

## **P7\_TA(2011)0450**

### **2009 discharge: EU general budget – Council**

#### **1. European Parliament decision of 25 October 2011 on discharge in respect of the implementation of the European Union general budget for the financial year 2009, Section II – Council (C7-0213/2010 – 2010/2144(DEC))**

*The European Parliament,*

- having regard to the European Union general budget for the financial year 2009<sup>1</sup>,
- having regard to the final annual accounts of the European Union for the financial year 2009 (SEC(2010)0963 – C7-0213/2010)<sup>2</sup>,
- having regard to the Council's annual report to the discharge authority on internal audits carried out in 2009,
- having regard to the Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2009, together with the institutions' replies<sup>3</sup>,
- having regard to the statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors pursuant to Article 287 of the Treaty on the Functioning of the European Union<sup>4</sup>,
- having regard to its decision of 10 May 2011<sup>5</sup> postponing the discharge decision for the financial year 2009, and to the accompanying resolution,
- having regard to Article 272(10) and Articles 274, 275 and 276 of the EC Treaty and 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 Decision No 190/2003 of the Secretary-General of the Council/High-Representative for the Common Foreign and Security Policy concerning reimbursement of travel expenses of delegates of Council Members<sup>7</sup>,
- having regard to the Interinstitutional Agreement between the European Parliament, the Council and the Commission, of 17 May 2006, on budgetary discipline and sound financial

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<sup>1</sup> OJ L 69, 13.3.2009.

<sup>2</sup> OJ C 308, 12.11.2010, p. 1.

<sup>3</sup> OJ C 303, 9.11.2010, p. 1.

<sup>4</sup> OJ C 308, 12.11.2010, p. 129.

<sup>5</sup> OJ L 250, 27.9.2011, p. 23.

<sup>6</sup> OJ L 248, 16.9.2002, p. 1.

<sup>7</sup> Decision stemming from the Rules of Procedure of the Council of 22 July 2002 (OJ L 230, 28.8.2002, p. 7).

management<sup>1</sup>,

- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
  - having regard to the second report of the Committee on Budgetary Control (A7-0328/2011),
1. Refuses to grant the Secretary-General of the Council discharge in respect of the implementation of the Council budget for the financial year 2009;
  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 Council, the Commission, the Court of Justice of the European Union, the Court of Auditors, the European Ombudsman and the European Data Protection Supervisor, and to arrange for their publication in the *Official Journal of the European Union* (L series).

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<sup>1</sup> OJ C 139, 14.6.2006, p. 1.

**2. European Parliament resolution of 25 October 2011 with observations forming an integral part of its Decision on discharge in respect of the implementation of the European Union general budget for the financial year 2009, Section II – Council (C7-0213/2010 – 2010/2144(DEC))**

*The European Parliament,*

- having regard to the European Union general budget for the financial year 2009<sup>1</sup>,
- having regard to the final annual accounts of the European Union for the financial year 2009 (SEC(2010)0963 – C7-0213/2010)<sup>2</sup>,
- having regard to the Council's annual report to the discharge authority on internal audits carried out in 2009,
- having regard to the Annual Report of the Court of Auditors on the implementation of the budget concerning the financial year 2009, together with the institutions' replies<sup>3</sup>,
- having regard to the statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors pursuant to Article 287 of the Treaty on the Functioning of the European Union<sup>4</sup>,
- having regard to its decision of 10 May 2011<sup>5</sup> postponing the discharge decision for the financial year 2009, and to the accompanying resolution,
- having regard to Articles 272(10) and Articles 274, 275 and 276 of the EC Treaty and Article 314(10) and Articles 317, 318 and 319 of the Treaty on the Functioning of the European Union (TFEU),
- 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> (Financial Regulation), and in particular Articles 50, 86, 145, 146 and 147 thereof,
- having regard to Decision No 190/2003 of the Secretary-General of the Council/High-Representative for the Common Foreign and Security Policy concerning reimbursement of travel expenses of delegates of Council Members<sup>7</sup>,
- having regard to the Interinstitutional Agreement between the European Parliament, the Council and the Commission, of 17 May 2006, on budgetary discipline and sound financial management<sup>8</sup>,

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<sup>1</sup> OJ L 69, 13.3.2009.

<sup>2</sup> OJ C 308, 12.11.2010, p. 1.

<sup>3</sup> OJ C 303, 9.11.2010, p. 1.

<sup>4</sup> OJ C 308, 12.11.2010, p. 129.

<sup>5</sup> OJ L 250, 27.9.2011, p. 23.

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<sup>7</sup> Decision stemming from the Rules of Procedure of the Council of 22 July 2002 (OJ L 230, 28.8.2002, p. 7).

<sup>8</sup> OJ C 139, 14.6.2006, p. 1.

- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
  - having regard to the second report of the Committee on Budgetary Control (A7-0328/2011),
- A. whereas ‘citizens have the right to know how their taxes are being spent and how the power entrusted to political bodies is handled’<sup>1</sup>,
  - B. whereas the Council administration should be subject to democratic accountability towards Union citizens as far as the implementation of Union funds is concerned,
  - C. whereas it is also important to ensure greater transparency in the application of Union legislation, and European citizens have the right to be better informed in this respect too, Parliament welcomes the agreement reached with the Council on the subject of correlation tables,
  - D. 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,

### ***Pending issues***

1. Deplores the difficulties encountered in the 2007-2009 discharge procedures and, in addition, reaffirms its position expressed in its previous discharge resolutions concerning those financial exercises;
2. Acknowledges receipt on 28 February 2011 of a letter from the Secretary-General of the Council containing a number of documents for the 2009 Council discharge procedure (final financial statements of 2009 including accounts, financial activity report and summary of 2009 internal audits) and welcomes this as a constructive step towards ensuring the democratic accountability of the Council's administrative budget;
3. Welcomes the fact that the Council submitted the abovementioned documents to Parliament and that the Council Presidency participated in Plenary at the 2009 discharge debate; recalls, however, that the discharge was postponed as Parliament had not received any responses to a number of pending issues concerning the 2009 Council discharge which were raised at an earlier stage, notably:
  - (a) the Council administration has not accepted any invitation to meet Parliament's Committee responsible for the discharge procedure in order to discuss matters concerning the Council budget execution for 2009 and consequently Parliament still needs confirmation of the willingness of the Secretary-General of the Council to appear in person at a meeting of the Committee responsible for the discharge procedure and to answer committee members' questions;
  - (b) Parliament has not received from the Council administration the information and documents requested in its resolution of 10 May 2011;

### ***The right of Parliament to grant discharge***

4. Takes note of the letter of 2 June 2011 from the Council Presidency to the President of the

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<sup>1</sup> The European Transparency Initiative.

European Parliament in which the Council considers "that all the Union accounts for 2009, including its own, have been discharged in accordance with EU law by vote of the Parliament on 10<sup>th</sup> May 2011, in accordance with Article 319 of the TFEU";

5. Underlines the right of Parliament to grant discharge, pursuant to a combined reading of Articles 316, 317 and Article 319 of the TFEU, that should be interpreted in the light of their context and purpose, which is to submit the implementation of the entire budget of the European Union to parliamentary control and scrutiny without exception, and to grant discharge autonomously not only in respect of the section of the budget implemented by the Commission, but also in respect of the sections of the budget implemented by the other institutions, as referred to in Article 1 of the Financial Regulation;
6. Is of the opinion that Article 319 of the TFEU and Article 50 of the Financial Regulation require the other institutions to respect the same rules and conditions as the Commission in the execution of its budget; considers that, as a consequence, the responsibility for the implementation of each budget lies with each respective institution and not with the Commission alone;
7. Underlines that, notwithstanding possible different legal interpretations of the autonomous closure of accounts, Parliament is of the opinion that for all intents and purposes, political assessment of the institution's financial management during the year under examination should be completed, thereby maintaining the current institutional equilibrium, in accordance with which Parliament is responsible for the assurance of democratic accountability towards Union citizens;
8. Considers that the abovementioned legal reasoning as well as the established practice of adopting individual decisions on discharge in respect of each Union institution and body support this interpretation and, in addition, the decisions on discharge need to be adopted separately for operational reasons in order to avoid discontinuity and disruption of Union action;
9. Is of the opinion that the proper interpretation of Article 147 of the Financial Regulation and Article 265 of the TFEU is that failure to take the appropriate steps to act on the observations accompanying Parliament's discharge decision, entitles Parliament to bring an action for failure to act;

***A different role for Parliament and the Council in the discharge procedure***

10. Notes that, according to the Council Presidency's declaration at the meeting of the Committee on Budgetary Control of 21 June 2011, the "memorandum of understanding" adopted by the COREPER on 2 March 2011 is intended to form the basis of relations between Parliament and the Council regarding the discharge of their respective budgets; further notes that this memorandum requires full reciprocity between Parliament and the Council in respect of submission of documents, answers to questions and a bilateral meeting to be organised every year between representatives of the Council and Parliament's Committee responsible for the discharge procedure, as well as Secretaries-General of both institutions;
11. Fully respects the Council's role as recommending authority in the annual discharge procedure, provided for in Article 319 of the TFEU; would disagree with the Council, however, should it consider itself to be in an identical position to Parliament as regards the

granting of discharge;

12. Reiterates that a distinction must be maintained in respect of the different roles of Parliament and the Council in the discharge procedure and that the Council administration (its General Secretariat), as with the other administrations of Union institutions, including the Parliament administration itself, should be subject to the control of the Court of Auditors and should be fully accountable to Union citizens for the implementation of their respective budgets, by means of the discharge procedure as set out in the TFEU;
13. Notes that the Court of Auditors carries out its controls on these institutions separately from the Commission controls and underlines that the final element of the accountability chain should be the democratic control through the discharge granted by Parliament;
14. Reminds the Court of Auditors of Parliament's suggestion to perform an in-depth assessment of supervisory and control systems in the Council, similar to the assessments it performed on the Court of Justice, the European Ombudsman and the European Data Protection Supervisor, in the course of preparation of the Court of Auditors' annual report concerning the financial year 2010;

#### ***Main elements of the Council's discharge***

15. Recalls that the expenditure of the Council must be scrutinised in the same way as that of the other institutions, and the fundamental elements of such scrutiny should be:
  - (a) a formal meeting to be held between representatives of the Council and Parliament's Committee responsible for the discharge procedure, potentially "in camera", in order to answer committee members' questions. This meeting should be attended by the Secretary-General of the Council, the bureau of the Committee responsible for the discharge procedure, the rapporteur and the members representing political groups (coordinators and/or shadow rapporteurs);
  - (b) as indicated in its resolution of 16 June 2010<sup>1</sup> concerning the 2008 Council discharge procedure, that the discharge should be based on the following written documents submitted by all institutions:
    - accounts of the preceding financial year relating to the implementation of their budgets,
    - a financial statement of their assets and liabilities,
    - the Annual Activity Report on their budget and financial management,
    - the annual report of their internal auditor.

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<sup>1</sup> OJ L 252, 25.9.2010, p. 22.