



RESOLUTION (EU) 2023/2839 OF THE EUROPEAN PARLIAMENT

of 17 October 2023

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 2021, Section II – European Council and Council

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 2021, Section II – European Council and Council,
- having regard to Rule 100 of and Annex V to its Rules of Procedure,
- having regard to the second report of the Committee on Budgetary Control (A9-0274/2023),
- 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 budget of the Union;
- 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;
- 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, and whereas the Secretary-General of the Council 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 20 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, according to Article 59(1) of the Financial Regulation ⁽¹⁾, the Commission shall confer on the other Union Institutions the requisite powers for the implementation of the sections of the budget relating to them;
- G. 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;
- H. 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;
- I. 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;
- J. 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;

⁽¹⁾ 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 (OJ L 193, 30.7.2018, p. 1).

- K. whereas the recommendation of the European Ombudsman in strategic inquiry OI/2/2017/TE on the transparency of the Council legislative process 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;
- L. whereas the General Court in its judgement of 23 January 2023 in Case T-163/21 ⁽²⁾, *De Capitani v Council*, underlined that the Council, as co-legislator, would need to improve its legislative transparency, including by providing access to legislative documents, as is its obligation with respect to public scrutiny and is in line with the accountability of the co-legislators that forms the basis of any democratic legitimacy in the Union;
1. Strongly regrets that once again for the financial year 2021, the Council was the only Union institution that refused to cooperate with Parliament in the discharge procedure, compelling Parliament to refuse discharge;
 2. 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 *vis-à-vis* Union taxpayers;
 3. Underlines that Article 59(1) of the Financial Regulation states that the Commission shall confer on the other Union institutions the requisite powers for the implementation of the sections of the budget relating to them and, therefore, finds it incomprehensible that the Council believes it to be appropriate that discharge should be granted to the Commission for the implementation of the Council budget;
 4. Stresses the well-established and respected practice followed by Parliament over the course of almost 20 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 granting discharge to each Union institution for their administrative expenditure should continue to be pursued directly by Parliament;
 5. Stresses that the current situation, where Parliament is only able to check the reports of the Court of Auditors and of the European Ombudsman and the information on the Council's website, but does not receive written or oral answers from the Council during the annual discharge procedure, due to the fact that the Council refuses to collaborate with Parliament in the context of the annual discharge procedure, makes it impossible for Parliament to carry out its duties properly and for it to make an informed decision on granting discharge;
 6. 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; underlines that this attitude has had a lasting negative effect on both institutions by jeopardising the image of the Union as a whole, discrediting the management and democratic scrutiny of the Union budget and reducing the trust of citizens in the Union as a transparent entity; deeply regrets the Council's continual refusal to engage in loyal cooperation in the framework of the discharge procedure;
 7. Reiterates that it is extremely frustrating that, for more than a decade, the Council has failed to cooperate and provide sufficient information on discharge to Parliament, and that, as a result of that failure, the Council is sending the wrong message to Union citizens since what is needed is more transparency; underlines that the Council must abide by the same standards it expects from the other Union institutions;

⁽²⁾ Judgment of the General Court of 23 January 2023, *De Capitani v Council*, T-163/21, ECLI:EU:T:2023:15.

8. Stresses that all other Union Institutions accept and understand the logic that given the delegation of power regarding the implementation of the budget, Parliament has the right and obligation to scrutinise their budgets and their implementation of those budgets as part of the discharge procedure and, with that in mind, finds it deplorable that the Council continues to refuse to cooperate with Parliament in that area;
9. Stresses that, while the current situation has to be improved through better interinstitutional cooperation within the framework of the Treaties, a 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;
10. 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;
11. Calls on the Council to resume negotiations with Parliament as soon as possible in order to find a solution in the current framework of the discharge procedure, if Council is interested in showing Union citizens that it takes proper budget control and transparency seriously while respecting the respective roles of Parliament and the Council in the discharge procedure;
12. Stresses that Parliament's observations in its discharge resolution of 10 May 2023 ⁽³⁾ concerning political priorities, budgetary and financial management, internal management, performance and internal control, human resources, equality and well-being, ethical framework and transparency, digitalisation, cybersecurity and data protection, buildings, environment and sustainability, interinstitutional cooperation and communication are still valid;
13. Notes the workshop held by Parliament's Committee on Budgetary Control on 27 June 2023 about the sponsorship of the Union Presidencies and supports its conclusion on the need to avoid all corporate sponsorships in order to eliminate any possible reputational risk for the Union;
14. Notes that the President of the European Council apparently only travelled on commercial planes on 18 out of 112 missions undertaken between the beginning of his term in 2019 and December 2022; believes that commercial planes could have been used on more occasions; underlines further that the leaders of the Union institutions should act as good examples to the public, not least in relation to ensuring climate sustainable policies.

⁽³⁾ OJ L 242, 29.9.2023, p. 37.