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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 15.10.2008
COM(2008) 629 final

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT

on the follow-up to 2006 Discharge Decisions (Summary) - European Parliament Resolutions drafted pursuant to Article 276(3) of the EC Treaty and Article 180b of the Euratom Treaty, Article 147 of the Financial Regulation, Article 119(5) of the EDF Financial Regulation and similar provisions in the former ad hoc EDF Financial Regulation

{SEC(2008)2579}

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PREAMBLE

Due to translation and time constraints, the Commission's report on the follow-up to European Parliament (EP) discharge given for the 2006 financial year¹ is being published in all EU official languages in this summarised form. The Commission's full answers to each specific Parliament recommendation are available in a Commission working document² which is published in English, French and German. Both these follow-up reports relate to the Resolutions adopted by the European Parliament on 22 April 2008.

Each chapter³ of this summary report includes cross-references to the relevant recommendation numbers in the full Commission working document mentioned above. These references will help readers to find in the working document all recommendations (and action planned or already taken by the Commission) which relate to a given chapter or are of particular interest to them.

In the discharge decisions for the general budget, the EDF and the agencies, the Commission has identified a total of 208 recommendations made by the European Parliament to the Commission. The Commission considers that for 100 recommendations the required action has already been taken, though in some cases results of the actions will need to be examined. For another 99 recommendations the Commission agrees to take the action recommended by Parliament. Finally, the Commission cannot accept 9 recommendations and will therefore not be taking the requested action⁴.

¹ 2006 General Budget Discharge, 2006 EDF Discharge, 2006 Agencies Discharge.

² Commission Staff Working Paper, Annex to the Report from the Commission to the European Parliament on the follow-up to the 2006 Discharge Decisions.

³ Both the present summarised report and the full working document follow as closely as possible the structure of the resolutions containing the recommendations of the European Parliament.

⁴ See recommendations 2, 25, 29, 39, 58, 63, 133, 151 and 202.

I - COMMISSION RESPONSES TO THE RECOMMENDATIONS MADE BY THE EUROPEAN PARLIAMENT IN THE GENERAL BUDGET DISCHARGE RESOLUTION

The following is a summary of the Commission's replies to the specific requests made by Parliament in its 2006 Discharge Resolutions. The issues related to national management declarations, Structural Funds and external actions raised by the European Parliament in its main conclusions are addressed below under the respective points.

A) HORIZONTAL ISSUES

Statement of assurance (Commission working document, points 14-17)

The Commission has continued to improve its accounting practices through efforts such as the Accounting Quality Project, in particular concerning the cut-off exercise. On 30 April 2008 the Commission provided the COCOBU with the required report on pre-financing as at 31 December 2007.

Further efforts are needed to resolve a number of weaknesses in supervisory and control systems, in particular those highlighted in the reservations of the delegated authorising officers, and in relation to budget areas that were not considered satisfactory by the European Court of Auditors. The Commission will take vigorous action to address the causes of reservations in the 2007 Annual Activity Reports and will closely monitor progress.

Budgetary management (Commission working document, points 18-19)

The Commission is acting to ensure an effective winding-up procedure concerning the 2000-2006 programme period for the Structural Funds, through audits of winding-up bodies, raising awareness of the closure guidelines, issued in 2006, and finalising internal procedures. After closures, the Commission will carry out audits to verify the level of residual error, and if necessary will apply further financial corrections.

Structural Funds payments to EU-10 Member States in 2007 caught up with those in EU-15 countries at the corresponding point in the programme cycle. Cohesion Fund payments in 2007 were still somewhat below forecasts in certain Member States, and at the end of 2007 outstanding commitments overall stood at approximately three years of payments. However, most Cohesion Fund projects can incur expenditure until the end of 2010.

National management declarations and point 44 of the IIA (Commission working document, points 1-3 and 20-22)

In line with Action 8 of its Action Plan towards an integrated control framework, the Commission supports the Member States which decide to issue a national declaration on a voluntary basis through the provision of financial reports from its accounting system and by responding to information requests from national authorities, though there is no legal obligation to do so.

In the Inter-Institutional Agreement (paragraph 44), the three institutions agreed that Member States should be required to produce annual summaries of available audits and declarations. This provision was included in the revised Financial Regulation and the summaries were due for the first time in February 2008. The Commission is focussing its attention on rigorous implementation of the provisions for "annual summaries". Overall the outcome of the first round of annual summaries has been positive and the Commission considers this a success that it can build on. The formal submission of summaries by a central body reinforces the accountability of Member States for their use of funds. The Commission services responsible will provide feedback and guidance to Member States aimed at improving the quality of the summaries for the next round and enhancing their contribution to the internal control framework for Community programmes.

Governance (Commission working document, points 23-29)

The Commission's governance model⁵ respects the provisions of Articles 211-219 and 274 of the Treaty and those of the Financial Regulation adopted unanimously by Member States in Council after consultation of the European Parliament (EC Treaty Article 279) and concertation under the 1975 Joint Declaration on acts with important financial implications. Directors-General and Heads of Service are assigned management responsibility for the resources that each are allocated by the budgetary authority. Each prepares an end-of-year report and declaration giving assurance on the use of the resources, if necessary with reservations (annual activity report and declaration).

The Commission as a college assumes "responsibility for the implementation of the budget as provided for in the Treaty" (Article 274) when adopting the Synthesis Report on the Commission's management achievements, taking account also of the annual report on political achievements (Article 212). It exercises its political responsibility by analysing the services' annual activity reports and their declarations and by adopting a position on major horizontal issues, including appropriate actions for issues requiring remedy at Commission level.

The Commission considers that adding further formal declarations of the Secretary-General or the Director-General for Budget would make the lines of responsibility less clear as it would blur the responsibilities of Directors-General and lead to potential interference between the central services and the operational services.

The IAS' Charter adopted by the Commission on 24 January 2008 specifies that starting no later than for 2009 the IAS should issue an overall opinion on the state of control in the Commission.

The Commission has insight on funds whose management is shared with the Member States. The governance architecture is clear on the share of responsibilities: the Member States have the primary responsibility to take all measures necessary to ensure that the funds are used in accordance with the applicable rules, including the setting-up of efficient control mechanisms. The Commission must supervise the whole system and verify that the Member States are carrying out the tasks entrusted to them correctly. Where it concludes that this is not the case, it must use the available mechanisms to suspend payments and apply financial corrections.

⁵ The Governance Statement of the Commission describes the way the Commission and its services function, and in particular the responsibility and accountability mechanisms. See http://ec.europa.eu/atwork/synthesis/doc/governance_statement_en.pdf

The Commission is making the necessary checks and taking the appropriate measures so that it can fully assume its responsibility for the management of EU funds. There are however areas for improvement, both for the Commission and for the Member States. In February 2008, the Commission adopted an Action Plan aimed at further strengthening its supervisory role under shared management of structural actions (COM(2008) 97), see below under Structural measures.

The Commission's internal control system (Commission working document, points 30-33)

The Commission presented in February 2008 a progress report on the Commission Action Plan towards an integrated internal control framework (COM(2008) 110) and concluded that most of the "gaps" have been filled. Work will be completed in 2008 and the first impact report will be issued in early 2009.

The Commission is completing the assessment of the costs of control in agriculture, the ERDF and direct centralised management. The results will form the basis of a communication by the Commission in autumn 2008 aimed at relaunching the inter-institutional discussion on tolerable risk.

Synthesis Report (Commission working document, points 34-36)

The Synthesis Report reflects all instances where there were qualifications to assurance on the legality and regularity of Commission spending; the Commission has instructed its services to take vigorous action to address the causes of reservations in the 2007 Annual Activity Reports and the Directorates-General concerned are committed to dealing with these weaknesses through clearly defined action plans. It requires that in all instances where there is a difference between the European Court of Auditors' opinion and that of the Director-General, the latter will have to explain it in his/her next year's Annual Activity Report.

Following the IAS audit on Annual Activity Reports, the standing instructions for the preparation of the annual activity reports for the year 2007 require the disclosure of delays in the implementation of action plans and stipulate that major issues raised by the Internal Audit Service are to be considered a qualitative criterion for assessing reservations.

Political responsibility and administrative responsibility at the Commission (Commission working document, points 37-42)

The Commission notes that overall progress has been made in the presentation of the Annual Activity Reports. In 2007 internal control templates were introduced, allowing greater comparability between the services' Annual Activity Reports. The standing instructions for Annual Activity Reports also set out the rules and criteria for issuing reservations and require the Commission services to report on major recommendations made by the European Court of Auditors.

For the 2008 Annual Activity Reports exercise the Commission will provide further guidance on the treatment of reputational risks and on the link between error rates, materiality and reservations.

The Commission welcomes the positive reaction of the European Parliament to its suggestion to consider a common approach to registration of lobbyists. Action has also been taken to improve information on beneficiaries of EU funding and members of expert groups.

The Commission considers that the existing code of conduct for Members of the Commission already contains comprehensive and appropriate rules on responsibility and ethics. Staff of Members of the Commission are recruited in accordance with Staff Regulations.

As regards ethical rules, an independent study⁶ concluded that the European Commission system is sound, and that the necessary rules and procedures are in place.

B) SECTORAL ISSUES

Revenue (Commission working document, point 43)

The reservations on items in Member States' annual VAT statements are placed by the Commission in its control reports. The Commission will, in co-operation with the Member States, continue its efforts to ensure that reservations are lifted within reasonable time frames. The Commission will, where necessary, make management visits designed to devise - with the Member State concerned - suitable strategies to resolve long-outstanding reservations. Where progress towards the lifting of reservations cannot be shown, the Commission will consider whether starting infringement proceedings will be beneficial.

Common Agricultural Policy (Commission working document, points 44-54)

Like the European Parliament, the Commission welcomes the fact that the Court found general improvements in the management of CAP expenditure in 2006. The Commission continues through its audits to monitor the full and correct application of the IACS tool. In case of deficiencies, the Commission imposes financial corrections. In 2008, six audit missions on IACS to new Member States are planned. The situation of IACS in Greece is subject to a reservation in the DG AGRI Annual Activity Report and is being addressed by an action plan by the Greek authorities. This is being closely followed up by the Commission.

As regards eligibility conditions for agri-environmental measures in rural development, the Member States are now under the obligation to ensure that all rural development measures, including agri-environmental measures, are verifiable and controllable and that control arrangements at the level of the Member States provide reasonable assurance that eligibility criteria and other commitments are respected. The issue has been taken up also in the context of the rural development programming for the period 2007-2013.

As part of the Health Check of the CAP the Commission has presented legal proposals in order to prevent agricultural income support being allocated to companies and firms whose business purpose is not or only marginally targeted at exercising an agricultural activity. Under this Regulation, if adopted, Member States may decide not to grant them direct payments.

⁶ Carried out by the European Institute for Public Administration in co-operation with the Utrecht School of Governance, the University of Helsinki and the University of Vaasa, and released by the Commission on 11 December 2007.

Structural measures, employment and social affairs (Commission working document, points 4-11 and 55-79)

In February 2008, the Commission adopted an Action Plan aimed at further strengthening its supervisory role under shared management of structural actions (COM(2008) 97). The Commission is providing the European Parliament with quarterly reports on the implementation of the Action Plan, including information on corrections and recoveries imposed by the Commission. The first two quarterly reports were presented to the Committee on Budgetary Control by Mr Špidla and Mrs Hübner on 2 June 2008 and 15 July 2008. The Commission will provide an interim progress report on the Action Plan in October 2008 and a final report in January 2009.

The follow-up of the error findings of the Court has been incorporated into the Action Plan. In line with its guidelines on financial corrections for public procurement irregularities, the Commission will make 100% corrections for serious breaches of the public procurement rules, such as failure to advertise contracts subject to mandatory EU-wide tendering, and will apply flat-rate or extrapolated corrections where justified. The Commission has taken steps to speed up the procedure leading to decisions to suspend payments and apply financial corrections. It has also explained the terminology used in the area of financial corrections and standardised its reporting accordingly.

The legislation for both the 2000-2006 and the 2007-2013 programme periods allows the Member States under certain conditions to re-use EU funding released from projects from which it is withdrawn for other eligible expenditure. Net reductions in the EU funding of a programme or a Cohesion Fund project only occur when the correction is imposed by Commission decision or when there is no replacement expenditure available that can be substituted, for example at closure or following partial closure of 2007-2013 programmes. The Commission considers that even financial corrections that do not involve a net reduction in EU funding can act as an incentive to improve controls, given the impact on the national budget.

The Commission informed Parliament of the initial results of the submission of annual summaries on 22 February 2008 and provided a detailed analysis on 25 March and in the Annual Activity Reports of the Directorates-General for Regional Policy and Employment. The Commission provided Parliament with a further update on 21 April, and at the meeting of the Budgetary Control Committee on 15 July informed Parliament of the infringement proceedings being brought against Germany.

The Commission considers that a key feature of the annual summaries, which contributes to reinforcing the Member State's accountability for its use of EU funds, is their formal submission by a central body. The Commission will present a revised guidance note to Member States with recommendations to improve the quality of their annual summaries for 2008.

Internal policies, including research (Commission working document, points 80-100)

The principal risk to the legality and regularity of research expenditure is that beneficiaries overstate costs in their cost statements, and that this is not subsequently detected and corrected by the Commission. Many errors affecting legality and regularity can only be detected (and therefore corrected) by performing on-the-spot checks. To address this problem, the Commission has shifted the focus of its control strategy towards detection and correction

of errors ex-post, after the payment has been made. The Research DGs have implemented their FP6 audit strategy consisting of an increase in the number of audits, a new sampling strategy and the correction of systemic errors if they have been repeated by the same beneficiary in other, non-audited contracts. The audit strategy is being implemented over a period of four years. Because of its multi-annual nature, the effectiveness of the Research DG's control strategy can only be fully measured and assessed at the final stages in the life of the framework programme.

In the education and culture area, the Commission is implementing a revised supervision strategy based on the "integrated control framework" approach. This includes ex-ante declarations of assurance for the 2007-2013 period issued by National Authorities and annual ex-post declarations of assurance concerning the use of funds during the previous year. Follow-up of systems audit recommendations has been incorporated in the assessment process of the ex-ante declarations of assurance 2007-2013 issued by National Authorities and is constantly monitored. Moreover, the rules for the new programmes 2007-2013 in the area of education and culture have been simplified and lump-sum and flat-rate financing arrangements are largely used.

The Commission continues taking appropriate measures to comply with the European Parliament's recommendation and request related to delayed payments to beneficiaries and thus to comply with the time limits for expenditure operations set out in the Financial Regulation. The efforts made have increased the percentage of payments made on time. The issue is being monitored closely and is receiving the highest attention to ensure further improvement.

The Commission's detailed replies to the European Parliament's recommendations in the specific policy areas under internal policies can be found in the attached working document.

External actions (Commission working document, points 12-13 and 101-118)

In keeping with the commitments made during the 2006 discharge procedure, the Commission will provide information on multi-donor trust funds annually and at Parliament's request. For Iraq and Afghanistan, the Commission provide a periodic state of play and specific websites are available and will be updated regularly. The Joint Visibility Guidelines were approved and adopted at the 5th FAFA working group meeting (10-11 April 2008). Access for EU representatives to carry out verification missions for projects under joint management has been confirmed. Common Terms of Reference for verifications are being developed by the Commission and the United Nations, which aim to facilitate the performance of such verification missions.

The Commission has taken a series of actions aiming at improving the systems designed to ensure the legality and regularity of external actions expenditures at the level of project implementing organisations: standard Terms of Reference for expenditure verifications for grants and fee-based service contracts (mandatory since February 2006), new standard Terms of Reference for financial and systems audits (mandatory since October 2007), annual consolidation of external audit results in a synthesis report aimed at identifying a typology of findings and identifying corrective actions, development of CRIS audit which would improve reporting on audit results.

The European Parliament's 2006 discharge resolution also contains recommendations in areas such as pre-accession, humanitarian aid, development policy and external relations. The

Commission's replies to these recommendations can be found in the attached working document under the points concerning external actions and the European Development Funds.

Administrative expenditure and issues concerning the agencies (Commission working document, points 119-125 and 191-208)

The European Parliament has made a number of recommendations to the Commission concerning the regulatory agencies in the discharge resolution for the general budget as well as in the discharge resolutions for the individual agencies⁷.

On 9.7.2008 the Commission adopted the revision of the framework Financial Regulation⁸, which contains provisions reinforcing the agencies' obligation to submit, in their payment requests, rigorous forecasts on their real cash requirements throughout the year in order to avoid unnecessary cash-flows. This should enable the Commission to follow more closely the cash balances of the agencies and hence should lead to more rigorous planning and increased transparency.

Moreover, a horizontal evaluation is to be launched in the context of the Commission's Communication "European Agencies: the way forward" of March 2008. The evaluation will also assess the impact of agencies on the Commission's internal organisation and activities. The inter-institutional working group that the Commission proposes to set up with the European Parliament and the Council will contribute inter alia to defining the objectives and the scope of this horizontal evaluation. The Commission intends to report on the results of this evaluation by 2009-2010.

As regards the community buildings policy, a study was commissioned in 2007 from a specialised company. This study provides a structured approach for the necessary works to be carried out over time in order to ensure sound and efficient management of the Commission's property investments. A second study, on the buildings in usufruct, will be launched towards the end of 2008/beginning of 2009. The results of these studies will be used to support the budget requests in this area and will be communicated to the competent committees.

C) SPECIAL REPORTS ISSUED BY THE COURT OF AUDITORS

In its discharge resolution, the European Parliament included recommendations to the Commission concerning seven special reports published by the Court of Auditors in 2007. The Commission's replies to these recommendations can be found in the Commission working document (points 126-175).

⁷ The discharge resolution for the general budget and the discharge resolutions for the individual agencies contain recommendations to the Commission both on horizontal matters concerning the agencies and on specific issues for individual agencies. The Commission's replies to these recommendations can be found in points 119-125 and 191-208 of the working document.

⁸ Commission Regulation (EC, Euratom) No 652/2008 amending Regulation (EC, Euratom) No 2343/2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities.

II - EP DISCHARGE ON EDF

The Commission has taken action or intends to act on almost all of the issues raised by Parliament concerning the European Development Funds (EDFs). The Financial Regulation applicable to the 10th EDF was adopted on 18 February 2008 (OJ L 78, 19.3.2008, p. 1). Article 156 provides that most rules of the 10th EDF will apply to previous EDFs. Although, technically, previous EDF Financial Regulations are not abrogated and replaced by the 10th EDF Financial Regulation, in practice the result will be the same. The FR applicable to the 10th EDF will therefore greatly simplify the management of the different EDFs, all the more so since its provisions have been aligned as much as possible on the FR applicable to the General Budget, except for those issues which retain specificity in accordance with the revised Cotonou Agreement or the Council Internal Agreement. More detailed information on all recommendations is included in the Commission working document (points 176-190).

III – RECOMMENDATIONS IN THE RESOLUTIONS CONCERNING INDIVIDUAL AGENCIES AND THE EUROPEAN COURT OF JUSTICE

The European Parliament has made a number of recommendations to the Commission concerning the regulatory agencies in the discharge resolution for the general budget as well as in the discharge resolutions for the individual agencies. A summary of the Commission's replies to some of the horizontal issues concerning the agencies is given above under the general budget. The Commission's replies to the recommendations on other horizontal matters and to recommendations addressed to it concerning individual agencies can be found in the Commission working document (points 119-125 and 191-208). The section also includes the reply to a recommendation made in the discharge resolution concerning the European Court of Justice.

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