RESOLUTION (EU) 2023/322 OF THE EUROPEAN PARLIAMENT

of 18 October 2022

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 2020, 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 2020, 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 (A9-0236/2022),

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, under Article 317(1) of the Treaty on the Functioning of the European Union (TFEU), the Commission is to implement the Union budget on its own responsibility, having regard to the principles of sound financial management, and whereas, under the framework in place, the Commission is to confer on the other Union institutions the requisite powers for the implementation of the sections of the budget relating to them;

C. whereas, under Article 319(1) 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 Union budget;

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 is wholly responsible for the sound management of the appropriations entered in Section II of the Union budget;

E. whereas the European Council and the Council, as Union institutions and as beneficiaries 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 their spending of public funds;

F. whereas in the context of the discharge procedure, the Parliament as discharge authority wishes to stress the particular importance of further strengthening the democratic legitimacy of the Union institutions vis-à-vis Union citizens by improving transparency and accountability of which the concept of performance-based budgeting and good governance of human resources are key components;

G. 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 for their administrative expenditure, and whereas the Commission supports that this practice should continue;

H. whereas the European Ombudsman (the 'Ombudsman') in her decision in strategic inquiry OI/2/2017/TE on the transparency of the Council legislative process found that the Council's practice in the legislative process constituted maladministration and should be addressed in order to enable citizens to follow the Union legislative process;

I. 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;

J. whereas the Council's lack of cooperation in the discharge procedure has prevented the Parliament from making an informed decision on granting discharge for more than 10 years now;

1. Deplores the fact that the Council is still refusing to cooperate with regard to the discharge procedure, forcing Parliament to refuse discharge;

2. Regrets that the budget of the European Council and the Council has not been divided into two separate budgets, as recommended by Parliament in previous discharge resolutions, in order to improve transparency, accountability and efficiency for each of the two institutions;

3. Recalls that key performance indicators are a widely recognised tool for measuring achievement against targets set; calls on the Council to provide summaries of its key performance indicators and the related results in its management reports;

4. Regrets the lack of information on the implementation of the Council's gender action plan and on the measures taken to ensure equal opportunities for persons with disabilities employed by the Council; calls on the Council to provide information to the budgetary authority on gender balance, geographical distribution and disabilities of its members of staff and on the related internal policies;

5. Regrets that the Council has so far ignored the European Parliament's resolution of 17 December 2020 on the need for a dedicated Council configuration on gender equality ([1]) and insists that a dedicated institutional forum would ensure stronger integration of gender equality in Union policies and strategies as well as essential coordination and progress in the main files related to gender equality;

6. Recalls that pursuant to Article 286(2) TFEU, the Council appoints the members of the Court of Auditors (the 'Court') after consultation with Parliament and understands the difficulties in achieving gender balance because of the current nomination procedure; points out the serious gender imbalance in the Court, where in 2020 there were only 8 female members compared to 18 male members; reiterates its call on the Council to reconsider the nomination procedure with the aim of tackling this problem with concrete actions, such as making it compulsory for Member States to present one candidate of each gender;

7. Regrets that the Council exerts its prerogative in the nomination and appointment procedures for many Union institutions, bodies, offices and agencies without taking the views of the interested parties into account; regrets in particular that the Council repeatedly failed to take into consideration the recommendations of Parliament in its consultative role regarding the appointment of the members of the Court; insists on the need for a review of the Council's prerogative with a view to guaranteeing and strengthening the participation of the institutions, bodies, offices and agencies concerned;

8. Recalls and supports the recommendations of the Ombudsman on the transparency of the Council legislative process; regrets that the decision-making process in the Council is still far from fully transparent which affects the trust of the citizens in the Union as a transparent entity and thereby jeopardises the reputation of the Union as a whole; urges the Council to take all the measures necessary in order to implement the recommendations of the Ombudsman and the relevant rulings of the Court of Justice of the European Union without undue delay;

9. Expresses its concern about the increasing role of the European Council with respect to legislative files despite that institution having neither a legislative nor an executive function and not applying the same transparency standards as the Council, meaning that it is not being held accountable; regrets the fact that the participation of the Member States' Permanent Representatives in the Transparency Register is completely voluntary and insists that all Permanent Representations should take an active part in the Transparency Register before, during and after their Member State's Council presidency; believes that the existing ethics rules on conflicts of interest, revolving doors and lobby transparency should be strengthened and harmonised; encourages the Council to fully utilise the Transparency Register scheme beyond its current limitations and calls on the Council to refuse to meet with unregistered lobbyists;

([1]) OJ C 445, 29.10.2021, p. 150.

10. Regrets that, despite several requests by Parliament, the code of conduct for the President of the European Council has not been brought into line with those of Parliament and the Commission, in particular in terms of activities to be approved after the President leaves the post;

11. Regrets not having received information about the code of conduct applicable to all members of staff of the Council; reiterates that ethical conduct contributes to sound financial management and increases public trust which, as stressed by the Court in its Special Report No 13/2019: The ethical frameworks of the audited EU institutions: scope for improvement, is indispensable if public policies are to succeed and, in particular, that any unethical behaviour by staff and members of the Union institutions, bodies, offices and agencies attracts high levels of public interest and reduces trust in the Union;

12. Reiterates its deep concern with respect to the confirmed conflicts of interest of Member State representatives involved in policy and budget decision-making processes; believes that Member State representatives who benefit directly from Union subsidies through the businesses they own should not participate in policy or budgetary discussions and votes related to those subsidies;

13. Reiterates its call on the rotating Council presidencies to decline any corporate sponsorship to cover some of their expenses; understands that financial resources from national budgets vary significantly among Member States and that each Member State, irrespective of its size and available budget, should have equal opportunities to organise a successful Council presidency, but believes that the acceptance of corporate sponsorship causes reputational damage because it risks creating conflicts of interest; reiterates its call on the Council to budget the Council presidencies to ensure adequate and uniform standards of efficiency and effectiveness of the working process;

14. Recalls that under Article 319 TFEU Parliament exercises its prerogatives in the discharge procedures and has the sole responsibility of granting discharge in respect of the implementation of the general budget of the Union, and that the budget of the European Council and of the Council is a section of the Union budget;

15. Recalls 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;

16. 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';

17. Emphasises that 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 for their administrative expenditure; stresses the view reiterated by the Commission that such practice should continue to be pursued by Parliament;

18. Deplores that the Council, for more than a decade, has shown that it does not have any willingness to collaborate with Parliament in the context of the discharge procedure, making it impossible for Parliament to make an informed discharge decision; considers that such lack of cooperation demonstrates a complete disregard for Parliament's role and violates the principle of loyal cooperation between the institutions, resulting in the very negative effects of discrediting transparency and the democratic scrutiny of the Union budget, as well as eroding citizens' trust in the Union; demands full respect for Parliament's prerogative and role in line with the case-law of the Court of Justice of the European Union that emphasises the right of taxpayers and of the public to be kept informed about the use of public revenues and underlines that that right is linked to Parliament's role in the discharge procedure as the only institution directly elected by Union citizens;

19. Remains convinced that an agreement on this matter is possible if the Council were to show any political willingness to collaborate; reiterates the will of Parliament to engage in constructive dialogue and calls, therefore, on the Council to resume negotiations with Parliament without undue delay in order to find a solution in the current framework of the discharge procedure;

20. Points out that, as expressed in its resolution of 4 May 2022 on the follow-up to the conclusions of the Conference on the Future of Europe ([2]), the conclusions of that Conference require changes to the Treaties, inter alia, concerning the simplification of the Union institutional architecture, more transparency and accountability in the decision-making process and a new reflection on Union competences; believes that the expectations of Union citizens constitute an unequivocal mandate for improving transparency and accountability, notably with respect to the Union budget and thus the discharge procedure;

21. Reiterates that the eventual revision of the Treaties could render the discharge procedure clearer and more transparent, notably by giving Parliament the explicit competence to grant discharge to all Union institutions, bodies, offices and agencies individually, but maintains that relaunching the negotiations between Parliament and the Council on the discharge procedure, with a view to finding a solution through better interinstitutional cooperation within the current framework set by the Treaties, would represent a first step in overcoming the current deadlock.

([2]) Texts adopted, P9_TA(2022)0141.