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DRAFT REPORT

on discharge in respect of the implementation of the general budget of the European Union for the financial year 2017, Section IV – Court of Justice (2018/2169(DEC))

Committee on Budgetary Control

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1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the general budget of the European Union for the financial year 2017, Section IV – Court of Justice (2018/2169(DEC))

The European Parliament,

- having regard to the general budget of the European Union for the financial year 2017¹,
- having regard to the consolidated annual accounts of the European Union for the financial year 2017 (COM(2018)0521 – C8-0321/2018)²,
- having regard to the Court of Justice’s annual report to the discharge authority on internal audits carried out in 2017 (xxx/2018),
- having regard to the Court of Auditors’ annual report on the implementation of the budget concerning the financial year 2017, 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 2017, 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 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 966/2012⁶, and in particular Articles 59, 118, 260, 261 and 262 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 (A8-0000/2019),

¹ OJ L 51, 28.2.2017.

² OJ C 348, 28.9.2018, p. 1.

³ OJ C 357, 04.10.2018, p. 1.

⁴ OJ C 357, 04.10.2018, p. 9.

⁵ OJ L 298, 26.10.2012, p. 1.

⁶ OJ L 193, 30.7.2018, p. 1.

1. Grants the Registrar of the Court of Justice discharge in respect of the implementation of the budget of the Court of Justice for the financial year 2017 / Postpones its decision on granting the Registrar of the Court of Justice discharge in respect of the implementation of the budget of the Court of Justice for the financial year 2017;
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 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 2017, Section IV – Court of Justice (2018/2169(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 2017, 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 (A8-0000/2019),
- A. 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,
1. Notes with satisfaction that, in its annual report for 2017, the Court of Auditors identified no significant weaknesses in respect of the audited topics relating to human resources and procurement for the Court of Justice of the European Union (the ‘CJEU’);
 2. Welcomes 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 2017 for administrative and other expenditure of the CJEU were free from material error;
 3. Notes that appropriations amounted to EUR 399 344 000 (EUR 380 002 000 in 2016) and that the implementation rate was 98,69% (98,23% in 2016) in 2017; notes the high budget implementation rate for both Title 1 (persons working with the institution) and Title 2 (buildings, furniture, equipment and miscellaneous operating expenditure) amounting to 98,6% and 99,1% as compared to 98,1% and 98,6% in 2016;
 4. Notes that appropriations carried over from 2016 to 2017 were EUR 22 240 120,22, of which 86,26% (EUR 19 188 159,20) was used in 2017 as compared to 90% in 2016;
 5. Notes that the established entitlements in the financial year 2017 amounted to EUR 51 677 001 and were 3,6% lower than the estimated revenue in excess of EUR 53 595 000,00; notes that this discrepancy is mainly due to the late nomination of 3 out of 19 new judges in the context of the reform of the CJEU, which resulted in lower staff expenses than expected;
 6. Notes that the CJEU overestimated its commitments for various budget lines under Chapter 14 ‘Other staff and external services’, *inter alia* for missions (budget line 162), having committed EUR 342 000 in 2017 whereas payments only amounted to EUR 204 795,27, and overestimated further training (budget line 1612), having committed EUR 1 457 644,07, whereas payments only amounted to EUR 579 000,04;

notes that the CJEU reduced its request for appropriations for Members' missions to EUR 299 750 when drawing up its 2019 estimates in response to the observation of the Parliament in its discharge report for the year 2016; calls on the CJEU to pursue its efforts to ensure sound financial management in order to avoid significant discrepancies between commitments and payments;

7. Notes that EUR 8,72 million were transferred to budget line 2001 (lease/purchase) for the project of the fifth extension of the CJEU's buildings following a budget surplus; notes that the transfer of appropriations was subject to a notification to the budgetary authority in accordance with the provisions of Article 25(1) and (2) of the Financial Regulation; notes that to date, the pre-payments made with the agreement of the budgetary authority since 2007, amounting to EUR 57,3 million, have made it possible to significantly reduce the budget impact of the lease/purchase payments to be made until 2026;
8. Notes that almost 75% of the CJEU's budget was allocated to expenditure on the members and staff (Title 1), and almost 25% was allocated to infrastructure expenditure (Title 2), particularly buildings and information technologies; welcomes the commitment of the CJEU to apply the performance-based budgeting methodology to relevant parts of its budget; calls on the CJEU to keep the discharge authority informed on the achievements related to the application of the principles of performance-based budgeting;
9. Welcomes the intention of the CJEU to streamline its procedures in order to publish its Annual Activity Report by 31 March 2019 with a view to optimising and speeding up the discharge procedure;
10. Welcomes the fact that the CJEU has started its work on developing an Integrated Case Management System (ICMS) which will replace a set of applications developed over the past 25 years and which will include a component on the computerisation of performance indicators and reporting instruments;
11. Notes that only 4,8% of the total CJEU's budget was devoted to IT and telecommunication; stresses the importance of introducing paperless information and documentation flows to ensure swift and efficient communication and calls on the CJEU to continue pursuing necessary measures to achieve that aim; welcomes in that regard the increased use of the application 'e-Curia' and calls on the CJEU to strive for a complete lodging of all procedural documents via this application in the near future;
12. Notes that the total number of cases brought before the CJEU in 2017 (1656 cases) was higher than in 2016 (1604 cases) and that the number of cases completed in 2017 remained at a high level (1594 cases as compared to 1628 cases in 2016); notes that the average duration of proceedings increased from 15 months in 2016 to 16,3 months in 2017); welcomes the efficiency improvements which led to an increase of the annual number of completed cases by 29,6% over the period 2010-2017, while the number of new cases steadily increased;
13. Acknowledges the efforts of the CJEU to improve efficiency in the handling of cases, following the recommendations by the Court of Auditors in its review of the CJEU's

case management performance¹; welcomes the fact that the CJEU has developed time-frames and monitoring tools which are tailored to certain types of proceedings; notes that the length of proceedings is one factor among others to be taken into consideration in the evaluation of a court system; calls on the CJEU to continue improving its performance by following up the Court of Auditor's recommendations, while not compromising the quality, efficiency and independence of its judgements;

14. Takes note of the explanations by the CJEU in its follow-up to the discharge 2016 that judicial vacations do not correspond to a period of interruption of judicial activity; notes that judges and their cabinets consider white weeks as privileged time to work on their own cases, i.e. the cases in which they are judge rapporteur;
15. Welcomes the initiative to create the 'Judicial Network of the European Union' covering the Constitutional Courts and Supreme Courts of the Member States to promote Union case-law and case-law of the Member States;
16. Welcomes the achievements made by the CJEU in terms of communication activities to increase its visibility and media impact, including an increase of its outreach on social media and the organisation of information seminars for journalists; encourages the CJEU to continue striving for the best use of various communication channels to raise awareness about its work among citizens;
17. Notes that the reduction of 5% in staff numbers over the period 2013-2017 has been achieved in compliance with 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 management² with an overall contribution of 98 posts; notes that in the meantime, 130 new posts were created in view of the increased number of judges and advocates general as well as seven new posts for security measures, 63 new posts for the accession of Croatia and nine for translation to Irish;
18. Notes that the staff reduction puts significant pressure on some support services; is concerned, in particular, that the language services have given up 64 posts, which represents approximately 60% of the total reduction; notes that the removal of posts has affected the internal linguistic production capacity and led to an increased collaboration with freelance translators;
19. Welcomes the inter-institutional cooperation on the redeployment of auxiliary conference interpreters which had to be cancelled in the context of changes in the CJEU's approach to conference interpretation;
20. Welcomes the high occupation rate of posts in all the services (almost 98%); notes, however, that the low level of the basic salaries for starting grades and the limited career development opportunities in Luxembourg, due to a low number of institutions being located there, have a direct impact on the CJEU's recruitment procedures; welcomes the creation of an inter-institutional task force in November 2017 which has

¹ European Court of Auditors, Special Report no 14/2017: Performance Review of Case Management at the Court of Justice of the European Union'

² OJ C 373, 20.12.2013, p. 1.

formulated 24 recommendations concerning better career prospects and hiring flexibility, better reception and settlement conditions in the country, and better integration of the institution's staff into the local community and better communication;

21. Notes the slight increase in the number of women in management positions, which was 36% in 2017 compared to 35% in 2016; calls on the CJEU to continue to improve the gender balance in senior and management positions; welcomes the pilot project for the development of managerial and management skills aimed in particular at encouraging women to apply for management posts; encourages the CJEU to promote work-life balance measures addressed to staff of all genders;
22. Welcomes the information provided to all staff at the entry of service as well as available on the staff *vademecum* to inform on the existing flexible working arrangements; welcomes the transparency of the CJEU in terms of cases of staff burn-out and encourages the CJEU to assess the workload distribution within the organisation and verify the match between tasks and resources;
23. Notes that a disciplinary procedure, opened in 2016, in order to investigate a complaint of harassment, was closed in 2017; welcomes the appointment of the network of confidential counsellors who may be contacted for advice or assistance in the event of psychological or sexual harassment; encourages the CJEU to closely monitor the efficiency of its policy in this regard, to continue raising awareness about harassment at the work place and to foster a culture of zero tolerance toward harassment;
24. Reiterates that geographical balance, i.e. the distribution of staff by nationality based on the share of the given Member State's population as a proportion of the overall Union population, in particular in management positions, should be closely monitored; notes that only 15 out of 56 Heads of Unit of the CJEU and 2 of its 13 Directors were from Member States that have joined the European Union since May 2004; notes also that 31% of the staff of the CJEU come from those Member States;
25. Welcomes the increase of remunerated traineeships at the CJEU from 57 in 2016 to 82 in 2017; welcomes, moreover, that the CJEU has requested an additional amount of EUR 550 000 in the 2019 budget; regrets, however, that 215 trainees assigned to Member's cabinet in 2017 were still not remunerated; calls on the CJEU to ensure an appropriate allowance being paid to all trainees in order to provide sufficient reimbursement for the trainees' efforts and not to reinforce discrimination on economic grounds;
26. Notes that ,members of the CJEU may use official cars outside the performance of their duties and that the costs for such use is entirely carried by the user; notes that the average cost per ,member for the use of cars outside the performance of their duties amounted to EUR 440 in 2017, which were entirely recovered from the ,member's emoluments;
27. Notes that chauffeurs drove to the home countries of the members of the CJEU without having the member on board on 26 occasions and that 53 nights were reimbursed to the drivers in relation to those trips; notes, moreover, that 22 flights, five trips by train and one boat trip were scheduled for chauffeurs in order to do official missions with a member in his or her home country; underlines that chauffeurs should accompany

members in the home country only in duly justified cases;

28. Notes that a list of external activities of the members of the CJEU was published on the website of the CJEU; regrets that this list is unspecific about the purpose, the date, the venue and the travel and subsistence costs of the listed events and whether they were paid by the CJEU or by a third party; calls on the CJEU to continue publishing a list of external activities of its members and be more specific about the above mentioned aspects;
29. Reiterates its call on the CJEU to publish CVs and declarations of interest for all its members on the website; notes that short biographies of each member are published on the website, which do not however contain information on membership of any other organisations; notes that members are required to submit a declaration of their financial interests to the President of the Court of which they are a member on taking up their duties in line with the new Code of Conduct for members; calls on the CJEU to publish those declarations on its website;
30. Welcomes the revision of the Code of Conduct for members that came into force on 1 January 2017 and that it provides for new rules to prevent cases of conflict of interests and to ensure the independence of the members;
31. Notes that the CJEU's administration is preparing new rules on revolving doors for members of staff; reiterates its call on the CJEU to quickly establish and implement strict obligations in this regard;
32. Welcomes the adoption of new internal rules on whistle-blower protection in 2017; calls on the CJEU to ensure that all staff is properly informed of its rights, such as during induction upon arrival of new staff;
33. Welcomes the CJEU's commitment to ambitious environmental targets, in particular with a view to its ongoing building project, and encourages the to reach those objectives in a timely manner; welcomes the fact that the target to reduce tenders with a significant environmental impact was exceeded in 2017; welcomes, moreover, the creation of the 'Inter-Institutional GPP (Green Public Procurement) Helpdesk'; encourages the CJEU to continue improving its waste management, increasing its energy efficiency and reducing its carbon footprint;
34. Notes that the British members of the Court of Justice and the General Court will cease to exercise their functions when the United Kingdom withdraws from the European Union; notes that the volume of litigation could increase in the short and medium term in view of legal problems which may be generated by a withdrawal agreement and the corresponding provisions of United Kingdom law;
35. Notes that one former member of the Civil Service Tribunal is currently employed by the CJEU as a special adviser, in particular on matters relating to the United Kingdom's decision to withdraw from the European Union; notes that his appointment was made pursuant to rule 123(2) of the Conditions of Employment of Other Servants;
36. Notes that the had 63 British members of staff in 2017, among which 36 officials, 24 temporary agents and three contract agents; welcomes the intention of the CJEU to

follow a case by case approach when deciding on the extension of contracts for British contract and temporary agents after the withdrawal of the United Kingdom from the European Union; calls on the CJEU to swiftly develop a coherent strategy to provide certainty for the persons concerned.