

EUROPEAN PARLIAMENT

2004



2009

Committee on Budgetary Control

3.9.2007

WORKING DOCUMENT

on "Governance in the European Commission"

Part 4

Governance architecture
Functional reporting lines
National management declarations
Concrete measures towards improved accountability and governance

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Governance architecture

The fundamental weakness of the reform is that the established powers in the Commission brilliantly avoided raising several essential questions about "governance" and consequently did not have to bother with an unpleasant new insight which would have put traditional structures under pressure.

Governance is, essentially, a question of the distribution of powers and of having a solid grip on different interests soundly and logically competing with each other and driving the organisation forward. Governance, in the context of the present working document, is about the position of staff working in accounting and control functions in relation to the managerial level, their empowerment to enforce action, their skills and training.

In any organisation there will always be an unavoidable and more or less tense "conflict of interest" between the managers and those who control the managers. This is not a problem as long as each part of the system respects the role of the other.

The challenge is to find an *appropriate balance* between managers and controllers and to avoid potential misuse from either side. This balance *was not* achieved during the reform process in the Commission, because the established powers carefully avoided two questions which - due to the *silo structure* of the Commission and the *shared management* of 80 % of the budget - are of fundamental importance for the efficiency of the governance construct in the Commission.

The silo structure of the Commission - and the associated concentration of information and power within the Directorates-General - should have made it clear to everybody that there would not be any kind of *serious* governance without *functional reporting lines* between related services *across* the Directorates-General. That did not happen. Shared management should have inspired senior management, with responsibility for governance issues, to consider the need for *national management declarations*. It did not happen either.

Functional reporting lines

"Functional reporting lines" mean an open communication between the *same* groups of professional specialist staff in *different* DGs such as, for instance, IT-staff, internal control staff, internal audit staff, accountants, etc.

This is heretical thinking in an organisation with such a long tradition of a strong hierarchical line of command as the European Commission and it is illustrative of how the established powers in the Commission succeeded in undermining the Financial Regulation's provisions for an (horizontal) Internal Audit Service by setting up parallel internal audit units in each Directorate-General referring to the Director-General and *not* to the Commission's Internal Auditor.

These units are known as "Internal Audit Capabilities" (IAC) and the combined staffing of all IACs is much bigger than total staff in the horizontal Internal Audit Service (about 120 in all IACs and about 60 in IAS).¹

As the Internal Audit Capabilities report directly to the Director-General, they are part of the Directorate-General they audit, which seems, in many cases, to put IAC staff in a very difficult situation. They have to carry out their work on the basis of international standards for internal auditors, but after all, their career prospects are determined by the hierarchy of the Directorate-General they audit!

In 2006, the Internal Audit Service carried out a quality review of all IACs. The objective was to assess the IACs conformity with the Institute of Internal Auditors' standards for the Professional Practice for Internal Auditing and the Code of Ethics. The Internal Auditor concluded that "the effort to increase professionalism and compliance with audit standards has to be maintained" (COM (2007) 280 p. 7).

This means that not only the professionalism of many IACs is questionable, but also their independence, in as far as it is not possible for a head of IAC to address "a party outside the DG" (*idem*).

Open functional reporting lines *between* accounting and control staff *and to* the Accountant, as well as *between* IAC staff *and to* the Internal Auditor, would have been a significant move towards a better balance between managers and controllers and that is, of course, also the reason why it has been so strongly opposed by the established powers. It would have challenged the Director-General's traditional power base.

The price for considering each Directorate-General as an independent fiefdom, with its *own* controllers, its *own* accountants and its *own* internal auditors only reporting to the Director-General, is paid by the institution as a whole and is *inconsistent with the Treaty*, which gives the College a *collective* responsibility.

Functional reporting lines would have been an effective transparency instrument against withholding critical information in the office where all power at DG level is concentrated i.e. the Director-General's; nothing in the reform programme stopped the introduction of this measure, but the established bureaucracy was not willing to favour integrity of information and sharing of functional knowledge.

The non introduction of obligatory reporting lines between controllers and internal auditors in the different DGs and to their counterparts at institutional level - accounting officer and Internal Auditor - illustrates to perfection that fundamental *governance issues* were left out of the reform process and that it therefore comes as no surprise that much is as before.

National management declarations

Parliament's proposal to introduce *ex ante disclosure statements* and an annual *ex post declaration of assurance* (in short: "national management declarations"), and the reasoning

¹ "Annual Report to the Discharge Authority on internal audits carried out in 2006" (COM (2007) 280 p. 7)

behind it, has been discussed extensively during the last three discharge procedures (Mr Wynn, Mr Mulder and Mr Garriga). Plenary has completely followed the Committees' recommendations by adopting all three discharge reports with an overwhelming majority. This is therefore not the place to repeat what has already been said, but a few remarks on recent events shall be added.

Following the Dutch Government's statement on the financial control and regularity of EU funding in the Netherlands in 2006, at the beginning of May 2007 the Commission declared in a press release (IP/07/620) that "The European Commission has long advocated the obligation for Member States to issue annually a national statement of assurance over how EU spending managed at national level is implemented and controlled".

This inspired Mr Bösch (chairman) and Mr Mulder (rapporteur for the 2004 discharge), to issue a common press release, in which they expressed their surprise and further said that "The Commission as institution has *never* been the driving force behind these new instruments". Mr Bösch and Mr Mulder were quite right.

The question of national management declarations was first raised in 2001, at the first so called "Verstehen conference" organised by the then Internal Auditor in the Commission Mr Jules Muis, but it was not the Commission's senior management which gave a positive follow up on such revolutionary thinking. It was the Parliament, and in particular, the Committee on Budgetary Control.

In spite of the fact that 80% of the budget is implemented by national administrative bodies, the Commission management has never stressed the *need* for national management declarations. On the contrary, since the meeting of ECOFIN on 8 November 2005, when the Member States totally rejected Parliament's proposal, the Commission has been very quiet about this issue.

In order to show its claimed interest in a practical and forward looking way, the Commission, could at this stage, where several Member States are developing national management declarations in one form or another, have taken the initiative to assure coordination of the future work.

No one can be interested in 27 different national management declarations to be audited in 27 different ways. The declarations and the audit thereof should evidently be drawn up in such a way, that they could be used by the Commission and the European Court of Auditors. They must therefore be carried out according to the same principles and in a timely manner.

The Commission is best placed to assure the necessary common approach, but so far the institution which "for a long time" claims to have "advocated the obligation for Member States to issue annually a national statement of assurance" has not found it necessary to take an initiative in this sense.

The non introduction of functional reporting lines and national management declarations illustrate fully the Commission central managers' - Secretary General and DG Budget - incredibly (unacceptably?) low appetite for taking leadership on governance issues.

Concrete measures towards improved accountability and governance

In conclusion your rapporteur would like to encourage the Commission to

In general

1. give serious consideration to the Court of Auditor's audit results by focusing on how identified weaknesses can be resolved instead of criticising the Court's audit methodology and ridiculing its findings
2. respect the Treaty, according to which the Commission has the final responsibility for the implementation of the budget

Effects of decentralisation and further improvement of the Commission's efficiency

3. standardise the external image and information offerings of the directorates-general
4. develop further its service culture and customer-based approach
5. become more efficient and overhaul the present decentralisation structures with a view to enhancing efficiency gains; provide information on benchmarking for decentralised areas in the directorates-general
6. present information, on the added-value of programme implementation through executive agencies, compared to the implementation by the respective Directorate-General

Shared management

7. develop efficient supervisory and control systems which together with strong sanctions, can ensure the bridging between "authorisation" of the expenditure (Commission) and the "management" of the expenditure (Member States)
8. publish the list of errors per Member State as established by the Court of Auditors
9. create efficient mechanisms to ensure the prevention and timely identification and correction of errors
10. recognise that financial corrections and recoveries do not make illegal/irregular underlying transactions less illegal/irregular, and act accordingly
11. recognise that the effect of imposing financial corrections is to shift the cost of the illegal/irregular transactions from the EU budget to national taxpayers
12. assume the accreditation of Paying Agencies and Certifying Bodies

13. extend the mandate of the certifying bodies to cover legality and regularity of the expenditure at the level of the beneficiary
14. assume a coordinating role as regards the introduction of common national management declarations and the audit thereof

Governance structure and accountability within the Commission

15. introduce compulsory functional reporting lines
16. place the Internal Audit Service directly under the President of the Commission
17. upgrade the accounting officer to the same grade as his/her operational counterparts
18. change the composition of the Audit Progress Committee so that the number of external members is the same as the number of Commissioners
19. introduce control systems, which would allow individual Commissioners to countersign Director-General's Assurance Statement, without taking responsibility away from the authorising officers
20. issue a Commission wide annual institutional assurance statement which shall be presented to the Committee on Budgetary Control by the President of the Commission
21. invite its Internal Auditor to issue an independent and professional opinion on the Commission's institutional assurance statement.