commission to encourage the use of this provision of the Staff Regulations;

#### Appointment of accounting officers, financial inspectors and internal auditors

35. Refers to its resolution of 7 October 1998 (OJ C 328, 26.10.1998, p. 113), in which, in relation to Parliament's role as discharge authority, it argued that all appointments to the posts of accounting officer or financial inspector ought to be conditional upon prior consultation of the European Parliament, on the basis of a report by the Committee on Budgetary Control; calls on the Commission to present the necessary proposals;

### Classification

36. Regrets that the Commission has rejected Parliament's proposal to introduce grading of individual Directorates-General according to their performance, which would have been a constructive innovation entirely in keeping with the current process of reforming the Commission, which is aimed, inter alia, precisely at conferring responsibility on individual Directorates-General; calls on the Committee on Budgetary Control to follow this matter up in an appropriate manner;

### Audit follow-up

37. Regrets that the Commission has not acceded to Parliament's request for the key results of, recommendations from, and follow-up to internal audits to be forwarded to it every six months; regrets also that the Commission is not able to explain what steps have been taken to follow up specific problems specified in the audits referred to in Annex 3 to the discharge resolution; calls on the Commission to explain to the Committee on Budgetary Control the principles governing audit follow-up;

### Disciplinary procedure

38. Regrets that no progress has yet been made in reforming the disciplinary procedure; appreciates that this is a difficult task but holds that the procedure must be reformed as soon as possible and that the external element must be strengthened as much as possible; welcomes, in this respect, the Commission's inclusion of a so called 'financial irregularities panel' in its revised proposal for the recasting of the Financial Regulation;

### 'Blak' list

39. Welcomes the introduction of arrangements for the exchange of information between Member States making it possible to exclude from public contracts tenderers who have been found guilty of certain infringements of the law; calls on the Commission, however, to follow the practice of international organisations, e.g. the World Bank, and publish details of persons *convicted* of fraud on the Commission website; calls on the Commission to ensure that all external contractors state whether they have worked in the EU institutions;

### Debt recovery

40. Looks forward to a more effective system of debt recovery in implementation of Action 96; regrets that the Commission has not followed Parliament's recommendation and introduced a requirement to launch recovery proceedings within three months of receipt of details of irregularities from the Court of Auditors;

### Annex 2

41. Is pleased to have received all the documents it requested in Annex 2 to the discharge resolution;

42. Instructs its President to forward this resolution to the Commission, the Council and the Court of Auditors.

## EXPLANATORY STATEMENT

The submission of this report concludes the discharge procedure for the 1999 accounting year.

Essentially the Commission's responses to the questions and comments made in Parliament's discharge decision of 4 April 2001 are adequate and satisfactory. They show that the Commission and Parliament are generally in agreement on many points about the measures necessary to obtain a positive outcome of the current reform process and a thorough-going improvement of financial management and control systems.

Accordingly this report mainly concentrates on the points on which Parliament wishes for further information or other forms of follow-up.

### Access to information

The Commission believes that 'the information transmitted to the discharge authority enables the European Parliament to exercise effective control of the work of the Commission'. (p. 4, point 2) In Parliament's opinion the Commission does not have the final say on whether the information it transmits to Parliament as an actor in the discharge procedure is sufficient to enable Parliament to exercise its Treaty obligation to monitor the Commission's implementation of the budget. On the contrary, it is natural that the monitoring body should decide whether the information sent by the body monitored is adequate and satisfactory.

The Commission also considers that 'the Framework agreement provides an effective and satisfactory framework for cooperation between Commission and Parliament' (p. 8, point V). Parliament stresses that the framework agreement detracts from Parliament's credibility as a discharge authority and that it is necessary to revise it in the lights of the basic principles which it adopted in the discharge decision.<sup>1</sup> Similarly Parliament maintains that, as a discharge authority, it should have the same access to the Commission's documents as the Court of Auditors.

Parliament considers it unfortunate that the Commission, in its follow-up report, refuses to translate the document 'Compte de Gestion et Bilan Financier. Analyse de la Gestion Financière', which is essential to effective budgetary control, into all the official languages, on the grounds that the document is over 400 pages long. It should be noted that a large proportion of this document consists of figures, which do not need to be translated, and that the many tables with the same column headings also only need to be translated once each. In the light of the importance of this document in terms of giving the Members of the European Parliament the opportunity to have direct access to an analysis of economic management, the Commission's quantitative argument is not acceptable. These accounts should be published in the EU Official Journal on the same footing as the budget and the Court of Auditors Annual Report.

Parliament welcomes the fact that the Commission has subsequently promised to examine the possibility of translating the 'Compte de Gestion et Bilan Financier' into several Community languages.

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<sup>1</sup> OJ L 160, 15.06.2001, p.3.

## Reporting and evaluation

Parliament does not consider the Commission's reporting instruments entirely satisfactory. The monthly and quarterly accounting records and the Early Warning System for agricultural expenditure which it refers to (p. 10) have not changed in either content or appearance in recent decades. Both these familiar documents and the newest development, the 'weekly budget implementation figures' contain essentially only quantitative analyses and very few and inadequate qualitative analyses.

Parliament considers that effective and up-to-date reporting of the implementation of the budget should not only contain statistical information on how large a proportion of the appropriations has been utilised at a given point in time, but also explanatory and in-depth information on why implementation stands at that level at a given moment. The information which currently accompanies the statistics data does not meet the demands which may reasonably be made of a modern reporting system. In Parliament's view, reporting on the implementation of the budget should take place in a way which is more closely in line with users' needs, and which does not seek solely to meet the requirements of the Financial Regulation. Parliament also considers that a different approach to the drafting of reporting instruments, away from the current statistical approach and towards a more user-friendly approach, is essentially a matter of better communication of the knowledge which the Commission already possesses.

Parliament welcomes the Commission's intention to give an account of the use of the implementation figures.

The European Parliament sees the Commission's agreement to transmit evaluation reports to the Committee on Budgetary Control as an expression of its willingness to cooperate and looks forward to this whole new area of activity with great interest. It urges the Commission to submit each quarter the completed assessments to the Committee on Budgetary Control and to clarify which evaluation reports it expects to see concluded in the course of the next quarter.

## Enlargement

Parliament considers it worrying that the Commission is not in a position to state clearly that before accession all candidate countries will have introduced effective monitoring systems in areas where the administration of EU funds is shared. It will be recalled that the appropriations in the 2001 budget amounted to:

- B7-01 : SAPARD	: Commitments:	540 000 000,	Payments:	330 800 000
- B7-02 : ISPA	: Commitments :	1 080 000 000,	Payments :	350 000 000
- B7-03 : PHARE	: Commitments :	1 620 000 000,	Payments :	1 420 410 000

## The Stockholm Representation

In its discharge decision, Parliament suggested that the quality of auditing should be improved<sup>1</sup>, finding it significant that statements of poor administration in press reports in November 1999 had partly proved correct, in spite of the fact that the Commission's *general* audit in March 1999 apparently showed up no problems.

The Commission replied that the primary aim of audits was not to '**identify** fraudulent practices' (p. 37) since that was the task of OLAF. If an audit gives rise to the **suspicion** of fraud, it will be passed on to OLAF. 'OLAF does not conduct audits as such, but will examine any suspicions of fraud or irregularity referred to it by the Commission's services or the Court of Auditors, **following** the audits of the institutes in question' (p. 40). This begs the question of whether the audits are carried out in such a way that there is even a possibility of suspicion being aroused. One has the impression that audits are carried out in accordance with a pre-structured (over-structured) scheme, which guides the auditing work, perhaps giving less scope for the auditors' own judgment and experience. Strict adherence to a schematic pattern set out in advance for the carrying out of audits would risk bypassing the areas or subjects which should duly be audited. With a view to clarifying this matter the Commission is urged to inform the Committee on Budgetary Control of the principles whereby audits are carried out.

## **Classifications**

Parliament does not agree that the differing natures and fields of operation of the individual Directorates-General is an obstacle to a meaningful across-the-board comparison for identification of best practice. In spite of the differences, the implementing administrative bodies have certain common features which can be identified and compared. It would be interesting to carry out a study to show to what extent, and on what evaluation criteria, the national auditing bodies characterise the national ministries, and in what way this characterisation has improved the administration of public funds.

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<sup>1</sup> OJ L 160, 15.06.2001, p. 12, point X, sub-point a.