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# **DRAFT REPORT**

on discharge in respect of the implementation of the general budget of the European Union for the financial year 2018, Section IV – Court of Justice (2019/2058(DEC))

Committee on Budgetary Control

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## 1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### **on discharge in respect of the implementation of the general budget of the European Union for the financial year 2018, Section IV – Court of Justice (2019/2058(DEC))**

*The European Parliament,*

- having regard to the general budget of the European Union for the financial year 2018<sup>1</sup>,
- having regard to the consolidated annual accounts of the European Union for the financial year 2018 (COM(2019)0316 – C9-0053/2019)<sup>2</sup>,
- having regard to the Court of Justice’s annual report to the discharge authority on internal audits carried out in 2018 (00000/2019),
- having regard to the Court of Auditors’ annual report on the implementation of the budget concerning the financial year 2018, together with the institutions’ replies<sup>3</sup>,
- having regard to the statement of assurance<sup>4</sup> as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2018, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to Article 314(10) and Articles 317, 318 and 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002<sup>5</sup>, and in particular Articles 55, 99, 164, 165 and 166 thereof,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012<sup>6</sup>, and in particular Articles 59, 118, 260, 261 and 262 thereof,
- having regard to Rule 100 of and Annex V to its Rules of Procedure,
- having regard to the opinion of the Committee on Legal Affairs,

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<sup>1</sup> OJ L 57, 28.02.2018

<sup>2</sup> OJ C 327, 30.09.2018, p.1

<sup>3</sup> OJ C 340, 08.10.2019, p.1

<sup>4</sup> OJ C 340, 08.10.2019, p.9

<sup>5</sup> OJ L 298, 26.10.2012, p. 1.

<sup>6</sup> OJ L 193, 30.7.2018, p. 1.

- having regard to the report of the Committee on Budgetary Control (A9-0000/2019),
- 1. Grants the Registrar of the Court of Justice discharge in respect of the implementation of the budget of the Court of Justice for the financial year 2018;
- 2. Sets out its observations in the resolution below;
- 3. Instructs its President to forward this decision and the resolution forming an integral part of it to the Court of Justice of the European Union, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

## 2. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with observations forming an integral part of the decision on discharge in respect of the implementation of the general budget of the European Union for the financial year 2018, Section IV – Court of Justice (2019/2058(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the general budget of the European Union for the financial year 2018, Section IV – Court of Justice,
  - having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the opinion of the Committee on Legal Affairs,
  - having regard to the report of the Committee on Budgetary Control (A9-0000/2019),
- A. whereas in the context of the discharge procedure, the discharge authority wishes to stress the particular importance of further strengthening the democratic legitimacy of the Union institutions by improving transparency and accountability, and implementing the concept of performance-based budgeting and good governance of human resources;
1. Notes with satisfaction that in its 2018 annual report, the Court of Auditors identified no significant weaknesses with respect to the audited topics relating to human resources and procurement for the Court of Justice of the European Union (the "CJEU");
  2. Welcomes the conclusion of the Court of Auditors that the payments as a whole for the year ended 31 December 2018 for the administrative expenditure of the CJEU were free from material error and that the examined supervisory and control systems were effective;
  3. Notes that the Court of Auditors selected a sample of 45 transactions from the Multiannual Financial Framework (MMF) Heading 5 'Administration' of all Union institutions and bodies; notes that the sample was designed to be representative of the range of spending under Heading 5, which represents 6,3 % of the Union budget; notes that the work of the Court of Auditors indicates administrative expenditure as low risk; considers, however, the amount of transactions selected in relation to the 'other institutions' as not sufficient and asks the Court of Auditors to increase the number of transactions to be examined by 10 % at least;
  4. Notes that in 2018 the CJEU's budget amounted to EUR 410 025 089, compared to EUR 399 344 000 in 2017, corresponding to an increase of 2,67 %; notes an overall rate of implementation of 99,18 % (compared to 98,69 % in 2017);
  5. Welcomes the overall prudent and sound financial management of the CJEU in the 2018 budget period; notes the high budget implementation rate for Title 1 (persons working with the CJEU, representing 75 % of budget implemented) and Title 2 (buildings, furniture, equipment and miscellaneous operating expenditure, representing the rest of

the budget implemented) amounting to 99,0 % and 99,8 % (compared to 98,6 % and 99,1 % in 2017);

6. Acknowledges overall the CJEU's efforts to avoid significant discrepancies between commitments (99,18 %) and payments (94,04 %); welcomes that the CJEU follows very closely the budgetary execution during the year by establishing monthly dashboards in order to ensure an optimal use of the resources made available;
7. Highlights the CJEU's application of the principles of performance-based budgeting to all its administrative services; notes the establishment of specific objectives accompanied by one or more measurable indicators which is essential in the preparation of the annual budget; acknowledges the organisation of workshops with all services in order to harmonise the approach and exchange best practices;
8. Regrets, however, the increase in expenditure of 11,81 % between 2017 and 2018 for budget item 2022 'Cleaning and maintenance' due to a new building maintenance contract and other not estimated factors which resulted in an increase of this budgetary line during 2018; calls on the CJEU to continue its efforts to prepare sound budget estimates;
9. Welcomes that the implementation rate for the final appropriations for meetings and conferences increased to 98,83 % in 2018 (compared to 81,40 % in 2017); recognises that this budget item is in part intended to finance official visits and ceremonial events for which the budget planning is less predictable due to unforeseen events;
10. Welcomes the CJEU's effort to publish its annual activity report on 29 April; notes that the CJEU continues to explore in cooperation with other institutions the possibility to advance further its calendar to meet the objective to shorten the discharge procedure;
11. Acknowledges the CJEU's commitment to work towards the implementation of the recommendations of the Court of Auditors, in particular with regard to proactive case management with adapted timetables according to the nature and complexity of the different cases; recognises the CJEU's careful planning and monitoring to ensure a smooth continuity of judicial activity; notes the average duration of proceedings in 2018 at the Court of Justice of 15,7 months (compared to 16,4 months in 2017) and at the General Court of 20 months (compared to 20,6 months in 2015 and 16 months in 2017);
12. Recognises that a reasonable period of time for handling cases brought before the two Courts together with the preservation of quality of the decisions are the main priorities of the CJEU; notes due to a rigorous control system and a high level of vigilance it was possible to achieve a reduction of the average time of the proceedings over the last years; notes, however, that this demands continuous attention, in particular in the context of an increasing workload;
13. Welcomes the satisfaction expressed by users of the e-Curia application which has become compulsory for the exchange of procedural documents between lawyers and the General Court as of 1 December 2018; notes that the use of e-Curia has not been made compulsory by the Court of Justice; calls on the Court of Justice to follow the good example of the General Court and consider the compulsory introduction of e-Curia; commends that this development has contributed both to the security and the speediness

of such exchanges and to the improvement of the environment (less paper) and the reduction of costs linked to the use of postal services;

14. Takes into account that further organisational and procedural measures are needed to enable the CJEU to cope with an ever-increasing workload while still respecting its objectives; notes that on 26 March 2018 the CJEU on the basis of the second paragraph of Article 281 of the Treaty on the Functioning of the European Union made a request to amend Protocol No 3 on the statute of the Court of Justice of the European Union; understands that the legislative procedure is still ongoing and asks the CJEU to inform Parliament's Committee on Budgetary Control on the outcome;
15. Notes that the CJEU had 2 217 posts in 2018 composed of 1 413 officials (64 %), 650 temporary agents (29 %) and 154 contract agents (7 %) (compared to 2 180 posts in 2017);
16. Repeats in the context of the continued increase in the number of cases that a flexible allocation of resources, in particular of existing 'referendaires', could increase the effectivity of the CJEU; calls on the CJEU to report back on concrete measures taken;
17. Expresses concerns that in 2018 274 trainees worked at the CJEU and only 87 trainees were entitled to a monthly stipend of EUR 1 120; welcomes that the CJEU adopted new rules regarding trainees and requested additional appropriations in order to be able to finance internship for trainees in members' cabinets from 2019 onwards; notes, however, that still not all offered traineeships will be provided with a fair remuneration; instructs with regards to non-discrimination practices and fair remuneration the CJEU to accept swiftly the decision to start paying all offered traineeships;
18. Welcomes the reform of the General Court which brought improvement in reducing the backlog of cases and lowering the average length of proceedings;
19. Notes a steady increase in the number of women in management positions which was 37,7 % in 2018, 35 % in 2016 and 30 % in 2013; notes that there are 27 female managers (21 posts in middle management and 6 posts in higher management) compared to 45 male managers in 2018; welcomes the CJEU's efforts to strengthen its policy on equal opportunities and diversity by setting up a special entity introducing and following-up concrete programmes, measures and awareness-raising meetings; calls on the CJEU to continue its efforts;
20. Welcomes the CJEU's commitment to promote work-life balance measures such as the adoption of a decision allowing occasional teleworking in addition to structural teleworking arrangements; notes as well the achievements within IT to improve remote access to work applications;
21. Calls on the CJEU to publish on an annual basis a table with detailed data on their interinstitutional cooperation agreements with respect to fees, services and related matters; repeats the importance of interinstitutional cooperation through service level agreements for different domains, such as HR, security and IT; agrees with the recommendations of the internal audit service to increase the exchange of good practices with other institutions and explore the possibilities of enhanced cooperation for contract preparation and contract management, such as in IT matters;

22. Welcomes the internal audit on the proper functioning of the staff selection and recruitment procedures to identify synergies and streamlining opportunities to make them more effective; notes that an action plan was initiated in 2016 and completed in 2018 with measures such as a new recruitment manual, updated and new modules of the HR management information system, simplification of administrative circuits and streamlining of vacancy notices drafting; notes the measures taken to improve the attractiveness of the CJEU and the Luxembourg site in an interinstitutional context;
23. Highlights the internal auditor's follow-up to appraise whether the action taken by the departments audited is appropriate, effective and timely and to identify and record improvements made; notes with satisfaction that all audits carried out were closed without prejudice to any additional examinations;
24. Notes the CJEU's anti-fraud strategy to combat fraud, corruption and any illegal activity detrimental to the interests of the Union; notes that this strategy is founded on the relevant provisions of the Financial Regulation and the Staff Regulation, supplemented by a series of internal decisions and rules; acknowledges that the strategy is an integral part of the CJEU's risk management policy within the framework of the internal control system;
25. Acknowledges the CJEU's environmental management system based on Regulation (EC) No 1221/2009<sup>1</sup>; notes that the CJEU improved its environmental performance in 2018 compared to the base year 2015 as follows: a reduction of paper consumption by 15,5 %, a reduction of electricity consumption by 8,3 % and an increase of the number of videoconferences by 52,9 %; welcomes various further projects, such as the reduction of single-use plastics, reduction of the number of individual printers and participation, jointly with the other Union institutions based in Luxembourg, in the self-service bike system 'vel'OH';
26. Welcomes the CJEU's commitment to fully respect the timetable and budget for the work of the fifth extension (construction of the third tower offering an additional 50 000 m<sup>2</sup>) of the CJEU's buildings which makes it possible to gather all CJEU's staff on a single site; notes the works on the upgrading of security measures and welcomes that the CJEU's buildings are designed to ensure easy access for disabled people;
27. Welcomes that the savings in order of EUR 100 million that will be achieved over the 25 years depreciation period for that fifth extension, compared with the continuation of a policy of leasing, clearly shows the value of the chosen building policy of purchase; underlines the outcome of special report no. 34/2018 of the Court of Auditor on office accommodation of EU institutions, in which it made highly positive findings regarding the efficiency of the CJEU's buildings policy;
28. Congratulates the CJEU for having been included by the European Ombudsman among the three finalists for the Award for Good Administration (category 'excellence through collaboration') for the creation of the Judicial Network of the European Union,

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<sup>1</sup> Regulation (EC) No 1221/2009 of the European Parliament and of the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme (EMAS), repealing Regulation (EC) No 761/2001 and Commission Decisions 2001/681/EC and 2006/193/EC (OJ L 342, 22.12.2009, p. 1).



covering the constitutional courts and the supreme courts of the Member States; agrees that in terms of transparency and cooperation the launch of the secured platform in January 2018 where previously undisclosed documents are now made available to participating courts is an important step in the correct direction;

29. Notes the CJEU's redesigned website in June 2018 and the important steps and works undertaken in order to strengthen, clarify and simplify the information delivered to the public; welcomes a new product on the website named "factsheets" which aims at presenting an overview of the reference case law in a specific area of Union law in all official languages; notes that a recent survey has shown a very high level of use satisfaction with 80 % of users giving a rating between 4 and 5 out of 5;
30. Welcomes the CJEU's communication strategy seeking to bring the CJEU closer to the citizens; recognises the CJEU's evolving budget for communication, being EUR 429 000 in 2018 (compared to EUR 330 500 in 2013); notes the short animated films available in 23 official languages on the CJEU's YouTube channel, viewed by 82 800 in 2018, its presence on Twitter with more than 74 000 followers (compared to 42 000 in 2017), its outreach events including seminars for journalists and its open days;
31. Welcomes that a list of the missions (representation of the Court at a ceremony or official event) carried out by members, in line with the revised code of conduct of the CJEU, is published on the CJEU's website containing information such as member's name and the purpose, venue and organiser of the event; calls on the CJEU to publish as well the related costs as other Union institutions do;
32. Welcomes that the members of the CJEU are subject to a code of conduct governing their independence, impartiality, integrity, commitment, collegiality, responsibilities and obligations; notes that the CJEU considers the declarations of financial interests of its members as an internal means to ensure impartiality and independence; calls on the CJEU to consider a publication in the interest of public scrutiny;
33. Notes that the declarations of financial interests are necessarily of a self-declaratory nature and, given the current legal framework, the CJEU has no investigation powers to control the veracity and the exhaustiveness of the declared data; calls on the CJEU to improve the system in cooperation with other Union institutions;
34. Recognises the internal procedures to verify, before attributing a case to a member, on the basis of said declaration, whether that member has a financial interest in the case; noted that the members contact the President of the CJEU whenever an issue relating to the interpretation of the code of conduct may arise and that the Consultative Committee is only exceptionally convened, e.g. when a complaint has been lodged against a member; asks the CJEU to inform Parliament's Committee on Budgetary Control on the robustness of this mechanism;
35. Regrets not having received information on the achieved work related to the internal procedures on 'revolving doors' for senior members of staff; reminds the CJEU of the strategic initiative conducted by the European Ombudsman in 2018 on how to implement the provisions laid down in the Staff Regulations on 'revolving door moves' of senior members of staff; calls on the CJEU to quickly establish and publish strict obligations in this regard;

36. Notes the procedure related to the pre-recruitment declaration on the absence of conflicts of interests for new members of staff; notes further that the recruitment process has been modified to ensure that such declarations are assessed and, if necessary to propose particular measures to the appointing authority; notes also that the CJEU is working on rules governing the exercise of external activities by staff; calls on the CJEU to report back about this to Parliament's Committee on Budgetary Control;
37. Acknowledges the CJEU's procedures and internal rules to prevent all forms of harassment in the working place, which are published on its web-site; welcomes the information shared on how to initiate a formal or an informal procedure in case of inappropriate behaviour;
38. Congratulates the interinstitutional network of councillors, with the participation of all Union institutions located in Luxembourg, set up in order to exchange best practices in the field of prevention of harassment and counselling; welcomes the intensive trainings provided to the CJEU's councillors;
39. Regrets not having been informed by the CJEU of any plans to enhance the control system related to the use of official cars; underlines that drivers should accompany members to their home countries only in justified cases; calls for measures to avoid situations in which drivers are going to members' home countries without having the Member on board;
40. Notes that more than 40 % of the translation workload has been outsourced with the cost of an outsourced translated page in 2018 amounting to EUR 103,1 (compared to EUR 111,30 in 2017); notes that the cost of an in-house translated page in 2018 amounted to EUR 128,07 (compared to 136,70 in 2017); notes that the internal cost includes all necessary sub-costs, such as IT, office space and similar; notes that under the current conditions the CJEU does not consider a further increase of the outsourcing rate advisable; asks the CJEU to explain to the Parliament's Committee on Budgetary Control the reasoning for this view;
41. Acknowledges that the staff from the United Kingdom has been informed that the appointing authority does not intend to require the compulsory resignation of officials who are no longer nationals of a Member State following the withdrawal of the United Kingdom from the Union; notes that, similarly, temporary and contract agents from the United Kingdom have been informed that an assessment in the interest of the service on a case by case basis will take place;
42. Highlights all the work achieved in the last years, in areas such as the performance-based budgeting, the ethical framework with all its related rules and procedures, the enhanced communication activities and the increasing amount of measures to improve transparency; welcomes the important amount of interinstitutional service and cooperation agreements; underlines the importance of the collaboration and sharing of experience among the Union institutions and bodies; suggests analysing the possibility of formalised networking activities in different domains in order to share best practises and develop common solutions.