

**RESOLUTION (EU) 2022/295 OF THE EUROPEAN PARLIAMENT****of 19 October 2021****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 2019, 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 2019, 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 (A9-0276/2021),
- A. Whereas, pursuant to Article 13 of the Treaty on European Union, each institution shall act within the limits of the powers conferred on it in the Treaties and in conformity with the procedures, conditions and objectives set out therein, and whereas the institutions are to practice mutual sincere cooperation;
- B. Whereas all Union institutions ought to be transparent and fully accountable to the citizens of the Union in respect of the funds entrusted to them as Union institutions;
- C. Whereas transparency and accountability are key elements in the context of the discharge procedure in order to guarantee the democratic legitimacy of the Union institutions vis-à-vis Union citizens
- D. Whereas the transparent discharge procedure requires a transparent Union administration, and whereas the need to protect the Union's financial interests requires that every Union institution is accountable for the budget which it executes,
- E. Whereas the discharge authority deems that European Council and the Council, as Union institutions, should be democratically accountable towards the citizens of the Union in so far as they are beneficiaries of the general budget of the Union;
1. Recalls Parliament's role in respect of the budget discharge, as specified in the Treaty on the Functioning of the European Union (TFEU) and in the Financial Regulation;
  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 also Article 59 of the Financial Regulation, the institutions are endowed with the requisite powers and are individually responsible for the implementation of the sections of the budget relating to them;
  3. Notes the role of Parliament and of other institutions in the discharge procedure, as provided for by 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;
  4. Notes that under Rule 100 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 also 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';
  5. Regrets that for more than ten years the Council has refused to cooperate with Parliament in the framework of the discharge procedure, forcing Parliament to refuse discharge;
  6. Regrets that the Council continues to be silent in relation to the remarks made by Parliament in its discharge resolution of 29 April 2021 <sup>(1)</sup>, in a continuation of the trend since 2009;

(1) Texts adopted, P9\_TA(2021)0166.

7. Regrets that the budget of the European Council and the Council has not been divided into two separate budgets, as recommended by Parliament in recent discharge resolutions for reasons of transparency and in order to improve both expenditure efficiency and accountability for each of the two institutions;
8. Regrets that, in spite of its initial commitment, the Council has not, so far, carried out any adequate impact assessment of its substantial amendments to proposals from the Commission; reiterates that performing such assessments is one of the key factors in improving the quality of Union legislation set out in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making <sup>(2)</sup>;
9. Notes the Council's improved financial management and performance system; regrets, however, that no report currently provides a comprehensive summary of the major key performance indicators and results, thus preventing any measurement of achievements reached against objectives set;
10. Regrets the lack of information on the implementation of the Council's gender action plan and on measures taken to ensure equal opportunities for persons with disabilities at the Council (as a workplace); calls on the Council to provide Parliament with detailed information on the proportion of persons working with disabilities and on geographical and gender distribution, particularly at senior management level; calls on the Council to report on the measures taken in order to ensure equal opportunities, geographical balance and gender equality at the Council;
11. Regrets the lack of information from the Council on effective actions taken to tackle gender and geographical imbalances, including at management level; recalls the need for harmonisation of the protection of women's rights and a stronger integration and coordination of gender equality across Union policies via an intersectional approach; recalls, in this regard, Parliament's resolution of 17 December 2020 on the need for a dedicated Council configuration on gender equality <sup>(3)</sup>;
12. Regrets the lack of information concerning Council's actions aimed at enhancing ethical culture and points out that no initiative in this regard has been reported to Parliament; underlines the importance of taking concrete steps to implement good practices such as specific training, code of conduct provisions or internal guidance on integrity and ethical values, a dedicated website or a list of frequently-asked-questions (FAQs) on ethical matters, or procedures for the protection of whistleblowers; recalls the statement by the Court of Auditors in its Special Report No 13/2019 of 19 July 2019 entitled '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 European Union (EU) institutions and bodies attracts high levels of public interest and reduces trust in the EU';
13. Regrets the lack of attention paid to the need for an ethical framework, to transparency and to the prevention, identification and avoidance of conflicts of interest; reiterates its deep concern over the conflicts of interests of a number of Member State representatives involved in policy and budget decision-making processes; highlights in this regard the conclusions of the Commission audit on Czech Prime Minister Andrej Babiš and Agrofert which confirm the existence of a conflict of interest; reiterates that any actual or perceived conflict of interest jeopardises the reputation of the Council and the Union as a whole; repeats Parliament's strong call on the Council to ensure that Member State representatives who benefit directly from Union subsidies through the businesses they own (directly or indirectly) 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 any conflict of interest; deplores that the Council categorically rejects Parliaments' proposals to increase digitalisation in the area of audit and control and refuses to cooperate on increasing the interoperability of existing Union and national databases and reporting and monitoring systems; is very concerned about the official and unofficial European Council conclusions that, despite existing conflicts of interest, impact upon the common agricultural policy and with the cohesion negotiations on a capping of funding per natural and legal person;

<sup>(1)</sup> OJ L 123, 12.5.2016, p. 1.

<sup>(2)</sup> Texts adopted, P9\_TA(2020)0379.

14. Regrets that some Member States resort to corporate sponsorship to finance part of the activities of their Council presidencies not covered by the Council's budget; reiterates its deep concern about the possible reputational damage that this practice might cause to the Council and the Union; notes the final text of 30 June 2021 to be inserted into the Council's Presidency Handbook as guidance to Council presidencies regarding the use of sponsorship; welcomes this positive step but regrets the lack of a common set of clear, transparent and concrete rules; calls on the Council to further elaborate that guidance and to make it mandatory for the Member States;
15. Regrets that reporting by the Council on measures taken to improve legislative transparency remains less than completely satisfactory and reiterates its call on the Council to step up its transparency efforts by, inter alia, publishing Council working documents, recording and publishing Member States' positions, and making available more trilogue documents; welcomes that the European Council has signed the Interinstitutional Agreement on a mandatory transparency register<sup>(\*)</sup>; insists on an extension of its use to cover activities of Permanent Representations and officials that are not covered due to the current limitations;
16. Regrets the fact that full information is not provided on the records of the meetings held between lobbyists and the President of the European Council or members of his cabinet, as suggested by the European Ombudsman in her decision in case 1946/2018/KR, dated 18 June 2019, on how the General Secretariat of the Council informs the public about meetings that the President of the European Council and members of his private office have with interest representatives;
17. Regrets the lack of action and initiatives on the part of the Council to ensure a sound, transparent and efficient process for the appointment of the European Prosecutors and in relation to the proposal for European Delegated Prosecutors made by Member States;
18. Regrets the difficulties repeatedly encountered to date in the discharge procedures for the Council, caused by 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 to 2018 and postponed its decision on granting the Secretary-General of the Council discharge in relation to the financial year 2019 for the reasons set out in its discharge resolution of 29 April 2021;
19. Regrets that Parliament is unable to make an informed decision on granting discharge to the Secretary-General of the Council because the effective budgetary control exercise requires the cooperation of Parliament and the Council, which is not the case at present; insists that the expenditure of the Council must be scrutinised in the same way as that of other institutions and points out that the fundamental elements of such scrutiny have been laid down in Parliament's discharge resolutions of recent years;
20. Recalls that, as an institution making recommendations on the discharge procedure, the Council should do so in a more timely manner and with respect for the other Union institutions;
21. Regrets that the Council continues to fail to provide answers to Parliament's questions as well as to attend the hearings of the secretary-generals of the institutions;
22. Points out that Parliament is the only institution directly elected by the Union citizens and that its role in the discharge procedure is directly connected with the right of the citizens to be informed on how public money is spent;
23. Emphasises Parliament's prerogative to grant discharge pursuant to Articles 316, 317 and 319 TFEU in line with current interpretation and practice, namely to grant discharge in respect of each separate heading of the budget in order to maintain transparency and democratic accountability towards Union taxpayers; recalls that Parliament exercises its prerogatives in the discharge procedures in respect of all Union institutions, bodies, offices and agencies and regrets that the Council is the only one refusing to engage in loyal cooperation in respect of the respective prerogatives and roles;

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(\*) 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).

24. Considers that the lack of cooperation by the European Council and the Council with the discharge authority not only contravenes the principle of loyal cooperation among the institutions and sends a negative signal to the citizens of the Union, but also expresses a lack of respect for Parliament's role as guarantor of the transparency and democratic accountability of the Union budget;
  25. Reiterates the need to improve cooperation between the institutions in the framework of the discharge procedure through a memorandum of understanding between Parliament, the Council and the Commission in relation to cooperation between Parliament and the Council during the annual discharge procedure; reminds that Parliament informed the Council of the composition of its negotiation team more than a year ago and that it stands ready to resume dialogue any time, only awaiting the response of the Council; calls on the Council, to that end, to initiate interinstitutional negotiations without any further delay.
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