

Discharge to the Council and European Council

The discharge procedure is a powerful tool through which the European Parliament (EP) carries out ex-post democratic oversight at political level of how the EU budget has been used. The EP's granting of separate discharge to the Council appears to be a source of friction between the two institutions. For three consecutive years, Parliament has refused to grant discharge for the execution of the Council's section of the budget, regretting the lack of cooperation from the Council in the process. In April 2014, the outgoing Parliament postponed its decision on the discharge to the Council and European Council for financial year 2012. The EP's final vote on the topic is due in October, on the basis of a new report adopted by its Budgetary Control Committee.

Legal basis of the discharge procedure

Article 319 of the Treaty on the Functioning of the European Union (TFEU) establishes that the EP, acting on a non-binding recommendation of the Council (the other arm of the budgetary authority), decides whether to grant discharge to the European Commission as regards the implementation of the annual budget of the EU. The procedure aims to verify whether implementation was in accordance with relevant rules (compliance), including the principles of sound financial management (performance). The EU's [Financial Regulation](#) (FR) provides further details on discharge, mostly under its Articles 164-167. The TFEU mentions the Commission as the institution subject to discharge. The FR includes references to other entities: for example, Article 166 puts an obligation to ensure the follow-up of EP observations linked to discharge decisions not only on the Commission, but also on the other institutions. For its part, Article 208 provides for discharge scrutiny to apply to bodies with legal personality, set up under the TFEU or the Euratom Treaty, and which receive contributions from the EU budget. The FR applicable since 2013 has specific provisions (Article 167) on the application of the discharge procedure to the European External Action Service (EEAS).

In practice, the EP grants separate discharge to EU institutions and bodies, with a view to ensuring overall transparency and democratic scrutiny of how public funds have been spent. To this end, the EP has defined internal organisational and operational rules concerning discharge in its Rules of Procedure (RoP): Rules [93](#) and [94](#), complemented by [Annex V](#). On this basis, the EP's Budgetary Control (CONT) Committee prepares separate discharge reports, including one on the EP itself, for consideration in plenary, whereupon Parliament decides on whether discharge should be granted, postponed or refused to every institution or body.

Discharge to institutions other than the Commission: a few dates

The separate granting of discharge to institutions other than the Commission emerged in the 1990s. For financial year 1995, Parliament took one single [decision](#) granting discharge to the Commission for all the sections of the general budget, although [section III \(Commission\)](#) and [other sections](#) were already dealt with in two separate reports by the Budgetary Control Committee. In this context, the EP [instructed](#) the Committee to consider whether to elaborate an appropriate procedure to examine the implementation of the Council's section of the budget, which had not been covered by either report. This followed a similar request included in a [1995 resolution](#) for the budget sections covering the European Court of Justice, the European Court of Auditors (ECA), the Committee of the Regions and the Economic and Social Committee.

However, in the framework of the following discharge procedure, for financial year 1996, the EP came to different conclusions on different sections of the general budget: Parliament [refused](#) to grant discharge to the Commission, whilst [granting](#) it for the sections of the budget managed by the European Court of Justice, the ECA, the Committee of the Regions and the EP itself, and [postponing](#) its decision on the Economic and Social Committee. The Council's section of the budget was not covered.

In March 2002, the Budgetary Control Committee [considered](#) that, while in the past the two arms of the EU budgetary authority had not examined each other's accounts, the volume of the respective budgets and the growing operational part in that of the Council justified scrutiny of Parliament and Council's expenditure in the context of the discharge procedure. Further to the Council promising that it would provide additional information on expenditure related to the common foreign and security policy, the plenary [referred back](#) the report to the Committee. The [final decision](#) for that year acknowledged the receipt of additional information, but mentioned the need to clarify the arrangements. The document also took note of progress further to the EP's request of 2001 that the ECA broaden the scope of its auditing activities to the Council in order for Parliament to have relevant information to make observations on that section of the budget.

In 2003, the EP eventually [started](#) to take a separate discharge decision for the Council's section of the budget. On the first two occasions, concerning financial years 2001 and 2002, the text specified that the decision related to operational expenditure. This distinction was dropped from financial year 2003 onwards.

Separate discharge to the Council: a source of inter-institutional friction

The EP's decision to scrutinise the Council's section of the budget has created growing friction between the two institutions, proving to be politically sensitive. For financial year 2008, the CONT Committee unanimously [proposed](#) that the discharge decision concerning the Council's budget be postponed. However, the plenary rejected the report, [granting](#) discharge to the Council, to which the EP addressed a series of [observations](#). These included points on a 'Gentlemen's Agreement' of 1970, which the Council interpreted in the sense that the two institutions would refrain from scrutinising each other's budget. Parliament deemed this interpretation too wide, since the Gentlemen's Agreement referred only to the preparation of the budget and not to the ex-post scrutiny of its implementation, and added that the document was non-binding.

Regretting a repeated lack of cooperation from the Council as far as its provision of information is concerned, the EP eventually refused to grant discharge for the implementation of the Council's budget in financial years [2009](#), [2010](#) and [2011](#) (the last year's also including the European Council). At a [2012 workshop](#), organised by the CONT Committee, 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 Commission).

Discharge for financial year 2012

In April 2014, the issue resurfaced in the framework of the discharge procedure for financial year 2012, when the EP postponed the approval of the accounts only for the [Council and European Council's](#) section of the EU budget, on the grounds of lack of cooperation, and for the [budget of the Body of European Regulators for Electronic Communications \(BEREC\)](#), due to weaknesses in budgetary management. In September 2014, the CONT Committee adopted new discharge reports for both cases, proposing refusal of discharge in the case of the [Council and European Council](#) (rapporteur: Tamás Deutsch, EPP, Hungary) and granting discharge for [BEREC](#) (rapporteur: Petri Sarvamaa, EPP, Finland). The plenary is due to consider the two reports in October 2014.

Responsibility for the implementation of the EU budget

The debate on discharge is also linked to where responsibility lies for the implementation of the EU budget. On the basis of [Article 317 TFEU](#), the European Commission is ultimately responsible for the correct implementation of the EU budget, but needs to rely on the cooperation of EU Member States to meet this objective. This takes into account the fact that Member States actually implement around 80% of the budget under so-called 'shared management'. The framework is further complicated by the existence of other implementation methods, which include, for example, cases of 'direct management', whereby the Commission delegates tasks to agencies with legal personality; or 'indirect management' entrusted to other entities such as third-country authorities, international organisations and the European Investment Bank (EIB). As regards the implementation of sections of the EU budget managed by EU institutions other than the Commission, the EP draws attention to Article 335 TFEU ('the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation') in conjunction with Article 55 FR ('The Commission shall confer on the other institutions the requisite powers for the implementation of the sections of the budget relating to them'), concluding that each institution is responsible for the implementation of its own budget.