

External audit of the implementation of the general budget of the European Union

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External audit of the implementation of the general budget of the European Union

Implementation of the general budget of the European Union (EU) is subject to external audit by the Court of Auditors, the European Parliament and, to a lesser extent, the Council. The Court of Auditors, an independent body, is responsible for verifying the regularity and legality of revenue and expenditure operations and the sound financial management of the finances of the Union. Drawing on the Court's work, the European Parliament exercises constant supervision, which is expressed in its vote giving discharge. For its part, the Council is closely involved in preparing the discharge, its role being to draw up a recommendation to Parliament before the latter decides to give discharge.

Audit by the Court of Auditors

Originally, the Treaty establishing the European Economic Community (EEC) entrusted the **Audit Board** with the task of examining the accounts of all revenue and expenditure shown in the Community budget. That Board, consisting of auditors whose independence was beyond doubt, was appointed for the purpose of establishing that all revenue had been received and all expenditure incurred in a lawful and regular manner, and that the financial management had been sound (Article 206 of the EEC Treaty).

The Treaty amending Certain Financial Provisions, signed in Brussels on 22 July 1975, abolished the Audit Board and created the **Court of Auditors**. Despite its name, the Court, installed on 1 June 1977, has no judicial powers, nor does it have any power to impose penalties or give orders.

Its task, established by the Treaty and set out in greater detail in the provisions of the Financial Regulation, is to conduct an independent audit of the accounts of the Community and of any body instituted by the Community, provided that such audits are not precluded by the constituent instrument (Article 206a of the EEC Treaty, which became Article 248 of the Treaty establishing the European Community (EC)). Auditing of the accounts is designed to establish whether the budget revenue has been received and the budget expenditure incurred in a lawful and regular manner, and whether the financial management has been sound. In other words, the purpose of audit by the Court of Auditors is, first, to provide assurance that the accounts are transparent and reliable and that the operations are lawful and, secondly, to assess whether the management operations have made it possible to meet the objectives laid down in an economical and efficient manner.

The Court of Auditors provides *ex post* auditing which covers revenue and expenditure operations that have already been carried out. Furthermore, in order to complete its task successfully, it has very extensive investigative powers, which means in particular that every institution is required, at the end of each quarter, to send it the documents supporting revenue and expenditure operations.

After the close of each financial year, the findings of the Court's audit are set out in an annual report. That report is forwarded to the other Community institutions and published in the *Official Journal of the European Communities* (since 2003, the *Official Journal of the European Union*). In addition to that annual report, the Court of Auditors may at any time submit observations on specific issues, for example in the form of special reports.

The 1992 Maastricht Treaty, which conferred the status of Community institution on the Court of Auditors, introduced an important innovation: the Court of Auditors was now obliged to provide the European Parliament and the Council with a statement of assurance ('DAS') as to the reliability of the accounts and the legality and regularity of the underlying transactions. This was something different from its traditional tasks, which had been confined to drawing up observations and opinions. If granted, the DAS therefore constituted a real certification of the accounts. Since the very first DAS (relating to implementation of the 1994 budget), the Court has issued a positive DAS and has declared the EU's accounts reliable. However, the Court has been unable thus far to give a full and positive assurance relating to the underlying transactions, and this is often read as a negative opinion on the accounts themselves. Since entry into force of the Amsterdam Treaty in 1999, the DAS must be published in the *Official Journal of the European Union*.

Scrutiny carried out by the European Parliament

As sole budgetary authority between 1958 and 1970, the Council alone was empowered to give discharge to the Commission in respect of the implementation of the budget (Article 206 of the EEC Treaty). The European Parliament was merely kept informed of the discharge given by the Council to the Commission in respect of the implementation of the budget. The Treaty of Luxembourg, signed in 1970, introduced a new feature which provided that such power was to be shared between the Council and the European Parliament (Article 6). Since the entry into force of the Brussels Treaty on 1 June 1977, the European Parliament has played a key role in scrutinising the implementation of the budget inasmuch as the Treaty granted it exclusive competence to give a discharge to the Commission for the definitive closure of the budget (Article 17).

Discharge (provided for in Article 206 of the EEC Treaty, now Article 276 of the EC Treaty) constitutes the final stage in the scrutiny of the budget and is defined as the decision by which the European Parliament, acting on a recommendation from the Council, releases the Commission from its responsibility in respect of budget management, thereby closing the budget. To substantiate its decision, the European Parliament examines the accounts, the financial statement and the analysis of financial management forwarded by the Commission, the annual report, the special reports and the statement of assurance from the Court of Auditors, and the Council's recommendation prior to discharge. Having considered the substance of those documents, the European Parliament then adopts a resolution either giving, postponing or refusing discharge. Since the entry into force of the Maastricht Treaty, the Commission has been obliged to take all appropriate steps to act on the observations addressed to it and included in such resolutions (Article 276(3) of the EC Treaty).

The European Parliament must take a decision on discharge by 30 April of the second year following the financial year that has been closed. However, instead of discharging the Commission from its responsibility for management of the budget, the European Parliament may, if it finds that certain points relating to implementation of the budget have not been made sufficiently clear, decide to postpone the decision giving discharge, in which case the Financial Regulation calls for the problem to be resolved promptly (Article 89). The European Parliament has used that facility a number of times either in order to give itself more time to examine all the documents provided (discharge in respect of 1977) or to impose on the Commission certain conditions which must be fulfilled before discharge can be given (1996 discharge).

The European Parliament may also refuse to give discharge to the Commission. Neither Article 276 of the EC Treaty nor the Financial Regulation make any provision for the principle and procedure for refusing discharge, but refusal is covered by the Rules of Procedure of the European Parliament. Regarded as a political expression of no confidence in the Commission, such refusal remains the exception. It has been used on two occasions (in 1984, in relation to discharge for 1982, and in 1998, in relation to discharge for 1996).

For the purpose of exercising *ex post* assessment, a responsibility allocated to it by the 1975 Brussels Treaty, the European Parliament set up a Committee on Budgetary Control which was entrusted with preparing the procedure for giving discharge to the Commission. As well as preparing for discharge, the Committee, acting on behalf of the European Parliament, is responsible for scrutinising all financial, budgetary and administrative measures relating to the general budget of the Community. It is also responsible for preparing Parliament's position on matters relating to the Financial Regulation, relations with the Court of Auditors and consideration of reports and opinions (see the Rules of Procedure of the European Parliament).

Furthermore, Parliament's powers as regards scrutiny of budget implementation are not restricted to the discharge procedure. Ever since the Maastricht Treaty entered into force in 1993, Parliament has been constantly monitoring budget implementation through its Committee on Budgetary Control. The Treaty on European Union accordingly introduced a system for the European Parliament (in practice, the Committee on Budgetary Control) to hear evidence from the Commission on the implementation of expenditure or the operation of financial control systems as part of the preparations for discharge and also for any other

purpose in connection with the exercise of the Commission's powers in respect of implementation of the budget (Article 276(2) of the EC Treaty).