RESOLUTION

of the European Parliament containing the comments accompanying the decision concerning discharge to the Director of the European Agency for Reconstruction in respect of the implementation of its budget for the financial year 2001

THE EUROPEAN PARLIAMENT,

— having regard to the Court of Auditors' report on the financial statements of the European Agency for Reconstruction for the financial year 2001, together with the Agency's replies ([1]) (C5-0596/2002),

— having regard to the Council's recommendation of 7 March 2003 (C5-0090/2003),

— having regard to the EC Treaty, and in particular Article 276 thereof,

— having regard to Article 8 of Council Regulation (EC) No 2667/2000 ([2]) of 5 December 2000 and Article 185 of the Financial Regulation of 25 June 2002 ([3]),

— having regard to Rule 93a and Annex V of its Rules of Procedure,

— having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy (A5–0079/2003),

A. whereas the Court of Auditors in its annual report concerning the financial year 2000 ([4]) concluded that the efficiency of the Agency's administration and its budget management was high, the result being that the Agency achieved the most ambitious objectives it had set for its first year of activity in the areas of energy, housing, transport and agriculture,

B. whereas in the same report the Court made a series of recommendations to the Agency dealing with the need to introduce a reliable computerised system of budgetary accounts, the development of a practical sectoral programme reflecting the priorities set in order for the Agency not to disperse its efforts and calling for the setting-up, in cooperation with the Commission, of a mid and long term strategy in order to ensure the sustainability of the investments financed,

C. whereas on 10 April 2002 Parliament gave discharge ([5]) to the Director of the European Agency for Reconstruction in respect of the implementation of the budget for the 2000 financial year, on the basis of the report of the Court of Auditors, and at the same time, *inter alia*:

— insisted on the need to promote adequate investigation, including, as appropriate, an internal evaluation by the European Anti-Fraud Office (OLAF), of any well-founded suspicion of mismanagement and corruption linked to investments in favour of power stations in Kosovo;

— urged the special representative of the Secretary-General (SRSG) of the UN in Kosovo and called on the Commission to take the necessary steps, in cooperation with UNMIK, with a view to ensuring that a sustainable policy and the appropriate regulatory framework be developed allowing for improvement of Kosovo's tax collection capacity in order to increase budget revenue and attain budget sustainability;

([1]) OJ C 326, 27.12.2002, p. 1.
([2]) OJ L 306, 7.12.2000, p. 7.
([3]) OJ L 248, 16.9.2002, p. 1.
([4]) OJ C 359, 15.12.2001.
([5]) OJ L 158, 17.6.2002, p. 62.

— noted that the largest item in the Agency's budget was the one dealing with the rehabilitation of the energy sector; that this sector called for special attention given the situation of very frequent power cuts; called on UNMIK to carry out an audit of the cash-management and procurement procedures of the Kosovo electricity company;

D. whereas the Court of Auditors has obtained reasonable assurance that the accounts for the financial year ended 31 December 2001 are reliable and the underlying transactions are, taken as a whole, legal and regular;

1. Notes the following figures for the accounts of the European Reconstruction Agency:

Revenue and expenditure account for the financial years 2001 and 2000

(1 000 EUR)

	2001	2000
Revenue received during the financial year		
Commission subsidies	517 633 ([1])	257 933
Financial revenue	2 915	680
Miscellaneous revenue	135	175
Counterpart funds	5 787	
Total revenue (a)	**526 469**	**258 788**
Budgetary expenditure for the financial year		
Staff — Title I of the budget		
Payments	13 418	4 633
Appropriations carried over	337	131
Administration — Title II of the budget		
Payments	5 908	2 077
Appropriations carried over	1 217	1 670
Operating activities — Title III of the budget		
Payments	140 309	139 786
Balance of the appropriations available for commitments	187 036	119 733
Appropriations automatically carried forward to 2002	176 863	
Total expenditure (b)	**525 088**	**268 030**
Out-turn for the financial year (a-b) ([2])	**1 381**	**– 9 241**
Balance carried over from the previous financial year	– 35 768	0
Payments on behalf of the Commission (TAKFO)	– 70 050	– 26 861
Cancellation of payment appropriations for 2000	31 061	0
Appropriations carried over from 2000 which lapsed (Titles I and II)	254	0
Exchange-rate differences	– 5	334
Balance for the financial year	**– 73 127**	**– 35 768**

NB: Any discrepancies in totals are due to the effects of rounding.
Source: Data compiled by the Agency. These tables summarise the data supplied by the Agency in its own financial statements.
([1]) Includes 70 050 278 EUR received for payment against commitments previously entered into by the Commission. The Agency is responsible for the management of the payments.
([2]) The negative balance of the outturn and own capital does not constitute a loss of capital. It arises from the application of the Financial Regulation concerning revenue (only revenue collected) and expenditure (payments plus appropriations carried over).

Financial management — budget implementation

2. Takes note that, during the second half of 2001, the Agency installed the SI2 computerised budgetary accounting system; also takes note of the Agency's comments about the advantages and disadvantages of this system and in particular of the fact that the system is heavy, cumbersome, that it requires time-consuming interventions and that, when interfacing SI2 with the general accountancy system, the security of the system is weakened;

3. Urges the Agency, along with the Commission, to remedy the problems identified by the Court stemming from the introduction of SI2 and to find adequate solutions in order to reduce the dependency on the use of auxiliary information technology tools which are until now used in order to obtain an accurate impression of the implementation of the budget;

Financial statements

4. Notes the fact that the financial statements drawn up by the Agency in March 2002 contained errors and that it was the Court of Auditors that had to point them out to the Agency in order for a corrected version of the financial statements to be produced on 4 October 2002;

5. Expects the Agency to take all necessary steps to ensure this situation does not reoccur;

Application of financial provisions

6. Calls on the Agency to comply with the provisions of the Financial Regulation and with the Court's observation and to issue, on a systematic basis, recovery orders for sums owed to the Agency;

7. Acknowledges the difficult circumstances under which the Agency was called to operate in 2001 and the fact that 2001 was a transition year as regards the financial control service; regrets deeply, however, that the Commission had put the agency under considerable pressure to sign contracts by private treaty with experts; stresses that the Financial Controller deplored the inappropriateness of the procedures followed for the awarding of such contracts and that, in one such case, he expressed serious doubts about the justification of the salary proposed; notes that in this case a monthly fee of over EUR 25 000 was paid;

8. Calls on the Commission to initiate an administrative investigation in order to establish possible responsibility for mismanagement and, where appropriate, to launch disciplinary proceedings; expects the Commission to report back to its competent committee in the context of the follow-up report;

9. Calls furthermore on both the Agency and the Commission, in future, when employing experts, to ensure compliance with the relevant rules of the Financial Regulation, in complete transparency; stresses that exceptional circumstances should in no way result in financial provisions being circumvented or not abided by; insists that, should such exceptional circumstances occur, the discharge authority should be promptly and fully informed;

The housing programme

10. Welcomes the fact that the Agency has been able to exceed its target of houses rebuilt by 4 %; takes however the view that, in line with the Court of Auditors' observations in this respect, the Agency should improve the way in which it operates when selecting the work to be carried out in order for its action to meet more effectively the needs it intends to cover; calls on the Agency, similarly, to look into ways of ensuring that the most effective solutions are brought forward when operating in the other priority areas of its activity;

Follow-up to previous observations of the Court

11. Congratulates the Agency on the Court of Auditors' overall positive assessment with regard to the follow-up by the Agency of the Court's observations concerning the previous financial year; notes the Court's remarks relating to the problems in the energy sector;

12. Expresses deep concern that it was precisely in the sector of energy that OLAF conducted investigations into a case of fraud, involving some EUR 4,5 million (USD 4,2 million) dedicated to the stabilisation of the Kosovo power system; takes note that the investigation was concluded in December 2002;

13. Notes with satisfaction OLAF's statement of 5 December 2002 that its activity resulted in securing, at that date, the return to the Kosovo budget of USD 3,2 million of those funds and the launching of proceedings in order to secure the return of the balance; notes also that the principal suspect for that fraud was arrested in Germany and brought to justice;

14. Expects to be fully informed by OLAF about this case;

15. Invites both the Agency and the Commission, in close cooperation with UNMIK, to do their utmost to protect the financial interests of the Community and to avoid any similar cases occurring in the future; calls on the Director of the Agency to make every effort deemed necessary in order to ensure the systematic monitoring of all projects in the energy sector financed by EU funds;

16. Invites the Commission to fully inform the Parliament about the possible disciplinary measures which this case may call for;

17. Takes note of the comprehensive evaluation undertaken in 2002 by the Agency regarding the best use of funds within the Kosovo energy sector; expects the Agency to inform the Parliament's competent committee in the context of the follow-up report to discharge 2001 on progress made and on all relevant measures taken, in cooperation with UNMIK, KEK (Kosovo Power Corporation) and external supervisory contractors and, in particular, in relation to debt collection by KEK, with a view to achieving the long-term sustainability of investment in the energy sector;

18. Asks the Commission to propose phasing out future EU funds to the energy sector in Kosovo if the present situation, which is marked by fraud, mismanagement and loss of revenue, continues;

19. Notes that the Agency places the responsibility for fraud and mismanagement in the energy sector on UNMIK or KEK; acknowledges that when funds are channelled through an intermediate body they can be difficult to monitor and control; questions however whether the Agency could be regarded as completely exonerated of any responsibility as it is after all responsible for the management and control of the EU funds spent;

Further proposals

20. Invites the Commission to make proposals aiming at fostering better functioning of the Agency, ensuring better value for money through a cost/benefit analysis and, in making such proposals, to consider whether the fact that the Agency occupies various sites is, from the point of view of its functioning, the most appropriate solution; calls for greater cooperation and coordination between the Agency, UNMIK and the Commission; invites the Agency to establish an overall plan for monitoring the projects financed and evaluating their consistency with the EU policy for the region;

21. Calls on the Commission and the Agency to pursue with the reinforcement of EU assistance to 'institutional building' projects;

22. IInsists on the need for the Agency's annual report to be presented to the European Parliament no later than 15 June each year; expects the Agency to take due account of the European Parliament's recommendations contained in its resolutions;

General points concerning the bodies referred to in Article 185 of the Financial Regulation

23. Takes note of the fact that there is an imbalance between administrative and operational expenditure in many Agencies, with administrative expenditure exceeding expenditure for operational purposes;

24. Takes the view that these Agencies should have more operational tasks; they could for example be entrusted with executing Community programmes in the field of education or health thereby avoiding the creation of further executive agencies by the Commission; asks the Commission to make proposals in this respect by 30 June 2003 at the latest and before creating any further executive agencies;

25. Recalls that independent *ex ante* control of the Agencies by the Financial Controller of the Commission has ceased to exist;

26. Is worried that the absence of outside *ex ante* verifications of financial operations might increase the risk of irregularities and mismanagement; invites therefore:

— the Court of Auditors to increase the number of checks carried out by its auditors,

— the Agencies to review and modify thoroughly their procedures for implementing their budget in order to counter this risk;

27. Asks the Agencies to bring their procedures for implementing the budget in line with the requirements of the new Framework Financial Regulation ([1]) as soon as possible and by 1 July 2003 at the latest;

28. Recalls that the Agencies shall adopt their own financial rules, which may not depart from the Framework Financial Regulation except where their specific operating needs so require and with the Commission's prior consent; asks the Court of Auditors to give an opinion on all financial provisions adopted by the Agencies which depart from the Framework Financial Regulation;

29. Underlines in particular the strict segregation of duties between authorising officers and accounting officers and the enhanced role of the latter in:

(a) laying down and validating the accounting systems,

(b) keeping the accounts,

(c) validating systems laid down by the authorising officer to supply accounting information,

(d) cooperating with the Commission's accounting officer,

(e) preparing and presenting the financial statements and the reports on implementation of the budget;

30. Stresses that accounting officers shall be appointed by the management boards of the Agencies on the grounds of particular competence as evidenced by diplomas or by equivalent professional experience; recalls that they shall not be hierarchically subordinated to authorising officers;

31. Asks the Agencies to fully respect the rules for procurement procedures as laid down in the Financial Regulation; stresses that open calls for tenders must be used as much as possible in order to enhance transparency and to ensure equal treatment of potential tenderers;

32. Calls upon the Agencies to monitor closely the granting of leave on personal grounds, in order to ensure that conditions of transparency and separation of interests are met;

33. Recalls that non-respect of public procurement rules is not only potentially detrimental to the financial interests of the Agencies but can also be a criminal offence under the law of Member States;

([1]) OJ L 357, 31.12.2002, p. 72.

34. Asks the Court of Auditors to report at the next opportunity on whether the Community bodies duly cooperate with the European Anti-Fraud Office (OLAF) and apply the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by the OLAF ([1]) unreservedly; also asks the Court of Auditors to evaluate the effectiveness of this cooperation on the basis of the cases processed so far;

35. Notes that the Court of Auditors deplores the practice of 'super-user' rights in computerised systems (where one and the same person is able to discharge the duties of the manager, the authorising officer, the financial controller and the accounting officer) as incompatible with the principle of the separation of duties; asks all the Agencies to ensure that such 'super-user' rights are no longer attributed;

36. Stresses that computerised systems must guarantee the existence of a complete audit trail for each operation and for any change made to the system so that it is possible at any time to identify the nature of the change and the person who made it;

37. Invites the Commission, with a view to accelerating the efforts towards preparing integration of the future Member States, to make proposals to foster better functioning of these Community bodies, ensuring better value for money through a cost/benefit analysis, and avoiding any unnecessary proliferation of agencies; such proposals may provide, for bodies entrusted with similar tasks, for the setting-up of common boards;

38. Considers it out of the question, on grounds of efficiency and cost, to expand further the administrative boards of the Community bodies during the forthcoming enlargement; takes the view that enlargement offers a good opportunity to reconsider thoroughly the composition and working methods of these administrative boards, which are already very ponderous as a rule; calls on the Commission to put forward appropriate proposals by 31 July 2003 to amend the constituent acts of Community bodies accordingly and, in so doing, to examine whether provision could be made for common administrative boards for bodies with similar responsibilities;

39. Recalls the Court of Auditors' observation ([2]) that there is a risk of directors of Community bodies becoming too dependent on the Commission; calls therefore on the Commission to submit by 31 July 2003 an amendment to the constituent acts of the agencies to ensure that the directors of Community bodies may in future be appointed only with the assent of Parliament;

40. Invites the Commission to make an overall study of activities currently deployed by various Community bodies that may overlap or serve the same goals in order to propose appropriate solutions including possible mergers of agencies; notes that the Commission has stated a possible overlap between Cedefop and the ETF in the field of vocational training and between the Foundation for the improvement of Working and Living Conditions and the Agency for Health and Safety and Work ([3]);

41. Invites the Commission furthermore, in line with its proposal on European governance aimed at concentrating its activity on the core tasks, to include in its action programme the appropriate proposals with a view to ensuring that overlapping between the activities of its services and those of the agencies is avoided.

([1]) OJ L 136, 31.5.1999, p. 15.

([2]) Opinion 10/2002 of the Court of Auditors on a Commission proposal for amendment of the constituent acts of Community bodies following the adoption of the new Financial Regulation (OJ C 285, 21.11.2002, p. 4).

([3]) See working document from DG-budget on the management costs and analytical accounts of the decentralised agencies.