

RESOLUTION OF THE EUROPEAN PARLIAMENT**of 10 May 2011****on the 2009 discharge: performance, financial management and control of EU agencies**

THE EUROPEAN PARLIAMENT,

- having regard to the report of 15 October 2008 from the Commission to the European Parliament on the follow-up to 2006 discharge decisions (COM(2008) 629) and the accompanying Commission Staff Working Document (SEC(2008) 2579),
- having regard to the Commission communication of 11 March 2008 entitled ‘European agencies — the way forward’ (COM(2008) 135),
- having regard to its resolution of 5 May 2010 on the 2008 discharge: performance, financial management and control of EU agencies ⁽¹⁾,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 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 ⁽³⁾, and in particular Article 96 thereof,
- having regard to Special Report No 5/2008 of the Court of Auditors entitled ‘The European Union’s agencies: getting results’,
- having regard to the specific annual reports ⁽⁴⁾ of the Court of Auditors on the annual accounts of the decentralised agencies for the financial year 2009,
- having regard to its study entitled ‘Opportunity and feasibility of establishing common support services for EU agencies’ issued on 7 April 2009,
- having regard to its Declaration of 18 May 2010 on the Union’s efforts in combating corruption ⁽⁵⁾,
- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control (A7-0149/2011),

A. whereas this resolution contains, for each body within the meaning of Article 185 of Regulation (EC, Euratom) No 1605/2002, the horizontal observations accompanying the discharge decisions in accordance with Article 96 of Regulation (EC, Euratom) No 2343/2002 and Article 3 of Annex VI to Parliament’s Rules of Procedure,

B. whereas there has been an unprecedented increase in the number of agencies over recent years, and whereas this has enabled some of the Commission’s tasks to be outsourced,

⁽¹⁾ OJ L 252, 25.9.2010, p. 241.

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

⁽³⁾ OJ L 357, 31.12.2002, p. 72.

⁽⁴⁾ OJ C 338, 14.12.2010.

⁽⁵⁾ Texts adopted, P7_TA(2010)0176.

- C. whereas, following the adoption of the abovementioned Commission communication of 11 March 2008, Parliament, the Council and the Commission relaunched the project of defining a common framework for the agencies and, in 2009, set up an Interinstitutional Working Group on Agencies,
- D. whereas this Interinstitutional Working Group met for the third time at political level on 10 November 2010 and whereas the points discussed were: the criteria for setting up new agencies, the choice of the agencies' seat and seat agreement, the composition of management boards, the appointment procedures for directors, evaluation and performance, the multiannual programme, and the administrative support,
- E. whereas the Court of Auditors is also planning to reflect on the agencies' performance and present a Special Report on cost benchmarking on Union agencies by the end of 2011,
- F. whereas Union contributions to the decentralised agencies drastically increased between 2000 and 2011,
- G. whereas Parliament's Declaration of 18 May 2010 on the Union's efforts in combating corruption calls on the Commission and the relevant Union agencies to take all necessary measures and provide sufficient resources to ensure that Union funds are not subject to corruption, and to adopt dissuasive sanctions where corruption and fraud are found,

I. COMMON CHALLENGES ON FINANCIAL MANAGEMENT

Carry-over and cancellation of operational appropriations

1. Notes that the Court of Auditors has again drawn attention to a large volume of carry-overs and cancellations of operational appropriations by several agencies in the financial year 2009; further notes the existence of unused budgetary lines and the high number of transfers in some of the agencies; calls on the agencies concerned to step up their efforts to improve financial and budgetary planning and programming;
2. Acknowledges the problems arising from the multiannual nature of many programmes and the time-lag between the receipt of fees and the execution and consecutive payment of the corresponding tasks; nevertheless stresses that the resultant expenditure should be predictable and a solution that respects the annuality principle of the Union budget should be found;
3. Points out that the high level of carry-overs and cancellations is often indicative of the inability of an agency to manage a large increase in its budget; inquires whether it would not be more responsible for budgetary authorities, in future, to take greater care in deciding on increases in an agency's budget in the light of the time needed to carry out the new activities;

Cash management

4. Calls on the agencies to enhance their annual forecast of cash needs; notes, in fact, that agencies often record high cash holdings and, therefore, encourages them to follow the good example of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) which, for the year 2009, enhanced its forecast by submitting to the relevant Commission's services, and then constantly updating, a supporting document which justifies its quarterly requests for payment;

Weaknesses in procurement procedures

5. Is concerned, once again, by the Court of Auditors' findings that several agencies had deficiencies in procurement procedures;
6. Calls, accordingly, on the agencies to strengthen their internal controls to make sure that contracts and procurement procedures are correctly applied; is, in fact, not ready to accept the chronic inability to put in place a control system which avoids or detects in time persistent errors undermining the legality and regularity of the agencies' transactions;

7. Urges, in this respect, the agencies to:
 - improve the transparency of estimates and responsibility of projects,
 - strengthen their procurement authorisation at the financing decision and work-programme level,
 - ensure that the disclosure of exceptions in their Annual Activity Report is made in a comprehensive manner,
 - ensure adequate follow up of potential irregularities,
 - develop and report on *ex-post* controls;
8. Encourages, in addition, the agencies to develop, and then regularly update, a comprehensive table outlining their financial circuits and responsibilities of the financial and operational actors;
9. Calls on all the agencies to make available on their website a list of all the contracts awarded over the last three years at least, and for the Commission to continue its efforts to make this information more accessible and to finally integrate it into its financial transparency system;
10. Congratulates Eurojust, nevertheless, for having set up measures for estimating the market value of relevant products and services before opening their procurement procedures; considers this initiative an important practice to be followed by other agencies; welcomes, in addition, Eurojust's Annual Procurement Plan for 2009 which greatly helped that agency's units and services in the management of its tenders; stresses, in particular, that these initiatives enhance the authorising officer's guidance and control;

Grant management

11. Considers it important that the agencies improve their grant management by:
 - carrying out on-the-spot checks on the grant beneficiaries,
 - promoting standard unit costs per categories instead of grants based on reimbursements of eligible costs,
 - clearly describing, communicating and monitoring the actors' responsibilities,
 - providing an operational plan agreed by all actors;

II. COMMON CHALLENGES ON HUMAN RESOURCES

Recruitment procedures

12. Notes in several agencies deficiencies in staff selection procedures which put at risk the transparency of these procedures and/or infringe the principle of equal treatment in the application of the eligibility criteria; acknowledges, in particular, that the Court of Auditors repeatedly reports the following deficiencies:
 - no evidence exists whether the selection criteria and the thresholds that candidates have to meet to be invited to written tests/interviews are established before the evaluation process begins,
 - insufficient documentation of recruitment procedures,
 - unequal treatment in the recruitment procedure for internal/external candidates,
 - limited competition,

and considers that these deficiencies could reduce the ability of the agencies to counter possible allegations of arbitrary decisions on staff recruitment; considers, also that, to the extent that competition is limited, resulting recruitments may not represent the optimal choice and human and financial resources may be used inefficiently;

13. Calls for the establishment of a system to cross-check between the agencies for instances of misconduct or mismanagement by an individual at an earlier agency-employer, when an application is made for employment by that individual at another agency;

14. Calls, accordingly, on the agencies to take the necessary measures to increase the objectivity and transparency of their recruitment processes; considers, in this respect, that Frontex's initiative to adopt implementing rules and internal guidelines for the members of its selection committees is an important practice to be followed by other agencies; welcomes, in particular, the initiative of Frontex to adopt a recruitment policy which includes concrete actions, such as:

- respecting a deadline when nominating the selection board members,
- prior preparation of the interview questions and content of the written test,
- assessment of written tests anonymously,
- model answers for interview questions and written tests,
- minutes recording the decision for any recruitment,
- an e-recruitment tool to facilitate the recruitment and the selection process,

and stresses the need to rigorously implement this policy and to prove that it delivers results;

Execution of recruitment plans

15. Notes that the agencies' recruitment plans are often not fully executed and observes a lack of consistency between budgetary and staff forecasting which could affect the stakeholders' view on the agencies' use of their staff; encourages the Union institutions to further explore how recruitment procedures could be simplified; calls, accordingly, on the agencies to put further effort into the implementation and monitoring of their recruitment planning; encourages the agencies also to provide in their work programme and Annual Activity Reports additional information on the allocation and use of their human resources and a description of the impact on the available staff when setting their objectives; calls on the Commission to evaluate the required staff levels in the agencies, compare the actual staff levels at present to the budgeted forecasts, conclude whether the forecasts exceed the needs and capacities of the agencies and provide Parliament with an overview on this issue;

16. Takes note of the fact that every year employees, including directors, rotate between the agencies; calls on the Commission to provide Parliament with an overview of all staff members who changed working places from one agency to another since 2008;

17. Asks the Commission to provide information on the existence and application of regulations with respect to the relevant duties and obligations of officials provided for in Article 16 of the Staff Regulations of Officials of the European Union⁽¹⁾ (so called 'cooling-off periods') in all the agencies;

Interim staff

18. Calls on the agencies to ensure that sensitive tasks are not assigned to interim staff knowing that interim staff are recruited subject to the limits of the establishment plan; deplores the fact that in some cases agencies hired these staff to perform sensitive tasks or have access to sensitive information; wishes to stress the risks of potential security breaches linked to interim staff's access to sensitive information or unawareness by them of the procedure to follow;

⁽¹⁾ OJ L 56, 4.3.1968, p. 1.

Conflicts of interest

19. Reminds the agencies of the importance of fully guaranteeing the independence of their staff and experts; encourages, in particular, the agencies to carefully file and assess their controls on this; stresses, in fact, that an agency's reputation could be affected in cases where it is challenged on the ground of conflicts of interest;
20. Calls on the Commission to provide Parliament with a detailed overview of the criteria applied in order to ensure the independence of recruited staff, in particular with respect to possible conflicts of interest, and to apply dissuasive sanctions where any irregularity is found;
21. Calls on the Court of Auditors to undertake a comprehensive analysis of the agencies' approach to the management of situations where there are potential conflicts of interest;

III. COMMON CHALLENGES ON THE INTERNAL CONTROL SYSTEM

22. Encourages the agencies to further improve their internal control system to underpin their Director's annual statement of assurance; stresses also the importance for an agency to effectively establish a risk management function for registration of risks and creation of plans for mitigating actions;

Summaries of the internal audit reports

23. Urges the Directors of each agency to fully fulfil their obligation to include in their reports summarising the Internal Audit Service (IAS) reports to the discharge authority:

- the number and type of IAS internal audits,
- all recommendations (including those which could possibly be refused by the agency), and
- all actions taken on these recommendations,

welcomes, in this respect, Frontex's initiative to promote a harmonised structure for addressing these summaries to the discharge authority by all agencies;

24. Notes, nevertheless, that certain agencies have provided, on a voluntary basis, their IAS internal audit reports to the discharge authority; considers that this should be the normal practice and expects that all other agencies of the Union will follow this practice while acknowledging that the discharge authority will ensure the confidentiality of these reports;

IAS's role

25. Considers the role of the IAS as Internal Auditor of the decentralised agencies as crucial; stresses, in particular, that the IAS issues independent opinions on the quality of management and control systems and delivers recommendations for improving the conditions of implementation of operations and for promoting sound financial management of the agencies;
26. Calls, accordingly, on the agencies' Management Boards to duly take into account the recommendations made by the IAS, with a view to rapidly remedying the identified failings;
27. Welcomes that, in accordance with Article 86(4) of the Financial Regulation, the agencies forward a summary of the IAS findings to Parliament; reiterates that reports drafted by the IAS are internal and not public documents; notes, further, that this also applies to separate annual reports on the agencies and other bodies; welcomes any cooperation on the part of the agencies to make available those reports upon a specific and justified request by Parliament; urges the Interinstitutional Working Group on Agencies to address the flaw in the legislation concerning IAS reports on the agencies and to propose a solution;

28. Strongly encourages the Court of Auditors to include a reference in its annual reports on the agencies to the conclusions of the IAS audits and an assessment of the implementation by the agencies of the IAS recommendations;
29. Would also like to stress the IAS's important role in carrying out audits on the agencies' performance; regrets, however, that the discharge authority is not necessarily informed about the findings of these audits as a result of the flaw in the agencies' legislation mentioned in paragraph 27;

Role of the Internal Audit Capability (IAC)

30. Urges agencies to set up an Internal Audit function to provide support and advice to agencies' Directors on the management of the internal control, and to perform risk assessments and internal audits;
31. Welcomes also the initiative of the Community Fisheries Control Agency and the European Maritime Safety Agency of having established a shared IAC; considers this shared service a best practice to be followed by other agencies;
32. Welcomes and encourages, in addition, the IAS activity of chairing the Audinet network for agencies, which meets two/three times per year, with the aim of coordinating the IACs work, and exchanging experiences on audit approach, methodology and best practice;

Pilot audit on the ethical framework

33. Congratulates the European Centre for the Development of Vocational Training (Cedefop) for being the first agency that voluntarily undertook a pilot audit on the ethical framework in 2009; encourages Cedefop to share this initiative with other agencies;

IV. STATEMENT OF ASSURANCE AND ANNUAL ACTIVITY REPORT

Statement of assurance

34. Encourages the agencies to publish their Director's statement of assurance on their websites and include them in an annex to their Annual Activity Reports confirming that the information contained in their Annual Activity Reports presents a true and fair view, except as otherwise specified in reservations related to defined areas, of revenue and expenditure;
35. Underlines the obligation of the agencies' Directors to declare reservations in their statements of assurance whenever major issues have been outlined by the Court of Auditors or by the IAS of the Commission i.e. critical audit recommendations for underlying weaknesses and where the materiality threshold is exceeded;

Annual Activity Reports

36. Encourages the agencies to standardise the structure of their Annual Activity Reports in accordance with the format used by the Commission's Directorates-General (DGs) and, accordingly, by including the activities accomplished, the management challenges, the internal audit findings and the human resources improvements concerning the financial year in question; in this regard congratulates the European Environment Agency (EEA) for having already developed its own Annual Activity Report in accordance with the abovementioned structure and considers this best practice to be followed by the other agencies;
37. Congratulates, in addition, the European Centre for Disease Prevention and Control and, again, the EEA for having used in their Annual Activity Reports easy-to-read tables/graphics summarising the key performance achievements; considers this as a very welcomed practice which should be followed by other agencies;
38. Encourages the Court of Auditors to include a global evaluation of each Annual Activity Report in its specific annual reports on the agencies as it is already the case in its annual report on the Commission, when the Court of Auditors examines the Annual Activity Reports of the different Commission DGs;

V. AGENCIES' GOVERNANCE

The agencies' Management Boards

39. Notes that the large size of certain agencies' Governing Boards and the high turnover of their members could lead to an ineffective decision-making body; calls, accordingly, on the Interinstitutional Working Group on Agencies to address this issue; suggests also that consideration be given to the possibility of merging Governing Boards for agencies working in related fields to reduce the amount of time spent on meetings;
40. Invites, in addition, the agencies' Directors to take steps to strengthen their Governing Board's role by bringing strategic issues/priorities on the discussion in due time for strategic decisions to be taken;
41. Calls on the agencies' Management Boards to achieve maximum convergence between the planning of tasks and of resources (both financial and human) through the improvement of their activity-based budgeting and management (ABB/ABM);

Commission's role

42. Expresses its satisfaction with the second successful year of operation of the European Chemicals Agency (ECHA), the Commission (DG Enterprise and Industry) having been responsible for the budgetary management of the ECHA in 2007; emphasises, in particular, that the smooth and fairly rapid establishment of the ECHA is mainly as a result of the effective support provided by its partner DG, exchanges of experience with other similar agencies and the provision of strong support by the host country; considers, accordingly, that this best practice could be followed by the Commission when 'newcomer' agencies open;
43. Notes that the Interinstitutional Working Group on Agencies found that about 30 % of the agencies' resources are used for administration; calls on the Commission to increase its efforts to provide all necessary administrative assistance to the relatively small agencies, in particular those that were established recently and to make sure that all agencies work efficiently;

Disciplinary procedures

44. Recalls once more that Parliament, in its 2006, 2007 and 2008 discharge resolutions, called on the agencies to consider setting up an inter-agency disciplinary board; notes that this project remains difficult to take forward, owing, in particular, to problems in finding staff with the appropriate career grade to be members of the board; none the less, calls on the agency responsible for coordinating the network of agencies to establish a network of staff at the grade required to be a member of the disciplinary board;

VI. PERFORMANCE

45. Considers Eurojust's initiative to include key performance indicators (KPIs) in its 2010 plans as a best practice for the other agencies; encourages, in addition, the agencies to effectively link KPIs to their objectives, budget and annual work programme; considers, in fact, that this practice will allow stakeholders to better evaluate agencies' performance; encourages other agencies to include KPIs in their annual work programmes;
46. Notes that performance and effectiveness are not measured in a standardised way; calls on the Interinstitutional Working Group on Agencies to address this issue;
47. Notes that agencies that do include KPIs are mainly based on the procedural and process aspects of performance, not on actual results; encourages the agencies to formulate result-oriented KPIs and calls on the Interinstitutional Working Group on Agencies to address this issue;

Multiannual work programme

48. Urges each agency to establish a multiannual work programme, in accordance with the multiannual Union strategy in the sector it deals with; stresses the importance of the multiannual work programme in enabling an agency to better organise its activities, provide an enhanced risk-assessment of its activities, make effective organisational arrangements to implement its strategy and achieve its goals;

Annual work programme

49. Urges the agencies to improve the link between their budget and their annual work programme; acknowledges, in fact, that often the Court of Auditors reported insufficiently rigorous procedures for drawing up the budget which led to a considerable number of budgetary transfers affecting most of the budget lines;
50. Welcomes the intention of Cedefop and the ECHA to make available Gantt charts for key operational activities; reminds the agencies that these charts outline, in a concise way, the amount of time spent by each staff member on a project and encourage an approach geared towards achieving results;

Feedback procedures

51. Invites the agencies to enhance their customer focus and feedback procedures and to make full use of the results of their evaluations in this regard; congratulates, in particular, the ECHA for having conducted a stakeholder survey in 2009 and for increased assistance activities for industry (as, for example, offering a phone advice service for lead-registrants, workshops, network meetings, and public consultations);
52. Welcomes Eurofund's initiative to carry out a second *ex-post* assessment exercise of its 2005-2008 work programme; considers this a valuable exercise also for the other agencies as a tool to tackle the agencies' challenges;
53. Finds it of the utmost importance, in addition, that the agencies further develop their performance monitoring system to ensure that the results of their performance are monitored and encourages agencies to refer to them in their yearly activities plan;
54. Encourages, in addition, the agencies to provide consistent reporting on KPIs;

Table annexed to the Court of Auditors' report

55. Congratulates the EMCDDA, the Translation Centre for the Bodies of the European Union (CDT) and the European Food Safety Authority (EFSA) for having set out, in a table annexed to the Court of Auditors' 2009 specific annual reports, a comparison of the operations that were carried out during 2008 and 2009 so as to enable the discharge authority to assess more effectively their performance from one year to the next;

VII. REFLECTION ON THE AGENCIES: A COMMON APPROACH

56. Welcomes the ongoing work of the Interinstitutional Working Group on Agencies which has the objective to review the role and position of decentralised agencies in the Union's institutional landscape, the creation, structure and operation of those agencies, together with funding, budgetary, supervision and management issues; requests the Working Group to come up with an analysis and general advice regarding the effectiveness of the current agencies, and to propose plans for comprehensive efficiency improvements with regard to the type and the number of agencies;
57. Recalls that the Interinstitutional Working Group on Agencies' Common Statement issued in March 2009 launched a 'dialogue on Regulatory Agencies with a view to assessing the existing situation, specifically the coherence, effectiveness, accountability and transparency of these Agencies' and that the Working Group would 'address a number of key issues put forward by the participating institutions, including the role and position of the Agencies in the EU's institutional landscape, the creation, structure and operation of these agencies, together with funding, budgetary, supervision and management issues';
58. Notes that in the 2008 discharge resolution of 5 May 2010 Parliament stated that the Interinstitutional Working Group should 'consider whether some agencies should work closely together or even be merged' and that 'the small agencies are faced with serious efficiency problems';
59. Calls for a moratorium on the creation of any further agencies at least until the questions raised by the Interinstitutional Working Group on Agencies' Common Statement and the discharge resolution of 5 May 2010 are satisfactorily resolved;

60. Believes that the creation of further agencies once these questions are resolved should be considered with the utmost caution to ensure that they are genuinely required and that they provide the best value for money in delivering an agreed policy objective;
61. Re-emphasises the importance of considering a merger of some agencies so that they are able to share overhead and other costs;
62. Asks that the Interinstitutional Working Group on Agencies consider grouping together some of the smaller agencies, which may not be suitable for outright merger, in the same city and indeed possibly the same building so they can benefit from common central resources to minimise the burden of overhead and other costs;
63. Welcomes the Court of Auditors' intention to publish in autumn 2011 a special report on cost benchmarking on Union agencies;
64. Notes that a number of agencies evolving in common fields are performing similar activities; recalls that overlapping activities generate unnecessary additional costs;
65. Recalls that the Union budget shall be based on a sound financial management requiring spending to be relevant, effective, and efficient and unnecessary expenditures to be properly addressed;
66. Calls, therefore, on the Commission to carry out an evaluation of all the Union agencies aimed at detecting occurrences of overlapping activities and analysing, if overlaps are identified, the possibility of a merger between the agencies involved and to provide Parliament with a report on the issue by 31 December 2011;

VIII. GENERAL CONSIDERATIONS ON THE INCREASED ESTABLISHMENT OF JOINT UNDERTAKINGS (JUs)

67. Draws attention to a record increase of JUs over the recent years; notes in particular that these bodies are subject to the same framework Financial Regulation as the decentralised agencies but still do not include in their financial rules a clear reference to the powers of the IAS as their Internal Auditor;
 68. Welcomes, nevertheless, the IAS's intention to take this role of Internal Auditor of the JUs from the financial year 2011 onwards;
 69. Is furthermore of the opinion that, in view of the size of their budget and complexity of their tasks, the JUs should set up an audit committee, reporting directly to their Administrative Board;
 70. Instructs its President to forward this resolution to the agencies subject to this discharge procedure, the Council, the Commission and the Court of Auditors.
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