



TEXTS ADOPTED

Provisional edition

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Discharge 2016: EU general budget - Court of Justice

1. European Parliament decision of 18 April 2018 on discharge in respect of the implementation of the general budget of the European Union for the financial year 2016, Section IV – Court of Justice (2017/2139(DEC))

The European Parliament,

- having regard to the general budget of the European Union for the financial year 2016¹,
- having regard to the consolidated annual accounts of the European Union for the financial year 2016 (COM(2017)0356 – C8-0250/2017)²,
- having regard to the Court of Auditors' annual report on the implementation of the budget concerning the financial year 2016, together with the institutions' replies³,
- having regard to the statement of assurance⁴ 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 2016, 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 1605/2002⁵, and in particular Articles 55, 99, 164, 165 and 166 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Legal Affairs (A8-0122/2018),

¹ OJ L 48, 24.2.2016.

² OJ C 323, 28.9.2017, p. 1.

³ OJ C 322, 28.9.2017, p. 1.

⁴ OJ C 322, 28.9.2017, p. 10.

⁵ OJ L 298, 26.10.2012, p. 1.

1. Grants the Registrar of the Court of Justice of the European Union discharge in respect of the implementation of the budget of the Court of Justice of the European Union for the financial year 2016;
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 European Council, the Council, the Commission, the Court of Auditors, the European Ombudsman, the European Data Protection Supervisor and the European External Action Service, and to arrange for their publication in the *Official Journal of the European Union* (L series).

2. European Parliament resolution of 18 April 2018 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 2016, Section IV – Court of Justice (2017/2139(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 2016, Section IV – Court of Justice,
 - having regard to Rule 94 of and Annex IV to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Legal Affairs (A8-0122/2018),
1. Notes that in its 2016 annual report, the Court of Auditors observed that no significant weaknesses had been identified in respect of the audited topics relating to human resources and procurement for the Court of Justice of the European Union (CJEU);
 2. Notes the fact that, on the basis of its audit work, the Court of Auditors concluded that the payments as a whole for the year ended on 31 December 2016 for administrative and other expenditure of the institutions and bodies were free from material error;
 3. Welcomes the overall prudent and sound financial management of the CJEU in the 2016 budget period; expresses support for the successful paradigm shift towards performance-based budgeting in the Commission's budget planning introduced by Vice-President Kristalina Georgieva in September 2015 as part of the 'EU Budget Focused on Results' initiative; encourages the CJEU to apply the method to its own budget-planning procedure;
 4. Notes that, according to the current discharge procedure, the CJEU submits annual activity reports to the Court of Auditors in June, the Court of Auditors then submits its report to Parliament in October, and the discharge is voted by Parliament in plenary by May; notes that, unless the discharge is postponed, at least 17 months pass between the closing of the annual accounts and the closing of the discharge procedure; points out that auditing in the private sector follows a much shorter timeline; stresses that the discharge procedure needs to be streamlined and sped up; requests that the CJEU and the Court of Auditors follow best practice in the private sector; proposes in this regard to set a deadline for the submission of annual activity reports of 31 March of the year following the accounting year and a deadline for the submission of the Court of Auditors' reports of 1 July; proposes also to review the timetable for the discharge procedure as set down in Article 5 of Annex IV to Parliament's Rules of Procedure so that the vote on the discharge would take place in Parliament's plenary part-session in November, thereby closing the discharge procedure within the year following the accounting year in question;
 5. Notes that in 2016, the CJEU had appropriations amounting to EUR 380 002 000 (compared to EUR 357 062 000 in 2015) and that the implementation rate was 98,2 %; acknowledges the high rate of utilisation; notes, however, a slight decrease compared to previous years;

6. Notes that the estimated revenue of the CJEU for the financial year 2016 was EUR 51 505 000 whereas the established entitlements were 3,1 % lower than estimated (EUR 49 886 228); notes that the difference of EUR 1,62 million is mainly attributed to the late arrival in 2016 of 16 of 19 additional judges to the General Court;
7. Is concerned that the CJEU consistently overestimates its commitments for missions, having committed EUR 342 000 in 2016 whereas payments were only EUR 157 974; calls on the CJEU to ensure sound financial planning in order to avoid a similar discrepancy in the future;
8. Notes that the CJEU's budget is mostly administrative, with around 75 % being used on expenditure concerning persons working within the institution and the remaining on buildings, furniture, equipment and special functions carried out by the institution; notes that, following the Parliament's request, the CJEU has asked its administrative services to introduce the results-based budgeting principle in their field of activity; asks the CJEU to continue applying that principle in its daily administrative operations, and to report back to the discharge authority on its experiences, and the results achieved;
9. Welcomes the CJEU's intention to draw up a report on the functioning of the General Court by 26 December 2020, that an external consultant will be involved, and that the report will be submitted to the Parliament, the Council and the Commission;
10. Notes the judicial activity of the CJEU in 2016, with 1604 cases brought before the three courts and 1628 cases completed in that year, a number lower than in 2015 where 1775 cases were completed; also notes that the average duration of proceedings was 16,7 months which was slightly higher than in 2015 (16,1 months); welcomes the fact that due to reform of the CJEU the average time taken to decide a case in 2017 was 16,0 months; recalls the necessity to guarantee the quality and speed with which the CJEU delivers its decisions in order to avoid any significant costs for the parties concerned that arise from the excessive length of time taken; reiterates the importance of reducing the list of pending cases to uphold the fundamental rights of Union citizens;
11. Notes that the Court of Justice completed 704 cases in 2016 (compared to 616 completed cases in 2015) and had 692 new cases brought before it (compared to 713 in 2015), with an increase in cases for preliminary rulings and appeals;
12. Notes that in 2016, the General Court received 974 new cases (compared to 831 in 2015) and dealt with 755 cases (compared to 987 in 2015), with an increase in the number of pending cases compared to previous years;
13. Acknowledges that the Civil Service Tribunal ceased to exist on 1 September 2016 and therefore its activities must be considered over a period of only eight months; notes that it completed 169 cases and had 77 new cases, with a considerable decrease in the number of pending cases (compared to 231 in 2015, and 139 in 2016); welcomes the information included in the CJEU's proposals on the reform of the Court's Statute, which included an assessment of the functioning of the Civil Service Tribunal, was submitted to the Parliament in 2011 and 2014 and presented as an annex to the reply to the discharge questionnaire for 2016; reiterates its call for an in-depth assessment of the Civil Service Tribunal's functioning over the ten years of its existence;

14. Notes that 2015 was the year of adoption of the judicial architectural reform of the Court of Justice, which was accompanied by the development of new rules of procedure for the General Court; understands that, by virtue of the number of judges being doubled in a three-stage process extending until 2019, reform will enable the Court of Justice to continue to deal with the increase in the number of cases; looks forward to seeing the achievements of that reform in the Court of Justice's capacity to deal with cases within a reasonable period and in compliance with the requirements of a fair hearing;
15. Notes that in 2016, following reform of the judicial architecture of the CJEU, staff cases were the third most frequent type of proceedings in the General Court; calls on the CJEU to continue providing statistics on its judicial activities;
16. Notes the overall decrease in the duration of proceedings in 2016, noted by the Court of Auditors in its Special Report No 14/2017¹ by an average of 0,9 months at the Court of Justice and 1,9 months at the General Court compared to 2015; notes the organisational and procedural actions taken by the CJEU to enhance its efficiency and calls on the CJEU to pursue its effort to ensure the continuation of a downward trend so that all cases are concluded within a reasonable period of time; notes with concern that one of the most frequent factors affecting the duration of the handling of cases are judicial vacations; notes that there were 14 weeks of judicial vacations in 2016;
17. Notes the entry into force of the Code of Conduct for Members and former Members of the Court of Justice of the European Union which sets rules reflecting several of Parliament's concerns regarding declarations of interest and external activities; supports the CJEU in implementing its decision to set up rules on 'revolving doors' in 2018;
18. Requests that the CJEU introduces a more targeted performance based approach in respect of the external activities of judges for the dissemination of Union law, as the criterion used seems rather general and the effects of these activities are not clearly measured;
19. Reiterates its call for a greater level of transparency with regard to the external activities of each judge; calls on the CJEU to provide information regarding other posts and paid external activities of the judges on its website and in its annual activity report, including the name of the event, the venue, the role of the judges concerned, the travel and subsistence costs and whether they were paid by the CJEU or by a third party;
20. Urges the CJEU to publish CVs and declarations of interest for all CJEU members, listing membership of any other organisations;
21. Regrets the absence of rules on 'revolving doors' and urges the CJEU to establish and implement strict obligations in regard thereto;
22. Is of the opinion that the CJEU should consider producing minutes of meetings held with lobbyists, professional associations and civil society actors, when this does not undermine the confidentiality of ongoing cases;
23. Asks the CJEU to publish the meetings with professional associations as well as agents

¹ Court of Auditors Special Report No 14/2017 'Performance Review of case management at the Court of Justice of the European Union'.

representing the Member States;

24. Deplores the lack of effort by Member States towards achieving gender balance in positions of high responsibility and notes that the Parliament and the Council have set as one of their objectives a balanced representation of genders in appointing new judges to the General Court (as of this date, five women judges and two women advocates general are part of the organisation chart of the Court of Justice and ten women judges are part of the organisation chart of the General Court); considers that the Union institutions must be representative of their citizens; stresses, therefore, the importance of the goal set by Parliament and the Council;
25. Notes that the Court of Auditors did not have access to certain documents relevant for the audit of the performance review of the CJEU¹; calls on the CJEU to keep working with the Court of Auditors and to provide it with access to all the documents it needs for its audits to the extent that this does not infringe the obligation to maintain the secrecy of the deliberative process;
26. Is aware that the role of the *référéndaires* is to assist the members of the Courts in examining cases and in drafting legal documents under their supervision, such as judgments, orders, opinions or memoranda; notes that their rules of conduct were adopted by the CJEU in 2009; notes also that *référéndaires* are selected by the members for whom they will work and that there are minimal recruitment criteria; calls on the CJEU to implement a policy allowing for a more flexible allocation of existing *référéndaires* to help mitigate problems relating to management of resources or organisational issues²;
27. Notes with concern that the CJEU could not evaluate the capacity of judges and *référéndaires* managing cases because the CJEU does not collect any information on the amount of time that a judge or a *référéndaire* spends on a particular case; notes that a study will be carried out in order to evaluate the extent to which the introduction of a system for monitoring the use of resources would provide useful data; asks the CJEU to present the results of the study to the Parliament;
28. Considers the answer given by the CJEU to Parliament's question (Question 50) on the costs of their cases to be unsatisfactory; asks the CJEU to consider a monitoring system to calculate the costs of each case;
29. Notes the permanent monitoring of the development of potential backlogs and delays within chambers; regrets that the CJEU has not reported data to Parliament relating to the failure to comply with indicative time frames because it concerns the internal organisation of the courts;
30. Is concerned that the reception and processing of procedural documents by the registry is the most frequent factor affecting the duration of the written procedure at the General

¹ Court of Auditors Special Report No 14/2017 'Performance Review of case management at the Court of Justice of the European Union'.

² See page 49, point C) of ECA SR 14/2017 where the Court of Auditors identified the following aspects: unavailability of *référéndaires*, workload of judges, advocates general and their *référéndaires*, re-assignment of cases due to the end of judges' mandate.

https://www.eca.europa.eu/Lists/ECADocuments/SR17_14/SR_CJEU_EN.pdf

Court¹; notes that the cases before the General Court are characterised by the volume of the documents; calls on the General Court to further monitor the number and complexity of cases in order to ensure that the registry has sufficient resources;

31. Underlines the recommendation of the Court of Auditors in its Special Report No 14/2017 to measure performance on a case by case basis by reference to a tailored time-frame, taking account of the actual resources employed;
32. Notes that following the reform of the CJEU's judicial structure, the allocation of judges to the chambers is made according to the caseload in different areas; is interested to know how this allocation is made and whether specialised chambers are in place for certain areas and asks for an analysis of how the allocation affects the speed with which cases are handled;
33. Notes the process for assigning cases referred to the Courts; notes that in 2016, as in previous years, around 40 % of cases in the General Court were assigned outside of the rota system, which puts the system itself into question; asks the CJEU to provide the rules stipulating the procedure of assignment in both Courts;
34. Notes that intellectual property issues are involved in a significant number of cases in both Courts; encourages the CJEU to analyse ways of simplifying the procedures for these cases and consider a pre-review by its research and documentation services;
35. Observes that the CJEU continues to comply with the interinstitutional agreement to reduce staff by 5 % over the period of five years despite the creation of 137 new posts related to the increase in the number of judges and advocates general;
36. Notes the high rate of occupation of posts (almost 98 %) despite the high staff turnover rate; notes the difficulties stated by the CJEU with respect to recruiting permanent staff in entry-level grades; asks for an assessment by the CJEU on the reasons for the high turnover and the measures put in place or intended to put in place to improve the situation;
37. Acknowledges the CJEU's actions taken in 2016 to improve gender balance in senior and middle-management posts but underlines the importance of maintaining the aim of improving in this matter; reiterates its concern for the geographic imbalance at middle and senior management level and, also in this regard, calls on the CJEU to aim for improvements;
38. Notes that the CJEU offered 245 traineeships in 2016; regrets that 188 traineeships in cabinets were not remunerated; calls on the CJEU to find a solution to provide a decent remuneration to all trainees working in the institution with a view to ensuring equal opportunities;
39. Welcomes the CJEU's exchange of staff with the European Central Bank and the project to establish a framework for exchanges for lawyer-linguists between the various institutions;

¹ See ECA Special Report no 14/2017: Performance review of case management at the Court of Justice of the European Union, p. 27

40. Welcomes the cooperation with the Commission and the Parliament interpretation services within the Interinstitutional Committee for Translation and Interpretation (ICTI);
41. Notes with appreciation that the CJEU became a full member of the Interinstitutional Working Group on Key Interinstitutional Activity and Performance Indicators and provided the costs of translation according to the harmonised methodology agreed within the working group;
42. Notes the CJEU's investment in IT tools to improve case management; asks the CJEU to provide detailed quantitative and qualitative financial information on the state of play of IT projects within the CJEU since 2014; calls on the CJEU to develop a fully integrated IT system to support case management;
43. Points out the constant growth of the accesses to the 'e-Curia' application (number of access accounts 3 599 in 2016, compared to 2 914 in 2015), and the fact that in 2016 all the Member States used 'e- Curia', showing that the public's awareness of the existence and the advantages of this application has been raised;
44. Calls on the CJEU to improve its communication activities in order to make itself more accessible to the citizens of the Union, e.g. by organising training seminars for journalists or developing communication products on its activity in accordance with a more citizen centred approach; welcomes the fact that the CJEU has taken the decision to update its website in order to be more user friendly and asks the CJEU to make efforts to improve its database by making it more focused on users; acknowledges the efforts of the CJEU with regard to online communication channels and encourages it to keep up the good work;
45. Notes that the CJEU followed up on the Parliament's recommendation on the use of official vehicles in the 2015 discharge resolution in a phased manner; finds that the actions taken to rationalise the management of the fleet go in the right direction; welcomes the new interinstitutional call for tender on car leasing procurement launched in 2016 which aims to provide financial savings in this regard; notes with concern that in 2016, 21 flights were arranged at a cost of EUR 3 998,97 in order to send drivers on mission to chauffeur members of the Court of Justice or of the Civil Service Tribunal in the home Member States of those members;
46. Welcomes the CJEU's commitment to ambitious environmental targets and calls for these objectives to be reached in a timely manner; encourages the institution to apply the principles of green public procurement and calls for the establishment of rules and a sufficient budget for carbon offsetting;
47. Notes the detailed information on the buildings policy, particularly with regard to the construction of a fifth extension of the current buildings complex;
48. Notes the further experience gained as to open space offices; is concerned that advantages such as the reduction of space needs, gains in terms of easier communication and higher flexibility could be outweighed by loss of confidentiality, constraints on work on files which require high concentration and a loss of privacy; calls on the CJEU to evaluate the positive and negative effects on working conditions, taking into consideration the needs of the staff, and to inform the Parliament about the

result of this evaluation;

49. Welcomes the CJEU's adoption of guidelines on information for and protection of whistleblowers in the beginning of 2016 and recalls that the protection of whistleblowers is an issue taken seriously within the public administration of the Union, which must always be considered carefully; calls on the CJEU to encourage its staff to familiarise itself with the 2016 guidelines, highlighting the vital role of whistleblowers in bringing wrongdoing to light; calls on the CJEU to encourage its staff to take advantage of the 2016 guidelines in appropriate cases; asks the CJEU to provide in due time details of whistleblower cases, how they were handled and brought to a close;
50. Expresses the need to establish an independent disclosure, advice and referral body with sufficient budgetary resources in order to help whistleblowers use the right channels to disclose information on possible irregularities affecting the financial interests of the Union, while protecting their confidentiality and offering needed support and advice;
51. Notes that the nomination of the members of the CJEU is the responsibility of the Member States under Articles 253 and 254 TFEU; highlights the importance of a timely nomination and appointment of judges for the performance of the CJEU; asks for a new rule setting a specific deadline for the (re)nomination of a judge well before the end of a judge's mandate and calls on the Council to weigh costs against benefits when appointing new judges to the CJEU; criticises the irregular nomination without a call for applications of two judges for the Civil Service Tribunal for a mandate which moreover lasted only from 14 April 2016 until 31 August 2016;
52. Notes that one of two judges for the Civil Service Tribunal who were appointed on 1 April until 31 August 2016 was paid an installation allowance (EUR 18 962,25) in accordance with Article 4 (a) of Council Regulation (EU) 2016/300¹, travel expenses (EUR 493,10) in accordance with Article 4 (c) of that Regulation, and removal expenses (EUR 2 972,91) in accordance with its Article 4 (d); notes, moreover, that the same judge was paid a transitional allowance for six months amounting in total to EUR 47 070 at the end of the mandate; notes with regret the disproportionate costs associated with one of those judges taking up and ending his '4 month mandate' amounting to EUR 69 498,25 in addition to the salary received by the judge; calls on the CJEU to consider whether the duration of the mandate is proportionate to the above-mentioned allowances when appointing future judges; calls on the Council to reconsider the conditions and amounts of these allowances and revise Council Regulation (EU) 2016/300 accordingly; condemns such a waste of Union taxpayers' money;
53. Notes furthermore that the General Court (Appeal Chamber, judgment of 23 January 2018 in Case T-639/16 P)² has considered a Second Chamber of the Civil Service Tribunal constituted to include one of the '4 month mandate' judges to be irregular, which invalidated the decision referred to in the said judgment as well as all further decisions of the Second Chamber in that composition; asks the CJEU which decisions of the Second Chamber in that composition are affected by the General Court ruling; demands that the Council comment on this failure and clarifies where responsibility lies

¹ Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders (OJ L 58, 4.3.2016, p. 1).

² ECLI:EU:T:2018:22.

for it;

54. Asks the CJEU to consider extending the languages of deliberation of the CJEU, in particular the General Court, to languages other than French; welcomes the request of the President of the General Court in February 2016 for an impact assessment of a change of the language of deliberation that has not yet been finalised;
55. Regrets the decision by the United Kingdom to withdraw from the Union; observes that at this point no predictions can be made about the financial, administrative, human and other consequences related to the withdrawal, asks the Council and the Court of Auditors to perform impact assessments and inform the Parliament of the results by the end of 2018.