EUROPEAN PARLIAMENT DECISION

of 19 January 2000

giving discharge to the Commission in respect of the implementation of the general budget of the European Union for the 1997 financial year (Sections I-Parliament, II-Council, III-Commission, IV-Court of Justice and V-Court of Auditors)

(2000/135/EC, ECSC, Euratom)

THE EUROPEAN PARLIAMENT,

Having regard to the budget of the European Union for the 1997 financial year,

Having regard to the revenue and expenditure account and the financial statement for the 1997 financial year (SEC(1998) 520 — C4-0350/1998, SEC(1998) 522 — C4-0351/1998, SEC(1998) 519 — C4-0352/1998),

Having regard to the report of the Court of Auditors for the 1997 financial year [1] and the special reports pertaining to it, accompanied by the Institutions replies,

Having regard to the statement of assurance provided by the Court of Auditors, on the basis of Article 248 of the EC Treaty, as to the reliability of the accounts and the legality and regularity of the underlying transactions,

Having regard to the Council recommendation of 15 March 1999 (C4-0156/1999),

Having regard to its resolution of 4 May 1999 [2] informing the Commission of the reasons for postponing the discharge in respect of the implementation of the general budget of the European Union for the 1997 financial year,

Having regard to the explanations and information provided by the Commission on the measures taken in response to this resolution,

Having regard to the Treaty establishing the European Community, and in particular Article 276 thereof,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78g thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 180b thereof,

Having regard to Rule 93 and Annex V to its Rules of Procedure,

Having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Industry, External Trade, Research and Energy (A5-0004/2000),

1. Gives the Commission discharge in respect of the implementation of the general budget of the European Union for the 1997 financial year;
2. Records its comments in the accompanying resolution which forms an integral part of this decision;
3. Instructs its President to forward this decision and the resolution containing its comments to the Commission, the Council, the Court of Justice, the Court of Auditors and the European Investment Bank and to have it published in the 'Legislation' series of the *Official Journal of the European Communities*.

The Secretary-General
Julian PRIESTLEY

The President
Nicole FONTAINE

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[1] OJ C 349, 17.11.1998.
[2] OJ C 279, 1.10.1999, p. 119.

EUROPEAN PARLIAMENT RESOLUTION

containing the comments which form an integral part of the decision giving discharge to the Commission for the implementation of the general budget of the European Union for the 1997 financial year

THE EUROPEAN PARLIAMENT,

having regard to Article 276 of the EC Treaty,

having regard to Article 89(7) of the Financial Regulation, pursuant to which each Community institution is required to take all appropriate steps to act on the comments appearing in the decisions giving discharge,

having regard to paragraph 8 of the same Article, which requires the institutions to report, at the request of the European Parliament, on the measures taken in the light of these comments and particularly on the instructions given to those of their departments which are responsible for the implementation of the budget,

having regard to the report of the Court of Auditors for the 1997 financial year [1] and the special reports pertaining to it, accompanied by the institutions' replies,

having regard to the Council recommendation of 15 March 1999 (C4-0156/1999),

having regard to its resolution of 4 May 1999 [2] informing the Commission of the reasons for postponing the discharge in respect of the implementation of the general budget of the European Union for the 1997 financial year,

having regard to Rules 93 and 173 of and Annex V to its Rules of Procedure,

having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Industry, External Trade, Research and Energy (A5-0004/2000),

A. whereas the turnout in European elections is declining systematically in many Member States;

B. whereas at the time of the European elections allegations of fraud, mismanagement and nepotism in the European institutions were the subject of public debate in several Member States;

C. whereas it decided to postpone the discharge for the 1997 financial year pending commitments from the new Commission regarding reform;

D. whereas with regard to subjects which are essential to the reform of the Commission, criticisms were expressed and measures called for in the second report of the Committee of Independent Experts and in the, Annex to Parliament's abovementioned resolution of 4 May 1999 on the postponement of the discharge;

E. whereas in response to these criticisms and demands, the Commission has entered into commitments and adopted certain measures which should be assessed;

F. whereas in February the Commission will submit a reform programme which should deal in a comprehensive manner with all aspects of its organisational and management structures; whereas this discharge will therefore make it possible to ascertain the current commitments and measures with a view to comparing them with the final programme of February 2000;

G. whereas the citizens of Europe will regain their faith in the European institutions only if major reforms are carried out in the near future,

H. whereas the Commission has in the past appeared to regard the annual report of the Court of Auditors as an irritating ritual rather than a useful contribution to the improvement of financial management,

1. reminds the Commission that the discharge which is being given to it is based on the assumption that its commitments under the reform programme will be implemented in full;

2. indicates to the Commission the guidelines which it must respect in drafting this programme in certain particularly sensitive areas;

Closure of accounts

3. Recalls the statement of assurance annexed to the Court of Auditors 1997 Annual Report, which includes the following points:

   (a) that the total volume of assets corresponding to amounts owed to Community bodies by Member States, which is entered as ECU 1 756,5 million in the consolidated balance sheet, is incorrectly reflected in the accounts (points 8.10 and 8.11 of the Annual Report),

   (b) that the Community's cash account balances are inaccurately presented in the balance sheet, since amounts totalling several hundred million ECUs held in some third countries are recorded as definitive payments charged to the budget rather than as imprest advances, and that the amount for the Phare Programme alone in this context is at least ECU 370 million (point 8.12),

   (c) that the value of commitments still to be settled is overstated by a net amount of at least ECU 530 million (points 8.18 to 8.22),

[1] OJ C 349, 17.11.1998.
[2] OJ C 279, 1.10.1999, p. 119.

(d) that the total amount of advances and payments on account recorded during the year as payments charged to the budget is understated by at least ECU 4 126 million (points 8.23 and 8.24);

4. Recalls that the audit carried out by the Court of Auditors in the context of the statement of assurance (see points 8.34 to 8.40 of the Annual Report) once again revealed an unacceptably high percentage of significant errors which have distorted the figures relating to procedures on which payments are based;

5. Declares that it will be unable to close the accounts for the 1999 financial year if the Commission has failed to rectify the accounting errors identified by the Court of Auditors;

Institutional problems of management and supervision

6. Calls on the Commission to develop a system whereby the recommendations of the Court of Auditors are systematically followed up and reviewed; where complaints are repeated two years in a row, the Commission should hold management accountable for persistent failure to improve the situation;

7. Calls on the Court of Auditors to monitor systematically, each year, the response to the criticisms expressed in its previous reports;

8. Calls on the Court of Auditors to negotiate framework agreements with national courts of auditors whereby the latter carry out complementary checks on Community policies conducted in partnership, on the basis of a programme drawn up by common agreement;

9. Observes that the powers of financial control and auditing powers need to be separated in a new Financial Regulation, and that auditing and inspection structures need to be separate and answerable to different Commissioners;

10. Considers that every Directorate-General should present annual reports and accounts along standardised lines, which should include the following year's qualitative and quantitative targets;

Staff policy

11. Accepts the commitment given by the Commission to define the staff and structures needed on the basis of objectives ranked in order of priority, but calls on the Commission to state clearly in its reform programme all its priorities and the criteria for the selection of the resources to be assigned thereto (staff employed pursuant to the Staff Regulations; external resources), on the basis of a system which can combine activity-based budgeting with an integrated resource-management system;

12. Calls on the Court of Auditors to assess the administrative decentralisation policy which the Commission has embarked upon as part of the MAP 2000 programme;

13. Notes that the Commission has adopted codes of conduct for the Commissioners and their private offices which entail major improvements with regard to the financial interests of Commissioners and the staff composition of the private offices, but calls on the Commission to undertake, in its reform programme:

— to supplement the codes with more precise provisions concerning incompatibility in cases where a Commissioner has a direct personal interest in an act of recruitment, administration or implementation of the budget for which he and his departments are directly responsible,

— to make the codes binding by means of a regulation to be adopted by the Commission on the basis of opinions delivered by Parliament, the Council and the Court of Auditors;

14. Welcomes the Commission's plans to protect whistleblowers and calls on the Commission to ensure that staff are encouraged to help work towards a professional climate in which whistleblowing will no longer be necessary; calls on the Commission, however, to identify, in connection with the code of conduct, the fundamental duties of officials so that the latter can oppose any instructions from their hierarchy which are illegal or unethical;

15. Notes the strategic guidelines for administrative reform presented by the Commission with the aim of establishing a more effective disciplinary procedure for budgetary irregularities; calls on the Commission to propose rules to ensure the certainty of the procedure and the absolute impartiality of the body responsible for managing it;

Technical Assistance Offices (TAOs)

16. Notes the Commission's attempt to rationalise the TAOs by establishing a more restrictive legislative and budgetary framework and by introducing a vade-mecum which prohibits subcontracting of public-administration responsibilities and steps up supervision and monitoring of these bodies;

17. Is only partially satisfied, however, and hopes that the Commission will include in its reform programme these further improvements:

(a) the vade-mecum should be binding and thus be an element in the revision of the Financial Regulation;

(b) the TAOs must be excluded from any European public-service functions (even those which are purely preparatory, such as assessment of bids) and be confined to implementation;

(c) relations with TAOs must be governed by transparent provisions laid down in standard contracts;

(d) any function entailing discretionary assessment must be entrusted to executive agencies which operate as decentralised organs of the Commission and will make use of officials and specialised external staff who are entirely subject to the authority, supervision and monitoring of the Commission;

18. Stresses that, pending codification of the new criteria governing delegation of Commission tasks, the Commission must honour its contractual obligations towards existing TAOs and rectify delays in payment, which cause serious financial problems, particularly for small businesses:

19. Notes that the Commission has ended the contract with the TAO Agenor and resumed responsibility for managing the Leonardo programme, with the assistance of some of Agenor's staff; considers that this action by the Commission demonstrates some elements of the executive agency formula;

20. Calls on the Commission immediately to waive the immunity of its officials if and when requested by a national prosecutor, and to bring a parallel civil action before the Belgian courts if the Public Prosecutions Department decides to institute criminal proceedings in the four fraud cases reported by the Commission;

The discharge authority's access to information

21. Recalls that Article 276(2) of the EC Treaty states that the Commission, in connection with the exercise of its powers over the implementation of the budget, must submit any necessary information to the European Parliament at the latter's request;

22. Notes that the EC Treaty provides for no such right to information for the Council in the area of the budget, so that Parliament's right to information in this area is thus more farreaching than that of the Council;

23. Notes that there is general consensus on the right of the discharge authority to full access to information on the implementation of the budgets and considers that the formal and practical arrangements which need to be put in place to facilitate this right should be set out both in Parliament's Rules and in an agreement with the Commission on the basis of the principles to be laid down in the framework agreement on relations between the Commission and the European Parliament;

24. Instructs its Secretary General and the Constitutional Affairs Committee, in their respective areas of competence, to bring forward proposals for the necessary formal and practical arrangements (including changes to Parliament's Rules of Procedure, notably Annex VII) to ensure Parliament's unfettered rights under Article 276 of the EC Treaty and to create appropriate general procedures for handling documents of a necessarily confidential nature, for example, concerning personnel and subjudice issues, which should include, *inter alia*:

— a secure archive for documents classified as confidential,

— a secure reading room (without copying and fax facilities, etc),

— formal rules of access and an access register,

— a new set of graduated procedures to replace Annex VII to reflect the classification of a confidential document,

— consideration of a sanctions procedure for transgression of Parliament's rules on confidential documents,

25. Calls on the Commission to bring forward proposals for the classification of documents and consider other ways — drawing on the experience of the relationship between the executive and the legislative in Member States — in which full transparency with Parliament can be respected whilst minimising the risks of prejudicing ongoing court cases or transgressing the rights of individual staff members, etc.;

26. Points out to the Commission as of now, however, that:

(a) Parliament will consent to the agreement's providing for exceptional restrictions only with regard to the procedures for forwarding, disseminating and collecting data and not with regard to the subject of the information;

(b) the principle must apply that Parliament, as the discharge authority, has at least as much access to Commission documents as the Court of Auditors, whose task it is to support Parliament in monitoring the implementation of the budget;

(c) the Commission must undertake, pending the introduction of the new rules, to provide all information which the discharge authority requests from it, on the basis of ad hoc agreements designed to ensure respect for confidentiality;

The discharge and management of Community policies in partnership (SEM 2000)

27. Notes the Commission's undertaking to forward to Parliament all information, both concerning measures under the SEM 2000 programme regarding budgetary management in partnership and concerning the responses of national administrations to the comments of the discharge authority;

28. Considers these undertakings only partially satisfactory, however, and calls on the Commission to commit itself, in its reform programme, to:

(a) arrange for observers from Parliament to attend meetings of the body responsible for the SEM 2000 programme when the functions of Parliament as a legislative, budgetary or budgetary control authority are at issue;

(b) establish, under the SEM 2000 programme, a procedure whereby Member States can be informed of the comments of the discharge authority;

(c) seek to ensure that national administrations submit to the discharge authority their comments on the cooperation they have afforded to the Commission as referred to in Article 274 of the EC Treaty;

29. Notes the Commission's proposals to deal in an ad hoc trialogue with any legislative matter or problem of budgetary control considered by SEM 2000, and expects the Commission, together with Parliament and the Council, to take rapid steps to establish this practice;

Combating fraud and corruption

30. Notes that the Commission has not yet produced a full list of cases in which it is suspected that Commission officials or other employees may be involved in fraud or corruption; calls on the Commission to present such a list in time for the 1998 discharge procedure and at the latest by 1 March 2000;

31. Notes that the Commission has not yet complied with its request to notify the national judicial authorities of all cases where it is suspected that Commission officials or other employees may be involved in fraud or corruption; calls on the Commission to present such a list in time for the 1998 discharge procedure and at the latest by 1 March 2000;

External aid; aid to Palestine

32. Considers that the Commission still needs to take a number of measures with regard to its aid to Palestine by 31 March 2000, including:
    — opening of Gaza hospital,
    — work to begin at the site for the construction of the seat of the Palestinian parliament;

33. Notes that the Commission has approved plans by the International Management Team (IMT) to have the Gaza hospital available for use by precise dates (15 July 2000 for out patient consultations, 15 October 2000 for in-patients); reminds the Commission that it must constantly monitor the work of IMT, for which it bears the ultimate responsibility;

34. Calls on the Commission to submit by 31 March a programme setting out in detail the strategies it intends to pursue with regard to external aid in accordance with predetermined priorities.