



EUROPEAN PARLIAMENT

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*Plenary sitting*

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**A8-0010/2014**

25.9.2014

## **SECOND REPORT**

on discharge in respect of the implementation of the general budget of the European Union for the financial year 2012, Section II – European Council and Council  
(COM(2013)0570 – C7-0275/2013 – 2013/2197(DEC))

Committee on Budgetary Control

Rapporteur: Tamás Deutsch

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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 2012, Section II – European Council and Council**

**(COM(2013)0570 – C7-0275/2013 – 2013/2197(DEC))**

*The European Parliament,*

- having regard to the general budget of the European Union for the financial year 2012<sup>1</sup>,
- having regard to the consolidated annual accounts of the European Union for the financial year 2012 (COM(2013)0570 – C7-0275/2013)<sup>2</sup>,
- having regard to the Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2012, 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 2012, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to its decision of 3 April 2014<sup>5</sup> postponing its decision on granting discharge for the financial year 2012, and the accompanying resolution,
- 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 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>6</sup>, and in particular Articles 50, 86, 145, 146 and 147 thereof,
- 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>7</sup>, and in particular Articles 164, 165 and 166 thereof,
- having regard to the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>8</sup>,

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<sup>1</sup> OJ L 56, 29.2.2012.

<sup>2</sup> OJ C 334, 15.11.2013, p. 1.

<sup>3</sup> OJ C 331, 14.11.2013, p. 1.

<sup>4</sup> OJ C 334, 15.11.2013, p. 122.

<sup>5</sup> OJ L 266, 5.9.2014, p. 24.

<sup>6</sup> OJ L 248, 16.9.2012, p. 1.

<sup>7</sup> OJ L 298, 26.10.2012, p. 1.

<sup>8</sup> OJ C 373, 20.12.2013, p. 1.

- having regard to Rule 94 of, and Annex V to, its Rules of Procedure,
  - having regard to the second report of the Committee on Budgetary Control (A8-0010/2014),
1. Refuses to grant the Secretary-General of the Council discharge in respect of the implementation of the European Council's and the Council's budget for the financial year 2012;
  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 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).

## 2. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with observations forming an integral part of the Decision on discharge for implementation of the general budget of the European Union for the financial year 2012, Section II – European Council and Council (COM(2013)0570 – C7-0275/2013 – 2013/2197(DEC))**

*The European Parliament,*

- having regard to the general budget of the European Union for the financial year 2012<sup>1</sup>,
- having regard to the consolidated annual accounts of the European Union for the financial year 2012 (COM(2013)0570 – C7-0275/2013)<sup>2</sup>,
- having regard to the Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2012, 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 2012, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to its decision of 3 April 2014<sup>5</sup> postponing its decision on granting discharge for the financial year 2012, and the accompanying resolution,
- 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 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>6</sup>, and in particular Articles 50, 86, 145, 146 and 147 thereof,
- 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>7</sup>, and in particular Articles 164, 165 and 166 thereof,
- having regard to the Interinstitutional Agreement of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management<sup>8</sup>,

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<sup>1</sup> OJ L 56, 29.2.2012.

<sup>2</sup> OJ C 334, 15.11.2013, p. 1.

<sup>3</sup> OJ C 331, 14.11.2013, p. 1.

<sup>4</sup> OJ C 334, 15.11.2013, p. 122.

<sup>5</sup> OJ L 266, 5.9.2014, p. 24.

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<sup>7</sup> OJ L 298, 26.10.2012, p. 1.

<sup>8</sup> OJ C 373, 20.12.2013, p. 1.

- having regard to Rule 94 of, and Annex V to, its Rules of Procedure,
  - having regard to the second report of the Committee on Budgetary Control (A8-0010/2014),
- A. Whereas all Union institutions ought to be transparent and fully accountable to the citizens of the Union for the funds entrusted to them as Union institutions;
  - B. Whereas the European Council and the Council, as Union institutions, should be subject to democratic accountability towards the citizens of the Union as far as they are beneficiaries of the general budget of the European Union;
  - C. Whereas Parliament is the sole directly elected body among the Union institutions and has responsibility to grant discharge in respect of the implementation of the general budget of the European Union;
1. Emphasises Parliament's role specified in the Treaty on the Functioning of the European Union (TFEU) in respect of the budget discharge;
  2. Points out that under Article 335 TFEU, "the Union shall be represented by each of the institutions, by virtue of their administrative autonomy, in matters relating to their respective operation" and that accordingly, taking into account Article 55 of the Financial Regulation, the institutions are individually responsible for the implementation of their budgets;
  3. Emphasises the role of Parliament and of other institutions within the discharge procedure as governed by the provisions of the Financial Regulation, in particular Articles 164 to 166 thereof;
  4. Notes that under Rule 94 of its Rules of Procedure, "the provisions governing the procedure for granting discharge to the Commission in respect of the implementation of the budget shall likewise apply to the procedure for granting discharge to [...] the persons responsible for the implementation of the budgets of other institutions and bodies of the European Union such as the Council (as regards its activity as executive)";

***Opinion of the Court of Auditors on the European Council and Council in its statement of assurance for the financial year 2012***

5. Emphasises the fact that in the annual report concerning the financial year 2012, the Court of Auditors included observations on the European Council and the Council concerning errors in the design of procurement procedures; notes that one error relates to the performance of a negotiated procedure and that another relates to the application of a selection criterion;
6. Notes the Council's reply that "the Council and European Council have a solid centralised procurement framework in place that was recently adapted to the new Financial Regulation and rules of application and will be reinforced with the design of new templates of contracts and invitations to tender as well as the development of specific training courses on how to define and apply selection and award criteria";

7. Shares the Court of Auditor's recommendations that the authorising officers of the European Council and Council should improve the design, coordination and performance of procurement procedures through appropriate checks and better guidance;
8. Notes that the Council did not provide any further reply to the Court of Auditor's recommendations;

***Pending issues***

9. Reiterates its call on the Council to inform Parliament about the progress of construction and the final costs projection of the 'Europa' building;
10. Invites the Council to explain all the measures implemented throughout the construction of the 'Europa' building in order to improve the execution of the project;
11. Reminds the Council of Parliament's call for a progress report on the 'Residence Palace' building project and a detailed breakdown of the costs incurred to date;
12. Urges the Council to provide a thorough written explanation detailing the total amount of appropriations used in the purchase of the 'Residence Palace' building, the budget items from which these appropriations were drawn, the instalments that have been paid thus far, the instalments that remain to be paid and the purpose that the building will serve;
13. Reiterates its call on the Council to provide information on its process of administrative modernisation, in particular on the concrete implementing measures of that process and on the anticipated impact on the Council's budget;
14. Regrets the difficulties repeatedly encountered in the discharge procedures to date, which were due to a lack of cooperation from the Council; points out that Parliament refused to grant discharge to the Secretary-General of the Council in relation to the financial years 2009, 2010 and 2011 for the reasons set out in its resolutions of 10 May 2011, 25 October 2011, 10 May 2012, 23 October 2012, 17 April 2013 and 9 October 2013, and postponed its decision on granting the Secretary-General of the Council discharge in relation to the financial year 2012 for the reasons set out in its resolution of 3 April 2014;
15. Insists that an effective budgetary control exercise requires the cooperation of Parliament and the Council, as set out in its resolution of 3 April 2014; confirms that Parliament is unable to make an informed decision on granting discharge;
16. Recalls that as a result of its discharge decision adopted in April 2013, Parliament sent the Council's questions to the Commission, and that the Commission replied by letter of 23 January 2014; reminds the Council of the Commission's 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;

17. Notes that the Commission stated in the abovementioned letter 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 to implement its own section of the budget;
18. Regrets that the Council continues to fail to provide answers to Parliament's questions; recalls the conclusions of the Parliament workshop on Parliament's Right to Grant Discharge to the Council held on 27 September 2012 at which the legal and academic experts largely agreed on the Parliament's right to information; in this respect refers to the third subparagraph of Article 15(3) TFEU which stipulates that each institution, body, office or agency shall ensure that its proceedings are transparent;
19. Insists that the expenditure of the Council must be scrutinised in the same way as that of other institutions and that the fundamental elements of such scrutiny have been laid down in its discharge resolutions of the past years, in particular the discharge resolution of 23 October 2012;
20. Emphasises Parliament's prerogatives to grant discharge pursuant to Article 316, 317 and 319 of the TFEU, in line with current interpretation and practice, namely to grant discharge to each heading of the budget individually in order to maintain transparency and democratic accountability towards Union taxpayers;
21. Takes the view that failure to submit the requested documents to Parliament above all undermines the right of citizens of the Union to information and transparency and is becoming a cause for concern, reflecting as it does a certain democratic deficit within the Union institutions; urges the Council therefore not to treat Parliament's requests for access to information as a bid for institutional supremacy but to give priority to the right of the public to be fully informed;
22. Believes it is necessary to consider different possibilities to update the rules on granting discharge laid down in the Treaty on the Functioning of the European Union;
23. Finds that Parliament and the Council could make some progress by setting up a "modus vivendi" procedure together with a list of documents to be exchanged in order to fulfil their respective roles in the discharge process; encourages, in this respect, the Council to seek a political solution to the Council discharge regardless the different legal views which Parliament and the Council continue to hold;
24. Considers that satisfactory cooperation between Parliament, the European Council and the Council as a result of an open and formal dialogue procedure can be a positive sign to be sent to the citizens of the Union.

## ROLL CALL FOR FINAL VOTE

<b>Members in favour : 24</b>	<p><b>PPE</b> : Ingeborg Gräßle, Monica Luisa Macovei, Markus Pieper, Julia Pitera, Claudia Schmidt, Tomáš Zdechovský</p> <p><b>S&amp;D</b> : Caterina Chinnici, Bogusław Liberadzki, Dan Nica, Gilles Pargneaux, Georgi Pirinski</p> <p><b>ECR</b> : Ryszard Czarnecki, Bernd Kölmel, Anders Primdahl Vistisen</p> <p><b>ALDE</b> : Martina Dlabajová, Gerben-Jan Gerbrandy, Michael Theurer</p> <p><b>GUE/NGL</b> : Rina Ronja Kari, Dennis de Jong</p> <p><b>Verts/ALE</b> : Igor Šoltes, Bart Staes</p> <p><b>EFDD</b> : Jonathan Arnott, Marco Valli</p> <p><b>NI</b> : Louis Aliot</p>
<b>Members against : 0</b>	<b>No Member against</b>
<b>Members abstained : 0</b>	<b>No Member abstained</b>

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	23.9.2014
<b>Result of final vote</b>	+ : 24 - : 0 0 : 0
<b>Members present for the final vote</b>	Louis Aliot, Jonathan Arnott, Inés Ayala Sender, Ryszard Czarnecki, Dennis de Jong, Martina Dlabajová, Ingeborg Gräßle, Rina Ronja Kari, Bernd Kölmel, Bogusław Liberadzki, Monica Luisa Macovei, Dan Nica, Gilles Pargneaux, Georgi Pirinski, Claudia Schmidt, Igor Šoltes, Bart Staes, Michael Theurer, Marco Valli, Anders Primdahl Vistisen, Tomáš Zdechovský
<b>Substitutes present for the final vote</b>	Caterina Chinnici, Gerben-Jan Gerbrandy, Péter Niedermüller, Markus Pieper, Julia Pitera