

EN

EN

EN



EUROPEAN COMMISSION

Brussels, 18.11.2010  
COM(2010) 650 final

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE  
COUNCIL**

**on the follow-up to the discharge for the 2008 financial year (Summary)**

{SEC(2010) 1437}  
{SEC(2010) 1438}

## PREAMBLE

This is the Commission's report to the European Parliament (EP) and the Council on the follow-up to the discharge for the 2008 financial year<sup>1</sup>, pursuant to Article 319(3) of the Treaty on the Functioning of the European Union, Article 147 of the Financial Regulation and Article 119(5) of the European Development Funds (EDF) Financial Regulation. This report is being published in all EU official languages in this summarised form.

The Commission replies to each specific request from Parliament and Council are available in two Commission staff working documents<sup>2</sup>. The present summarised report and the staff working documents follow as closely as possible the structure of the resolutions containing the requests of the European Parliament and the Council. In the Commission staff working documents there is for each request a cross-reference to the relevant paragraph(s) in the documents from either the European Parliament or the Council.

In the discharge decisions for the general budget, the EDF and the agencies, the Commission has identified a total of 238 requests made to it by the European Parliament. For 108 of these the Commission agrees to take the action requested by Parliament. The Commission considers that for 120 requests the required action has already been taken or is ongoing, though in some cases the results of the actions will need to be assessed. Finally, for reasons related to the existing legal framework or its institutional prerogatives, the Commission cannot accept 10 requests<sup>3</sup>.

The Commission has also identified 126 requests made to it by the Council. For 61 of these the Commission agrees to take the action requested by the Council. The Commission considers that for 63 requests the required action has already been taken or is ongoing, though in some cases the results of the actions will need to be assessed. Finally, for reasons related to the existing legal framework or its institutional prerogatives, the Commission cannot accept 2 requests<sup>4</sup>.

The Commission's replies to requests from the European Parliament and the Council concerning a number of special reports published by the Court of Auditors are included in the Commission staff working documents.

As regards requests in the resolutions concerning the agencies, most horizontal issues raised are being addressed by the interinstitutional working group on agencies. It is expected that the working group will provide its conclusions by the end of 2011. The Commission's replies to requests addressed to it concerning agencies are set out in the Commission staff working documents.

---

<sup>1</sup> 2008 General Budget Discharge, 2008 EDF Discharge, 2008 Agencies Discharge.

<sup>2</sup> Commission Staff Working Documents, accompanying the Report from the Commission to the European Parliament and the Council on the follow-up to the 2008 Discharge Decisions.

<sup>3</sup> See requests 12, 38, 39, 56, 66, 67, 85, 108, 109 and 198.

<sup>4</sup> See requests 83 and 120.

## SUMMARY OF COMMISSION REPLIES TO THE REQUESTS MADE BY THE EUROPEAN PARLIAMENT AND THE COUNCIL IN THE 2008 DISCHARGE

### A) HORIZONTAL ISSUES

Error rates in the Statement of assurance of the Court of Auditors (DAS) have been reducing in recent years due to concerted action by the Commission. In some areas (notably Cohesion policy), the error rate remains too high. To further reduce error rates, the Commission agrees to do its utmost to set the conditions for an increase in the European Court of Auditors' "green classification" by a further 20% of the budget by 2014. It should however be noted in this respect that any development will depend on a number of factors, notably the effect of ongoing actions to reinforce control systems plans, the effect of the 2007-2013 legislation, and the grouping of policies in the Court's annual report.

In May 2010 Commissioner Šemeta presented his agenda on discharge and audit to the Budgetary Control Committee of the European Parliament. The agenda sets out the priority measures for the mandate of the Commission (until 2014), and includes notably: actions to simplify legislation, the establishment of European Trust Funds, management assurance from the Member States, cooperation with supreme audit institutions and national Parliaments, and strong action on recoveries and financial corrections.

The Commission is fully committed to proposing where possible the further simplification of expenditure schemes to reduce the risk of error. It is however conscious that simplifying eligibility conditions, targeting expenditure on specific objectives and controlling the error rate to within 2% are sometimes conflicting objectives that must be carefully balanced. The Commission has already laid the groundwork in its proposal for the triennial revision of the Financial Regulation, which should enable rules to be better adapted to the needs of beneficiaries, and emphasise the importance of the output of programmes as well as the inputs through a wider use of simplified costs. By the end of 2010, as part of the agenda on discharge and audit, the Commission will adopt a Communication setting out broad principles for the preparation of post-2013 legislation, including on the balance between control requirements, eligibility conditions and risk to offer appropriate assurances regarding legality, sound financial management and the targeting of expenditure.

The concept of tolerable risk of error (TRE) is a vital part of the agenda, as it takes account of the risk engendered by legislative requirements as well of the costs of control and proposes risk levels to be tolerated in view of cost effective control levels. On 26 May 2010, the Commission adopted the Communication "More or less controls?: Striking the right balance between administrative costs of control and the risk of error"<sup>5</sup>. This proposed tolerable risk levels towards the middle of the range 2% to 5% (the "yellow" zone) for both rural development and research, energy and transport.

While simplification is important, any simplifications decided take time to filter down into the annual error rates in the DAS and in some areas, such as rural development, will not be enough to reduce the error rate below the materiality threshold without the risk of jeopardising policy objectives. As an example, simplifications which may be adopted for the

---

<sup>5</sup> COM(2010)261.

post-2013 legislation will not, for major multi-annual programmes, be reflected in the annual DAS until at least DAS 2015 (discharge in 2017). For this reason, TRE levels need to be set which reflect the regulations in force currently and set an appropriate benchmark for cost-effective controls (any decided levels could be adjusted in the light of future simplifications).

The Commission will present TRE proposals for the other major policy areas: for Administrative expenditure before the end of 2010; for External aid, Development and Enlargement in the beginning of 2011 and progressively for the remaining sectors, including Cohesion, later in 2011. It recalls that it is the Legislative Authority's role to decide on the actual levels of risk to be tolerated, as the Commission, as the auditee, cannot take this decision.

### ***Reliability of the accounts***

The Commission has continued with its accounting quality project which has improved the underlying accounting data used in preparing the 2009 accounts. The existing local financial management applications are already subject to a validation process with a view to ensuring their consistency with the central accounting system. Also, the services of the Accounting Officer are continuously monitoring the application of "cut-off" principles throughout the Directorates General.

The European Communities Pension Scheme is defined in the Staff Regulations. When in 2003, the Commission presented a proposal amending the Staff Regulations, due consideration (backed-up by a complex actuarial study) was given to setting-up a pension fund. However the analysis did not conclude in favour of such a change. Initial set-up costs as well as risks of losses by the fund due to the investment climate and policy would be particular concerns. The Commission considers that the hypotheses and conditions of this analysis have not changed and therefore that the conclusions remain valid.

### ***Budgetary Management***

The Commission has taken several actions in order to ensure realistic budgeting from the stage of the draft budget presented by the Commission. They include continuing efforts to improve Member States' forecasts for expenditure in the area of Cohesion and transparent reporting on implementation rates calculated from the initial budget and from the final budget per Financial Framework Chapter.

The Structural Funds regulations limit reimbursements before closure to 95% of the EU contribution and give the Member States 15 months after the end of eligibility period to submit the final payments claims. Therefore, the Outstanding commitments (reste à liquider-RAL) concerning the 2000-2006 period is limited by the regulations. It is expected that closure payments for this period will start in 2010 and continue into 2011.

As regards the 2007-2013 period, the Commission expects the few remaining compliance assessment procedures for the management and control systems in Member States to be concluded before the end of 2010<sup>6</sup>.

### ***Recoveries and suspension of payments***

---

<sup>6</sup> As of 1 October 2010, 5 compliance assessment procedures remain to be concluded for the ERDF and 1 for the ESF.

The Commission has included more detailed information on the recovery of undue payments in the notes to the 2009 accounts. In the Cohesion area, the data for 2009 as submitted to the Commission in the 1st half of 2010 has improved considerably. In the framework of its 2008 Action Plan to strengthen its supervisory role in the shared management of structural actions, the Commission has audited national systems for withdrawals and recoveries in 19 Member States. The remaining will be audited in 2010. For 2007-2013, there is a standard IT procedure for submission of recovery statements, which should improve the quality of information. Member States are also required to distinguish corrections deriving from their own controls and those from audits by EU bodies.

Within the Action Plan to strengthen its supervisory role in the shared management of structural actions, the Commission has revised its internal rules and operational procedures and speeded up suspension of payments and financial correction procedures where serious irregularities and system deficiencies had been detected in the programmes' implementation. As shown by the Impact report adopted on 17 February 2010<sup>7</sup>, 10 suspension decisions have been adopted by the Commission in 2008 and 7 in 2009. Moreover the Commission does not hesitate to use, where needed, the new possibility offered by the regulatory framework for 2007-2013 which allows the Commission to immediately interrupt individual payments before starting a suspension procedure when systems deficiencies are detected. The total value of financial corrections in these areas amounted to EUR 3.8 billion for 2008 and 2009 compared to some €3.6 billion during the years 2000-2007.

Comprehensive information on recoveries from final beneficiaries and financial corrections imposed on Member States is already available in agriculture.

### ***Annual Summaries and National Management Declarations***

In its proposal for the triennial revision of the Financial Regulation, the Commission has reinforced the legal basis for the annual summaries by proposing, in all policy areas where shared management of EU funds is applied, to obtain annual management declarations of assurance from accredited management bodies in the Member States, accompanied by an independent audit opinion (as is already the case for agriculture and rural development). The audit opinion is expected to help in improving the quality of the data submitted. In parallel, the Commission will carry out an evaluation of the annual summaries after 3 years of existence by the end of 2010.

The Commission considers that the management declarations proposed for the revision of the Financial Regulation are a more appropriate way of obtaining assurance from Member States than national declarations signed at political level. The Commission will however continue to encourage Member States to work on voluntary political assurance statements, covering all EU funds they receive, which document the controls and assess the effectiveness of their management and control systems. It will also issue an analysis of value-added features of the voluntary national declarations by the end of 2010.

### ***The Commission's internal control system***

The Commission has taken action to further improve the quality of Annual Activity Reports (AARs) and in particular the reasoning and evidence presented underlying the assurance provided. For the 2009 AARs, the instructions were significantly overhauled, a dedicated

---

<sup>7</sup> COM(2010)52.

helpdesk was set up and more training courses were provided. The Commission fine-tuned its peer review system which challenges its services to address identified weaknesses effectively.

The 2009 AARs show a noticeable improvement across the Commission, both in terms of the quality of the evidence presented in support of the assurance and the readability of the reports. The Commission services already provide clear information in their reports on the effectiveness of their and implementing partners' internal control systems, and on identified weaknesses and remedial measures underway. Services are instructed to establish action plans to address the causes of reservations in their AARs and to monitor progress regularly.

The report "Synthesis of the Commission's management achievements" addresses key management issues identified in the AARs and defines the lines of action. It also reports on the progress achieved in addressing major cross-cutting management issues and it gives an overview of the reservations entered over the last 5 years.

The Commission considers that the system implemented has reached maturity and that, globally, it provides the Commission and the other Institutions with a clear picture of the effectiveness of its internal control systems.

### ***Interinstitutional debate on the current discharge procedure system***

The Commission agrees to organise a broad discussion among stakeholders and hopes for the Budget Authority to provide the necessary budget for this in 2011. The conference, foreseen to take place in April 2011, should be an opportunity to agree on a new partnership and define the role and tasks of each party with a view to setting the conditions for further improvements in the Statement of assurance (DAS).

### ***Political responsibility and administrative responsibility at the Commission***

The President of the Commission has announced a revision of the Code of Conduct for Commissioners in his Political Guidelines.

Concerning the disclosure of beneficiaries of EU funds, the Commission and the Member States' administrations already provide that information to the public. In 2010, the Commission has further improved its "Financial Transparency System" website<sup>8</sup> that provides information on beneficiaries of EU funds under centralised management, in order to include the publication of recipients of public procurement contracts financed by the administrative budget. The Commission also publishes information on the members of expert groups in the Commission's Register of Expert Groups and ensures the publication of the list of the special advisers and their curricula vitae on the "Europa" Website of the Commission.

As regards information on Non-governmental organisations (NGOs), the Commission has initiated a phased project aiming to establish the classification "for-profit" versus "not-for-profit" in the Commission's central data base of legal entities. The first phase concentrates on legal entities in the Member States, which accounts for the vast majority of the registered entities. The Commission targets the implementation of this objective as from 2011 onwards.

### ***European Anti-Fraud Office (OLAF)***

---

<sup>8</sup> See : [http://ec.europa.eu/beneficiaries/fts/index\\_en.htm](http://ec.europa.eu/beneficiaries/fts/index_en.htm).

As regards the reform of OLAF, the Commission hopes that following the results of the interinstitutional dialogue it can present an amended proposal by the end of 2010 and that the legislative process can be concluded by the end of 2011.

As regards the appointment of the new Director General, following the publication of the vacancy notice, the Commission has endorsed a short list of suitable candidates. As required by Regulation 1073/1999, a favourable opinion from the Supervisory Committee shall be needed on the short list agreed by the Commission. Subsequently, the list of suitable candidates has been transmitted to the European Parliament and the Council for consultation. The Commission is committed to fully respecting the provisions of Article 12 of Regulation 1073/1999 concerning the appointment of the Director General and to involve the European Parliament and the Council at an early stage.

## **B) SECTORAL ISSUES**

### ***Own resources***

As regards traditional own resources, the Commission will continue to verify that Member States correctly maintain the separate B accounts. Any weaknesses found will be addressed with the relevant Member States and any necessary guidance given. Where appropriate measures will be taken to recover any amounts of own resources or interest due.

As regards the VAT-based own resources, the Commission has introduced Management Meetings as an efficient and effective tool to address reservations that merit special attention. The number of long outstanding reservations has been reduced from 35 to 12. At the same time action has been taken to improve the overall age-profile of reservations with 63% of all current reservations now having been set in 2008 or later.

Regarding GNI-based own resources, the Commission has set up and applies a complete common framework of GNI validation based on the verification and improvement of the statistical sources and methods used by Member States to calculate their GNI data. In addition, the Commission started using direct verification since 2007; established specific rules that were approved by the GNI Committee; and has already applied direct verification in almost all Member States. The Commission is continuing its work on the issue of national supervisory and control systems for national accounts in cooperation with the GNI Committee.

As regards Greece, the present levels of the Gross National Income (GNI) data used for the calculations and contributions for own resources, including the data made available in 2008 and 2009, are in line with the results of a thorough verification carried out by the Commission in 2007. Furthermore, a thorough analysis of the potential impact of the issues which emerged from the report COM (2010) 0001 on the deficit and debt statistics did not reveal a significant impact on GDP/GNI levels.

### ***Agriculture and Natural Resources***

The control requirements on Member States in the field of agriculture expenditures carried out under shared management take into account the fundamental EU law principles of effectiveness, equivalence, loyal cooperation and proportionality. As regards the latter, an example is the percentage of direct aid applications to be checked by Member States which increases if the level of irregularities found in the initial 5% sample is high. Where in the past



significant weaknesses have been identified, the Member States concerned have been requested to establish detailed action plans in close cooperation with the Commission. The implementation of such action plans is closely followed up by the Commission, including the action plans established in 2009 by Bulgaria and Romania to address the deficiencies found in the Integrated Administration and Control System (IACS) in these Member States.

The constant improvement of the IACS is confirmed by the results of the conformity audits which the Commission has carried out over the past years in Member States as well as by the low error rate indicated in the control statistics which it receives from Member States and which to a large extent are verified and validated by the certification bodies. All deficiencies found are followed up through conformity clearance procedures which ensure that the risk to the EU budget is adequately covered.

As regards rural development, and notably agri-environmental measures, the Commission has taken several steps to simplify existing rules and to ensure effective and efficient implementation of the control rules. Most recently, the Commission has enhanced its audit activities in this area and has established a task force to follow up the high error rate reported by certain Member States in 2009 for rural development measures under Axis 2. Commission Regulation (EC) 1975/2006 will be recast during 2010 in order to further simplify and clarify certain rules.

### ***Cohesion, employment and social affairs***

The Court's 2008 Annual report is based on a sample of 2000-2006 expenditure only. Therefore the situation was expected to be in line with the previous annual reports. For 2000-2006 the Commission will correct the deficiencies identified during implementation and ensure a rigorous closure process.

For the 2007-2013 programmes, the Commission considers that the reinforced legal framework has enhanced management and control systems. The simplification measures adopted in 2008-2009 should lead to lower error rates in interim payments. The first effects of this reinforced control framework are expected to be visible at the end of 2010 onwards, based on the results of Community audits and the submission in December 2010 (and thereafter in December each year) of the results of the 2009 audits by Member States' audit authorities of the yearly statistical samples of expenditure declared under the 2007-2013 programmes.

An indication on the results of the reinforced control framework is the Commission's audit of a sample of projects under the 2007-2013 period, using a methodology similar to the Court's. As reflected in the Commission's Impact report of 17 February 2010<sup>9</sup>, the first preliminary results of this inquiry (based on payments until May 2009) reveal a clear decrease of the estimated error rate that suggests that actions taken are sound. Nevertheless, this result should be read with prudence, as it is based on a population of 15 Member States, and not all Member States, including some countries where most of the important errors were concentrated in the past, had declared expenditure at the time of the study.

### ***Internal policies, including research***

---

<sup>9</sup> COM(2010)52.

The controls applied in the research area, including the audit strategy, the thorough implementation of its results and the correction of systematic audit findings for non-audited contracts (extrapolation) provide for a stringent control of the costs claimed, which has resulted in a reduction of the error rates over time. Furthermore, the Commission is committed to ensuring that it provides for uniform interpretation and application of the rules and procedures.

The Commission adopted a Communication on simplifying the research framework programmes<sup>10</sup> to open a debate on reducing the complexity of rules which is a major source of error. The Commission believes such a debate can result in concrete proposals which can then be implemented in Framework Programme 8.

In the area of education, the Commission has sent updated guidance relating to the performance of secondary controls to the National Authorities in December 2009. It has also reinforced its on-the-spot visits that focus on the existence and implementation of management procedures and checks as described by Member States.

The Commission's detailed replies to requests in other specific policy areas under internal policies are set out in the staff working documents.

### ***External actions, including the European Development Funds (EDF) and enlargement***

The Commission will continue to improve its supervisory and control systems, including improvements in its audit strategy and planning. EuropeAid has implemented significant improvements to its audit methodology and IT tools (CRIS).

The Commission fully supports the Court of Auditors' requests to obtain necessary supporting evidence from UN organisations, and this principle is clearly stipulated in the Financial and Administrative Framework Agreement (FAFA). The adoption, in April 2009, of standard terms of reference for verification missions has improved the cooperation between UN agencies and the EU, and has helped ensure that the UN co-operates more efficiently with the Court. The Commission continues to work to improve the system, and it agreed with the UN in April 2010 that additional information, including extracts from internal and external audit reports, could be made available on request.

In the framework of the triennial revision of the Financial Regulation, the Commission has proposed that the Commission can set up and manage Trust Funds for external actions, which would intervene in emergency, post-emergency crisis operations or for thematic actions.

The Commission is revising its Guidelines on Budgetary Support that are scheduled to be finalised by the end of 2010. Within the scope of this revision, particular attention is given to supervisory and control systems. In addition, the monitoring and annual reporting on the compliance with the eligibility criteria will be strengthened as well. Capacity building projects within the scope of Budgetary Support operations are subject to the same supervisory and control system as any other project, which includes audits. More detailed information on this and other requests related to the EDF is set out in the Commission staff working documents.

The measures taken to improve the available information on NGOs are explained above under the horizontal issues.

---

<sup>10</sup> COM(2010)0187.

A number of improvements in the management of pre-accession aid are already under implementation to increase the effectiveness and impact of financial assistance and to better link the financial assistance to political priorities.

As regards Romania and Bulgaria<sup>11</sup>, the Commission reports regularly under the Cooperation and Verification Mechanism on progress in judicial reform, the fight against corruption and - for Bulgaria - the fight against organised crime. The latest set of reports was adopted on 20 July 2010.

### *Administrative expenditure*

As regards the Individual Rights Information System (IRIS), the Office for Administration and Payment of Individual Entitlements (PMO) has already started the tests of the re-developed modules for the management of individual entitlements. The extensive test programme elaborated takes into account the lessons drawn from past experience. PMO has also reinforced its internal control procedures to address the weaknesses identified by the Court concerning the transfer of acquired pension rights.

\* \* \*

---

<sup>11</sup> In the European Parliament's resolution observations concerning Romania and Bulgaria are placed under the heading "External actions" (paragraphs 249-257).