

Summary – EP Audit report

Report:	EP internal Audit on the parliamentary assistance allowances
Reference:	Internal Audit Report no. 06/02 to the Institution
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Pages:	Original audit report is 92 pages
Summary 5 pages:	Paul van Buitenen, MEP Member Committee Budget Control

(Individual findings are highlighted in yellow)

Introduction

Every Member of the European Parliament (MEP) receives a maximum € 15,500 a month as parliamentary allowance to hire assistants. In total we are talking about 785 MEPs, which represents a total yearly allowance for assistants of € 140,000,000. This represents 10% of the annual budget of the EP.

The report presents action plans to solve the problems and to come to a single statute for parliamentary assistants.

The auditor writes that his recommended actions should be ready and submitted by 30 June 2008, if these have to be implemented by July 2009, which is the start of the next parliamentary mandate. In most cases the Parliament Administration supports the proposals of the Internal Auditor. Some improvements can already be introduced right away by the Administration. Other, more substantial reforms, need the change of the regulatory framework by the political authorities (deciding Members and EU Institutions).

The contradictory procedure took 14 months:

- 14.11.06: First draft report issued
- 16.02.07: First draft updated
- 15.05.07: Administration reacted on the first draft
- 31.07.07: Second draft report issued
- 11.09.07: Second draft updated
- 19.11.07: Administration reacted on the second draft
- 04.12.07: Third draft report issued
- 20.12.07: Administration reacted on the third draft
- 09.01.08: Internal Auditor adopts the *report*.

The scope and methods of the audit

The auditor analysed the three different possibilities under which an MEP can contract assistance:

- Direct employment contract between MEP and assistant,
- Contract with a paying agent,
- Contract with a service provider.

As it showed that the service provider contract had a higher risk of irregularities than the other two contract forms, the sample taken from the assistance allowance payments contained a relatively high number of payments to service providers.

It also proved to be necessary to look at the payments that are made at the end of a year, the so-called 'one-off' payments.

A sample of 167 payments on allowances was taken from the 4,700 payments made in October 2004. The audit sample was put together on a random basis, using computer software to determine the sample.¹

An additional sample of 21 payments was taken for the 'one-off' payments, plus 1 'one-off' payment already included in the sample of 167. This additional sample was not randomly selected but focussed on high amounts and unusual payments.²

During the period of the audit, several decisions were taken, which modified the applicable PEAM rules³, and had to be taken into account in the audit. The monthly ceiling for reimbursement of parliamentary assistance allowances was increased four times in that period; from €12,576 to €14,865 to €15,222 to €15,496. Also the deadlines for MEPs, for submission of supporting documents concerning the expenses incurred, were extended several times from 6 months to a year and longer. The extended deadlines necessitated additional audit procedures early 2007 in order to update the audit findings.

Complexity of the current administrative system

The current system in place for managing the parliamentary assistance allowance is very complex, not only for the Administration, but also for the Members. Not only do the PEAM rules allow a variety of contractual formulas, also the different contract requirements between the 27 Member States complicates the situation.

Because of this complex situation, Directorate General (DG) Finance cannot monitor effectively the legality, regularity and sound financial management of the Members' contractual arrangements.

A possible solution would be the hiring of much more and specialised staff to enable the management of this complex system. Such a solution is not supported by the report. Instead, it is proposed to revise the legal framework for parliamentary assistance, which would achieve the required level of assurance and also rationalise and simplify the administrative management.

In a first phase, the service provider contracts should be replaced by standard employment contracts for parliamentary assistants. In a second phase, all parliamentary assistants should be appointed as contractual agents of the European Union.

As a result of the extensive consultation process between the Internal Auditor and the Administration (DG Finance), there is a broad consensus in the Administration on the action plans to improve the situation. However, the Administration points out that the political authorities in Parliament, but also the Council and Commission, should be prepared to reform the current regulatory framework to enable many of the action plan proposals.

What assistance tasks and which costs to be reimbursed

There is almost no guidance to the Members on the contents of the assistance contracts to be used. Present contractual descriptions of the tasks to be performed by assistants are vague and leave room for abuses. In the contract for each assistant, a clear and all-including description should be included

¹ Note not included in the audit report, but added as clarification for the reader: The fact that the sample was put together at random means that one may expect to have the same spread of irregularities, found in this sample, in the rest of the 4,700 payments of October 2004, for each of the separate contract categories.

² Note not included in the audit report, but added as clarification for the reader: The fact that the sample was not put together at random, but on the basis of expected higher risk for irregularities, means that the number of irregularities in the remainder of the 'one-off' payments outside the sample will be relatively lower.

³ PEAM: Rules governing the Payment of Expenses and Allowances to Members

of the tasks to be carried out. Furthermore, the present PEAM rules do not limit the amount of monthly remuneration that can be paid to a single assistant, which puts the effective maximum at €15,496. Therefore there is often no proportionality between the tasks performed and the remuneration received by a parliamentary assistant.

The audit report gives a number of examples to what situations this leads:

1. Payment of full allowance to a service provider with only one accredited assistant (1 case),
2. Payment of full allowance to a service provider with no accredited assistants (2 cases),
3. Payment of allowance to a company with no activity shown in annual accounts (1 case),

4. Payment of allowance to service provider with irrelevant activities (2 cases).
In the first case the service provider's area of business was the provision of child care. In the second case, the business appeared to be the trading of wood.

The internal auditor states that it is reasonable, in view of the representative sample being used, to suppose that similar anomalies will be found elsewhere in the contracts of other members that are outside the sample.

The Parliament Administration said in reply to the auditor that retroactive correction and clarification was not possible as a legal basis was lacking in the rules. Also PEAM rules do not foresee a limit to the individual parliamentary allowance, other than the annual ceiling per MEP (now €185,952).

The sample of 167 payments contained also 42 'lay-off' payments to assistants of Members who did not get re-elected.

Ten of these payments were made in breach of the PEAM rules as they continued to be under contract of an MEP who was still in office.

One assistant received during the lay-off period of 3 months an accumulated monthly salary of €8,890. He accumulated lay-off payments from 5 MEPs, continuing payments from 3 re-elected MEPs and payments from 4 newly elected MEPs, thus receiving at the same time part-time payments from 12 (former) MEPs during three months.

In two other cases the MEPs raised the salary of two assistants with 71% and 117% during the lay-off period, in order to exhaust the balance available.

With regard to the examined 22 (21+1) 'one-off' payments, 16 payments resulted in using up the balance of the available allowances for the MEPs concerned. For 18 of the 22 payments, no justifying documentation was found for the payments. In five cases the amounts paid varied between 3x and 19x the amount of their normal monthly salary. In one case this payment was made, without tax or social security deduction, to a bank account in a country that was not the country of residence or place of work of the assistance.

The Parliament Administration said in reply to the auditor that the Parliament's Financial Regulation does not provide a legal basis to limit the amounts of 'one-off' payments.

Service contracts: social security, taxes and invoices

For 79% of the audited payments (122 of 155) to which the VAT rules apply, no evidence was found for registration for VAT or exemption from VAT.

For 90% of the audited contracts (44 of 49) for individual self-employed providers, no evidence was found of coverage by a social security scheme.

For 83% of the Belgian service providers there was no evidence of the required registration in the national database for service providers.

The new CODEX for the hiring of parliamentary assistants by Members, which requires the registration of VAT numbers for these contracts, adopted on 13 December 2006, had not yet been notified to the Members on 19 November 2007 and therefore could not be implemented.

Out of 75 individual payments relating to fees to service providers for parliamentary assistance, only 11 invoices had been received within the required 6 months and none of these contained the minimum required details to represent a valid invoice. After the extended deadline of one year, out of 105 payments, only 42 invoices had been received of which only five included the minimum required details to represent a valid invoice.

In one case the audit found that the organisation that was acting as a service provider was fully owned by the (former) Member who received the services. The company does not appear to conduct regular business, is established in another country than his place of residence and not mentioned in his declaration of financial interests. This case was referred to OLAF and is still under investigation at the date of the finalising of the audit report.

Contracts of employment: social security and travel costs

The audit established that two years after signature of the audited employment contracts, in 26% of the cases no certificates of affiliation to a social security scheme had been submitted to the EP administration. Instead of insisting on certificates of membership of a social security scheme, the Administration of the Parliament accepts other documents such as salary slips as admissible evidence. The Internal Auditor does not consider this as sufficient and it is not in line with the PEAM rules.

Of the audited employment contracts for assistants, fifteen contained provisions for the reimbursement of travel and subsistence costs. Seven of these contracts provided for the monthly payment of a fixed amount. These amounts varied considerably; in one case this amount was three times the amount of the salary of the assistant.

Paying agents managing employment contracts of assistants

Of the audit sample there were 56 payments concerning paying agents. In none of the cases, statements of expenditure were available after the required 6 months. With the second check after more than a year, in only 20 cases (36%) such statements had been submitted. In 75% of the audited contracts managed by paying agents, the payments could not be reconciled with the salaries and social security contributions for the assistants under contract. In 28% of the cases the names of the assistants were not mentioned in the paying agent contract. In 26% of the cases the period of assistants' contracts covered was not mentioned in the paying agent contract.

Additional findings

Previously the Parliament Administration had proposed already to examine the compulsory use of model contracts to be used by Members for their assistants, but this was rejected by the decision making Members in Parliament as interfering with the contractual liberty of the Members and their contracting parties.

A company contracted by a Member provided full details such as VAT number, legal form and address. However there are serious doubts about the existence of this company:

- The VAT number could not be confirmed through the EC taxation and customs Union website,
- The company's name could not be found in the applicable national company register,
- The telephone number appeared to belong to another company at another address,
- The company's legal representative lived at considerable distance from the company location.

Another Member contracted two individuals for assistance. The task descriptions were very vague and there was no evidence of a self employed status of these individuals. The Member appeared to be a director of a consultancy company in investments and the two contracted individuals appeared to be senior managers in that same company.

Another Member contracted an individual with the same name of that of his wife. His wife's professional activity appeared not to be one of a self-employed service provider.

In three cases the payments to the service providers were made to bank accounts that belonged to the Member.

Parliament's Administration informed the Internal Auditor that leading Members (political authority) had decided at the end of 2006 that no action would be taken anymore with regard to lacking documentation for the years 2004 and 2005. This because:

- The deadline for submission of documents had been changed several times,
- The requirements concerning supporting documents had changed,
- A majority of Members had already submitted documents for 2004 and 2005.