

EUROPEAN PARLIAMENT

1999



2004

Session document

22 December 2003

FINAL
A5-0486/2003

REPORT

concerning discharge in respect of the implementation of the general budget of the European Union for the 2001 financial year
Section VII - Committee of the Regions (SEC(2002) 405 – C5-0247/2002 – 2002/2107(DEC))

Committee on Budgetary Control

Rapporteur: María Antonia Avilés Perea

CONTENTS

	Page
PROCEDURAL PAGE.....	4
1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION	6
2. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION	8
EXPLANATORY STATEMENT.....	15

PROCEDURAL PAGE

On 30 April 2002 the Commission forwarded to Parliament, pursuant to Article 275 of the EC Treaty, the revenue and expenditure account and balance sheet for the budget for the 2001 financial year (SEC(2002) 405 – 2002/2103(DEC) – 2002/2104(DEC) -2002/2105(DEC) - 2002/2106(DEC) - 2002/2107(DEC) - 2002/2108(DEC)).

At the sitting of 10 June 2002 the President of Parliament announced that he had referred this document to the Committee on Budgetary Control as the committee responsible and all other committees for their opinions (C5-0243/2002, C5-0244/2002, C5-0245/2002, C5-0246/2002, C5-0247/2002, C5-0248/2002).

At its meeting of 10 September 2002 the Committee on Budgetary Control appointed María Antonia Avilés Perea rapporteur.

On 4 November 2002 the European Court of Auditors forwarded to Parliament its Annual Report concerning the financial year 2001.

At the sitting of 18 November 2002 the President of Parliament announced that he had referred this report to the Committee on Budgetary Control as the committee responsible (C5-0538/2002).

On 10 March 2003 the Council forwarded to Parliament its recommendation concerning the discharge to be given in respect of the European Union general budget for the 2001 financial year.

At the sitting of 13 March 2003 the President of Parliament announced that he had referred this document to the Committee on Budgetary Control (C5-0087/2003).

The Committee on Budgetary Control considered the draft report at its meetings of 19 February 2003, 10 March 2003, 19 March 2003 and 24 March 2003.

At its meeting of 24 March 2003, the Committee on Budgetary Control confirmed the appointment of María Antonia Avilés Perea as rapporteur.

At its meeting of 24 March 2003, it adopted:

9. the proposal for a decision concerning discharge in respect of the implementation of the general budget of the European Union for the 2001 financial year - Section VII - Committee of the Regions unanimously;

10. the motion for a resolution concerning discharge in respect of the implementation of the general budget of the European Union for the 2001 financial year - Section VII - Committee of the Regions unanimously.

The following were present for the vote: Diemut R. Theato, chairman; Herbert Bösch, 1st vice-chairman; Paulo Casaca, 2nd vice-chairman; Freddy Blak, 3rd vice-chairman; María Antonia Avilés Perea, rapporteur; Generoso Andria, Juan José Bayona de Perogordo, Gianfranco Dell'Alba, Christopher Heaton-Harris, Helmut Kuhne, John Joseph McCartin (for

Brigitte Langenhagen), Eluned Morgan, Heide Rühle (for Bart Staes), Ole Sørensen, Gabriele Stauner, Rijk van Dam, Michiel van Hulten, Kyösti Tapio Virrankoski (for Antonio Di Pietro).

The report was tabled on 31 March 2003 (A5-0101/2003/rev1).

At the sitting of 8 April 2003, Parliament postponed the decision concerning the grant of discharge to the Secretary General of the Committee of the Regions¹.

The Committee on Budgetary Control considered the draft report at its meetings of 4 November, 24 November and 15 December 2003.

At its meeting of 15 December 2003 it adopted:

1. the proposal for a decision concerning discharge in respect of the implementation of the general budget of the European Union for the 2001 financial year - Section VII - Committee of the Regions by 17 votes to 1.

2. the motion for a resolution containing the comments accompanying the decision concerning the discharge in respect of the implementation of the general budget of the European Union for the 2001 financial year - Section VII - Committee of the Regions by 17 votes to 1.

The following were present for the vote: Herbert Bösch, 1st vice-chairman, acting chairman; Paulo Casaca, 2nd vice-chairman; Freddy Blak, 3rd vice-chairman; María Antonia Avilés Perea, rapporteur; Generoso Andria, Juan José Bayona de Perogordo, Mogens N.J. Camre, Gianfranco Dell'Alba, Salvador Garriga Polledo (for Brigitte Langenhagen), Christopher Heaton-Harris, Maria Esther Herranz Garcia (for Diemut R. Theato), Michiel van Hulten, Helmut Kuhne, Eluned Morgan, Jan Mulder (for Antonio Di Pietro), Bart Staes, Ole Sørensen, Gabriele Stauner.

The report was tabled on 22 December 2003.

¹ P5_TA(2003)0155.

1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

concerning discharge in respect of the implementation of the general budget of the European Union for the 2001 financial year – Section VII - Committee of the Regions – (SEC(2002) 405 – C5-0247/2002 –2002/2107(DEC))

The European Parliament,

- having regard to the Revenue and Expenditure Account and Balance Sheet in respect of the financial year 2001 (SEC(2002) 405 – C5-0247/2002),
 - having regard to the annual report of the European Court of Auditors for the financial year 2001, together with the institutions' replies (C5-0538/2002)¹,
 - having regard to the Statement of Assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the European Court of Auditors pursuant to Article 248 of the EC Treaty (C5-0538/2002),
 - having regard to the Council's recommendation of 7 March 2003 (C5-0087/2003),
 - having regard to Articles 272(10) and 275 of the EC Treaty,
 - having regard to Article 22(2) and (3) of the Financial Regulation of 21 December 1977² and Article 50 of the Financial Regulation of 25 June 2002³,
 - having regard to the observations of the Financial Controller of the Committee of the Regions (COR) in his note to the COR's Secretary General of 25 September 2001,
 - having regard to the letter from the COR's Director of Administration to the Chairman of the Committee on Budgetary Control of 27 February 2003,
 - having regard to the letter from the Court of Auditors received on 11 July 2003 by the Committee of the Regions in response to its request for an audit of the 2001 accounts and the interim case report by OLAF dated 28 July 2003,
 - having regard to the final report by OLAF dated 8 October 2003 and the comments of the Committee of the Regions on that report, forwarded by letter of 29 October 2003,
 - having regard to Rule 93a and Annex V of its Rules of Procedure,
 - having regard to its decision and resolution of 8 April 2003⁴ postponing discharge,
 - having regard to the report of the Committee on Budgetary Control (A5-0486/2003),
1. Gives discharge to the Secretary-General of the Committee of the Regions in respect of

¹ OJ C 295, 28.11.2002, p. 1.

² OJ L 356, 31.12.1977, p. 1

³ OJ L 248, 16.9.2002, p. 1.

⁴ OJ L 148, 16.6.2003, pp. 57 and 58.

the implementation of the budget for the 2001 financial year;

2. Records its comments in the accompanying resolution;
3. Instructs its President to forward this decision and the accompanying resolution to the Council, the Commission, the Court of Auditors, the Committee of the Regions and the European Economic and Social Committee, and to have them published in the Official Journal of the European Union (L series).

2. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

containing the comments accompanying the decision concerning the discharge in respect of the implementation of the general budget of the European Union for the 2001 financial year – Section VII - Committee of the Regions – (SEC(2002) 405 – C5-0247/2002 –2002/2107(DEC))

The European Parliament,

- having regard to the Revenue and Expenditure Account and Balance Sheet in respect of the financial year 2001 (SEC(2002) 405 – C5-0247/2002),
- having regard to the annual report of the European Court of Auditors for the financial year 2001, together with the institutions' replies (C5-0538/2002)¹,
- having regard to the Statement of Assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the European Court of Auditors pursuant to Article 248 of the EC Treaty (C5-0538/2002),
- having regard to the Council's recommendation of 7 March 2003 (C5-0087/2003),
- having regard to Articles 272(10) and 275 of the EC Treaty,
- having regard to Article 22(2) and (3) of the Financial Regulation of 21 December 1977² and Article 50 of the Financial Regulation of 25 June 2002³,
- having regard to the observations of the Financial Controller of the Committee of the Regions (COR) in his note to the COR's Secretary General of 25 September 2001,
- having regard to the letter from the COR's Director of Administration to the Chairman of the Committee on Budgetary Control of 27 February 2003,
- having regard to the letter from the Court of Auditors received on 11 July 2003 by the Committee of the Regions in response to its request for an audit of the 2001 accounts and the interim case report by OLAF dated 28 July 2003,
- having regard to the final report by OLAF dated 8 October 2003 and the comments of the Committee of the Regions on that report, forwarded by letter of 29 October 2003,
- having regard to Rule 93a and Annex V of its Rules of Procedure,
- having regard to its decision and resolution of 8 April 2003⁴ postponing discharge,
- having regard to the report of the Committee on Budgetary Control (A5-0486/2003),

¹ OJ C 295, 28.11.2002, p. 1.

² OJ L 356, 31.12.1977, p. 1.

³ OJ L 248, 16.9.2002, p. 1.

⁴ OJ L 148, 16.6.2003, p. 57 and 58.

1. Recalls that by its decision of 8 April 2003 it postponed discharge with respect to the 2001 accounts of the Committee of the Regions for the following reasons:
 - the contradictions and differences of interpretation between the documents produced by the Financial Controller and the Director of Administration which had been received in the context of the discharge procedure and confirmed in the meeting of its Committee on Budgetary Control of 19 March 2003;
 - the specific request already made by the Financial Controller for external assistance in addressing the outstanding problems of financial management;
 - concerns raised by the Financial Controller regarding reimbursements for participation at external meetings, travel reimbursements and daily allowances;
2. Reiterates that in its above-mentioned resolution of 8 April 2003 it called on the Committee of the Regions immediately to commission a detailed, full and independent audit, to be carried out by a recognised external institution - preferably by the European Court of Auditors - on the Committee's overall budget implementation as well as the financial and administrative management, taking the view that the audit should examine, inter alia, the areas listed above and attest to the sound financial management of the Institution, and should be delivered to the discharge authority as soon as possible in order to be able to consider the final discharge decision for 2001;
3. Notes that in response to that resolution and at the request of the Committee of the Regions, the Court of Auditors undertook (in a letter dated 14 May 2003) "to widen the scope of the current audit relating to the statement of assurance for 2002. The audit will thus include an analysis of the control procedures in place and an examination of the legality and regularity of a sample of underlying transactions. In particular, we will examine a sample of transactions underlying the 2001 accounts for budget line 1004 - Travel and subsistence allowance for formal and other meetings"; recalls that the Court undertook in a meeting of Parliament's committee responsible to communicate its conclusions in good time to allow the committee to draft and submit a second report to Parliament during autumn 2003;
4. Notes the Court's conclusion communicated in a letter¹ signed by its President as follows:

"It was noted that checks were tightened in 2002, following a report of the Financial Controller in September 2001 and the nomination of a new imprest account holder in January 2002.

The findings of the Court's reviews and examinations of the Committee's 2001 accounts do not show any substantial infringement of the budgetary or financial rules applicable to expenditure made by the Committee of the Regions in 2001. The findings are in line with the Court's statement of assurance included in its Annual Report for the financial year 2001;"
5. Points out that the conclusions of the Court of Auditors appear to contradict its own findings, contained in the 2002 sector letter addressed to the Committee of the Regions

¹ Undated letter from Mr Fabra Vallés to Sir Albert Bore received by the COR on 11 July 2003.

and made available to its Committee on Budgetary Control, which show that in a sample of 30 transactions, 8 errors were detected;

6. Notes that the letter from the Court of Auditors did not represent the "detailed, full and independent audit" it had requested from the Committee of the Regions; regrets that the audit carried out by the Court of Auditors did not detect the shortcomings existing in the implementation of procedures for concluding contracts and tenders by the Committee of the Regions, which make up a large part of the European Anti-Fraud Office (OLAF) report; notes however, that the shortcomings referred to are mentioned in the 2002 annual report;
7. Criticises the Court of Auditors, which in contrast to the OLAF failed to detect any irregularities in the Committee of the Regions; expects the Court of Auditors to issue a statement, by the end of February 2004, providing a detailed explanation of the reasons which led to these differing results;
8. Notes the following remarks based on some of OLAF's conclusions:
 - a) procurement procedures
 - the investigation revealed no concrete evidence of elements suggesting personal gain or harmful intent on the part of the staff of the Committee of the Regions nor any financial loss to the Committee of the Regions;
 - however, it did reveal systematic incompetence and disregard for the essential rules of tendering procedures and financial management including elements of fraud and fake offers;
 - an endemic culture of unprofessionalism and improvisation was revealed;
 - the Committee of the Regions should in future provide its staff with training in financial and tendering procedures;
 - the Committee of the Regions should involve its legal service in administrative procedures;
 - its President should consider opening disciplinary proceedings in relation to the officials concerned, in particular two senior officials;
 - b) payment of allowances to Members of the Committee of the Regions
 - several Members submitted false or incomplete expenses claims and/or supporting documents, in contravention of Article 196 of the Belgian Penal Code as well as Belgian Royal Decision of 31. May 1933 on declarations concerning allowances and subventions;
 - the Administration of the Committee of the Regions should adopt detailed rules in relation to presence lists and allowances;

- the Committee of the Regions' rules on whistleblowers should be brought into line with the model agreed between Parliament, Council and Commission;
 - payments to certain Members should be re-evaluated and, where appropriate, recoveries made;
 - the Committee of the Regions should consider whether to institute disciplinary proceedings in respect of the failure by officials working for the Committee, to inform OLAF of facts of which they were aware, which were liable to constitute an irregularity detrimental to the Community's financial interests;
- c) role of the Financial Controller
- there was disrespect for the institutional role of the Financial Controller, the ACPC and the overruling power of the President;
 - the efforts of the Administration were focused on discouraging or destabilising the messenger of the bad news, in this case the Financial Controller, rather than to change things for the benefit of the Committee of the Regions;
9. Notes that the conclusions of the OLAF report and the accompanying letter of 8 October 2003 from the Director of OLAF do not tally with the statements contained in the report's chapter on the legal assessment of the facts;
10. Recalls Article 10 of the OLAF Regulation (EC) No 1073/1999¹, under which the Director of OLAF is explicitly required to forward to the judicial authorities information concerning matters liable to result in criminal proceedings; stresses that the Regulation does not provide the Director with any discretionary powers and that it is for the competent judicial authorities alone to decide whether or not criminal proceedings will be instituted;
11. Notes the following comments of the Committee of the Regions on the OLAF report, annexed to a letter from the Committee's President, dated 29 October 2003 :
- a) in his letter of 8 October 2003, accompanying the final case report, OLAF's Director-General concluded that the report did not warrant referring the case to judicial authorities with regard to the conduct of any present or former Member or personnel of the Committee of the Regions;
- b) in relation to Members' allowances:
- the outstanding amount of € 9.552,12 from Member "A"² deceased in 2001 will be recovered, as far as is legally and administratively possible, from his heirs;

¹ OJ L 136, 31.5.1999, p. 1.

² This amount refers to 1998 and so does not fall into this discharge report

- the contested amount of € 261,50 for a daily allowance of Member "B" in the year 2000 has already been paid back to the Committee of the Regions;
 - the case in relation to Member "C" has been re-evaluated in detail and the analysis shows a balance amount of € 1.140,23 in favour of the Member;
 - the relevant rules and the application forms for Members' allowances would be re-assessed in the light of the OLAF report;
- c) in relation to tendering procedures:
- the OLAF report revealed no financial loss to the COR;
 - the Committee of the Regions had decided not to renew the contract for printing newsletters with the firm in question;
- d) in relation to general management:
- the COR had adopted a new staff policy in April 2003;
 - at its meeting of 8 October 2003 the Committee of the Regions' Bureau had agreed to draw up a work plan to improve the administration and management of the Committee of the Regions, involving three working parties which would submit a reform proposal to the Bureau for a decision in February 2004;
 - the Committee of the Regions had accepted the request by the former Secretary-General, whose appointment was annulled by the Court of First Instance on 18 September 2003 (Case T-73/01) on procedural grounds, to be granted unpaid personal leave from his current position as an A2 grade Committee of the Regions official with effect from 1 February 2004 onwards, and to be granted early retirement with effect from 1 September 2004;

12. Welcomes the swift reaction on the part of the President of the Committee of the Regions to the shortcomings and irregularities detected; notes the statement made by the President of the Committee of the Regions before the competent committee on 4 November 2003, in which he acknowledged that there had been an "endemic culture of cronyism in the Committee of the Regions in 2001", and in which he announced his intention to submit an overall proposal for the administrative reform of the Committee of the Regions to its Bureau in February 2004; considers that this proposal should be drawn up with the active help of an independent outside expert, such as a former Member of the Court of Auditors, and welcomes the acting Secretary-General's undertaking to this effect; calls on the Committee of the Regions to forward the text of the proposal to the European Parliament as soon as possible; considers that such a proposal must include guarantees as to the ability of the Internal Auditor to carry out his duties in a professional and independent manner as well as a commitment to bring its decision on OLAF investigations into line with the OLAF Regulation (EC) 1073/1999 and the Commission decision 1999/396/EC. ECSC, Euratom¹ on OLAF

¹ OJ L 149, 16.6.1999, p. 57.

investigations;

13. Calls on the President of the Committee of Regions to include an action plan for the complete overhaul of the Institution, similar to that introduced by the Commission in March 2000, containing specific measures, targets and deadlines that will enable progress to be measured;
14. Insists that the members of the three working parties are given access to the OLAF report;
15. Supports OLAF's criticisms and recommendations regarding the opening of disciplinary proceedings against a number of Committee of Regions officials, including two named officials, and welcomes the acting Secretary-General's commitment to that effect;
16. Supports the work of the Internal Auditor; condemns the official obstruction to which, according to the OLAF report, the Financial Controller / Internal Auditor and his staff have been subjected by the Administration of the Committee of Regions in the course of the exercise of their duties under the Financial Regulation; praises the Internal Auditor and his staff for their serious and repeated (but ultimately unsuccessful) attempts at convincing the Administration and the Bureau of the Committee of Regions of the need to take remedial action; recognises that in the absence of the protection normally afforded to officials who report wrongdoing, the Internal Auditor was right to take his concerns directly to the European Parliament and should not suffer any adverse consequences as a result;
17. Notes that the rules relating to the payment of allowances to Members of the Committee of the Regions were revised on 19 November 2002 and that they now stipulate that tickets and boarding cards must be produced before any reimbursement is paid;
18. Demands a declaration by the Committee of the Regions that everything possible will be done to ensure that all its Members cooperate sincerely in order to guarantee consistent and correct application of the rules on the payment of allowances to its Members;
19. Insists that all possible steps should be taken to recover all the sums unduly paid to Members and former Members of the Committee of the Regions; considers however that under no circumstances can claims from Members be backdated;
20. Notes the judgment handed down by the Court of First Instance on 18 September 2003 annulling the appointment of the Secretary-General of the Committee of the Regions (Case T-73/01); calls on the Committee of the Regions to take a decision on whether or not disciplinary proceedings should be instituted to determine whether officials of the Committee are to be held responsible, and to inform Parliament of its decision;
21. Asks that the Committee of the Regions refuse the request by the former Secretary-General, whose appointment was annulled by the Court of First Instance on 18 September 2003 on procedural grounds, to be granted unpaid personal leave from his current position as an A2 grade Committee of the Regions official, and to be granted early retirement with effect from 1 September 2004;

22. Calls on the Committee of the Regions to provide a full report on the action taken to follow up the OLAF report and on the current discharge decision in good time for it to be taken into account in the context of the discharge procedure for the 2002 financial year; considers that the President must assume personal responsibility for implementation of the reforms and expects to be regularly informed of progress; determines to re-evaluate the commitment to the reform process in its next discharge decision for the year 2002;
23. Insists that the President ensures respect, throughout the Institution, for the office and person of the Internal Auditor and that his advice and counsel is taken seriously; expects the reform measures to allow open reporting of irregularity and fraud without risk of individual or institutional harassment as has occurred in the past;
24. Asks the Committee of the Regions to take the necessary measures to ensure that in future whistle-blowers do not receive the same treatment as the Financial Controller did, as stated in the OLAF report;
25. Demands that the Financial Controller, receives a formal apology from the President and Secretary-General of the Committee of the Regions.

EXPLANATORY STATEMENT

1. In December 2002, by way of preparation for the discharge for the 2001 financial year the Committee on Budgetary Control sent a questionnaire to all the Institutions concerned by the draft report on "other Institutions" (rapporteur: Mrs Avilés Perea). Question N° 6 to the Committee of the Regions (COR) was phrased as follows:

"The COR is asked to submit a report on the use of appropriations intended to cover travel and subsistence expenses of members (Item 1004), which should include the findings of audits and checks."

In its reply¹ the COR referred to a recent decision to amend the rules on the reimbursement of travel expenses and daily subsistence and travel allowances of members of the Committee of the Regions on the basis of an audit report by its Financial Controller.

2. Subsequently, in response to a paragraph in the draft motion for resolution requesting a copy of the audit, the COR sent a letter² to the Chairman of the Committee on Budgetary Control together with the audit prepared by the Financial Controller on the reimbursement of travel expenses and the note drawn up by the COR's Legal Service with a view to amending the rules on the reimbursement of Members' expenses.
3. The Financial Controller's audit report took the form of a note to the COR's Secretary-General dated 25 September 2001 entitled "summary of remarks made by the Financial Controller since 1 January 2000 in connection with checks on payment orders concerning the reimbursement of members pursuant to Decision 31/2000".

This note contained a number of critical findings to which Members of the Committee on Budgetary Control drew attention when discussing Mrs Avilés Perea's first draft report³, including the following remarks:

"Article 2 (c): Travel by air

- The lack of supporting documents in files is a recurring problem;
- boarding cards and air tickets often fail to be produced;
- there has been double refunding of air tickets: by the COR and by the travel agencies issuing tickets."

"Article 2 (e): Additional journeys

- Some Belgian and Dutch Members have received refunds for additional

¹ Questionnaire and replies (PE 315.844).

² Letter of 24.2.03.

³ A5-0101/2003/rev 1.

unjustified journeys between their home and the COR seat during plenary sessions."

"Article 6: Attendance lists

- Given the arrival dates and times indicated on some tickets, it has been possible to establish that attendance was not possible despite the signatures duly appended to attendance lists."

On the basis of the information contained in the Financial Controller's note, an amendment¹ was tabled proposing that Parliament should:

"... express its concern at certain conclusions drawn in the report of 25 September 2001 by the Financial Controller of the Committee of the Regions concerning reimbursements in the 2001 financial year, missing boarding cards and air tickets, double reimbursements and discrepancies between tickets for journeys and signatures on records of attendance; ..."

4. By a note dated 27 February 2003 for the attention of the Committee on Budgetary Control the COR's Administration reacted to this amendment, making the following remarks on the report by the Financial Controller:
 - the note was only a summarising note, as the Financial Controller himself describes it, and not a real audit;
 - the note must be understood in the context of the limited activity of the Members of the COR and of the (low) pecuniary value of the reimbursements (as compared with those of other Institutions);
 - the summarising note produced by the COR Financial Controller was misleading and lacked precision in the sense that no quantification was given of the "irregular" cases denounced;
 - on a yearly basis, four thousand (4.000) individual payments were made on average to reimburse Members' travel expenses. Only 44 of them were questioned by the Financial Controller in 2001, representing only 1,1% of the total;
 - the problems referred to in the Financial Controller's note were only minor or simple interpretation problems, statistically insignificant, and were corrected, thus allowing the Financial Controller to validate the payments.
5. At the committee's meeting of 19 March 2003 the COR's Secretary-General presented the Administration's note of 27 February 2003, pointing out that of the payments contested by the Financial Controller were in many cases for relatively small amounts

¹ Amendment No 59 tabled by Mrs Theato, Chairman of the Committee on Budgetary Control.

and all payments had since been validated. Moreover, at the Financial Controller's request and following consultation with the COR's legal and financial services the rules on COR Members' expenses and allowances had since been substantially revised.

6. The committee then heard a statement by the COR's Financial Controller (since 1 January 2003 its Internal Auditor) to the effect that:
 - i) the Administration's note of 27 February 2003 was potentially defamatory in so far as it sought to attribute responsibility to him for delays in validating payments and ii) did not give an accurate picture of the situation at the COR;
 - his presence before the committee was to be construed as a "cry for help".
7. At that stage the draft report contained a proposal to grant discharge to the Committee of the Regions for the financial year 2001 and on that specific decision there were no amendments. The committee therefore decided to open a new deadline for amendments and to hold an additional meeting on 24 March 2003. At that meeting the committee adopted a compromise amendment proposing the postponement of the discharge decision.
8. The committee's proposal to postpone discharge in respect of the COR (section VII of the 2001 budget) was adopted in plenary on 8 April 2003 and the accompanying resolution provides as follows:
 - "1. Postpones the decision concerning discharge with respect to the 2001 accounts of the Committee of the Regions for the following reasons:
 - contradictions and differences of interpretation between the documents respectively produced by the Financial Controller and the Director of Administration of the Committee of the Regions which have been received in the context of the discharge procedure and confirmed in the meeting of the Committee on Budgetary Control on 19 March 2003;
 - specific request already made by the Financial Controller for external assistance in addressing the outstanding problems of financial management;
 - concerns raised by the Financial Controller regarding reimbursement for participation at external meetings, reimbursement of travel expenses and daily allowances;
 2. Therefore calls on the Committee of the Regions to commission forthwith a detailed, full and independent audit, to be carried out by a recognised external institution - preferably by the European Court of Auditors - on the Committee's overall budget implementation as well as the financial and administrative management; considers that the audit should examine, inter alia, the areas listed

above and attest to the sound financial management of the Institution, and that it should be delivered to the discharge authority as soon as possible in order to enable the latter to consider the final discharge decision for 2001 by October 2003 at the latest;

3. Requests its competent committee to follow up the matter in the discharge procedure for the financial year 2002."

9. In response to that resolution and at the request of the Committee of the Regions, the Court of Auditors undertook (in a letter dated 14 May 2003) "to widen the scope of the current audit relating to the statement of assurance for 2002. The audit will thus include an analysis of the control procedures in place and an examination of the legality and regularity of a sample of underlying transactions. In particular, we will examine a sample of transactions underlying the 2001 accounts for budget line 1004 - Travel and subsistence allowance for formal and other meetings". The Court furthermore agreed in a meeting of the Committee on Budgetary Control to communicate its conclusions in good time to allow the committee to draft and submit a second report to Parliament during autumn 2003.

At the same time, it emerged that the matter had been referred by a Member of the European Parliament to OLAF (European anti-fraud office) which had also decided to conduct an inquiry in parallel with the audit by the Court of Auditors.

10. The question then arose as to whether it would be possible to comply with the requirements of Annex V to the Rules of Procedure which in cases where the discharge decision is postponed (at the April post-session) requires the competent committee in a second procedural phase to submit a further report to plenary during October.

Since that second report could only be drawn up once the findings of the Court of Auditors and OLAF were available, the Chairman of the Committee on Budgetary Control asked Parliament's Legal Service whether the October deadline was to be considered as binding on Parliament, or merely indicative. In its opinion¹ the Legal Service pointed out that October was a deadline which Parliament had imposed on itself through its Rules of Procedure. If that deadline were to be exceeded for reasons necessary for the proper functioning of the Institution, no legal consequences would ensue. However, this potential latitude as regards the timing of the second report would not relieve the Institution of its duty to proceed with diligence.

11. On 11 July 2003, Mr Fabra Vallés, President of the Court of Auditors, wrote to Sir Albert Bore, President of the Committee of the Regions, to communicate the Court's findings.
In his letter Mr Fabra Vallés points out that the transaction sample only concerned refunds of travel expenses and payments of subsistence allowances. The Court

¹ SJ-0150/03.

concludes:

"It was noted that checks were tightened in 2002, following a report of the Financial Controller in September 2001 and the nomination of a new imprest account holder in January 2002.

The findings of the Court's reviews and examinations of the Committee's 2001 accounts do not show any substantial infringement of the budgetary or financial rules applicable to expenditure made by the Committee of the Regions in 2001. The findings are in line with the Court's statement of assurance included in its Annual Report for the financial year 2001."

12. On 28 July 2003 OLAF delivered its interim case report to the Chairman of the Committee on Budgetary Control.
13. OLAF's final case report was forwarded to the Chairman of the Committee on Budgetary Control on 9 October 2003 by Sir Albert Bore, President of the Committee of the Regions. Having regard to the naming of individuals in the OLAF report, the relevant data protection provisions and the need to respect the confidentiality of OLAF investigations, the report was deposited in Parliament's secure archive.
14. On 29 October 2003 the Committee of the Regions submitted its written comments on the OLAF report, which can be summarised as follows:
 - a) in his letter of 8 October 2003, accompanying the final case report, OLAF's Director-General concluded that the report did not warrant referring the case to judicial authorities with regard to the conduct of any present or former Member or personnel of the Committee of the Regions;
 - b) in relation to members' allowances:
 - the outstanding amount of € 9.552,12 from Member "A" deceased in 2001 will be recovered, as far as is legally and administratively possible, from his heirs. The rapporteur would like to point out that this amount refers to 1998 so does not fall into this discharge report;
 - the contested amount of € 261,50 for a daily allowance of Member "B" in the year 2000 has already been paid back to the Committee of the Regions;
 - the case in relation to Member "C" have been re-evaluated in detail and the analysis shows a balance amount of € 1.140,23 in favour of the Member;
 - the relevant rules and the application forms for members' allowances would be re-assessed in the light of the OLAF report;
 - c) in relation to tendering procedures:
 - the OLAF report revealed no financial loss to the COR;

- the COR had decided not to renew the contract for printing newsletters with the firm in question;
- d) in relation to general management:
- the COR had adopted a new staff policy in April 2003;
 - at its meeting of 8 October 2003 the COR's Bureau had agreed to draw up a work plan to improve the administration and management of the COR, involving three working parties which would submit a reform proposal to the Bureau for a decision in February 2004;
 - the COR had accepted the request by the former Secretary-General, whose appointment was annulled by the Court of First Instance on 18 September 2003 on procedural grounds, to be granted unpaid personal leave from his current position as an A2 grade COR official with effect from 1 February 2004 onwards, and to be granted early retirement with effect from 1 September 2004.