

# EUROPEAN PARLIAMENT

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**A6-0129/2008**

3.4.2008

## REPORT

on discharge in respect of the implementation of the budget of Eurojust for the  
financial year 2006  
(C6-0380/2007 – 2007/2055(DEC))

Committee on Budgetary Control

Rapporteur: Hans-Peter Martin

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## **1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION**

**on discharge in respect of the implementation of the budget of Eurojust for the financial year 2006  
(C6-0380/2007 – 2007/2055(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of Eurojust for the financial year 2006<sup>1</sup>,
  - having regard to the Court of Auditors' report on the final annual accounts of Eurojust for the financial year 2006, together with Eurojust's replies<sup>2</sup>,
  - having regard to the Council's recommendation of 12 February 2008 (5843/2008 – C6-0084/2008),
  - having regard to the EC Treaty, and in particular Article 276 thereof,
  - having regard to the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>3</sup>, and in particular Article 185 thereof,
  - having regard to Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime<sup>4</sup>, and in particular Article 36 thereof,
  - having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002<sup>5</sup>, and in particular Article 94 thereof,
  - having regard to Rule 71 of and Annex V to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0129/2008),
1. Grants the administrative director of Eurojust discharge in respect of the implementation of Eurojust's budget for the financial year 2006;
  2. Sets out its observations in the resolution below;
  3. Instructs its President to forward this decision and the resolution that forms an integral part of it to the administrative Director of Eurojust, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the Official Journal of the

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<sup>1</sup> OJ C 261, 31.10.2007, p. 57.

<sup>2</sup> OJ C 309, 19.12.2007, p. 111.

<sup>3</sup> OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

<sup>4</sup> OJ L 63, 6.3.2002, p. 1. Decision as amended by Decision 2003/659/JHA (OJ L 245, 29.9.2003, p. 44).

<sup>5</sup> OJ L 357, 31.12.2002, p. 72.

European Union (L series).

## **2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION**

**on the closure of the accounts of Eurojust for the financial year 2006  
(C6-0380/2007 – 2007/2055(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of Eurojust for the financial year 2006<sup>1</sup>,
  - having regard to the Court of Auditors' report on the final annual accounts of Eurojust for the financial year 2006, together with Eurojust's replies<sup>2</sup>,
  - having regard to the Council's recommendation of 12 February 2008 (5843/2008 – C6-0084/2008),
  - having regard to the EC Treaty, and in particular Article 276 thereof,
  - having regard to the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>3</sup>, and in particular Article 185 thereof,
  - having regard to Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime<sup>4</sup>, and in particular Article 36 thereof,
  - having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002<sup>5</sup>, and in particular Article 94 thereof,
  - having regard to Rule 71 of and Annex V to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0129/2008),
1. Notes that the final annual accounts of Eurojust are as annexed to the Court of Auditors' report;
  2. Approves the closure of the accounts of Eurojust for the financial year 2006;
  3. Instructs its President to forward this decision to the administrative director of Eurojust, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the Official Journal of the European Union (L series).

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<sup>1</sup> OJ C 261, 31.10.2007, p. 57.

<sup>2</sup> OJ C 309, 19.12.2007, p. 111.

<sup>3</sup> OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

<sup>4</sup> OJ L 63, 6.3.2002, p. 1. Decision as amended by Decision 2003/659/JHA (OJ L 245, 29.9.2003, p. 44).

<sup>5</sup> OJ L 357, 31.12.2002, p. 72.

### 3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with observations forming an integral part of the decision on discharge in respect of the implementation of the budget for Eurojust for the financial year 2006 (C6-0380/2007 – 2007/2055(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of Eurojust for the financial year 2006<sup>1</sup>,
  - having regard to the Court of Auditors' report on the final annual accounts of Eurojust for the financial year 2006, together with Eurojust's replies<sup>2</sup>,
  - having regard to the Council's recommendation of 12 February 2008 (5843/2008 – C6-0084/2008),
  - having regard to the EC Treaty, and in particular Article 276 thereof,
  - having regard to the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>3</sup>, and in particular Article 185 thereof,
  - having regard to Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime<sup>4</sup>, and in particular Article 36 thereof,
  - having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002<sup>5</sup>, and in particular Article 94 thereof,
  - having regard to Rule 71 of and Annex V to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A6-0129/2008),
- A. whereas the Court of Auditors stated that it has obtained reasonable assurance that the annual accounts for the financial year 2006 are reliable, and the underlying transactions are legal and regular,
- B. whereas on 24 April 2007 Parliament granted the director of Eurojust discharge in respect of the implementation of the Agency's budget for the financial year 2005<sup>6</sup>, and in its resolution accompanying the discharge decision *inter alia*

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<sup>1</sup> OJ C 261, 31.10.2007, p. 57.

<sup>2</sup> OJ C 309, 19.12.2007, p. 111.

<sup>3</sup> OJ L 248, 16.9.2002, p. 1. Regulation as last amended by Regulation (EC) No 1525/2007 (OJ L 343, 27.12.2007, p. 9).

<sup>4</sup> OJ L 63, 6.3.2002, p. 1. Decision as amended by Decision 2003/659/JHA (OJ L 245, 29.9.2003, p. 44).

<sup>5</sup> OJ L 357, 31.12.2002, p. 72.

<sup>6</sup> Texts adopted, P6\_TA(2007)0121.

- invited Eurojust to improve the forecasting of its operating expenditure;
- noted that in 2005 Eurojust still did not have its own internal financial regulation (although according to Eurojust's replies a text was agreed with the Commission and adopted by the College on 20 April 2006);
- invited Eurojust to inform Parliament about the adoption by its Board of any internal control standards;
- asked Eurojust to present Parliament with a short description of any improvements in checklists concerning procurement and recruitment procedures in time for the 2006 discharge procedure,

***General points which relate to horizontal issues affecting the EU agencies and which therefore also have a bearing on the discharge procedure for each individual agency***

1. Notes that the budgets of the 24 agencies and other satellite bodies audited by the Court of Auditors totalled EUR 1 080,5 million in 2006 (the biggest being that of the European Agency for Reconstruction at EUR 271 million and the smallest being that of the European Police College (CEPOL) at EUR 5 million);
2. Points out that the range of external EU bodies subject to audit and discharge now includes not only traditional regulatory agencies but also executive agencies set up to implement specific programmes, and will in the near future also extend to joint undertakings set up as public-private partnerships (joint technology initiatives);
3. Observes as regards the Parliament that the number of agencies subject to the discharge procedure has evolved as follows: financial year 2000: 8; 2001: 10; 2002: 11; 2003: 14; 2004: 14; 2005: 16; 2006: 20 regulatory agencies and 2 executive agencies (not including 2 agencies which are audited by the Court of Auditors but subject to an internal discharge process);
4. Concludes therefore that the auditing / discharge process has become cumbersome and disproportionate compared to the relative size of the agencies' / satellite bodies' budgets; instructs its competent committee to undertake a wide-ranging review of the discharge process as regards agencies and satellite bodies with a view to devising a simpler and more rational approach, bearing in mind the ever-growing number of bodies each requiring a separate discharge report in future years;

***Fundamental considerations***

5. Requests that the Commission provide clear explanations regarding the following elements before the creation of a new agency or reform of an existing agency: agency type, objectives of the agency, internal governance structure, products, services, key procedures, target group, clients and stakeholders of the agency, formal relationship with external actors, budget responsibility, financial planning, and personnel and staffing policy;

6. Requests that each agency be governed by a yearly performance agreement which is formulated by the agency and the responsible DG and which should contain the main objectives for the coming year, a financial framework and clear indicators to measure performance;
7. Requests that the performance of the agencies be regularly (and on an ad hoc basis) audited by the Court of Auditors or another independent auditor; considers that this should not be limited to traditional elements of financial management and the proper use of public money, but should also cover administrative efficiency and effectiveness and should include a rating of the financial management of each agency;
8. Takes the view that in the case of agencies which are continually overestimating their respective budget needs, technical abatement should be made on the basis of vacant posts; is of the opinion that this will lead in the long run to less assigned revenue for the agencies and therefore also to lower administrative costs;
9. Notes that it is a serious problem that a number of agencies is criticised for not following rules on public procurement, the Financial Regulation, the Staff Regulations, etc.; considers that the principal reason for this is that most regulations and the Financial Regulation are designed for bigger institutions and that most of the small agencies do not have the critical mass to be able to cope with these regulatory requirements; therefore asks the Commission to look for a rapid solution in order to enhance the effectiveness by grouping the administrative functions of various agencies together, in order to achieve this critical mass (taking into consideration the necessary changes in the basic regulations governing the agencies and their budgetary independence), or urgently to draft specific rules for the agencies (in particular implementing rules for the agencies) which allow them to be in full compliance;
10. Insists that the Commission, when drafting the Preliminary Draft Budget, take into consideration the results of budget implementation by the individual agencies in former years, in particular in year *n-1*, and revise the budget requested by the particular agency accordingly; invites its competent committee to respect this revision and, if not undertaken by the Commission, to revise itself the budget in question to a realistic level matching the absorption and implementation capacity of the agency in question;
11. Recalls its decision on discharge in respect of the financial year 2005, in which it invited the Commission to present every five years a study on the added value of every existing agency; invites all relevant institutions in the case of a negative evaluation of the added value of an agency to take the necessary steps by reformulating the mandate of that agency or by closing it; notes that there has not been one single evaluation undertaken by the Commission in 2007; insists that the Commission should present at least 5 such evaluations before the decision on discharge in respect of the financial year 2007, starting with the oldest agencies;
12. Is of opinion that recommendations of the Court of Auditors should be promptly implemented and the level of subsidies paid to the agencies should be aligned with their real cash requirements; considers further that the amendments to the general Financial Regulation should be incorporated into the agencies' framework financial regulation and into their various specific financial regulations;



13. Is concerned that a significant number of staff is employed on a temporary basis in a way that could undermine the quality of their work; therefore asks the Commission to improve its monitoring of the implementation of the Staff Regulations by the agencies;

*Presentation of reporting data*

14. Notes that there is no standard approach among the agencies with regard to the presentation of their activities during the financial year in question and of their accounts and reports on budgetary and financial management, nor to the question as to whether a declaration of assurance should be drawn up by the agency's director; observes that not all agencies clearly distinguish between (a) presenting the agency's work to the public and (b) technical reporting on budgetary and financial management;
15. Notes that while the Commission's standing instructions for the preparation of activity reports do not expressly require the agency to draw up a declaration of assurance, many directors have nonetheless done so for 2006, in one case including an important reservation;
16. Recalls paragraph 41 of its resolution of 12 April 2005<sup>1</sup>, inviting the Directors of the Agencies from now on to accompany their annual activity report, which is presented together with financial and management information, with a declaration of assurance concerning the legality and regularity of operations, similar to the declarations signed by the Directors General of the Commission;
17. Asks the Commission to amend its standing instructions to the agencies accordingly;
18. Suggests in addition that the Commission should work with the agencies towards producing a harmonised model applicable to all agencies and satellite bodies clearly distinguishing between
- an annual report intended for a general readership on the body's operations, work and achievements;
  - financial statements and a report on implementation of the budget;
  - an activity report along the lines of the activity reports of the Directors General of the Commission;
  - a declaration of assurance signed by the body's director, together with any reservations or observations which he considers it appropriate to draw to the attention of the discharge authority;

*General findings by the Court of Auditors*

19. Notes the Court's finding (Annual Report, paragraph 10.29<sup>2</sup>) that the disbursement of

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<sup>1</sup> Resolution of the European Parliament containing the comments accompanying the decision on the discharge to the Administrative Director of Eurojust in respect of the implementation of its budget for the financial year 2003 (OJ L 196, 27.7.2007, s. 108),

<sup>2</sup> OJ C 273, 15.11.2007, p. 1.

subsidies paid by the Commission from the Community budget is not based on sufficiently justified estimates of the agencies' cash requirements and that this, combined with the size of carry-overs, leads them to hold sizeable cash balances; notes further the Court's recommendation that the level of subsidies paid to the agencies should be in line with their real cash requirements;

20. Notes that at the end of 2006 14 agencies had still to implement the ABAC accounting system (Annual Report, footnote to paragraph 10.31);
21. Notes the Court's remark (Annual Report, paragraph 1.25) concerning accrued charges for untaken leave which are accounted for by some agencies; points out that the Court of Auditors has qualified its statement of assurance in the case of three agencies (European Centre for the Development of Vocational Training (CEDEFOP), CEPOL and the European Railway Agency) for the financial year 2006 (2005: CEDEFOP, European Food Safety Authority, European Agency for Reconstruction);

#### *Internal audit*

22. Recalls that in accordance with Article 185(3) of the Financial Regulation the Internal Auditor of the Commission is also the internal auditor of the regulatory agencies receiving grants charged to the EU budget; points out that the Internal Auditor reports to each agency's management board and director;
23. Draws attention to the reservation entered in the Internal Auditor's Annual Activity Report for 2006 as follows:

"The Internal Auditor of the Commission is not in a position to properly fulfil his obligation assigned by Article 185 of the Financial Regulation as internal auditor of the Community bodies due to a lack of staff resources.";
24. Notes, however, the Internal Auditor's remark in his activity report for 2006 that as from 2007, with the additional staff resources granted by the Commission to the Internal Audit Service (IAS), all regulatory agencies in operation will be subject to internal audit work on an annual basis;
25. Notes the ever-growing number of regulatory and executive agencies and joint undertakings required to be audited by the IAS under Article 185 Financial Regulation; asks the Commission to inform its competent committee as to whether the staff resources at the IAS's disposal will be sufficient to conduct an annual audit of all such bodies in the coming years;
26. Observes that Article 72(5) of Regulation No 2343/2002 requires each agency to send each year to the discharge authority and the Commission a report drawn up by its director summarising the number and type of internal audits conducted by the internal auditor, the recommendations made and the action taken on these recommendations; asks the agencies to indicate whether this is done and, if so, how;
27. Takes note, as regards internal audit capability, especially in relation to the smaller agencies, of a proposal made by the Internal Auditor before Parliament's competent

committee on 14 September 2006 that smaller agencies should be authorised to buy in internal audit services from the private sector;

#### *Evaluation of agencies*

28. Recalls the joint statement by the Parliament, the Council and the Commission<sup>1</sup> negotiated at the conciliation before the ECOFIN budget Council of 13 July 2007 calling for (i) a list of agencies which the Commission intends to assess, and (ii) a list of the agencies already assessed, together with a summary of the major findings;

#### *Disciplinary procedures*

29. Notes that, because of their size, individual agencies have difficulty in setting up ad hoc disciplinary boards composed of staff at the appropriate career grade and that the Commission's IDOC (Investigation and Disciplinary Office) is not competent for agencies; calls on the agencies to consider an inter-agency disciplinary board;

#### *Draft inter-institutional agreement*

30. Recalls the Commission's draft Interinstitutional agreement on the operating framework for the European regulatory agencies (COM(2005)0059), which intended to create a horizontal framework for the creation, structure, operation, evaluation and control of the European regulatory agencies; notes that the draft represents a useful initiative in the effort to rationalise the creation and running of agencies; notes the statement in the Commission's 2006 synthesis report (paragraph 3.1, COM(2007)0274) that although progress in negotiations stalled after the proposal's publication, discussions on the substance were relaunched in the Council at the end of 2006; regrets that it has not been possible to make further progress towards adoption;
31. Welcomes therefore the Commission's commitment to bring forward a Communication on the future of the regulatory agencies during the course of 2008;

#### *Self-financed agencies*

32. Recalls that for the two self-financing agencies, discharge is given to the director by the administrative board; notes that both have significant accumulated surpluses from fee income carried over from previous years figures:

Office for Harmonisation of the Internal Market cash and cash equivalents: EUR 281 million;

Community Plant Variety Office cash and cash equivalents: EUR 18 million<sup>2</sup>;

#### *Specific points*

33. Notes the Court's observation in its 2006 report that the carryover rate was 33 % for administrative expenditure and 30 % for operational expenditure, with a high number of

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<sup>1</sup> Council document DS 605/1/07 Rev1.

<sup>2</sup> Source: ECA special report.

transfers of appropriations between budget lines and in many cases insufficiently detailed supporting documentation so that the budgetary principle of specification was not strictly observed;

34. Notes further the Court's findings that the rules on procurement were not strictly observed, and that a fixed assets register which includes all assets and their values was not established and used to monitor Eurojust's property; calls on Eurojust to strictly implement procurement rules, notably as regards framework contracts;

35. Notes from the accounts and the report on budgetary and financial management:

- an accumulated surplus of EUR 3,3 million for a balance sheet total of EUR 7,3 million;
- a review of the rental fee paid by Eurojust for its premises resulting in a recovery of EUR 952 403 for the period 2003 to 2005;
- a contingent liability for an estimated amount of EUR 388 297 in respect of litigation before the Civil Service Tribunal;
- a statement that Eurojust has adopted a centralised financial circuit and that "Guidelines on Financial Circuits and segregation of duties at Eurojust" have been distributed to all actors in the workflow so that they are aware of their responsibilities, together with the introduction of checklists and regular ex-post controls;

36. Is concerned, however, at the indication in the accounts that for transactions of less than EUR 1 000 the authorising officer is the financial verifier, contrary to the principle of the segregation of duties;

37. Expresses concern at certain statements in Eurojust's annual report which have a significant bearing on the fight against fraud:

- Eurojust still does not feel that its capacity to deal with casework is being fully exploited;
- there were still many opportunities to develop Eurojust's relationship with OLAF during 2006, including by means of a formal co-operation agreement;
- Eurojust's disappointment that it did not appear possible to co-locate Eurojust with Europol in their new proposed premises in The Hague, so that an opportunity was missed both for cost savings and the ability to draw on the synergies that would be available to the Member States by enhancing the effectiveness of both organisations by location at the same site;

38. Notes that the Eurojust financial regulation was agreed with the Commission in March 2006 and adopted by the College on 20 April 2006;

39. Notes that Eurojust expects to fill the post of internal auditor in the first half of 2008.

28.2.2008

## **OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS**

for the Committee on Budgetary Control

on discharge in respect of the implementation of the budget of the European Judicial Cooperation Unit for the financial year 2006  
(C6-0380/2007 - 2007/2055(DEC))

Draftswoman: Bárbara Dührkop Dührkop

### **SUGGESTIONS**

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Is pleased to note that the Court of Auditors has been able to obtain reasonable assurances that the annual accounts for the financial year ended 31 December 2006 are reliable and that the underlying transactions, taken as a whole, are legal and regular;
2. Regrets the high level of carry-over under both Titles II and III and the high number of transfers of appropriations between budget lines without sufficient supporting documentation; calls on Eurojust to take all the necessary measures to avoid a recurrence of such a situation;
3. Calls on Eurojust to strictly implement the procurement rules, notably as regards framework contracts.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	27.2.2008
<b>Result of final vote</b>	+: 45 -: 1 0: 3
<b>Members present for the final vote</b>	Philip Bradbourn, Mihael Brejc, Kathalijne Maria Buitenweg, Giusto Catania, Jean-Marie Cavada, Carlos Coelho, Esther De Lange, Panayiotis Demetriou, Gérard Deprez, Bárbara Dührkop Dührkop, Claudio Fava, Armando França, Urszula Gacek, Kinga Gál, Roland Gewalt, Lilli Gruber, Jeanine Hennis-Plasschaert, Lívia Járóka, Ewa Klamt, Magda Kósáné Kovács, Wolfgang Kreissl-Dörfler, Stavros Lambrinidis, Roselyne Lefrançois, Sarah Ludford, Viktória Mohácsi, Claude Moraes, Javier Moreno Sánchez, Rareş-Lucian Niculescu, Luciana Sbarbati, Inger Segelström, Csaba Sógor, Søren Bo Søndergaard, Vladimir Urutchev, Ioannis Varvitsiotis, Renate Weber, Manfred Weber, Tatjana Ždanoka
<b>Substitute(s) present for the final vote</b>	Edit Bauer, Maria da Assunção Esteves, Anne Ferreira, Genowefa Grabowska, Sophia in 't Veld, Metin Kazak, Marian-Jean Marinescu, Marianne Mikko, Bill Newton Dunn, Hubert Pirker, Nicolae Vlad Popa, Eva-Britt Svensson

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	26.3.2008						
<b>Result of final vote</b>	<table> <tr> <td>+:           </td><td>34</td></tr> <tr> <td>–:           </td><td>0</td></tr> <tr> <td>0:           </td><td>2</td></tr> </table>	+:	34	–:	0	0:	2
+:	34						
–:	0						
0:	2						
<b>Members present for the final vote</b>	Jean-Pierre Audy, Herbert Bösch, Costas Botopoulos, Mogens Camre, Paulo Casaca, Jorgo Chatzimarkakis, Antonio De Blasio, Esther De Lange, Petr Duchoň, James Elles, Szabolcs Fazakas, Markus Ferber, Christofer Fjellner, Ingeborg Gräßle, Dan Jørgensen, Rodi Kratsa-Tsagaropoulou, Bogusław Liberadzki, Nils Lundgren, Marusya Ivanova Lyubcheva, Hans-Peter Martin, Ashley Mote, Jan Mulder, Bill Newton Dunn, Borut Pahor, Bart Staes, Søren Bo Søndergaard, Jeffrey Titford, Kyösti Virrankoski, Janusz Wojciechowski						
<b>Substitute(s) present for the final vote</b>	Valdis Dombrovskis, Salvador Garriga Polledo, Edit Herczog, Cătălin-Ioan Nechifor, Dumitru Oprea, Pierre Pribetich, Esko Seppänen						