Accountability in the European Union: Significance, shortcomings and possible ways forward

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My intervention at the Meeting of representatives of SAIs, Parliamentary Audit Committees and the Ministries of Finance of Latvia, Lithuania and Estonia in Vilnius on 17-18 October 2006 provided me with the opportunity to give an explanation with regard to some basic issues and questions on the accountability system in the European Union. My motivation was not only to identify major shortcomings in the European accountability system but especially to provide some ideas for reflections on possible ways forward in order to improve the current situation. The following article aims to provide an overview of the main issues in a concise way.

Introduction

The European Parliament's Committee on Budgetary Control has in recent years given considerable attention to how accountability works - or doesn't work - in the European Union. The Parliament's first point of reference for its analysis is Article 274 of the Treaty.

"The Commission shall implement the budget, in accordance with the provisions of the regulations made pursuant to Article 279, on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management. Member States shall cooperate with the Commission to ensure that the appropriations are used in accordance with the principles of sound financial management".

On the basis of this article, which gives responsibilities to the Commission and to the Member States, Parliament asks the following question:

How are Member States and the Commission dealing with their respective responsibilities under article 274 of the Treaty?

What is Accountability?

The key word in a likely reply to this question is 'accountability'. Accountability is the relation between one who allocates responsibility and one who accepts this responsibility. The one accepting the responsibility will also be required to give an account of actions taken in order to assume the given responsibility. It is of course not sufficient to say "I have assumed my responsibility". How this was done, must also be explained. Parliament looked at this fundamental issue from two different but complementary angles: the Commission's internal control system and the introduction of national management declarations.

Commission's internal control system

In 2000, the Commission initiated an important administrative reform. Management responsibilities were decentralised to Directors-General. As a result Directors-General are now required to draw up an Annual Activity Report and to sign a Declaration of Assurance on the proper use of resources and on the quality of the financial management.
A summary of all the Annual Activity Reports is drawn up by the Commission and sent to Parliament. This summary is known as "The Synthesis Report". The Commission claims that it fully assumes its political responsibility for the implementation of the budget by adopting the Synthesis Report and transmitting it to Parliament. However, the Committee on Budgetary Control - and the European Parliament - are not convinced that the Commission is able to assume its full political responsibility simply by adopting such a report, indeed the Commission must clearly explain the process for producing and adopting the Synthesis report.

**Synthesis Report 2005**

The Commission described the situation in its 2005 Synthesis Report as follows:

"Overall, the Commission considers that the internal control systems in place, with the limitations described in the 2005 annual activity reports, provide reasonable assurance on the legality and regularity of operations, for which the Commission is responsible under Article 274 EC." (COM (2006) 277 page 21).

The Commission's internal auditor wrote in his Annual Report to the Discharge Authority which he must submit according to Article 86,4 in the Financial Regulation:

"Audit work in 2005 shows that the Commission services have made considerable progress in internal control. However, these audits also identified major remaining weaknesses in the design and set up of control systems, and in the effective implementation of standards and controls." (COM (2006) 279 page 12)

Some simple questions remain: "How is it possible for the Commission to have "reasonable assurance" as long as there are "major remaining weaknesses in the design and set up of control systems"?

Can both statements be true? At what point constitute an obstacle to receiving reasonable assurance?

The European Parliament's analysis of the internal control system in the Commission is backed up by the Court of Auditors' audit findings. In its latest Annual Report concerning the financial year 2005\(^1\) the Court has for the first time dedicated a separate chapter to the financial aspects of the Commission's reform programme. In this programme the Court examines the annual activity reports and declarations, the Synthesis report and the application of the internal control standards. The Court's overall conclusion is the following:

"2.25. Despite the progress made by the Commission in strengthening the annual activity reports as an instrument to improve accountability and communication, the Court’s audits revealed significant weaknesses in the supervisory and control systems in several areas of the financial perspectives (31), which have not been taken into consideration in the (annual activity reports and) declarations of the Directors-General."

With this background the Parliament will most probably continue to insist that the Commission organises itself in such a way that the Synthesis Report be signed by one or more of the Commissioner, thus taking political responsibility for the Report for the Report.

\(^1\) [http://www.eca.eu.int/audit_reports/annual_reports/docs/2005/ra05_en.pdf](http://www.eca.eu.int/audit_reports/annual_reports/docs/2005/ra05_en.pdf), chapter 2
The annual activity reports as well as the Synthesis Report are elements in the internal control system in the Commission. The quality and the reliability of these documents as well as the internal control system as it is will never be stronger than the political will behind it. To have or not to have a strong and efficient internal control system is a political question, not a technical one.

**How to hold Member States responsible?**

Although under Article 274 of the Treaty the Commission is responsible for the implementation of the budget, it is not itself implementing a substantial part of the budget on a daily basis. The fact that transactions are financed by the EU budget does not automatically imply that they are also implemented by EU bodies or EU civil servants.

All actions under the Common Agricultural Policy and all Structural measures (about 80% of the budget) are implemented under "shared management". This means that implementation tasks are delegated to Member States and that Member States are responsible for the controls on funds in shared management as described and defined in sector regulations.

Member States are in charge of specific implementation tasks, but not the budgetary implementation as such. The actual responsibility cannot be delegated, in practice; this means that the Commission bears ultimate responsibility for the proper functioning of management and control systems within Member States.

**Parliament's proposal**

In its 2003 discharge resolution Parliament proposed the introduction of an ex-ante disclosure statement and an ex-post statement of assurance.

The ex-ante disclosure statement should confirm that the organisational structures in place within the Member States comply with the requirements of Community legislation, and that they are expected to be effective in managing the risk of error in the underlying transactions.

The ex-post statement of assurance should be an annual statement from the national manager in which he/she gives a declaration similar to that given by the EU manager (the responsible Director-General of the Commission).

Parliament further proposed that both statements should be signed by each Member State’s highest political and managing authority and found that as a general rule that this role would normally be performed by the Finance Minister.

National management declarations could be a fundamental starting point for any serious audit of how EU money is used. Of course, it is not the signature itself which makes the difference. The added value of any declaration of assurance depends upon its reliability in terms of correctness and completeness. It is therefore necessary to give some thought to what effect an incorrect or incomplete declaration might have.

The Member States do not like Parliament's proposal. They say it is too bureaucratic, too difficult, not necessary, etc. However, the delegation from the Parliament which negotiated the new Inter-institutional agreement coming into force on 1 January 2007 succeeded in getting this point into the text.

"44. (...) Member States (...) undertake to produce an annual summary at the appropriate national level of the available audits and declarations."
This has to be seen as a starting point which will allow us to continue the improvement of making Member States more accountable when it comes to the control of "EU-money".

**Towards a positive DAS**

The European Court of Auditors’ statement of assurance looks at the legality and regularity of the underlying transactions and at the reliability of the Community accounts. It is one of the items examined by Parliament and Council in drawing up the discharge decision.

Since 1994 the Statement of Assurance has been negative. This means that the accounts are generally reliable, but throughout the majority of the budget underlying transactions are not entirely correct and regular.

In its recently presented Annual report for the year 2005 the Court reported considerable progress made by the Commission in introducing its new accounting system, but found weak internal controls for the majority of EU expenditure, both within Member States and at the Commission itself. For several years the European Court of Auditors has indicated that the main problems as regards the legality and regularity of the underlying transactions are located first and foremost at Member State level and to a lesser degree at Commission level.

However, it is a worrying sign that it is in particular the criticisms of the Court in the field of Internal Policies, which is directly managed by the European Commission, which are becoming stronger.

**Final remarks**

Tackling fraud is important but it is even more important to tackle obstacles to strong controls, because inefficient controls are conducive to mismanagement, error, waste and fraud.

This requires, obviously, political will. However, no signature by any Finance Minister or Commissioner is worth much if the necessary improvements in the control system and transactions have not been carried out and cannot be guaranteed.

The same principle has to be applied when it comes to the effort in achieving a positive DAS. We do not want a positive Statement of Assurance at any price. We want better management and crystal clear rules as regards accountability.

More and more pressure is put on the Court of Auditors when it comes to finding explanations for the Court not giving a positive DAS. We should not shoot the messenger, but carefully analyse the message. Only then will we be on the right track towards a positive statement of assurance.