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*Committee on Budgetary Control*

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**2009/2071(DEC)**

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## **DRAFT REPORT**

on discharge in respect of the implementation of the European Union general budget for the financial year 2008, Section IV – Court of Justice (C7-0175/2009 – 2009/2071(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 European Union general budget for the financial year 2008, Section IV – Court of Justice  
(C7-0175/2009 – 2009/2071(DEC))**

*The European Parliament,*

- having regard to the European Union general budget for the financial year 2008<sup>1</sup>,
  - having regard to the final annual accounts of the European Communities for the financial year 2008 – Volume I (C7-0175/2009)<sup>2</sup>,
  - having regard to the Court of Justice's annual report to the discharge authority on internal audits carried out in 2008,
  - having regard to the Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2008, together with the 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 the Council's recommendation of xxx (xxx – C7-xxx),
  - having regard to Article 272(10) and Articles 274, 275 and 276 of the EC Treaty and Article 314(10) and Articles 317, 318 and 319 of the Treaty on the Functioning of the EU,
  - 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 Rule 77 of, and Annex VI to, its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A7-0000/2010),
1. Grants the Court of Justice's Registrar discharge in respect of the implementation of its budget for the financial year 2008;
  2. Sets out its observations in the resolution below;

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<sup>1</sup> OJ L 71, 14.3.2008, p. 1

<sup>2</sup> OJ C 273, 13.11.2009, p. 1.

<sup>3</sup> OJ C 269, 10.11.2009, p. 1.

<sup>4</sup> OJ C 273, 13.11.2009, p. 122.

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

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. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**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 2008,  
Section IV – Court of Justice  
(C7-0175/2009 – 2009/2071(DEC))**

*The European Parliament,*

- having regard to the European Union general budget for the financial year 2008<sup>1</sup>,
  - having regard to the final annual accounts of the European Communities for the financial year 2008 – Volume I (C7-0175/2009)<sup>2</sup>,
  - having regard to the Court of Justice's annual report to the discharge authority on internal audits carried out in 2008,
  - having regard to the Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2008, together with the 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 the Council's recommendation of xxx (xxx – C7-xxx),
  - having regard to Article 272(10) and Articles 274, 275 and 276 of the EC Treaty and Article 314(10) and Articles 317, 318 and 319 of the Treaty on the Functioning of the EU,
  - 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 Rule 77 of, and Annex VI to, its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A7-0000/2010),
1. Notes that in 2008 the European Court of Justice (ECJ) had commitment appropriations available amounting to a total of EUR 297 million (2007: EUR 275 million), with a utilisation rate of 98,20 %, higher than the average of the other institutions (95,67 %);
  2. Notes that the European Court of Auditors (ECA) indicated in its annual report that its audit of a contract the ECJ concluded for the provision of services (following a joint open tender procurement procedure with a Member State) showed weaknesses in the internal

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<sup>1</sup> OJ L 71, 14.3.2008.

<sup>2</sup> OJ C 273, 13.11.2009, p. 1.

<sup>3</sup> OJ C 269, 10.11.2009, p. 1.

<sup>4</sup> OJ C 273, 13.11.2009, p. 122.

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

control system for performing this tendering procedure. The ECA found that these led to an overly short deadline for tenderers to obtain the tender specifications (breach of Article 98 of the Financial Regulation), the announcement in the contract notice both of the obligation to submit tenders in one language only (breach of Article 125c of the Implementing Rules (IR) of the Financial Regulation) and the holding of a closed meeting for the opening of tenders (breach of Article 118(3) IR);

3. Notes the clarification offered by the ECJ, in particular, that the timetable, although tight, observed the time-limits formally prescribed by the Financial Regulation; notes that the short deadline was caused by the need to award the contract at a date enabling the successful tenderer to be operational when the new building complex was delivered, as well as the necessity to provide for a sufficient time to allow the tenderers to prepare their tender;
4. Notes also the ECJ's clarification that the contract notice provided for tenders was submitted in French only (the custom in practice in the Member State concerned) due to a lack of coordination, whereas the contract documents provided that tenders could be submitted in any of the official languages of the European Union as well as the clarification that, if any tenderers had wished to attend the committee meeting for the opening of tenders, they would have been allowed to do so;
5. Endorses the ECA suggestion that enhanced procurement procedures should be established by the ECJ in order to help authorising services organise tendering procedures and control adherence to regulatory obligations;
6. Notes that apart from the comments on the abovementioned tender procurement procedure, the ECA annual report did not point out any other observations as regards the ECJ;
7. Notes with satisfaction the effective operation of the recently established ECJ's Internal Audit unit, and welcomes its recommendations on validation, authorisation and payment of expenditure, as well as the fact that the recommendations were put into operation, in particular, revision of the system of delegating and the terms of subdelegation, the self assessment of internal control systems, increased number of ex-post verifications and improvements in the documentation procedures; notes also the results of the audit on compliance with the legislative obligations in relation to reporting and disclosing budgetary and financial information, which led to measures improving the management and internal control of public contracts, as well as audits on procurement procedures for the library and on compensatory allowance;
8. Welcomes the constant reduction in the duration of proceedings before the ECJ, in particular, a significant reduction in the duration of preliminary ruling procedures; notes the decrease in the number of cases completed (333 judgements and 161 orders compared to 379 and 172 in 2007), however, takes notice that the number of preliminary ruling cases was markedly higher; also notes that in 2008 the number of cases submitted (592) was the highest since 1979, which led to a minor increase in the number of cases pending at the end of 2008 (767 cases; 741 cases at the end of 2007);
9. Welcomes the fact that the Court of First Instance in 2008 showed a 52 % increase in the

number of cases decided, as well as a certain decrease in the duration of proceedings; notes, however, that the number of new cases in 2008 was exceptionally high, (629 new cases compared to 522 in 2007), therefore the backlog of pending cases continued to increase also for the Court of First Instance (from 1154 in 2007 to 1178 in 2008);

10. Notes that while Civil Service Tribunal, which in 2008 saw its first partial triennial renewal, closed fewer cases than in 2007, nevertheless, the number of pending cases slightly dropped (from 235 in 2007 to 217 in 2008) due to a considerably lower number of new applications (111 compared to 157 in 2007);
11. Welcomes the new integrated system for management and financial control (SAP), in operation since 1 January 2008, which has enabled budget savings and gains in efficiency for the three institutions involved (the Council, the ECJ and the ECA);
12. Welcomes the ongoing successful interinstitutional cooperation with the ECA as regards training;
13. Notes the follow-up by the ECJ of the observations made by the Parliament and the ECA in previous discharges and reports, in particular, welcomes the measures taken to set up a selection procedure for the recruitment of auxiliary contract agents; however, regrets the reluctance of the ECJ to publish its members' declarations of financial interests, and reiterates its suggestion to reconsider that practice;
14. Praises the ECJ for its established practice of including in its activity report a chapter outlining the follow-up during the year to Parliament's previous discharge decisions and to reports of the ECA.