

Discharge procedure for the EU budget

Political scrutiny of budget implementation

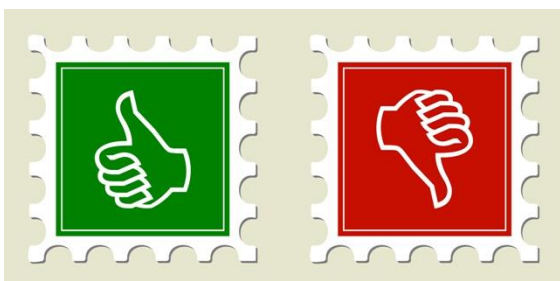
SUMMARY

The European Commission is ultimately responsible for the execution of the European Union's budget. However, this involves a range of actors, including Member States, to which the Commission delegates implementing tasks related to a significant share of the budget.

Each year, the discharge procedure ensures *ex-post* democratic oversight at political level of how the EU's annual budget has been used. It aims to verify whether implementation was in accordance with relevant rules (compliance), including the principles of sound financial management (performance).

The decision on whether to grant discharge for the execution of the EU budget is made by the European Parliament, which acts on a non-binding recommendation by the Council, the other arm of the EU budgetary authority. Another key institution is the European Court of Auditors, the EU's independent external auditor, whose reports are a fundamental part of the procedure.

The discharge procedure has proved to be a powerful tool, which has had an impact on the evolution of the EU's budgetary system, while contributing to increasing the Parliament's political leverage. The Treaty of Lisbon has provided the procedure with a new tool – an evaluation report on the results achieved with the EU's finances – which could increase the focus on monitoring the achievement of policy objectives. In the wake of the euro crisis, another development being debated concerns how to ensure democratic scrutiny of the financial tools that have been created outside the EU's institutional framework and as such are not subject to the discharge procedure.



In this briefing:

- Context
- Main features of the discharge procedure
- Impact of EP decision on discharge
- Evolution and some aspects in focus
- References

Context

EU budget: various implementing methods

In 2012, total EU executed expenditure was over [€135 billion](#) or around 1% of EU gross national income. Member States (MS) implement around 80% of this in "**shared management**" (e.g. in policy areas such as cohesion and agriculture) with the European Commission (EC) and collect traditional [own resources](#) on behalf of the Union. Therefore, while the EC is ultimately responsible for the correct implementation of the budget, it needs to rely on MS' cooperation to meet this goal ([Article 317 TFEU](#)). And while the budget concerned is lower than that under shared management, complexity is further increased with the use of other implementing methods: examples¹ are "**direct management**" with tasks delegated by the EC to agencies with legal personality; and "**indirect management**" entrusted to other entities such as third-country authorities, international organisations and the European Investment Bank (EIB).

Control and audit mechanisms

With the aim of ensuring correct and effective use of EU resources, the new [Financial Regulation](#) (FR) and its [Rules of Application](#) (RA), adopted in 2012, detail key principles that the EC and other parties entrusted with budget implementation must respect. These include control and audit obligations for the various types of implementing methods. Safeguards include internal control systems and external audit activities.

Internal control systems and checks of their effectiveness involve different actors, including MS' national audit bodies (NABs), notably in areas under shared management. In a recent [report](#) on the auditing systems for cohesion spending, for instance, the [European Court of Auditors \(ECA\)](#) notes progress in cooperation between the EC and MS' authorities since 2007, while identifying outstanding weaknesses to be addressed.

For **external audit**, [Articles 285-287 TFEU](#) assign the ECA the crucial role of the EU's independent external auditor. Established in 1977, the ECA has seen its mandate grow over time. Its checks mainly concern three aspects: 1) the reliability of the EU's accounts; 2) the regularity and legality of its transactions; and 3) the soundness of financial management.² [Articles 287 TFEU](#) notes the need for cooperation between the ECA and NABs, as well as for their respective independence to be maintained.

Parliamentary oversight

At political level, oversight of EU budget implementation is a key responsibility of the European Parliament (EP), which has a Budgets Committee (BUDG) and a specific Budgetary Control Committee (CONT). While the EP regularly monitors the implementation of the current year's budget, one of its strongest tools in this area is a form of *ex-post* control, the so-called "**discharge procedure**". Initially given by the Treaty of Rome (1957) to the Council, and then shared by Council and EP for a few years (Luxembourg Treaty of 1970), the power to grant discharge was assigned by the Treaty of Brussels (1975) to the EP. This contributed to increasing the political leverage of the Parliament. The ECA, also introduced by the Treaty of Brussels, is a key interlocutor in the discharge procedure.

Parliamentary scrutiny and approval of accounts, and of how public resources have been spent, are common practice in the vast majority of MS. A 2012 EP study³ compares the approaches in this field across the EU.

Main features of the discharge procedure

Legal basis, rules and functions

[Article 319 TFEU](#) establishes that the EP, acting on a recommendation of the Council (the other arm of the budgetary authority), decides on whether to grant discharge to the EC as regards the implementation of the annual budget of the EU. Further details, for example on the timeframe of the procedure and its application to the European External Action Service (EEAS), are provided by the [FR](#), and notably its Articles 164-167. In addition, the EP has defined internal organisational and operational rules concerning the discharge procedure in its Rules of Procedure (RoP) No [76](#) and [77](#), complemented by [Annex VI](#).

The procedure, which covers the accounts of EU revenue and expenditure, their balance as well as the assets and liabilities of the Union detailed in the balance sheet, performs a two-fold function:

- **Politically**, it represents the assessment by the democratically elected institution on how the EC has performed its task of implementing the budget.
- **Technically**, it allows the accounts of a given year to be closed, which brings the relevant budgetary cycle to an end.

Institutions and bodies other than the EC

Although [Article 319 TFEU](#) only mentions the discharge to the EC, Parliament also grants separate discharge to the other EU institutions, EU agencies and joint undertakings, with a view to ensuring transparency and democratic scrutiny of how public funds have been spent. Therefore, the CONT Committee prepares individual discharge reports for the consideration of the plenary ([Annex VI](#) of the EP's Rules of Procedure). These also include a report for specific discharge of the EC concerning the European Development Funds (EDFs), since the EDFs are not part of the EU budget.

Timeframe and documents

As regards the discharge procedure for **financial year n**, key deadlines and documents include:

- By **31 July of year n+1**, the EC must adopt the final [consolidated accounts of the EU](#) and [its own final accounts](#) and send them to the EP, the Council and the ECA ([Article 318 TFEU](#) and Article 148 FR). Financial statements and reports on budget implementation are included. In addition, by adopting a [synthesis report](#) on its management achievements, the EC takes overall political responsibility for management of the EU budget.
- By **15 November of year n+1**, the [final consolidated accounts](#) are published in the Official Journal of the EU with the [statement of assurance](#) (also known as DAS),⁴ which is the official opinion, based on its audit work, that the ECA gives on their reliability as well as on the legality and regularity of the transactions ([Article 287 TFEU](#) and Article 148 FR). By the same date, the ECA transmits its [annual report on the management of the EU budget](#)⁵ (with replies to its observations) to the discharge authorities and the other institutions. This report contains both the DAS and an assessment on the soundness of financial management (Article 162 FR). The ECA produces a [separate annual report on the EDFs](#).
- In general between the publication of the ECA annual report and **January of year n+2**, [hearings](#) of European Commissioners and senior officials of EU institutions, agencies and joint undertakings take place before the CONT Committee. This enables

the EP to obtain further information and clarifications on spending and management of EU resources.

- By **28 February of year n+2**, the ECA, the EP and the Council receive from the EC a summary of the replies provided by MS on the details of the ECA's annual report related to their management of EU funds (Article 162 FR).
- In **February of year n+2**, acting by qualified majority in its ECOFIN configuration, the Council usually adopts its recommendation to the EP on whether to grant discharge to the EC.
- Before **15 May of year n+2**, taking into account the Council's recommendation, the plenary of the EP considers the discharge reports prepared by its CONT Committee and decides either to grant or postpone discharge (Article 164 FR and [Annex VI](#) of EP Rules of Procedure). On the basis of the EP Rules of Procedure, this vote usually takes place in April.
- If discharge is postponed⁶, in **October of year n+2**, the EP considers new reports prepared by its CONT Committee taking into account any additional elements addressing the reasons for postponement and possibly removing the obstacles to granting discharge. At this stage, the plenary decides either to grant or refuse discharge. If discharge is refused, a subsequent part-session will consider a formal proposal to close the accounts for year n, with the EC invited to make a statement (Annex VI of EP Rules of Procedure).

The Council position is particular, since at the same time it is one arm of the budgetary authority and prepares the non-binding recommendation on discharge, while MS implement around 80% of the EU budget in shared management.

[Article 319 TFEU](#) details the documents that, in turn, the Council and the EP examine in the framework of the discharge procedure. In addition to the accounts and financial statement produced by the EC and the annual report and DAS of the Court of Auditors, these include any [ECA special reports](#) relating to soundness of management in specific sectors/policies and relevant to the financial year in question. Furthermore, the Treaty of Lisbon has created a new tool, an annual [evaluation report](#) to be produced by the EC on the results achieved with the EU's finances ([Article 318 TFEU](#)).

Impact of EP decision on discharge

An important tool

In practice, the power to grant discharge has proved to be a significant tool allowing the EP to increase its **influence** on the way the EC operates. This is true not only in the exceptional case of refusal to grant discharge, but also when discharge is granted. In addition, should the relevant decision be postponed, [Article 164 FR](#) calls for the EC to take promptly all measures necessary to remove the obstacles to granting discharge.

Political significance

Although [Article 319 TFEU](#) does not explicitly mention refusal of discharge, this has been considered an implicit power of the EP. Therefore, Parliament's RoP ([Annex VI](#)) detail relevant procedures in such a case, including those allowing the necessary technical closure of the accounts.

While refusal of discharge to the EC does not imply immediate **legal consequences**, it is seen to have major **political consequences**. It does not represent a censure motion⁷ proper ([Article 234 TFEU](#)), but its exceptional character and symbolic significance could eventually lead to such a motion.

Up to now, the EP has twice refused to grant discharge to the EC. In 1984 (for financial year 1982), the EC, which was very close to the end of its term in office, did not resign. In contrast, resignation did take place a few months after the 1998 discharge refusal (for financial year 1996), following publication of the report of a committee of independent experts (called for in an EP resolution on improving the financial management of the EC). Reaction to the content of this report raised the prospect of Parliament adopting a censure motion, but on 15 March 1999 the entire European Commission under President Jacques Santer resigned before this could take place.

Obligation to act on observations

An EP resolution with observations on the implementation of the budget is an integral part of the discharge decision. Parliament carries out a thorough analysis of relevant information. For example, for Section III of the EU budget (EC and executive agencies), the [resolution for financial year 2011](#) covered more than 300 points.

On the basis of [Article 319 TFEU](#) and [Article 166 FR](#), the EC and the other institutions have a **legal obligation** to take all appropriate measures to address the EP's observations on the execution of expenditure, as well as the Council's comments in its recommendation on discharge. Failure to act can trigger an action before the Court of Justice of the European Union ([Article 265 TFEU](#)), as recalled in Parliament's RoP.

Reporting

[Article 319 TFEU](#) and [Article 166 FR](#) provide for the EC to report to Parliament and Council on the measures taken in relation to discharge observations and comments. For instance, in its report on the [follow-up to the discharge for financial year 2011](#), the EC accepted to start new actions on 181 requests but rejected 41 requests. It also considered that in the remaining 252 cases relevant measures had already been taken or were ongoing. This follow-up report is examined by the EP and the Council in the framework of the subsequent discharge procedure.

Evolution and some aspects in focus

In general, analysts consider that the discharge procedure has significantly influenced the evolution of the EU's budgetary system⁸ and that the EP has been able to use the potential embedded in the right to grant discharge,⁹ contributing to a strengthening of Parliament's role in the EU institutional framework. A number of aspects discussed below may have an impact on future developments in the discharge procedure.

Relations between Parliament and Council

The fact of granting discharge separately to the different EU institutions and agencies (as set in [Annex VI](#) of the EP's Rules of Procedure) has created friction between Parliament and Council. Regretting a lack of cooperation from the Council (often as far as the provision of information is concerned), the EP [refused](#) to grant discharge for the implementation of the Council's budget in financial years 2009, 2010 and 2011. At a [2012 Workshop](#) organised by the EP on the European Parliament's right to grant discharge to the Council, legal experts had different opinions on the topic. However, to a great extent, they agreed on the EP's right to obtain information (at least indirectly through the EC).

Responsibilities in shared management

In shared management, the EC delegates implementing tasks to MS. Their respective responsibilities in this implementing method, which is by far the main one for the EU

budget, have long been the subject of debate. The new FR ([Article 59](#)) has introduced the requirement for MS' management authorities in charge of implementing EU funds to provide the EC each year with a set of documents, which include: their accounts together with a management declaration; a summary of their final audit report and of controls; and an opinion from an independent audit body. The EP has [welcomed](#) this evolution, while formulating a series of observations for the effective implementation of these provisions.

An increasing focus on results

A fundamental aspect of discharge is the control of **compliance**. This involves checking whether resources have been used according to relevant rules, and that the accounts accurately reflect income and expenditure. Another key element is the control of **performance**, with the discharge authority taking into due account, for example, [ECA special reports](#) on the soundness of financial management in specific areas.¹⁰

Following the Lisbon Treaty (see above), the new EC evaluation report on the EU's finances in relation to the results achieved should allow a further increase in the focus on performance. In its [resolution on discharge](#) of 17 April 2013, the EP welcomed progress in the way the EC presented this report, but asked for further improvements. Point 29 of the [new inter-institutional agreement](#) (IIA) between the EP, the Council and the EC on budgetary matters incorporates Parliament's requests that the evaluation report differentiate between internal policies (with a focus on the Europe 2020 Strategy) and external policies, while increasing the use of performance information (e.g. results of [performance audits](#)).

This is in line with a general trend, which the EP has repeatedly supported, towards strengthening tools which focus on results and their achievement. [Articles 30\(3\) and 38\(3\) FR](#), for example, provide for the establishment of and reporting on specific, measurable, achievable, relevant and timed objectives for all sectors of activity covered by the budget. Operational programmes implementing the [2014-20 Multiannual Financial Framework \(MFF\)](#) are required to apply these provisions. In January 2014, the CONT Committee (rapporteur: Michael Theurer, ALDE, Germany) adopted an [own initiative report](#) on the EC evaluation report as a new tool for the improved discharge procedure. The plenary [endorsed](#) this in February 2014.

Democratic scrutiny of tools created to address the euro crisis

In the wake of the [euro crisis](#), MS and EU institutions have taken several measures to strengthen economic governance. These included the creation of financial tools outside the EU institutional framework, notably the [European Stability Mechanism \(ESM\)](#), which was established by means of an [intergovernmental Treaty](#) and is not subject to the discharge procedure. This has raised questions in relation to the democratic scrutiny of such tools, with Parliament expressing concern in this respect and [calling for](#) the ESM to be discussed at least once a year in an EP plenary debate in the presence of the Council and the EC. The Economic and Monetary Affairs Committee (ECON) of the EP [prepared](#) an enquiry report (rapporteurs: Othmar Karas, EPP, Austria and Liem Hoang Ngoc, S&D, France) on the activities of the Troika (European Central Bank, EC and International Monetary Fund) with regard to the euro area programme countries (Cyprus, Greece, Ireland and Portugal). The [resolution](#) adopted in plenary on 13 March 2014 makes reference to the ESM, underlining that it should evolve towards the Community method and be made accountable before the EP. In its [opinion](#) to the ECON Committee on the

draft, the CONT Committee (rapporteur: Michael Theurer, ALDE, Germany) supported this position, formulating suggestions to ensure full democratic accountability over the ESM.

References

[European Union Public Finance \(Fourth edition\)](#) / European Commission, 2008, 427 p.

Endnotes

- ¹ Further to the new [Financial Regulation](#) of the EU, which has sought to streamline implementing methods.
- ² On the basis of the Financial Regulation (Article 30), financial management is sound when it applies the principles of economy, efficiency and effectiveness.
- ³ [Parliamentary Control of Budget Implementation](#) / Kanis A.M., European Parliament, Directorate-General for Internal Policies, Policy Department D – Budgetary Affairs, 2012.
- ⁴ The acronym comes from *Déclaration d'Assurance*, its French name.
- ⁵ Since the 2007 financial year, the ECA's assessment has always been that the accounts presented EU income and expenditure in an accurate and complete way. For 2012 (and for previous financial years), the ECA did not give an assurance of the legality and regularity of payments because of their estimated error rate, which was 4.8%. Weaknesses were detected both at MS and EC level, with a 5.3% error rate for expenditure in shared management and a 4.3% rate for budget directly managed by the EC. The benchmark used to assess whether errors are material plays an important role in the establishment of the ECA's opinion: in general, the Court uses a 2% error rate as materiality threshold for its DAS audits, but [indicates](#) that it might consider a different level (or differentiated levels for individual policy areas on the basis of their characteristics) to take into account requirements stemming from the discharge authorities. A [2008 EC Communication](#) launched a debate on these aspects. In any case, the ECA [draws attention](#) to the fact that a simplistic interpretation of the error rate should be avoided and that errors do not necessarily mean fraud (for example, a complex implementation framework can contribute to errors).
- ⁶ Historically, practical examples of reasons for postponing discharge include requests for the EC to provide additional information (1990 discharge), to amend some documents on which the decision is to be based (1980 and 1985 discharges) or to meet certain conditions first (1996 discharge).
- ⁷ A censure motion is a vote of no confidence. If the EP plenary supports a censure motion (by a majority of component Members and two-thirds of votes cast), the entire European Commission must resign.
- ⁸ See for example: [Understanding the EU budget](#) / Patterson B., 2011, pp. 84-86.
- ⁹ See for example: [Le budget de l'Union européenne](#) / Saurel S., 2010, pp. 75-77.
- ¹⁰ In September 2013, the CONT Committee of the Parliament organised a public hearing entitled "[European Court of Auditors: from legality and regularity audits to evaluation of efficiency and effectiveness of EU projects and programmes. The special reports as a useful instrument for the legislator](#)".

Disclaimer and Copyright

This briefing is a summary of published information and does not necessarily represent the views of the author or the European Parliament. The document is exclusively addressed to the Members and staff of the European Parliament for their parliamentary work. Links to information sources within this document may be inaccessible from locations outside the European Parliament network. © European Union, 2014. All rights reserved.

Photo credits: © Mahesh Patil/ Fotolia.