DECISION OF THE EUROPEAN PARLIAMENT

of 4 April 2001

concerning discharge in respect of the implementation of the general budget of the European Union for the 1999 financial year: Section IV — Court of Justice, Section V — Court of Auditors, Section VI — Part B — Committee of the Regions

(2001/449/EC)

THE EUROPEAN PARLIAMENT,

Having regard to the revenue and expenditure account and the balance sheet for the 1999 financial year (SEC(2000) 539 — C5-0312/2000),

Having regard to the Annual Report of the Court of Auditors concerning the financial year 1999, with the replies of the institutions (C5-0617/2000) [1], and the Special Report No 5/2000 on the Court of Justice's expenditure on buildings (Annex Buildings Erasmus, Thomas More and Annexe C), together with the Court of Justice's replies [2],

Having regard to the Statement of Assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors pursuant to Article 248 of the EC Treaty (C5-0617/2000),

Having regard to the Council's recommendation of 12 March 2001 (C5-0127/2001),

Having regard to Article 272(10) of the EC Treaty,

Having regard to Article 22(2) and (3) of the Financial Regulation,

Having regard to the report submitted to Parliament on the management of Article 270 (Official Journal) of the budget of the Court of Auditors,

Having regard to the report submitted to Parliament by the Committee of the Regions on all appropriations carried over automatically from 1997 to 1998 and from 1998 to 1999 for which the cancellation rate was higher than 10 % (Section VI — Part B of the general budget),

Having regard to the report of the Committee on Budgetary Control (A5-0108/2001),

Whereas:

A. Parliament, in its capacity as budgetary control authority, has a duty to evaluate the proper and effective use of the Community budget and act on the detailed reports from the European Court of Auditors.

B. This evaluation should involve not only an assessment of the way in which taxpayers' money is spent (i.e. that there have been no irregularities or fraud) but also a regular examination of the effectiveness and impact of the Community budget in carrying out the policies and goals laid down in the Treaties and in secondary legislation.

C. All Institutions, advisory bodies and specialised agencies should be equally concerned at providing an efficient and beneficial service, in essence — value for money.

D. The nature of expenditure in the Council has changed from purely administrative to more operational in view of new responsibilities in the areas of Common Foreign and Security Policy and Justice and Home Affairs.

E. It has been possible for the Court of Auditors to provide error rates in the field of agricultural expenditure and this has been highly useful in improving budgetary control,

[1] OJ C 342, 1.12.2000.
[2] OJ C 109, 14.4.2000, p. 1.

Court of Justice

Buildings policy

1. Notes that the construction of the Annexes to the Palais Building (Annex A or Erasmus, Annex B or Thomas More and Annex C Buildings) was a reaction to constantly increasing accommodation needs of the Court of Justice rather than part of a comprehensive building programme;

2. Regrets the circumstances which led to what the Court of Justice calls the 'formal irregularity' of occupying these buildings without a written lease agreement between 1989 and 1994 at a cost of about ECU 35 million by way of advances on rent payments to be adjusted, in conditions contrary to the rules set down in the Financial Regulation;

3. Takes note of the fact that the relevant Luxembourg authorities only submitted a draft lease on the Erasmus building in 1989, i.e. almost five years after the decision to construct it was taken and six months after the entry into occupation of that building;

4. Notes the Court of Justice's wish, as expressed in the Registrar's letter of 8 May 1989 to the relevant Luxembourg authorities, to avoid occupation of the Thomas More and Annex C Buildings without written leases and the excessive rental conditions asked by the Luxembourg authorities in respect of those buildings, a factor which could only prolong the negotiations;

5. Notes the Court of Justice's remarks, in particular as regards the conditions under which the cost of construction and financing the three buildings was monitored (paragraph 4.1.2); takes the view that, in light of those remarks and of the previous paragraphs, the Luxembourg authorities failed to display the degree of constructive cooperation legitimately to be expected from a host country actively promoting a policy of establishment of Community institutions on its territory; consequently considers that the Luxembourg authorities bear a share of responsibility for the fact that the Court of Justice occupied premises without written leases as well as for a number of deficiencies highlighted by the Court of Auditors (inadequate monitoring, etc.);

6. Recalls that, following a request by the budgetary authority, the Court of Auditors drew up a technical opinion in 1996 concerning the financial commitments governing the Court of Justice's buildings; recalls, furthermore, that the above opinion contained no criticism of the legal and financial arrangements of the lease-option agreement of 1994 between the Court of Justice and Luxembourg, a fact which enabled the Parliament's Committee on Budgets to authorise an advance payment pursuant to that agreement (see transfer of appropriations No 27/96); wonders why the reservations of the Court of Auditors on those arrangements, as summarised in point 20 e of its Special Report No 5/2000, were not aired in its 1996 technical opinion;

7. Believes that, almost seven years after the conclusion of the lease-option agreement of 15 November 1994, the time is ripe for the final statement of account to be determined; notes that, in order to facilitate that task, the Court of Justice and the Luxembourg authorities jointly appointed an expert whose job includes, *inter alia*:

   — the determination of those items of expenditure which will not be part of the final statement of account,

   — the carrying out of detailed investigations with regard to the invoicing irregularities uncovered by the Court of Auditors, and

   — an assessment as to whether in general the financial interests of the Community have been adequately protected;

   expects to be informed of the expert's conclusions as soon as possible and in any case in good time for the first reading of the 2002 draft budget;

Implementation of Article 270 (Official Journal)

8. Notes the report submitted by the Court of Justice on the implementation of Article 270 [1]; encourages the Court of Justice to ensure that the Office for Official Publications of the European Communities processes and dispatches the statements of account concerning the texts published by the Court of Justice in the Official Journal in an orderly way, thus contributing to the optimum management of the appropriations related to the heading in question;

[1] See point 3 of European Parliament Decision of 13 April 2000 granting discharge in respect of the implementation of the general budget of European Union for the 1998 financial year: Section IV — Court of Justice, Section V — Court of Auditors, Section VI — Part B — Committee of the Regions (OJ C 40, 7.2.2001, p. 389).

Financial control and internal audit

9. Calls on the Court of Justice to analyse the option of appointing an Internal Auditor who is independent from the Financial Controller, and to report to the European Parliament on the outcome of this analysis;

Court of Auditors

10. Is concerned that the Court of Auditors has not yet agreed to formally accept Parliament's demand for 'naming and shaming' those Member States that fail to perform, feels that this could provide a valuable tool for improving budgetary control over Community spending;

11. Welcomes the increasing trend by the Court of Auditors not only to measure the accountability of the European Union's activities, but also their efficiency and their impact;

12. Rejects the Court of Auditors' refusal to quantify the error rate and insists that the Court specify its results from DAS audits on both a geographical and a sectorial basis;

13. Calls on the Court of Auditors to develop a 'Richter scale' of errors, which differentiates between small administrative oversights and full-fledged fraud and various errors in between, in order to allow a better appraisal of the scale of the errors;

14. Invites the Court to develop further its relations with national audit bodies in the Member States, as well as the candidate countries, with a view to deepening the audit work they carry out on those areas of Community revenue and expenditure where management responsibility is shared;

15. Recalls paragraph 2 of its decision of 7 October 1998 giving discharge in respect of the implementation of the general budget of European Union for the 1996 financial year: Section IV — Court of Justice, Section V — Court of Auditors, Section VI — Part B — Committee of the Regions [1], asking the Court of Auditors to instruct its Member responsible for administrative matters systematically to include the Court of Auditors in all its horizontal audits, starting with the 1997 financial year; regrets that subsequent Annual Reports including the one on 1999 bear no witness to the fulfilment of that request;

16. Asks the Court of Auditors to continue to improve its working and reporting methods with a view to facilitating the task of the discharge authorities and especially to ensure its continuity from year to year;

17. Calls on the Court of Auditors to analyse the option of appointing an internal auditor who is independent from the Financial Controller, and to report to the European Parliament on the outcome of this analysis;

18. Calls on the members of the Court of Auditors to publish their declarations of financial interests on the Internet;

19. Requests the Court of Auditors to extend, as a matter of course and starting from the current financial year, its auditing activities to the Council, thus enabling Parliament, if appropriate, to make observations on the implementation of that institution's budget in the framework of the discharge procedure;

Committee of the Regions

20. Welcomes the efforts of the Committee of the Regions to present an evaluation of the impact of its work, and calls on its partner institutions to assist in this evaluation, including recommendations to improve the input of the Committee of the Regions to policy development at a European level; looks forward to receiving annual assessments which address, *inter alia*, the following questions:

— the timeliness of opinions to the other institutions,

— optimalisation of staff deployment,

[1] OJ L 308, 18.11.1998, p. 39.

— the functioning of the cooperation agreement with the Economic and Social Committee,

— interinstitutional cooperation, particularly with a view to improving the efficient use of administrative expenditure through economies of scale in areas such as recruitment, security, documentation services, building management and catering facilities;

21. Notes the report submitted to Parliament on appropriations carried over automatically from 1997 to 1998 and from 1998 to 1999 for which the cancellation rate was higher than 10 % ([1]); believes that a great deal of the cancellations were due to rules that need tightening (late submission of supporting documents concerning Members' language courses), inadequate planning at administrative and political level (cancellation or even overestimation of mission orders, cancellation of commission meetings at the end of the year), the late billing by the Joint Interpreting and Conference Service (JICS), overestimates to avoid the risk of insufficient availability of appropriations etc.; asks the Committee of the Regions to take the appropriate action to remedy that situation, where appropriate in cooperation with the other institutions concerned;

22. Notes the Court of Auditors' observation (point 6.23 of the 1999 Annual Report) according to which in February 2000 the Committee of the Regions tightened again its rules on expenses and the travel and meeting allowances of its Members;

23. Notes that 1999 was the last year of the Common Organisational Structure with the ESC which was replaced, on 1 January 2000, by a Cooperation Agreement (to be subjected to an annual review) between the two committees which maintains joint operations in the majority of departments but establishes autonomy in the financial and staff departments; expects the annual review to assess proven and forseeable needs of both committees;

24. Notes that during the 1999 financial year, the Economic and Social Committee and the Committee of the Regions pursued their negotiations with the owners of the Belliard Complex Building and that, in accordance with the policy of the budgetary authority, they reimbursed Parliament its rental payments for the premises; further notes that these negotiations finally resulted in a lease-purchase agreement in December 2000; undertakes to examine the conditions of this agreement in next year's discharge procedure;

25. Welcomes the substantial savings to the European Union budget resulting from joint services with the Economic and Social Committee and encourages other institutions to follow this example, for instance by sharing library facilities;

26. Calls on the Committee of the Regions to analyse the option of appointing an Internal Auditor who is independent from the Financial Controller, and to report to the European Parliament on the outcome of this analysis;

27. Notes that the decision taken by the Committee of the Regions on the terms and conditions for internal investigations in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Communities' interests departs from the Interinstitutional Agreement of 25 May 1999 ([2]), though there is no technical need to do so; notes further that this deprives Members and staff of the Committee of the Regions of the right, laid down in the Interinstitutional Agreement, to approach OLAF directly without notifying the President or Secretary-General;

Agencies

28. Calls on the Commission to:

(i) ensure that experience with regard to setting up Agencies is pooled, so that lessons learned may be applied in the setting up of new Agencies (e.g. the European Food Authority and the European Maritime Safety Agency);

(ii) develop a decentralised system which would allow activity-based management for Agencies, comprising monitoring, auditing or evaluation of personnel, missions, documents and inventory, on the lines of the Integrated Resources Management System (IRMS);

([1]) See paragraph 6 of the European Parliament Decision of 13 April 2000 (OJ C 40, 7.2.2001, p. 389).
([2]) OJ L 136, 31.5.1999, p. 15.

(iii) transmit to the discharge authority and Court of Auditors on a systematic basis all audits carried out by the Financial Controller or operational Directorates-General, in respect of the following agencies:

1. Centre for Development of Vocational Training, Thessaloniki;
2. Foundation for Improvement of Living and Working Conditions Dublin;
3. Environment Agency, Copenhagen;
4. European Training Foundation, Turin;
5. Monitoring Centre for Drugs and Drug Addiction, Lisbon;
6. Agency for the Evaluation of Medicinal Products, London;
7. Agency for Safety and Health at Work, Bilbao;
8. Monitoring Centre for Racism and Xenophobia, Vienna;
9. Reconstruction Agency for Kosovo (OBNOVA), Thessaloniki;
10. Office for Harmonisation in the Internal Market, Alicante;
11. Community Plant Variety Office, Angers;
12. Translation Centre for Bodies of the EU, Luxembourg;

29. Recalls that, in its resolution of 13 April 2000, under the discharge exercise for 1998, Parliament asked the Court of Auditors to produce a comprehensive analysis of audits of all Agencies; regrets that the Court has not done so; invites the Court of Auditors to:

(i) carry out performance, rather than purely financial, audits;

(ii) present a comparative analysis of Agencies, based on best practice;

(iii) coordinate its audit activities with the Commission (Financial Control and operational directorates-general);

30. Regrets that three of the Agencies (those in Turin, Lisbon and Angers) have not submitted a budget for the year 1999 and that eight of the other agencies submitted these in December of 1999; calls on the Agencies to submit their budgets before the beginning of the new financial year;

31. Calls on the Agencies to conduct and publish evaluations of their work on a regular basis;

32. Calls on its specialised committees to scrutinise the quality and impact of the work of the various Agencies and to provide the Budget Control Committee with timely input on these Agencies for the Annual discharge procedure;

Discharge decision

33. Grants discharge to the Registrar of the Court of Justice and the Secretaries-General of the Court of Auditors and the Committee on the Regions in respect of the implementation of their budgets for the 1999 financial year;

34. Instructs its President to forward this Decision to the Council, the Commission, the Court of Justice, the Court of Auditors, the Committee of the Regions and to all the decentralised agencies mentioned in this Decision and to have it published in the Official Journal (L series).

The Secretary-General — Julian PRIESTLEY

The President — Nicole FONTAINE