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*Plenary sitting*

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**A9-0067/2022**

28.3.2022

# REPORT

on discharge in respect of the implementation of the general budget of the  
European Union for the financial year 2020, Section II – European Council and  
Council  
(2021/2108(DEC))

Committee on Budgetary Control

Rapporteur: Isabel García Muñoz

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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 2020, Section II – European Council and Council (2021/2108(DEC))**

*The European Parliament,*

- having regard to the general budget of the European Union for the financial year 2020<sup>1</sup>,
  - having regard to the consolidated annual accounts of the European Union for the financial year 2020 (COM(2021)0381 – C9-0260/2021)<sup>2</sup>,
  - having regard to the Council's annual report to the discharge authority on internal audits carried out in 2020,
  - having regard to the Court of Auditors' annual report on the implementation of the budget concerning the financial year 2020, 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 2020, 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) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012<sup>5</sup>, and in particular Articles 59, 118, 260, 261 and 262 thereof,
  - having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the opinion of the Committee on Constitutional Affairs,
  - having regard to the report of the Committee on Budgetary Control (A9-0067/2022),
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

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<sup>1</sup> OJ L 57, 27.2.2020.

<sup>2</sup> OJ C 436, 28.10.2021, p. 1.

<sup>3</sup> OJ C 430, 25.10.2021, p. 7.

<sup>4</sup> OJ C 436, 28.10.2021, p. 207.

<sup>5</sup> OJ L 193, 30.7.2018, p. 1.

for the financial year 2020;

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 and the Court of Auditors, 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 general budget of the European Union for the financial year 2020, Section II – European Council and Council (2021/2108(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 2020, Section II – European Council and Council,
  - having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the opinion of the Committee on Constitutional Affairs,
  - having regard to the report of the Committee on Budgetary Control (A9-0067/2022),
- A. whereas, under Article 319 of the Treaty on the Functioning of the European Union (TFEU), the Parliament has the sole responsibility of granting discharge in respect of the implementation of the general budget of the Union, and whereas the budget of the European Council and of the Council is a section of the Union budget;
- B. Whereas, pursuant to Article 15(1) of the Treaty on European Union, the European Council is not to exercise legislative functions;
- C. whereas, under Article 317 TFEU, the Commission is to implement the Union budget on its own responsibility, having regard to the principles of sound financial management, and whereas, under the framework in place, the Commission is to confer on the other Union institutions the requisite powers for the implementation of the sections of the budget relating to them;
- D. whereas, under Articles 235(4) and 240(2) TFEU, the European Council and the Council (the ‘Council’) are assisted by the General Secretariat of the Council (the ‘GSC’), and whereas the Secretary-General is wholly responsible for the sound management of the appropriations entered in Section II of the Union budget;
- E. whereas, over the course of almost twenty years, Parliament has been implementing the well-established and respected practice of granting discharge to all Union institutions, bodies, offices and agencies, and whereas the Commission supports that the practice of giving discharge to each Union institution, body, office and agency for its administrative expenditure should continue to be pursued;
- F. whereas, since 2009, the Council’s lack of cooperation in the discharge procedure has compelled Parliament to refuse to grant discharge to the Secretary-General of the Council;
- G. whereas in the context of the discharge procedure, the discharge authority wishes to stress the particular importance of further strengthening the democratic legitimacy of

the Union institutions by improving transparency and accountability, and implementing the concept of performance-based budgeting and good governance of human resources;

- H. whereas the European Council and the Council, as Union institutions and as recipients of the general budget of the Union, should be transparent and democratically accountable to the citizens of the Union and subject to democratic scrutiny of the spending of public funds;
- I. whereas the case law of the Court of Justice of the European Union confirms the right of taxpayers and of the public to be kept informed about the use of public revenue;
- J. whereas the recommendation of the European Ombudsman (the ‘Ombudsman’) in case OI/2/2017/TE indicated that the Council's practice with regard to transparency in the legislative process constituted maladministration and should be addressed in order to enable citizens to follow the Union legislative process;
- 1. Notes with satisfaction that the Court of Auditors (the ‘Court’) identified no significant weaknesses in respect of the audited topics relating to human resources and procurement for the Council;
- 2. Emphasises the fact that, on the basis of its audit work, the Court concluded that the payments as a whole for the administrative expenditure of the Union Institutions, including that of the Council, for the financial year 2020 were free from material error;
- 3. Welcomes the fact that no specific issues were detected by the Court on the regularity of the transactions or following examination of the supervisory and control system of the Council;
- 4. Is aware that Chapter 9 ‘Administration’ of the Annual Report of the Court is focused on expenditure on human resources, buildings, equipment, energy, communication and information technology, and that the Court indicates that this spending is low risk;

#### ***BUDGETARY AND FINANCIAL MANAGEMENT***

- 5. Notes that in 2020 the Council had an overall budget of EUR 590 633 000 (compared to EUR 581 895 459 in 2019); observes a budget increase of 1,5 % compared to 2019 which confirms a downward trend in the annual budget increase (1,6 % in 2019, 2 % in 2018 and 3 % in 2017); notes that the Council share under Heading 5 of the Multiannual Financial Framework has decreased from 6,3 % in 2015 to 5,8 % in 2020; notes a high global implementation rate of 93,15 % (compared to 92,3 % in 2019);
- 6. Understands that the Council’s budget is mostly administrative with a large part of it being used for expenditure in relation to staff, buildings (including furniture and equipment) and miscellaneous running costs; reiterates its call, made in previous resolutions on the budget, for separate budgets for the European Council and the Council in order to improve transparency, accountability and expenditure efficiency for both institutions;
- 7. Recalls that appropriations carried over from 2019 to 2020 amounted to a total of EUR 52 543 491 (compared to EUR 56 599 584 from 2018 to 2019) and welcomes the fact that implementation amounted to 86,4 % (EUR 45 375 664), concentrated mainly

on buildings, computer systems, interpretation and technical equipment;

8. Notes an increase in the carry-over of appropriations from 2020 to 2021 (12,6 % in comparison to 9,8 % from 2019 to 2020); reminds the Council that carry-overs are exceptions to the principle of annuality of the Union budget and could be an indicator of budget over-estimations, and calls on the Council to step up its efforts to prevent budget overestimates;
9. Observes that in 2020 the Council's payments represented 5,2 % of the Union budget; notes that the average payment time for invoices to the GSC was 20 days in 2020 (compared to 19 in 2019) while the maximum time limit is 30 calendar days as stipulated by Directive 2011/7/EU<sup>1</sup>;
10. Notes that the COVID-19 pandemic had an impact on the 2020 budget implementation; observes that fewer physical meetings led to lower spending on delegates' travel expenses and interpretation costs; notes that this underspending was compensated at budgetary level by an increased spending on IT in order to rapidly develop the capacity for remote working and to guarantee business continuity; observes that such expenditure covered the relevant areas of new software acquisitions, external assistance and provision of hardware to facilitate home working;
11. Notes that in 2020 the appropriations were reallocated by 46 transfers under Article 29 of the Financial Regulation; observes that those transfers aimed to reinforce the Council's teleworking capabilities and videoconference infrastructure, including the purchase of additional IT equipment, licenses and communication tools; notes that, overall, the transfers were done from the budget lines for interpreting costs, cleaning and maintenance, buildings security and surveillance, and miscellaneous expenditure on internal meetings to the budget lines for installation works, acquisition of equipment and software, and assistance for the operation and development of computer systems;
12. Notes that in 2020 the Court examined, without remarks, the public procurement procedures organised by the Council and three other Union institutions to acquire personal protective equipment for their staff and that the procurement included strict minimum requirements in the tender specification such as European reference quality standards; is aware that in four cases the successful bidder did not include full evidence that all minimum quality requirements were met at the time of contracting, leading the Council to organise laboratory tests that showed that the personal protective equipment was, indeed, compliant;

#### ***INTERNAL MANAGEMENT, PERFORMANCE, INTERNAL CONTROL***

13. Notes that the unexpected outbreak of the COVID-19 pandemic and the subsequent exceptional situation required immediate action and organisational measures to ensure business continuity; notes with satisfaction that the Council's timely and effective reaction to that crisis resulted in a number of structured measures in several areas to safeguard staff and to guarantee business continuity;
14. Observes that the Council uses meetings, administrative modernisation and legislative

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<sup>1</sup> Directive 2011/7/EU of the European Parliament and of the Council of 16 February 2011 on combating late payment in commercial transactions (OJ L 48, 23.2.2011, p. 1).

activities as quantitative indicators of the level of activities carried out during the year; observes that the outbreak of the COVID-19 pandemic resulted in a decrease of 54,1 % (4 148) in the overall number of meetings that took place in 2020 compared to 2019; notes that in 2020 the GSC organised 3 086 institutional meetings and meetings with third countries (compared to 3 983 in 2019) and 434 other meetings (compared to 3 685 in 2019) and that 39,2 % of the meetings took place in remote or hybrid format;

15. Welcomes the improvements in the GSC's internal organisation, focusing in particular on dealing with the working limitations arising from the COVID-19 pandemic, such as an increase in the platforms and bandwidth for teleworking activities and the installation of appropriate videoconferencing equipment in small meeting rooms to facilitate hybrid meetings;
16. Notes that in 2020 the Council maintained its legislative activity at the same level as in 2019 despite the challenging working conditions caused by the COVID-19 pandemic, with 1 328 legal acts published in the *Official Journal of the European Union* in 2020 compared to 1 326 in 2019;
17. Acknowledges that an internal control framework is in place at the Council to provide reasonable assurance of achievement of objectives; is aware that risk management is carried out by keeping registers of the risks identified which are then assessed together with the impact of the mitigating measures adopted;
18. Is aware that the Council's internal auditor has performed a number of audits in the framework of the Council's three-year risk based strategic plan without issuing recommendations with high priority;
19. Recalls that key performance indicators are a widely recognised tool for measuring achievement against targets set; calls on the Council to provide summaries of its key performance indicators and the related results in its management reports;

#### ***HUMAN RESOURCES, EQUALITY AND STAFF WELL-BEING***

20. Notes that the establishment plan for 2020 was fixed at 3 029 posts (compared to 3 033 in 2019) out of which 2 905 were occupied on 31 December 2020; observes that the occupation rate is close to 96 %;
21. Regrets the lack of information on the implementation of the Council's gender action plan and the measures taken to ensure equal opportunities for persons with disabilities at the Council as a workplace; calls on the Council to provide information to the budgetary authority on gender balance, geographical distribution and disabilities of its members of staff and on the related internal policies in force;
22. Recalls its resolution of 17 December 2020 on the need for a dedicated Council configuration on gender equality as a dedicated institutional forum to ensure stronger integration of gender equality in Union strategies, coordination of all related policies and progress in the main files related to gender equality, as well as harmonisation of the protection of women's rights and gender equality; regrets that the Council has thus far ignored this call by Parliament;
23. Recalls that according to Article 286(2) TFEU the Council appoints the members of the



Court after consultation with Parliament and understands the difficulties in achieving gender balance as nomination of candidates is the sole responsibility of the Member States and each Member State can only nominate one candidate at a time; finds it unacceptable, however, that the Court has had only 16 female members out of a total of 112 members since its establishment in 1977 (85,7 % male and 14,3 % female) and that in 2020 the Court had only 8 female members compared to 18 male members; calls on the Council to consider the overall composition of the Court so that gender balance, in particular, is considered in the nomination decisions, as well as to tackle this problem with concrete actions, such as presenting Parliament with at least two candidates from each Member State, one being a woman and one being a man;

24. Notes that the internal psychosocial risk prevention plan 2020-2022 was adopted with a main focus on burnout prevention and good relations at work; observes that the plan was fully integrated into the GSC's COVID-19 response with psychosocial risk surveys, dedicated information and training sessions, and various interventions by the social service; notes with appreciation the extensive support offered to staff, teams and managers by the organisational and clinical psychologists and social workers whose interventions in 2020 were significantly linked to COVID-19;
25. Notes that in 2020 a total of 385 people (in active service as well as retired) called on the social service, with a total of 4 425 interventions, some of which were linked to the management of stress generated by the COVID-19 pandemic, and that the internal psychologist processed a total of 164 individual requests; appreciates the fact that psychologists and social workers are an integral part of the psychosocial intervention plan in the event of a critical incident;
26. Notes that the traineeships office processed more than 10 000 traineeship applications, out of which 110 trainees were selected, including a number of trainees with disabilities under the new positive action programme; reiterates the call on the Council to make sure that all of its trainees receive a decent remuneration;

#### ***ETHICAL FRAMEWORK AND TRANSPARENCY***

27. Notes that awareness-raising actions on ethics and expected behaviours were pursued; notes that the next ethics strategy was in preparation at the end of 2020, and that work advanced on developing a new user-centred ethics hub on the Council intranet; regrets, nevertheless, not having received information about the code of conduct applicable to all members of staff;
28. Welcomes the political agreement on the Transparency Register for interest representatives, reached by Parliament, the Council and the Commission on 15 December 2020<sup>2</sup>; regrets, however, the limitations considered in Article 5 of Parliament's decision of 27 April 2021 on the conclusion of an interinstitutional agreement between the European Parliament, the Council of the European Union, and the European Commission on a mandatory transparency register<sup>3</sup>, such as the fact that the Transparency Register applies to the Member States' Permanent Representatives only under voluntary schemes; insists that all Permanent Representations should take an

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<sup>2</sup> Interinstitutional Agreement of 20 May 2021 between the European Parliament, the Council of the European Union and the European Commission on a mandatory transparency register (OJ L 207, 11.6.2021, p. 1).

<sup>3</sup> OJ C 506, 15.12.2021, p. 127.

active part in it through voluntary schemes during and after their Member State's Council presidency; calls on the Council, including the Member State representatives, to harmonise, improve and enforce the existing ethics rules, in particular with regard to conflicts of interest, revolving doors and lobby transparency rules; expresses its concern that legislative files are escalated to the European Council on an increasing basis, which has neither a legislative nor an executive function, does not apply the same transparency standards as the Council and is not being held accountable;

29. Regrets the use of corporate sponsorship to cover some of the expenses incurred by Member States to finance their Council presidency; reiterates its concern that such practice has caused and might cause reputational damage in the future because any actual or perceived conflict of interests jeopardises the reputation of the Council and the Union as a whole; recalls the petitions launched by organisations active in the areas of transparency and accountability, asking the rotating Council presidencies to decline any sponsorship; regrets that a common set of clear, concrete and binding rules was not set out in the guidance on sponsorship included in the Council 's Presidency Handbook in 2021; understands that the financial resources from national budgets vary significantly among Member States and that each Member State, independent of its size and budgetary means, should have equal opportunities to organise a successful Council presidency and therefore, reiterates its call on the Council to examine budgeting the Council Presidency in order to ensure continuity and efficiency of the working process;
30. Is aware of the Council's key role in nomination and appointment procedures for the Union institutions and bodies, in particular the President of the European Council, the President of the Commission, the Members of the Court, and the Members of both the Committee of the Regions and the European Economic and Social Committee; strongly recommends a review of the exercise of that prerogative with a view to guaranteeing and strengthening the democratic participation of relevant stakeholders; regrets that the Council repeatedly failed to take into consideration the recommendations of Parliament in its consultative role regarding the appointment of the members of the Court;
31. Is reminded of the Court's statement in its 'Special Report no 13/2019: The ethical frameworks of the audited EU institutions: scope for improvement' that ethical conduct "contributes to sounder financial management and increased public trust, which is indispensable if public policies are to succeed" and, in particular, that "any unethical behaviour by staff and Members of the Union (EU) institutions and bodies attracts high levels of public interest and reduces trust in the EU"; makes a strong call on the Council, therefore, to respect the opinions of Parliament and reject the appointment of candidates who could potentially damage the credibility of the Union, for instance due to insufficient professional competence or established unethical behaviour;
32. Reiterates its full endorsement of the Ombudsman's recommendations on transparency of the Council legislative process following its strategic inquiry (Case OI/2/2017/TE), in particular making the Member States' positions more accessible, in a machine-readable format, which has already been established in 2013 by the Court of Justice of the European Union in its case law<sup>4</sup> on transparency and access to documents; believes that compliance with the Ombudsman's recommendations would enable citizens to be more involved and to better understand Union law making; welcomes the measures

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<sup>4</sup> Judgment of the Court of Justice of 17 October 2013, *Council of the European Union v Access Info Europe*, C-280/11 P, ECLI:EU:C:2013:671

adopted by the Council in July 2020 to strengthen legislative transparency in line with the Ombudsman's recommendations, including the proactive publication of progress reports on negotiations on draft legislative acts as well as the Council mandate for negotiations with Parliament; regrets, however, that the decision-making process in the Council is still far from fully transparent; calls on the Council to take all the necessary measures to implement the Ombudsman's recommendations and the relevant rulings of the Court of Justice of the European Union;

33. Reiterates its deep concern with respect to the confirmed conflicts of interest of Member State representatives involved in policy and budget decision-making processes; follows up Parliament's previous strong calls on the Council to ensure that Member State representatives who stand to benefit directly from Union subsidies through the businesses they own do not participate in related policy or budgetary discussions and votes; requests the Council to provide Parliament with information on the necessary measures put in place to avoid conflicts of interest;
34. Shares the Court's concern about the absence of a common Union ethical framework governing the work of Member State representatives in the Council, expressed in the Court's Special Report no 13/2019; recalls the Council's obligation to deal with and resolve high-level conflicts of interest and revolving door issues and to extend the existing mandatory lobby transparency rules;
35. Strongly reiterates its call on the Council to bring the code of conduct for the President of the European Council in line with those of Parliament and the Commission in order to have rules in place to approve activities related to Union legislation after the President of the European Council leaves his or her post;

#### ***DIGITALISATION, CYBERSECURITY, DATA PROTECTION***

36. Notes that the final budget appropriations made available to the Directorate-General for Digital Services increased substantially at the mid-term and year-end reviews by EUR 10,6 million, reaching a final amount of EUR 54 675 000 and achieving an execution rate of 99,99 %;
37. Reiterates its call on the Council to use open-source technology in order to prevent vendor lock-in, to retain control over its own technical systems, to provide stronger safeguards for the privacy and data protection of its users, and to increase security and transparency for the public;

#### ***BUILDINGS AND SECURITY***

38. Observes that the Council's buildings policy since 2004 has aimed to ultimately accommodate all its activities in Brussels in geographically concentrated buildings under its ownership; encourages the Council to adjust its building strategy in order to take into account the working arrangements that will likely become part of long-lasting or permanent working modes, in particular with regard to shared spaces or multipurpose areas;

#### ***ENVIRONMENT AND SUSTAINABILITY***

39. Welcomes the efforts by the Council to reduce its environmental footprint across its

buildings which have been registered under the European eco-management and audit scheme (EMAS) since 2016; welcomes the publishing of a detailed environmental statement in October 2020, based on 2019 data;

40. Notes that on 31 December 2020 the Council was in possession of 3 469 Green Energy Certificates; is aware that such certificates are allocated by the regional energy market regulator based on the energy produced in 2020 by solar panels located on the roof of Council buildings, and that, following the appropriate sales procedures, these will be sold on the open market in 2021;
41. Calls on the Council to explicitly engage in a ‘zero paper campaign’ and to adopt a structured approach to enhance the sustainable mobility of members of staff; encourages the Council to engage in sustainability reporting on energy management in buildings, thus making it possible to take precise actions towards the reduction of energy consumption;

#### ***COMMUNICATION AND MULTILINGUALISM***

42. Notes the increased audience on several social media platforms from 2019 to 2020 with approximately 443 000 followers on Facebook (an increase of 8 %), approximately 561 000 followers on Twitter (an increase of 22 %) and approximately 167 000 followers on Instagram (an increase of 37 %); observes an increase of 39 % in visits to the Council’s website, reaching more than 16 million visits in 2020; encourages the Council to establish a presence on open-source social media networks to achieve further transparency and broader outreach to Union citizens;
43. Notes that, in the context of its increased cooperation with the Member States on COVID-19 communication, the Council worked with the European External Action Service to set up the Communicators' Portal, a secure platform used to share reusable digital content with Member States;
44. Is aware that the Council was the first Union institution to create a COVID-19 information hub on its website with the aim of explaining, in a regular and comprehensive manner, the response of the Union in general and the Council in particular to the COVID-19 pandemic;

#### ***INTERINSTITUTIONAL COOPERATION***

45. Calls on the Council to comply fully with the obligations set out in the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>5</sup>;
46. Expresses its belief that the Conference on the Future of Europe can provide the opportunity for Union citizens and civil society organisations to express their views and to discuss proposals to enhance transparency and democratic accountability with regard to the Union budget and, in particular, proposals to improve the transparency and

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<sup>5</sup> OJ L 433I, 22.12.2020, p. 28.

readability of the Council's budget;

***STATE OF PLAY IN THE DISCHARGE PROCEDURE***

47. Emphasises Parliament's prerogative to grant discharge pursuant to Article 319 TFEU as well as the applicable provisions of the Financial Regulation and Parliament's Rules of Procedure in line with current interpretation and practice, namely, the power to grant discharge in order to maintain transparency and to ensure democratic accountability towards Union taxpayers;
48. Stresses the well-established and respected practice followed by Parliament over the course of almost twenty years of granting discharge to all Union institutions, bodies, offices and agencies; recalls that the Commission has declared its inability to oversee the implementation of the budgets of the other Union institutions; stresses the reiterated view of the Commission that the practice of giving discharge to each Union institution for their administrative expenditure should continue to be pursued directly by Parliament;
49. Stresses that the current situation, where Parliament can only check the reports of the Court and of the Ombudsman as well as the information on the Council's website but does not receive written or oral answers from the Council during the annual discharge procedure, i.e. the Council refuses to collaborate with Parliament in the context of the annual discharge procedure, makes it impossible for Parliament to make an informed decision on granting discharge;
50. Deplores that the Council for more than a decade has shown that it does not have any political willingness to collaborate with Parliament in the context of the annual discharge procedure, which makes it impossible for Parliament to make an informed decision on granting discharge; underlines that this attitude has had a lasting negative effect on both institutions and has discredited the management and democratic scrutiny of the Union budget and on the trust of citizens in the Union as a transparent entity; deeply regrets the Council's continuing refusal to engage in loyal cooperation in the framework of the discharge procedure that has lasted for more than a decade;
51. Stresses that, while the current situation have to be improved through better interinstitutional cooperation within the framework of the Treaties, an eventual revision of the Treaties could render the discharge procedure clearer and more transparent by giving Parliament the explicit competence to grant discharge to all Union institutions, bodies, offices and agencies individually;
52. Recalls that the case-law of the Court of Justice of the European Union supports the right of taxpayers and the public to be kept informed about the use of public revenues; demands, therefore, full respect for Parliament's prerogative and role as guarantor of the democratic accountability principle; calls on the Council to duly follow up on the recommendations adopted by Parliament in the context of the discharge procedure;
53. Considers it unacceptable that the COVID-19 pandemic and the exceptional situation experienced have been used as an excuse for not resuming interinstitutional negotiations on the discharge procedure; remains, nevertheless, convinced that an agreement on this matter is possible if the Council were to show any political willingness to collaborate; calls, therefore, on the Council to resume negotiations without undue delay in order to

find a solution in the current framework of the discharge procedure if it is interested in showing Union citizens that it takes proper budget control and transparency seriously;

## **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 2020 (Section II) - European Council and Council (2021/2108(DEC))

Rapporteur for opinion: Antonio Tajani

### **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, in line with Article 319 of the Treaty on the Functioning of the European Union (TFEU), the Parliament has the sole responsibility to grant discharge in respect of the implementation of the general budget of the Union and whereas the Council's budget is a section of the Union budget;
- B. Whereas, under the terms of Article 319 TFEU, the Parliament shall give a discharge to the Commission;
- C. Whereas the applicable provisions of the Financial Regulation and Parliament's Rules of Procedure establish the power to grant discharge in order to maintain transparency and to ensure democratic accountability towards Union taxpayers;
- D. Whereas over the course of almost twenty years Parliament has implemented the well-established and respected practice of granting discharge to all Union institutions, bodies, offices and agencies;
- E. Whereas the lack of cooperation from the Council in the discharge procedure has resulted in Parliament's refusal to grant discharge to the Secretary-General of the Council since 2009;
- F. Whereas the European Council and the Council, as Union institutions, should be democratically accountable to the citizens of the Union, in so far as they are beneficiaries of the general budget of the Union;
- G. Whereas democratic scrutiny of the spending of public funds is vital if citizens are to have confidence in the functioning of the institutions;
- H. Whereas the Interinstitutional Agreement of 16 December 2020 between the European



Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources provides for rules on cooperation between the institutions on the budget, in line with the principles of budget discipline and sound financial management; whereas that agreement is binding on the institutions that signed it and entails budget cooperation and transparency obligations;

- I. Whereas the case-law of the Court of Justice of the European Union confirms the right of taxpayers and of the public to be kept informed about the use of public revenues;
  - J. Whereas the 2018 recommendations of the European Ombudsman in case OI/2/2017/TE found that the Council's practices with regard to transparency in the legislative process constituted maladministration; whereas the Council did not comply with these recommendations which would have enabled citizens to follow the EU's legislative process;
  - K. Whereas, pursuant to Article 15(1) of the Treaty on the European Union, the European Council is not to exercise legislative functions;
- 1. Recalls the role of Parliament and of other institutions in the discharge procedure, as provided for by the TFEU, in particular Article 319 thereof, and by the Financial Regulation, in particular Articles 260 to 263 thereof; underlines that Parliament's role is reinforced by a well-established and respected practice; calls for full respect of Parliament's prerogatives and regrets the Council's continuing refusal to engage in loyal cooperation in the framework of the discharge procedure for more than a decade, which prevents Parliament from taking informed decisions; further regrets Council's lack of respect for Parliament's role as guarantor of democratic accountability as regards the Union budget;
  - 2. Believes that increased transparency and a proactive approach to sharing information on the part of the Council would be conducive to a better-informed discharge procedure from the outset;
  - 3. Considers that the lack of cooperation from the European Council and from the Council with the discharge authority sends a negative signal to citizens of the Union;
  - 4. Calls on the Council to implement the recommendations adopted by the European Parliament on the budget discharge procedure and to resume negotiations on the memorandum of understanding on the interinstitutional cooperation on that matter; reiterates that, if those negotiations do not succeed, they should be extended to the Commission to ensure that Parliament is provided with necessary information on how the Council is implementing its budget, either directly or via the Commission; notes that the Commission agrees that the practice of giving discharge to each institution for their administrative expenditure should be pursued in the future;
  - 5. Calls on the Council to comply fully with the obligations deriving from the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new



own resources in order to guarantee democratic scrutiny by Parliament and strengthen the democratic legitimacy of the work of the Council and transparency;

6. Reiterates its full endorsement of the European Ombudsman's recommendation on the transparency of the Council legislative process, following its strategic inquiry (Case OI/2/2017/TE); considers that complying with the Ombudsman's recommendations is an important step that would enable citizens to be involved in the legislative process of the European Union and to better understand it, and that this would enable the Council to comply with the requests made by Parliament during the discharge procedure; therefore urges the Council to take all necessary measures to implement that recommendation without undue delay; in particular calls for the Council to improve legislative transparency by making a greater number of documents, including those on interinstitutional negotiations, available;
7. Reiterates that the budget of the European Council and of the Council should be divided into two separate budgets, as recommended by Parliament in its recent discharge resolutions, in order to improve transparency, expenditure efficiency and accountability of each institution;
8. Considers that the Conference on the Future of Europe provides the opportunity to the citizens and civil society organisations to express their views and to discuss proposals to enhance transparency and democratic accountability with regard to the protection of the Union's financial interests and the Union's accountability vis-à-vis citizens, as well as to come forward, in particular, with proposals to improve the transparency and readability of the Council's budget;
9. Stresses that, while the current situation could be improved through better interinstitutional cooperation within the framework of the Treaties, a revision of the Treaties is necessary to render the discharge procedure clearer and more transparent, especially by giving the European Parliament the explicit competence to grant discharge to all institutions and bodies individually;
10. Regrets the lack of information on the implementation of the Council's gender action plan and of the measures taken to ensure equal opportunities for persons with disabilities at the Council as a workplace; calls on the Council to provide information on the proportion of staff with disabilities, geographical and gender distribution, and measures taken in order to ensure equal opportunities, geographical balance and gender equality at the Council;
11. Regrets the use of corporate sponsorship to cover some of the expenses incurred by Member States to finance their Council Presidency; is highly concerned by the possible reputational damage that this practice might cause to the Council and to the Union; urges the adoption of clear guidelines that aim to prevent situations of conflict of interest; further urges the adoption of transparent and binding rules on sponsorship.

## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	9.12.2021
<b>Result of final vote</b>	+ : 22 - : 2 0 : 3
<b>Members present for the final vote</b>	Gerolf Annemans, Gabriele Bischoff, Damian Boeselager, Geert Bourgeois, Fabio Massimo Castaldo, Włodzimierz Cimoszewicz, Pascal Durand, Daniel Freund, Charles Goerens, Sandro Gozi, Brice Hortefeux, Laura Huhtasaari, Victor Negrescu, Giuliano Pisapia, Paulo Rangel, Antonio Maria Rinaldi, Domènec Ruiz Devesa, Jacek Saryusz-Wolski, Helmut Scholz, Pedro Silva Pereira, Sven Simon, Antonio Tajani, Guy Verhofstadt, Loránt Vincze, Rainer Wieland
<b>Substitutes present for the final vote</b>	François Alfonsi, Danuta Maria Hübner

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

<b>22</b>	<b>+</b>
NI	Fabio Massimo Castaldo
PPE	Brice Hortefeux, Danuta Maria Hübner, Paulo Rangel, Sven Simon, Antonio Tajani, Loránt Vincze, Rainer Wieland
Renew	Pascal Durand, Charles Goerens, Sandro Gozi, Guy Verhofstadt
S&D	Gabriele Bischoff, Włodzimierz Cimoszewicz, Victor Negrescu, Giuliano Pisapia, Domènec Ruiz Devesa, Pedro Silva Pereira
The Left	Helmut Scholz
Verts/ALE	François Alfonsi, Damian Boeselager, Daniel Freund

<b>2</b>	<b>-</b>
ECR	Geert Bourgeois, Jacek Saryusz-Wolski

<b>3</b>	<b>0</b>
ID	Gerolf Annemans, Laura Huhtasaari, Antonio Maria Rinaldi

Key to symbols:

+ : in favour

- : against

0 : abstention

## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	28.2.2022
<b>Result of final vote</b>	+: 1 -: 27 0: 1
<b>Members present for the final vote</b>	Matteo Adinolfi, Gilles Boyer, Olivier Chastel, Caterina Chinnici, Lefteris Christoforou, Corina Crețu, Ryszard Czarnecki, José Manuel Fernandes, Luke Ming Flanagan, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Jean-François Jalkh, Pierre Karleskind, Mislav Kolakušić, Joachim Kuhs, Claudiu Manda, Alin Mituța, Markus Pieper, Michèle Rivasi, Sándor Rónai, Petri Sarvamaa, Simone Schmiedtbauer, Angelika Winzig, Lara Wolters, Tomáš Zdechovský
<b>Substitutes present for the final vote</b>	Joachim Stanisław Brudziński, Mikuláš Peksa, Elżbieta Rafalska

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

1	+
ID	Jean-François Jalkh

27	-
ECR	Joachim Stanisław Brudziński, Ryszard Czarnecki, Elżbieta Rafalska
ID	Matteo Adinolfi, Joachim Kuhs
PPE	Lefteris Christoforou, José Manuel Fernandes, Monika Hohlmeier, Markus Pieper, Petri Sarvamaa, Simone Schmiedtbauer, Angelika Winzig, Tomáš Zdechovský
Renew	Gilles Boyer, Olivier Chastel, Pierre Karleskind, Alin Mituța
S&D	Caterina Chinnici, Corina Crețu, Isabel García Muñoz, Claudiu Manda, Sándor Rónai, Lara Wolters
The Left	Luke Ming Flanagan
Verts/ALE	Daniel Freund, Mikuláš Peksa, Michèle Rivasi

1	0
NI	Mislav Kolakušić

Key to symbols:

+ : grants discharge

- : postpones discharge

0 : abstention