Basic information

2010/2144(DEC) DEC - Discharge procedure	Procedure completed
2009 discharge: EU general budget, Council **Subject** 8.70.03.07 Previous discharges	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	CONT Budgetary Control	RIVELLINI Crescenzio (PPE)	23/03/2010
European Commission	**Commission DG**	**Commissioner**	
	Budget	ŠEMETA Algirdas	

Key events

Date	Event	Reference	Summary
20/07/2010	Non-legislative basic document published	SEC(2010)0963	Summary
07/10/2010	Committee referral announced in Parliament		
22/03/2011	Vote in committee		Summary
28/03/2011	Committee report tabled for plenary	A7-0088/2011	
10/05/2011	Decision by Parliament	T7-0197/2011	Summary
10/05/2011	Results of vote in Parliament		
10/05/2011	Debate in Parliament		
10/05/2011	Report referred back to committee		
03/10/2011	Vote in committee		Summary
06/10/2011	Committee report tabled for plenary	A7-0328/2011	
25/10/2011	Decision by Parliament	T7-0450/2011	Summary
25/10/2011	Debate in Parliament		
25/10/2011	End of procedure in Parliament		
26/11/2011	Final act published in Official Journal		

Technical information	
Procedure reference	2010/2144(DEC)
Procedure type	DEC - Discharge procedure
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	CONT/7/06027

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE450.679	19/01/2011	
Amendments tabled in committee		PE458.798	21/02/2011	
Committee report tabled for plenary, single reading		A7-0088/2011	28/03/2011	
Text adopted by Parliament, single reading		T7-0197/2011	10/05/2011	Summary
Committee draft report		PE467.205	08/07/2011	
Amendments tabled in committee		PE472.102	08/09/2011	
Committee report tabled for plenary, single reading		A7-0328/2011	06/10/2011	
Text adopted by Parliament, single reading		T7-0450/2011	25/10/2011	Summary

Council of the EU

Document type	Reference	Date	Summary
Document attached to the procedure	05891/2011	03/02/2011	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	SEC(2010)0963	20/07/2010	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofA	Court of Auditors: opinion, report	N7-0083/2010 OJ C 303 09.11.2010, p. 0001	09/09/2010	Summary

Additional information

Source	Document	Date

Final act

Decision 2011/0755
OJ L 313 26.11.2011, p. 0011 Summary

2009 discharge: EU general budget, Council

2010/2144(DEC) - 25/10/2011 - Text adopted by Parliament, single reading

The European Parliament adopted a decision in which it has decided to **refuse to grant the Secretary-General of the Council discharge in respect of the implementation of the Council budget for the financial year 2009**.

Recalling that citizens have the right to know how their taxes are being spent and how the power entrusted to political bodies is handled, Parliament highlights the repeated shortcomings within the Council's discharge procedure and stresses, in an oral amendment adopted in plenary, the importance of improving transparency in the implementation of EU legislation and the rights of European citizens to receive better information.

***Pending issues**:* Parliament 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 welcome this as a constructive step towards ensuring the democratic accountability of the Council's administrative budget. It recalls 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: (i) 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; (ii) 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**:* Parliament takes note of the letter of 2 June 2011 from the Council Presidency to President Buzek 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 10th May 2011, in accordance with Article 319 of the TFEU. The resolution underlines the right of Parliament to grant discharge, pursuant to a combined reading of Articles 316, 317 and 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. It considers that, as a consequence, **the responsibility for the implementation of each budget lies with each respective institution and not with the Commission alone**. The resolution 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.

Parliament 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. It considers that if an institution fails to take the appropriate steps to act on the observations accompanying Parliament's discharge decision, Parliament shall be entitled to bring an **action for failure to act**.

***A different role for Parliament and the Council in the discharge procedure**:* Parliament 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. 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. The resolution 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. Members point out that the control by the Court of Auditors of all the Union institutions, not just the Commission, is established by the TFEU as the basis on which Parliament should exercise its political control by means of the discharge. Plenary 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**.

***Main elements of the Council's discharge**:* to conclude, Parliament 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 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);
- the discharge should be based on the following written documents submitted by all institutions: (i) accounts of the preceding financial year relating to the implementation of their budgets; (ii) a financial statement of their assets and liabilities; (iii) the Annual Activity Report on their budget and financial management; (iv) the annual report of their internal auditor.

2009 discharge: EU general budget, Council

2010/2144(DEC) - 20/07/2010 - Non-legislative basic document

PURPOSE: presentation by the Commission of the consolidated annual accounts of the European Union for the financial year 2009, as part of the 2009 discharge procedure.

Analysis of the accounts of the EU Institutions: Section II – **Council**.

CONTENT: this Commission document sets out the consolidated annual accounts of the European Union for the financial year 2009 as prepared on the basis of the information presented by the institutions, organisations and bodies of the EU, in accordance with Article 129 (2) of the Financial Regulation applicable to the EU's General Budget, including the Council.

The document helps to bring insight into the EU budget mechanism and the **way in which the budget has been managed and spent in 2009**. It recalls that European Union's operational expenditure covers the various headings of the financial framework and takes different forms, depending on how the money is paid out and managed.

In accordance with the Financial Regulation, the Commission implements the general budget using the following methods:

- **direct centralised management**: direct implementation of the budget by the Commission services;
- **indirect centralised management**: the Commission confers tasks of implementation of the budget to bodies of EU law or national law, such as the EU agencies of public law or with public service missions;
- **decentralised management**: the Commission delegates certain tasks for implementation of the budget to third countries;
- **shared management**: under this method of management budget implementation tasks are delegated to Member States. The majority of the expenditure falls under this mode "Shared Management" involving the delegation of tasks to Member States, covering such areas as agricultural spending and Structural Actions;
- **joint management**: under this method, the Commission entrusts certain implementation tasks to an international organisation.

The document also presents the different financial actors involved in the budget process (accounting officers, internal officers and authorising officers) and recalls their respective roles in the context of the tasks of sound financial management.

Amongst the other legal elements relating to the implementation of the EU budget presented in this document, the paper focuses on the following issues:

- the way in which EU public expenditure is committed and spent;
- the means of recovery following irregularities detected;
- the *modus operandi* of the accounting system:
- the audit process followed by the European Parliament's granting of the discharge.

To recall, the final control is the discharge of the budget for a given financial year. The discharge represents the political aspect of the external control of budget implementation and is the decision by which the European Parliament, acting on a Council recommendation, "releases" the Commission from its responsibility for management of a given budget by marking the end of that budget's existence.

Lastly, the document presents a series of tables and detailed technical indicators on (i) the balance sheet; (ii) the economic outturn account; (iii) cashflow tables; (iv) technical annexes concerning the financial statements.

Implementation of appropriations under Section II of the budget for the financial year 2009: the document comprises a series of detailed tables, the most important concerning the implementation of the budget. As regards the Council's expenditure, the table on the financial and budgetary implementation of this institution shows the following:

A) Table showing the commitment appropriations:

- Commitments: EUR 593 million (92.33% rate of implementation)
- Carry-overs to 2010: EUR 38 million (5.88% of authorised appropriations)
- Cancelled: EUR 12 million

B) Table showing the implementation of payments:

- Payments: EUR 659 million (86.44% rate of implementation)
- Carry-overs to 2010: EUR 83 million (10.86% of authorised appropriations)
- Cancellations: EUR 21 million.

Lastly, the annexes detail specific expenditure of the institutions, in particular:

- **pensions**: an administrative budget heading includes the pension obligations towards the Secretaries General of the Council;
- **joint sickness insurance scheme**: a valuation is also made for the estimated liability that the EU has regarding its contributions to the Joint Sickness Insurance Scheme in relation to its retired staff. This gross liability has been valued at EUR 3 535 million. The calculations take into account active officials and pensioners from the various EU Institutions and Agencies, and their families, and active Members and pensioners from the Council;
- **buildings**: another heading covers the amounts included correspond to amounts committed to be paid during the term of the contracts. Included here is the outstanding contractual obligation of EUR 93 million concerning building related contracts of the Council in 2009.

For further details on the budgetary implementation of expenditure of Section II of the budget (Council), please refer to the Financial Activity Report 2009 (Section II – Council). This document outlines the main administrative objectives of the General Secretariat of the Council (GSC) for 2009 were:

- further progress on administrative modernisation. The General Secretariat has established an ambitious programme to reinforce the quality of its organisation;
- various initiatives have or will have a budgetary impact (in terms of both investment costs and economies resulting from increased efficiency);
- continuation of the construction of the Residence Palace, which should be ready by 2013;
- adapting its organisation to the consequences of the Treaty of Lisbon, especially the creation of the European Council as a new institution after ratification of the Treaty in every Member State.

The report gives an overview of the results achieved as against the objectives set for 2009.

2009 discharge: EU general budget, Council

2010/2144(DEC) - 03/02/2011

Having regard to the observations made in the Court of Auditor’s report, the Council calls on the European Parliament to give a discharge to the Commission in respect of the implementation of the budget of the European Union for the financial year 2009. Although the observations made by the Council are positive as regards institution expenditure, the Council considers that the budget implementation calls for a series of comments which should be taken in to account when discharge is granted.

The Council is concerned about the Court's finding that, in several cases, and in different institutions and bodies, the information serving as the basis for the payment of allowances provided for by the relevant staff regulations was not up-to-date. Therefore, the Council supports the Court's recommendation that **administrative systems should be improved to timely monitor and control the documents proving the staff's personal situation**. It notes that the institutions and bodies addressed by the Court have already taken action and encourages them to pursue it.

Follow-up to observations from past annual reports:the Council welcomes the measures which were taken following the previous recommendations as regards the SESAME project.

2009 discharge: EU general budget, Council

2010/2144(DEC) - 09/09/2010

PURPOSE: to present the report of the Court of Auditors on the implementation of the budget for the financial year 2009 (other institutions – Council).

CONTENT: the Court of Auditors published its 33rd annual report on the implementation of the general budget of the European Union, covering the financial year 2009.

Pursuant to the Treaty on the Functioning of the European Union (TFEU), the Court of Auditors provides the European Parliament and the Council with a Statement of Assurance concerning the reliability of the accounts and the legality and regularity of the underlying transactions (‘the DAS’).

For the first time, the Court is forwarding its annual report to national parliaments at the same time as to the European Parliament and the Council, as provided for under Protocol No 1 to the Treaty of Lisbon.

This audit concerns, in particular, the budget implementation of the Council.

Based on its audit work, the Court concludes that the payments for the year ended 31 December 2009 for administrative expenditure of the institutions were free from material error. The Court notes that all the institutions operated satisfactorily the supervisory and control systems required by the Financial Regulation and the transactions tested were free from material error of legality and regularity.

Although the legality and regularity of the transactions underlying the accounts have been confirmed by the Court of Auditors, it does however draw attention to a number of findings which should be taken into consideration by the institutions concerned. It recalls that the main risks in the administrative and other expenditure policy group are non-compliance with the provisions on procurement, the implementation of contracts, recruitment procedures and the calculation of salaries and allowances.

Based on its audit work, the Court states that in the area of the payment of social allowances, the Court recommended to the Institutions and bodies concerned that they request their staff to deliver at appropriate intervals documents confirming their personal situation and that they implement a system for the timely monitoring of these documents.

The specific observations that follow and which are presented by Institution or body of the European Union are based on the Court's audit. These findings do not call into question the positive assessments as they are not material to administrative expenditure as a whole but are significant in the context of the individual Institution concerned.

In the specific case of the Council's audit, the Court notes the following:

- **procurement**: in two out of six procurement procedures audited, the rules set in the Financial Regulation for the publication of the outcome of the procedure in contract award notices were not respected.

Follow-up to observations from past annual reports: the audit gave rise to remarks on actions and decisions taken as a follow-up to observations from past Annual Reports. In particular as regards the SESAME programme (*Secured European System for Automatic Messaging*) (2008 Report), the Court recalls that the target completion date for this programmes used to prepare the Council's annual budgets was consistently overoptimistic. There were many changes to the initial project design and there was no agreement among Member States on how to treat certain kinds of sensitive information. As a result the annual budget for SESAME was overestimated each year.In 2009, the EUR 2.7 million budget for SESAME was again overestimated by EUR 2.4 million. However, the implementation of the Low Classified Segment of SESAME has been authorized by the Member States in the Political and Security Committee in October 2009. The project can thus be launched. According to the Court, the Council should ensure that budgetary appropriations made available for the SESAME project are in line with the state of implementation of the project.

2009 discharge: EU general budget, Council

2010/2144(DEC) - 10/05/2011 - Text adopted by Parliament, single reading

The European Parliament adopted by 631 votes to 9, with 7 abstentions a decision **to postpone granting to the Secretary-General of the Council discharge for the implementation of the Council's budget** for the financial year 2009.

Parliament also adopted by 637 votes to 4, with 13 abstentions, a resolution containing a number of observations which forms an integral part of the discharge decision. The resolution recalls that, in 2009, the Council had commitment appropriations available amounting to a total of **EUR 642 million** (2008: EUR 743 million), with a utilisation rate of 92.33 %, almost on par with 2007 (93.31 %), and still below the average of the other institutions (97.69 %).

Towards greater transparency in relation to the discharge procedure regarding the Council: Parliament regrets encountered in the 2007 and 2008 discharge procedures and reiterates the invitation to the Council to establish, together with Parliament, an annual procedure within the discharge procedure with a view to **providing all the information needed as regards the execution of the Council's budget**. Parliament reiterates that **the expenditure of the Council ought to be scrutinised in the same way as that of the other Union institutions** and that thisscrutiny is based on the following written documents submitted by all institutions:

- accounts of the preceding financial year relating to the implementation of the budget,
- a financial statement of the assets and liabilities,
- Annual Activity Report on their budget and financial management,
- annual report of the internal auditor,
- an oral presentation given in the meeting of the Committee responsible for the discharge procedure.

Unlike the Committee on Budgetary Control, Parliament does not support the idea of replacing the **"gentlemen's agreement"** that is current in force in relation to budgetary matters. Parliament regrets that the Council Presidency declined the invitations to attend the meeting of the Committee responsible for the discharge procedure, where it was planned to discuss Council Presidency's standing on the proposed procedure and the possible modalities of cooperation as regards the discharge. Parliament notes the proposed memorandum of understanding between the Parliament and the Council on their cooperation during their annual discharge procedure, as annexed to the letter of the Secretary-General of the Council of 4 March 2011, and **takes note of the Council's readiness to treat the discharge procedure separately from the budgetary procedure. However, it reiterates that a distinction must be maintained with regard to the different roles of Parliament and the Council in the discharge procedure** and that at no time and under no circumstances can the Council be anything other than fully accountable to the public for the funds entrusted to it.

Parliament notes the goodwill of the Hungarian Presidency and the progress achieved; proposes, in order to facilitate the exchange of information in the discharge procedure, to follow the same approach as the rest of the other institutions, the fundamental elements of which should be:

- the organisation of a formal meeting between representatives of the Council and Parliament's Committee responsible for the discharge procedure (comprising the Secretary-General of the Council and the Presidency in office, the bureau of the Committee responsible for the discharge procedure, the rapporteur and the Members representing political groups (coordinators/shadow rapporteurs) with a view to providing the necessary information on the implementation of the Council's budget,
- the Secretary-General of the Council should comment on questions submitted by the Committee responsible for the discharge procedure to the Council,
- a calendar shall be established so as to streamline and stabilise this temporary solution.

Parliament therefore considers unnecessary the idea of concluding an interinstitutional agreement with the Council concerning the latter's discharge.

In parallel, Parliament calls on the Court of Auditors to carry out **a detailed assessment of the Council's supervisory and control systems** along the same lines as those undertaken in regard to the Court of Justice, the European Ombudsman and the European Data Protection Supervisor.

Reasons for the postponement of the decision concerning the discharge: to justify the postponement of the Council's discharge, Members point out that:

- the Council did not accept any of the invitations to meet formally with the Parliament's committee responsible for the discharge or its rapporteur with a view to examining the questions regarding the execution of the Council's 2009 budget;
- the Council refused to provide the Parliament with a response in writing giving the information and documents that it requested;
- Parliament has not received basic documents from the Council, such as the complete list of budgetary transfers.

Lastly, Parliament asks the Secretary-General of the Council to provide, by no later than 15 June 2011, to Parliament's committee responsible for the discharge the answers in writing to a series of questions that are found at the end of this resolution. The plenary also calls for a specific series of documents to be provided to Parliament by that same date.

2009 discharge: EU general budget, Council

2010/2144(DEC) - 25/10/2011 - Final act

PURPOSE: to refuse discharge to the Council for the financial year 2009.

NON-LEGISLATIVE ACT: Decision 2011/755/EU of the European Parliament on discharge in respect of the implementation of the European Union general budget for the financial year 2009, Section II – Council.

CONTENT: in this Decision, the European Parliament refuses to grant the Secretary-General of the Council discharge in respect of the implementation of the Council budget for the financial year 2009. The Decision is in accordance with Parliament's resolution of 25 October 2011 and includes a series of observations which form an integral part of the Decision refusing discharge (please refer to the summary of 25 October 2011.)