

## **P6\_TA-PROV(2009)0273**

### **2007 discharge: Council**

#### **1. European Parliament Decision of 23 April 2009 on discharge in respect of the implementation of the European Union general budget for the financial year 2007, Section II – Council (C6-0417/2008 – 2008/2277(DEC))**

*The European Parliament,*

- having regard to the European Union general budget for the financial year 2007<sup>1</sup>,
- having regard to the final annual accounts of the European Communities for the financial year 2007 – Volume I (C6-0417/2008)<sup>2</sup>,
- having regard to the Council's annual report to the discharge authority on internal audits carried out in 2007,
- having regard to the Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2007, together with the audited institutions' replies<sup>3</sup>,
- having regard to the statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors pursuant to Article 248 of the EC Treaty<sup>4</sup>,
- having regard to Articles 272(10), 274, 275 and 276 of the EC Treaty,
- having regard to 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>5</sup>, and in particular Articles 50, 86, 145, 146 and 147 thereof,
- having regard to Council Decision No 190/2003 of the Secretary-General of the Council/High-Representative for the Common Foreign and Security Policy concerning reimbursement of travel expenses of delegates of Council Members<sup>6</sup>,
- having regard to the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 17 May 2006 on budgetary discipline and sound financial management<sup>7</sup> (IIA),
- 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 (A6-0150/2009),

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<sup>1</sup> OJ L 77, 16.3.2007. Corrigendum in OJ L 203, 3.8.2007, p. 92.

<sup>2</sup> OJ C 287, 10.11.2008, p. 1.

<sup>3</sup> OJ C 286, 10.11.2008, p. 1.

<sup>4</sup> OJ C 287, 10.11.2008, p. 111.

<sup>5</sup> OJ L 248, 16.9.2002, p. 1.

<sup>6</sup> Decision stemming from the Rules of Procedure of the Council of 22 July 2002 (OJ L 230, 28.8.2002, p. 7).

<sup>7</sup> OJ C 139, 14.6.2006, p. 1.

1. Postpones its decision on granting discharge to the Secretary-General of the Council in respect of the implementation of its budget for the financial year 2007;
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 Council, the Commission, the Court of Justice, the Court of Auditors, the European Ombudsman and the European Data Protection Supervisor, and to arrange for their publication in the Official Journal of the European Union (L series).

**2. European Parliament resolution of 23 April 2009 with observations forming an integral part of the Decision on discharge in respect of the implementation of the European Union general budget for the financial year 2007, Section II – Council (C6-0417/2008 – 2008/2277(DEC))**

*The European Parliament,*

- having regard to the European Union general budget for the financial year 2007<sup>1</sup>,
  - having regard to the final annual accounts of the European Communities for the financial year 2007 – Volume I (C6-0417/2008)<sup>2</sup>,
  - having regard to the Council's annual report to the discharge authority on internal audits carried out in 2007,
  - having regard to the Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2007, together with the audited institutions' replies<sup>3</sup>,
  - having regard to the statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors pursuant to Article 248 of the EC Treaty<sup>4</sup>,
  - having regard to Articles 272(10), 274, 275 and 276 of the EC Treaty,
  - having regard to 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>5</sup>, and in particular Articles 50, 86, 145, 146 and 147 thereof,
  - having regard to Council Decision No 190/2003 of the Secretary-General of the Council/High-Representative for the Common Foreign and Security Policy concerning reimbursement of travel expenses of delegates of Council Members<sup>6</sup>,
  - having regard to the Interinstitutional Agreement between the European Parliament, the Council and the Commission of 17 May 2006 on budgetary discipline and sound financial management<sup>7</sup> (IIA),
  - 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 (A6-0150/2009),
- A. whereas the Council refuses to provide Parliament with its full budget execution document and with its full annual activity report and has only provided it with the annual activity

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<sup>1</sup> OJ L 77, 16.3.2007. Corrigendum in OJ L 203, 3.8.2007, p. 92.

<sup>2</sup> OJ C 287, 10.11.2008, p. 1.

<sup>3</sup> OJ C 286, 10.11.2008, p. 1.

<sup>4</sup> OJ C 287, 10.11.2008, p. 111.

<sup>5</sup> OJ L 248, 16.9.2002, p. 1.

<sup>6</sup> Decision stemming from the Rules of Procedure of the Council of 22 July 2002 (OJ L 230, 28.8.2002, p. 7).

<sup>7</sup> OJ C 139, 14.6.2006, p. 1.

report of its Internal Auditor,

- B. whereas the Council refuses to hold any official meeting with Parliament concerning its discharge,
- C. whereas the conclusions of the European Council of Cologne of 3 and 4 June 1999 envisage giving operational capacities to the Council in the field of a strengthened common European security and defence policy (CESDP),
- D. whereas in its Decision No 190/2003, the Council makes it very clear that it implements appropriations in the field of the Common Foreign and Security Policy (CFSP) in accordance with the provisions of the Financial Regulation applicable to the general budget of the European Communities<sup>1</sup>, and in particular that "The Secretary-General of the Council/High Representative for the Common Foreign and Security Policy [...], assisted by the Deputy Secretary-General, is fully responsible for administering the appropriations under Section II - Council - of the general budget of the European Communities, and takes all necessary steps to ensure their sound management. He implements the appropriations in accordance with the provisions of the Financial Regulation applicable to the general budget of the European Communities",
- E. whereas Council Decision 2004/197/CFSP<sup>2</sup> of 23 February 2004 established a mechanism for administering the financing of the common costs of EU operations having military or defence implications, called ATHENA, and this Decision, together with the Decision of the Representatives of the Governments of the Member States meeting within the Council of 28 April 2004 concerning privileges and immunities granted to ATHENA<sup>3</sup>, creates a mechanism for administering the financing of the common costs of EU operations having military and defence implications, grants privileges and immunities to it and gives operational power to the Council,
- F. whereas Council Decision 2000/178/CFSP of 28 February 2000 on the rules applicable to national experts in the military field on secondment to the General Secretariat of the Council during the interim period<sup>4</sup> and Council Decision 2001/80/CFSP of 22 January 2001 on the establishment of the Military Staff of the European Union<sup>5</sup> specify that expenditure arising from the secondment of military experts are charged to the Council budget,
- G. whereas the annual report from the Council on the main aspects and basic choices of the CFSP, presented to Parliament in application of point 43 of the IIA, is limited in scope to the description of CFSP activities, such as common positions, joint actions and implementing decisions,
1. Notes that in 2007 the Council had available commitment appropriations amounting to a total of EUR 650 million (2006: EUR 626 million), with a utilisation rate of 81,89%, lower than in 2006 (91,79%) and below the average of the other institutions (93,82%);
  2. Reaffirms its position taken in its resolution of 25 April 2002 on discharge in respect of the

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<sup>1</sup> OJ L 248, 16.9.2002, p. 1.

<sup>2</sup> OJ L 63, 28.2.2004, p. 68.

<sup>3</sup> OJ L 261, 6.8.2004, p. 125.

<sup>4</sup> OJ L 57, 2.3.2000, p. 1.

<sup>5</sup> OJ L 27, 30.1.2001, p. 7.

financial year 2000 that "[...] *the European Parliament and the Council have not, in the past, scrutinised the implementation of their respective sections of the budget; considers that in view of the increasingly operational nature of expenditure, financed under the Council's administrative budget, in the fields of foreign affairs, security and defence policy, and justice and home affairs, the scope of this arrangement should be clarified with a view to distinguishing traditional administrative expenditure from operations in these new policy areas*"<sup>1</sup>;

3. Rejects the Council's suggestion that the fact that Parliament and the Council have not, in the past, scrutinised the implementation of their respective sections of the budget was the result of a "Gentlemen's agreement"; considers that in view of the increasingly operational nature of expenditure, the expenditure of the Council ought to be scrutinised in the same way as that of the other institutions as part of the discharge procedure provided for by Article 276 of the Treaty;
4. Reiterates its position expressed at paragraph 3 of its resolution of 22 April 2008 on the discharge in respect of the financial year 2006, as follows: "*Regrets that, unlike other institutions, the Council does not submit an annual activity report to Parliament, citing the Gentlemen's Agreement of 1970 [...] and the absence of any corresponding requirement in the Financial Regulation; calls on the Council to reconsider the decision not to publish and transmit to Parliament an activity report in order to be more accountable to the general public and taxpayers*"<sup>2</sup>; recalls that this statement is also fully consistent with paragraphs 44 and 45 of its resolution of 19 February 2008 on transparency in financial matters<sup>3</sup>; requests the Council to reconsider its decision not to publish its annual activity report on its website;
5. Reiterates its position expressed at paragraph 12 of its resolution of 24 April 2007 on the discharge for the financial year 2005, as follows: "*Calls for maximum transparency in the area of Common Foreign and Security Policy (CFSP); requests the Council, in accordance with point 42 of the Interinstitutional Agreement [...], to make sure that no operating CFSP expenditure appears in the Council's budget; reserves the right to take the necessary steps, where appropriate, if the agreement is infringed*"<sup>4</sup>;
6. Requires that the Council indicate the exact nature of expenses, article by article, item by item, within its Title 3 (Expenditure arising out of the institution's performance of its specific missions), so as to enable Parliament to check that none of the expenditure in the Council's budget execution is of an operational nature, in conformity with the IIA;
7. Reiterates its position expressed at paragraph 58 of its resolution of 23 May 2007 on the annual report from the Council to the European Parliament on the main aspects and basic choices of CFSP, including the financial implications for the general budget of the European Union – 2005<sup>5</sup>, as follows: "*Believes that a genuine assessment of the financial implications for the EU budget has hitherto been hampered by a lack of proactive information on the part of the Council, [...]; considers that, with the signing of the new*

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<sup>1</sup> OJ L 158, 17.6.2002, p. 66.

<sup>2</sup> OJ L 88, 31.3.2009, p. 20.

<sup>3</sup> Texts adopted, P6\_TA(2008)0051.

<sup>4</sup> OJ L 187, 15.7.2008, p. 21.

<sup>5</sup> OJ C 102 E, 24.4.2008, p. 309.

*Inter-institutional Agreement, the time has now come to implement both the letter and the spirit of these provisions, which have now been clearly formalised";*

8. Considers that the planning of, preparation for and controlling of an operation by CFSP Staff in the Council Secretariat are basic and fundamental parts of the operation, and that these activities are carried out in pursuit of policy and operations, rather than as part of the normal work of the secretariat within the Council;
9. Is astonished to note that a substantial part (up to 66%) of budget line 2 2 0 2 was transferred from interpretation to CFSP/ESDP travels; notes that in 2006 this amount was EUR 12 672 984, and asks to be informed of the amount for the same budget line for 2007; demands, for the sake of greater transparency, the creation of an appropriate budget line for these purposes;
10. Demands transparency with regard to spending on and by the EU Counter-terrorism Co-ordinator;
11. Asks the Council to provide it with ex-post evaluation of individual ESDP actions;
12. Reconfirms the stance it took at paragraph 47 of its above-mentioned resolution of 23 May 2007, as follows: *"Reiterates its disappointment [...] that the Council has limited itself to merely informing Parliament and submitting a descriptive list of CFSP activities carried out in the previous year, which is stated even by the Council itself in the preambles to the annual reports, instead of really consulting Parliament at the beginning of each year on the main aspects and basic choices to be made for that year, including its financial implications, as provided for in Article 28 of the EU Treaty, and subsequently reporting to Parliament whether – and, if so, how – Parliament's contribution has been taken into account, and stresses that this practice constitutes a de facto infringement of the very substance of Article 21"*;
13. Notes that the Council has adopted a decision preventing any residual payments linked to compensation days upon retirement and putting into place a compulsory system aiming at the complete liquidation, by 2009, of all remaining stocks of annual leave not taken; encourages the Council to respect this self-imposed deadline;
14. Welcomes the fact that a new integrated system for management and financial control (SAP), in operation since 1 January 2008, has been developed on an inter-institutional basis by the Council, the Court of Auditors and the Court of Justice, and thereby represents substantial budget savings and also gains in efficiency for the three institutions involved;
15. Regrets that, according to the annual activity report of the Council's internal auditor, the Council was not able to fill the vacant posts in its internal audit service;
16. Takes account of the fact that, according to the same annual activity report, the internal auditor recommended the complete elimination of the "*comptes hors budget*"; requires the Council to eliminate completely and immediately all such accounts;
17. Requests the Council to solve the problem concerning the "*vérification des factures*", as recommended by the Council's internal auditor;

18. Considers that Parliament's repeated and so far always refused request for greater transparency and closer parliamentary scrutiny of Council's expenditure relating to CFSP/CFDP should be emphasized by budgetary amendments aiming at placing in reserve certain relevant budget lines in the Council's budget for 2010;
19. Recalls that in its resolution of 4 December 2008 on the European Court of Auditors' Special Report No 8/2007 concerning administrative cooperation in the field of VAT<sup>1</sup>, Parliament invited the Council to adopt formal conclusions regarding the Court of Auditors' findings; regrets that the Council has not followed up on this request; asks the Council to provide information to Parliament's competent committee about the reasons why it has not adopted formal conclusions, and about its follow-up to this Special Report;
20. Requests the European Court of Auditors to pay special attention, in its next Annual report, to the Council's budget execution;

### ***Reasons for postponement of the discharge decision***

21. Indicates that the reasons for postponement are as follows:
  - a) the Council has not accepted any invitation to officially and formally meet Parliament's competent committee or its rapporteur to discuss matters concerning its budget execution for 2007;
  - b) neither its competent committee nor its rapporteur received any comprehensive written answer, prior to the committee's vote on the draft report on 16 March 2009, providing Parliament with the information and documents requested from Council in the annex of a letter of 18 February 2009 signed by the rapporteur and the coordinators of its competent committee;
  - c) Parliament has not received fundamental documents from Council, such as the annual activity report and the full list of budgetary transfers;
  - d) this lack of transparency and openness for an official and formal dialogue from the Council's side does not make a meaningful discharge possible, and prevents Parliament in particular from being able to check that none of the expenditure in the Council's budget execution is of an operational nature, in conformity with the IIA;

### ***Further actions to be taken and documents to be presented to Parliament***

22. Calls on the Secretary-General of the Council/High Representative for the CFSP to provide Parliament's competent committee, by 15 May 2009 at the latest, with comprehensive written answers to the following questions:
  - A. concerning its "comptes hors budget" (cf. internal auditor's recommendation R.2 of 2007):
    - how many accounts "hors budget" did the Council have in 2007?
    - when were these accounts established and for what purpose?
    - which is the legal base used for these accounts? Which amount is covered by every

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<sup>1</sup> P6\_TA(2008)0581, paragraph 21.

single account?

- the list of all transactions for each of these accounts for the financial year 2007 as well as the list of authorising officers by delegation per budget line.

B. concerning the "vérification des factures" (cf. internal auditor's recommendation R.1 of 2007):

- on which ground did the internal auditor come to the conclusion that *ex ante* verification did not work in a satisfactory manner?
- are all budgetary lines subject to *ex ante* and/or *ex post* controls?
- how many invoices were checked, which percentage of the invoices were taken in the sample and what percentage of those contained errors?
- did the Council prepare any action plan to solve this problem and, if yes, when is it going to be implemented?

C. concerning budget line 2 2 0 2 (interpreting costs):

- reasons for the doubling (from 2006 to 2007) of budget line 2 2 0 2 dedicated to interpretation.
- why does the Council need to transfer money from this line to delegates' travel expenses?
- why did the Council use EUR 12 672 000 from interpretation to delegates' travel expenses in 2006?
- why did it not increase the specific budget line for the same amount in 2007?
- what is the specific amount the Council transferred, regarding the financial year 2007, from this budget line to line 2 2 0 0 or any other line?

D. concerning budget line 2 2 0 0 (travel expenses of delegations):

- the legal base for this budget line is partly Council Decision No 190/2003 of the Secretary-General of the Council/High Representative for the CFSP, which has not been published in the Official Journal.
- for the sake of transparency, could the Council put on its website and its register of references all its Decisions?

E. concerning budget line 3 0 0 2 (special advisers in the field of the ESDP/CFSP):

- which amount did the Council transfer to this budget line for the year 2007 and for how many special advisers?

23. Calls on the Secretary-General of the Council/High Representative for the CFSP to provide Parliament's competent committee, by 15 May 2009 at the latest, with:

- the full list of budgetary transfers concerning the 2007 budget of the Council;
- its annual activity report for the year 2007;
- the list of the associations which received money for the financial year 2007 specifying the amounts received per association? (budget line 2 2 3 7 - other operating expenditure).