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Part 3

Protection of the College
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"De-responsibilisation"

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Protection of the College

Parliament has, in successive discharge reports, argued that the Commission as an institution as well as the Commissioners individually, are not sufficiently protected against unpleasant surprises.

With the Eurostat experience in mind it is clear that Parliament cannot accept that Commissioners can be put in a position whereby the only possible explanation the Commissioner can give is "I did not know". Not only the Parliament but also the Commissioners, the Commission and the European Union as such have an interest in getting assurance that Commissioners and the Commission as an institution are protected from the risk of finding themselves in a situation in which the only way out is to plead ignorance.

Such a protection does not currently exist. The Commission's senior bureaucracy has a duty to protect the Institution and its political Members but so far this duty has not been taken seriously.

The big question is of course to understand how a situation such as this can come about. Is it because Commissioners and bureaucracy (tacitly) agree that parochial, narrow "silo-interests" are more important than institutional interests? Or is it because the Commissioners and in particular the Commission's President are not in a position to explain the problem to the bureaucracy? Or is it because the bureaucracy is stronger than the political executives?

It goes without saying that every Commissioner must be accountable for the services under his/her responsibility. It is equally evident that it is for the institution's senior bureaucracy to construct overall control and supervisory systems which allow Commissioners - from day 1 - to take that responsibility.

In order to protect itself structurally from any future scandals concerning the way it manages public money, the Commission must, therefore, give thought to the internal distribution of power in the institution and establish a better balance between those who describe the reality (managers, Directors-General) and those who give an independent check of the description of the reality (controllers, accountants, internal auditors). This should result in effective information to Commissioners and lead to a real take up of responsibility across all levels.

Towards an institutional assurance statement

With the reform, the Commission has taken important steps in the right direction but there are still serious problems to be solved before the Commission is in a position in which it can comply in a meaningful way with the requirements of Article 274 of the Treaty. The discharge authority must also have an overall *institutional* assurance statement to accompany the *departmental* assurance statements which are what it gets under the current accountability structure.

The accountability structures in the Commission should be adapted in such a way that key players in the financial and political management and the internal audit can effectively contribute to the production of the institutional assurance statement by putting their signature to different elements of that statement, namely the ones for which they have responsibility. Otherwise it is most doubtful whether the College will ever be able to get a **global view** of the way in which funds are used.

The main aspect is of course not the signature in itself, but the *effects* of a requirement to sign-off. When people have to sign-off they will think carefully and ask themselves: "Can I really sign this"? If they feel they cannot, they will voice reservations or issue a disclaimer ("I do not know") and seek more detailed information in the future. Reasoned reservations and disclaimers directly from the people with first hand knowledge of the reality are very valuable sources of non-filtered information.

In order to produce a solid institutional assurance statement, Parliament has already proposed that the following signatures be required (in addition to the signatures of the Directors-General on their individual annual activity reports):

The Director-General for Budget

An important element in any organisation's accountability structure is the organisation's internal control system. The internal control system and the 24 internal control standards in the Commission are designed and decided by the Central Financial Service in the Directorate-General for Budget. Therefore the Director-General of the Directorate-General for Budget should give a formal opinion on the *quality and efficiency of the internal control systems*.

The Secretary-General

The Synthesis report is drawn up by a service under the Secretary-General of the Commission.

Parliament found, therefore, that the Secretary General should give a formal declaration of assurance as regards the *quality of the individual declarations* from the managers; the Directors-General.

The internal auditor

The adequacy of the Secretary-General's assurance statement should be assessed by the internal auditor of the Commission in the form of an audit opinion.

The responsible Commissioner

The responsible Commissioner should co-sign the declaration given by the Director-General, as this would bridge the gap between the Director-General's *individual* assurance declarations and the College's *institutional* assurance declaration.

These considerations were set out in Parliament's 2004 discharge report which was adopted by Plenary with an overwhelming majority. However, in spite of the opinion expressed by almost the whole House, the Commission only repeated its confidence in the actual Synthesis report:

"It is the Commission's firm opinion that, either by its content or its form, the Synthesis report is therefore fully in keeping with the Commission's Treaty responsibility and that it serves the common goal of enhanced accountability and clear lines of responsibility".¹

¹ SEC(2006) 1376 COMMISSION STAFF WORKING DOCUMENT Annex to the report from the Commission to the European Parliament on the follow-up to 2004 Discharge Decisions, page 14.

"De-responsibilisation"

The Commission argues that the additional signatures would constitute a "de facto" de-responsibilisation of Directors-General. This is clearly not the case but a way in which senior managers in the centre avoid responsibility and thereby put the political level - the Commissioners - at risk. The College would be much better protected if the sign-offs proposed were to be carried out.

To put it in martial terms: The signature of the Directors-General can be considered as the College's first line of defence. Here, substantial information is gathered, acknowledged and communicated. The possible signature of the Director-General for Budget, the Secretary-General and the internal auditor would constitute a further second, third and fourth line of defence as they would evaluate the information with a different focus and give an additional check on the assurance statements of the individual DGs. Finally, the signature of the responsible Commissioner would indicate an acknowledgment of political responsibility and give further comfort to the College. Comparing the actual defence of the College with what could and should be achieved shows the "unbearable lightness" with which the established powers in the Commission take up their duties.

The proposed additional signatures would indeed not "de-responsibilise" Directors-General but would in fact hand responsibility for control systems and final control results back to where it should be placed: managers in the centre of the organisation and first and foremost DG Budget which was fully "de-responsibilised" by the reform process.

The way in which the Commission bureaucracy has tried to protect the Members of the Commission from the strong criticisms of the Court of Auditors' 2005 Annual Report is a good example of how inadequate the actual level of protection given by the current procedure is. Pointing to someone else, denying that a weakness exists or simply criticising the Court's methodology is regrettably still the main approach.

It is in particular of serious concern that Commissioner Kallas was allowed to tell the Committee on Budgetary Control that in 2005 the Commission recovered more than EUR 2,1 billion and that the Court subsequently informed the Committee that "this figure is not backed by facts"¹.

Some might say this is the result of a "communication problem". It would seem that "misinformation" or "misleading Parliament" would be more adequate expressions. It is in any case clear that the bureaucracy has failed superbly in protecting the Commissioner.

Having regard to the fact that the Union's external auditor as well as the discharge authority share the analysis of the weaknesses in the Commission's way of giving account, it is difficult to understand the Commission's continued inaction.

¹ Letter of 13 November 2006 from Mr Weber, President of the Court of Auditors, to Mr Fazakas, former chairman of the Committee on Budgetary Control

http://www.europarl.europa.eu/comparl/cont/site/calendrier/documents/dec20_06/respuesta_weber.pdf

It is evident that the resources allocated to the improvement of the quality of the accountability instruments are proportional with the political importance given by the Commission to this issue.

What more is needed before the Commission - its President, its Secretary-General and senior management - will take action and improve the current accountability structure?