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*Plenary sitting*

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**A8-0101/2016**

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# REPORT

on discharge in respect of the implementation of the general budget of the European Union for the financial year 2014, Section II – European Council and Council  
(2015/2156(DEC))

Committee on Budgetary Control

Rapporteur: Ryszard Czarnecki

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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 2014, Section II – European Council and Council (2015/2156(DEC))**

*The European Parliament,*

- having regard to the general budget of the European Union for the financial year 2014<sup>1</sup>,
  - having regard to the consolidated annual accounts of the European Union for the financial year 2014 (COM(2015)0377 – C8-0201/2015)<sup>2</sup>,
  - having regard to the Court of Auditors' annual report on the implementation of the budget concerning the financial year 2014, 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 2014, 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>1</sup>, and in particular Articles 55, 99, 164, 165 and 166 thereof,
  - having regard to Rule 94 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 Constitutional Affairs (A8-0101/2016),
1. Postpones its decision on granting the Secretary-General of the Council discharge in respect of the implementation of the budget of the European Council and of the Council for the financial year 2014;
  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 European Council, the Council, the Commission, the Court of Justice of the European Union, 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).

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<sup>1</sup> OJ L 51, 20.02.2014.

<sup>2</sup> OJ C 377, 13.11.2015, p. 1.

<sup>3</sup> OJ C 373, 5.11.2015, p. 1.

<sup>4</sup> OJ C 377, 13.11.2015, p. 146.

## 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 2014, Section II – European Council and Council (2015/2156(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 2014, Section II – European Council and Council,
- having regard to Rule 94 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 Constitutional Affairs (A8-0101/2016),
- A. whereas transparency and the scrutiny of public accounts are overarching democratic principles which also apply to the Union;
- B. whereas the discharge procedure is part of the concept of representative democracy;
- C. whereas, under the terms of Article 319 of the Treaty on the Functioning of the European Union (TFEU), the European Parliament has sole responsibility for granting discharge in respect of the implementation of the general budget of the European Union;
- D. whereas the Council’s budget is a section of the budget of the European Union;
- E. whereas, under the terms of Article 319(2) TFEU, the Commission must submit to the European Parliament, at the latter’s request, any necessary information concerning the execution of expenditure and the operation of financial control systems;
- F. whereas following Article 335 TFEU each of the Union institutions has administrative autonomy, and according to Article 55 of the Financial Regulation the institutions are individually responsible for the implementation of the sections of the budget relating to them;
- G. whereas without the necessary information, Parliament is not in a position to make an informed decision on granting discharge;
- H. whereas legal and academic experts agreed on Parliament’s right to information at the European Parliament workshop on Parliament’s right to grant discharge to the Council held on 27 September 2012;
- 1. Notes 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 2014 for administrative and other expenditure of the institutions and bodies were free from material error;

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

2. Takes note that in its 2014 annual report, the Court of Auditors observed that a small number of errors relating to the calculation of staff costs and some weaknesses in the management of family allowances were detected in respect of the audited topics for the European Council and the Council;
3. Calls on the European Council and the Council to improve the management of the identified weaknesses and to correct the errors observed by the Court;
4. Notes that in 2014, the European Council and the Council had an overall budget of EUR 534 200 000 (EUR 535 511 300 in 2013), with an implementation of 91,3 %; notes the increase of the utilisation rate in 2014;
5. Takes note of the decrease of EUR 1,3 million (-0,2 %) in the Council's budget for 2014;
6. Continues to be concerned at the high underspending rate that covers almost all categories; reiterates its calls for the development of key performance indicators to improve the budgetary planning;
7. Is concerned at the very high number of appropriations being carried over from 2014 to 2015, particularly those on property, plant and equipment; firmly believes that the repeated trend of carrying over appropriations is against the principles of annuality and sound financial management of the Financial Regulation;
8. Finds that the Council's major transfers within budget lines could be avoided with better budgetary programming;
9. Reiterates that the budget of the European Council and the Council should be separated to contribute to the transparency of the financial management of the institutions and to improve the accountability of both institutions;
10. Insists that the Council must be accountable and transparent, as are the other institutions; calls on the Council to join the Union transparency register;
11. Reiterates its call on the European Council and the Council to send Parliament their annual activity report with a comprehensive overview of all human resources available to both institutions, broken down by category, grade, sex, nationality and vocational training;
12. States that the annual reports of the Union institutions and agencies could play an important role in compliance regarding transparency, accountability and integrity; calls for the Union institutions and agencies to include a standard chapter on these components in their annual reports;
13. Considers it regrettable that the Council has still not adopted a code of conduct; is of the opinion that all the Union institutions and agencies should agree on a common code of conduct, which is indispensable to the transparency, accountability and integrity of those institutions; calls on those EU Union institutions and bodies which still do not have a code of conduct to develop such a document as soon as possible;

14. Calls on the Council to implement internal whistleblowing rules without further delay;
15. Calls for a clear declaration of financial interests of the Members of the Council of the European Union to be published on the internet;
16. Notes with concern that there are no integrity rules, conflicts of interest declarations and detailed biographical information for the President of the European Council and his cabinet members; further notes that there are no common integrity rules for national representatives in the Council; calls on the Council to put in place measures that will remedy the situation and to report on this to the discharge authority;
17. Welcomes the Council's draft regulation determining the emoluments of high-level Union public office holders and the savings planned under that regulation;
18. Calls on the Council to develop detailed anti-corruption guidelines and independent policies within its structures;
19. Notes with concern that there is a worrying lack of transparency with regard to the legislative process, negotiations, Member States' positions and meetings within Council; urges the Council to disclose the relevant documents and to put in place a clear reporting system that will enable the public to follow the legislative procedures in an open and transparent manner;
20. Is concerned at the lack of transparency of the trilogues and conciliation meetings; calls on the Council to systematically increase transparency and integrity with regard to the negotiations;
21. Acknowledges the results achieved by the inter-institutional agreement committee for translation and interpretation in settling a harmonised methodology which enables direct comparisons of the translation costs of all the institutions; welcomes the fact that the Council is providing data according to this methodology;
22. Stresses that one of the main financial objectives of the General Secretariat of the Council for 2014 – the delivery of the Europa building by the end of 2015 - was not achieved; regrets the delay and asks to be informed of the financial consequences of the postponement;
23. Reiterates its call for the institution's buildings policy to be attached to its annual activity report, especially given that it is important that the costs of such a policy be properly rationalised and that such costs not be excessive;

***Reasons for postponement of the decision on granting discharge***

24. Reiterates that the Council ought to be transparent and fully accountable to Union citizens for the funds entrusted to it by taking part fully and in good faith in the annual discharge procedure just as other Union institutions do; considers, in this regard, that effective supervision of the Union's budget implementation requires cooperation between Parliament and the Council through a working arrangement; regrets the difficulties encountered in the discharge procedures to date; stresses the need to improve the capacity for dialogue between the two institutions in order to find a

solution as soon as possible that will enable compliance with the Treaty mandate and accountability to citizens;

25. Notes that the procedure of giving discharge separately to the individual Union institutions and bodies is a long-standing practice, which it has developed to guarantee transparency and democratic accountability towards Union taxpayers; underlines that this effectively guarantees Parliament's right and duty to scrutinise the whole of the Union budget;
26. Notes further that the Commission, in its letter of 23 January 2014, expressed the view that all institutions are fully part of the follow-up process to the observations made by the Parliament in the discharge exercise and that all institutions should cooperate to ensure the smooth functioning of the discharge procedure in full respect of the relevant provisions in the TFEU and in the relevant secondary law;
27. Emphasises that the Commission also states in its letter that it will not oversee the implementation of the budgets of other institutions and that giving a response to questions addressed to another institution would infringe the autonomy of that institution to implement its own section of the budget;
28. Recalls that each of the institutions, as defined in Article 2(b) of the Financial Regulation, has autonomy to implement its own section of the budget pursuant to Article 55 of the Financial Regulation; affirms that, according to the practice and the interpretation of the current rules, and in order to maintain transparency and democratic accountability towards Union taxpayers, Parliament grants discharge to each institution individually;
29. Underlines the Parliament's power to grant discharge pursuant to Articles 316, 317 and 319 TFEU and Articles 55 and 164 to 167 of the Financial Regulation; considers that those provisions are a sufficient legal basis for the exercise by the Parliament of its right to take a separate discharge decision regarding the Council, in addition to its right to grant discharge to the Commission; affirms that granting or not granting discharge is a Parliament's right and a duty Parliament has towards Union citizens;
30. Emphasises that since 2009, the Council has refused to cooperate with the discharge procedure as implemented by Parliament, failing to provide the necessary information, answer written questions and attend hearings and debates on the implementation of its own budget, and that, as a result, more than EUR 3 billion in public funds have been spent without proper scrutiny; considers this to be a negative sign sent to Union citizens;
31. Reiterates that without the cooperation of the Council, Parliament is not in the position to make an informed decision on granting discharge;
32. Takes the view that this constitutes a serious failure to comply with the obligations laid down by the Treaties, in particular the principle of sincere cooperation between the institutions, and that a solution must be found quickly so that the whole of the Union budget can be scrutinised; in this respect refers also to Article 15 TFEU, which stipulates that each Union institution, body, office or agency shall ensure that its proceedings are transparent;

33. Reiterates that it is only possible to implement effective budgetary control if there is cooperation between Parliament and the Council, the main elements of which must comprise formal meetings between representatives of the Council and Parliament's Committee on Budgetary Control, answering questions asked by the committee's members on the basis of a written questionnaire and submitting documents to serve as background material for budgetary controls on request;
34. Recalls that Parliament grants discharge to the other institutions after considering the documents provided and the replies given to its questions; regrets that Parliament repeatedly encounters problems in receiving answers from the Council;
35. Takes note of the letter from the secretary general of the Council in response to the invitation of Parliament's Committee on Budgetary Control to attend the exchange of views on 11 January 2016; notes that the letter does not reply to the invitation, nor to the written questionnaire sent to the General Secretariat on 25 November 2015 with questions from members of Parliament, but simply reiterates the Council position on the exchange of financial information already expressed in the past;
36. Believes that the discharge procedure is an important instrument of democratic accountability to the citizens of the Union;
37. Calls on the Council to enter into negotiations with Parliament with a view to ensuring that the latter can exercise its right of access to information concerning the implementation of the Council's budget ; believes that this entails an obligation by the Council to deliver the requested information;
38. Regrets the fact that not all the Union institutions respect the same standards in relation to transparency and believes that the Council should make improvements in that regard;
39. Takes the view that, while in the meantime the situation could be improved with better cooperation between Union institutions inside the Treaties framework, a revision of the Treaties may ultimately be required in order to render the discharge procedure more clear, in the sense that the Parliament is tasked expressly with the competence to grant discharge to all institutions and bodies individually;
40. Calls on the Commission to amend the Financial Regulation to clarify the objectives of the discharge procedure and to clearly define sanctions for not respecting the regulations; highlights that this should be done in order to hold the European institutions accountable with the aim of protecting the financial interests of the Union citizens; stresses that there should be no exceptions.



23.2.2016

## **OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS**

for the Committee on Budgetary Control

on discharge in respect of the implementation of the general budget of the European Union for the financial year 2014, Section II – European Council and Council (2015/2156(DEC))

Rapporteur: Pascal Durand

### **SUGGESTIONS**

The Committee on Constitutional Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- A. whereas transparency and the scrutiny of public accounts are overarching democratic principles which also apply to the EU;
- B. whereas the discharge procedure is part of the concept of representative democracy;
- C. whereas, under the terms of Article 319 of the Treaty on the Functioning of the European Union, the European Parliament, has the sole responsibility to grant discharge in respect of the implementation of the general budget of the European Union;
- D. whereas the Council's budget is a section of the Union budget;
- E. whereas, under the terms of Article 319(2) of the Treaty on the Functioning of the European Union, the Commission must submit to the European Parliament, at the latter's request, any necessary information concerning the execution of expenditure and the operation of financial control systems;
- F. whereas legal and academic experts agreed on the Parliament's right to information at the European Parliament workshop on Parliament's Right to Grant Discharge to the Council held on 27 September 2012;
- G. whereas following Article 335 TFEU each of the Union institutions has administrative autonomy, and according to Article 55 of Regulation (EU, Euratom) No 966/2012 of the

European Parliament and the Council<sup>1</sup> (Financial Regulation) the institutions are individually responsible for the implementation of the sections of the budget relating to them;

- H. whereas without the necessary information, Parliament is not in a position to make an informed decision on granting discharge;
1. Notes that the procedure of giving discharge separately to the individual Union institutions and bodies is a longstanding practice, which it has developed in order to guarantee transparency and democratic accountability towards Union taxpayers; underlines that this should effectively guarantee its right and duty to scrutinise the whole of the Union budget;
  2. Notes further that the Commission in its letter of 23 January 2014 expressed the view that all institutions are fully part of the follow-up process to the observations made by the Parliament in the discharge exercise and that all institutions should cooperate to ensure the smooth functioning of the discharge procedure in full respect of the relevant provisions in the TFEU and in the relevant secondary law;
  3. Emphasises that the Commission also states in its letter that it will not oversee the implementation of the budgets of other institutions and that giving a response to questions addressed to another institution would infringe the autonomy of that institution to implement its own section of the budget;
  4. Emphasises that since 2009 the Council has refused to cooperate with the discharge procedure as implemented by Parliament, failing to provide the necessary information, answer written questions and attend hearings and debates on the implementation of its own budget, and that, as a result, more than EUR 3 billion in public funds have been spent without proper scrutiny;
  5. Regrets about poor cooperation on scrutiny of the implementation of the budget between the Parliament and the Council last years and considers it as a negative sign sent to the citizens of the Union;
  6. Takes the view that this constitutes a serious failure to comply with the obligations laid down by the Treaties, in particular the principle of sincere cooperation between the institutions, and that a solution must be found quickly so that the whole of the Union budget can be scrutinised; in this respect refers also to Article 15 TFEU which stipulates that each Union institution, body, office or agency shall ensure that its proceedings are transparent;
  7. Calls for the Council to be transparent and fully accountable to Union citizens by taking part in the annual discharge procedure just as the other Union institutions do;
  8. Calls to take into account Article 319(1) TFEU together with the second paragraph of Article 317 TFEU, and Articles 55, 165, 166 of the Financial Regulation as a sufficient

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<sup>1</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and 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 (OJ L 298, 26.10.2012, p.1).

legal basis to exercise the Parliament's implicit right to take a separate discharge decision to the Council in addition to its explicit right to grant a discharge to the Commission;

9. Calls on the Council to enter into negotiations with Parliament with a view to ensuring that the latter can exercise its right of access to information concerning the implementation of the Council's budget, ; ; believes that it entails an obligation by the Council to deliver the requested information;
10. Reminds the Council of the Commission's views, expressed in its letter of 23 January 2014, that it will not oversee the implementation of the budget of the other institutions and that giving a response to questions addressed to another institution would infringe the autonomy of that institution in the implementation of its own section of the budget;
11. Takes the view that, while in the meantime the situation could be improved with better cooperation between Union institutions inside the Treaties framework, a revision of the Treaties may ultimately be required in order to render the discharge procedure more clear, in the sense that the Parliament is tasked with the explicit competence to grant discharge to all institutions and bodies individually

## RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	23.2.2016
<b>Result of final vote</b>	+: 21 -: 2 0: 1
<b>Members present for the final vote</b>	Mercedes Bresso, Elmar Brok, Fabio Massimo Castaldo, Richard Corbett, Pascal Durand, Esteban González Pons, Danuta Maria Hübner, Ramón Jáuregui Atondo, Jo Leinen, Morten Messerschmidt, Maite Pagazaurtundúa Ruiz, Paulo Rangel, György Schöpflin, Pedro Silva Pereira, Barbara Spinelli, Claudia Tapardel, Kazimierz Michał Ujazdowski, Rainer Wieland
<b>Substitutes present for the final vote</b>	Max Andersson, Gerolf Annemans, Sylvie Goulard, Viviane Reding, Helmut Scholz
<b>Substitutes under Rule 200(2) present for the final vote</b>	Teresa Jiménez-Becerril Barrio

## RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	4.4.2016
<b>Result of final vote</b>	+: 21 -: 0 0: 0
<b>Members present for the final vote</b>	Louis Aliot, Inés Ayala Sender, Dennis de Jong, Martina Dlabajová, Ingeborg Gräßle, Verónica Lope Fontagné, Monica Macovei, Dan Nica, Gilles Pargneaux, Georgi Pirinski, Petri Sarvamaa, Claudia Schmidt, Bart Staes, Marco Valli, Derek Vaughan, Anders Primdahl Vistisen, Tomáš Zdechovský
<b>Substitutes present for the final vote</b>	Marian-Jean Marinescu, Miroslav Poche
<b>Substitutes under Rule 200(2) present for the final vote</b>	Birgit Collin-Langen, Bodil Valero