



## Danish non paper on the discharge

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Danish non paper on the formalization of the discharge procedure between the Council and the European Parliament

### Background

According to the Lisbon Treaty “The European Parliament, acting on the recommendation from the Council, shall give a discharge to the Commission in respect of the implementation of the budget” (Article 319 being identical to Article 276 of TEC). In recent years, the European Parliament has initiated the practise of giving a discharge not only to the Commission but also to each of the other institutions of the EU.

In February 2009 as part of the process concerning the discharge for the implementation of the Council’s 2007 budget, the Parliament’s Committee on Budgetary Control (COCOBU) requested formal and official bilateral meetings with the Council as well as written answers to questions on certain aspects of the Council’s budget. The Council refused this request because such a formalized discharge procedure between the two institutions would be contrary to the usual informal dialogue between COCUBU and the Council’s Secretariat on discharge questions – a practice based on the “Gentleman’s Agreement” of 1970. This agreement foresees that each branch of the budgetary authority refrains from questioning the administrative budget of the other. As a reaction to the Council’s refusal the European Parliament decided on 23 April to postpone granting the discharge to the Council until autumn, giving the Council another opportunity to comply with the Parliament’s request. De facto the decision calls into question the established informal practices governing the relations between the two institutions in regard to discharge matters.

On 10 September Coreper discussed the possible refusal by the European Parliament to grant the discharge for the implementation of the Council’s 2007 budget. The Swedish Presidency was given a mandate to contact COCOBU to arrange a meeting as well as to raise the matter with the leaders of the political groups in the Parliament. In addition the Presidency would answer the Parliament’s written questions on the Council’s budget and publish the relevant documents on the Council’s website. During the meeting with COCOBU the Presidency would among others convey the message that the Council wishes “...to discuss how to ensure an effective and efficient availability of information in the future on the discharge, without calling into question the established practise in relation to each other’s administrative expenditure”.<sup>1</sup> The Swedish Presidency emphasized that possible amendments in the discharge procedure should be addressed in the broader context of future discus-

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<sup>1</sup> Document 12825/09 of 4 September 2009 (LIMITE).

sions with the Parliament on budgetary matters linked to the entry into force of the Lisbon Treaty.

As a response to the Council's accommodation the European Parliament decided on 25 November 2009 to grant discharge to the Secretary-General of the Council in respect of the implementation of the Council's budget for 2007. As part of the discharge decision the Parliament calls "... on the Council to continue to further improve cooperation with its competent committees on the basis of its recent practice" and asks "... for the formulation and inclusion in the IIA by the institutions of an annex specifically dealing with the discharge procedure for the Council". In the context of the next discharge procedure for the Council, Parliament in addition calls on its competent committee (COCO-BU) to secure among others the provision of written answers to relevant questions and if further clarification is needed, an oral explanation on the basis of the written answers.<sup>2</sup>

### Reflections

The course of events linked with the process leading up to the Parliament's decision on discharge for the implementation of the Council's 2007 budget clearly shows, that the Parliament calls into question the established informal practices governing the relations between the two institutions on discharge matters. De facto this implies a rejection of that part of the "Gentleman's Agreement" concerning the established informal discharge procedure between the two institutions. As a consequence, Council and Parliament do not need to refrain from questioning the implementation of the administrative budget of the other any more. This line of reasoning assumes that the "Gentleman's Agreement" still functions in relation to other budgetary matters, most importantly decisions on the content and size of the administrative appropriations of the two institutions.

The Parliament furthermore wishes a formalization of a new discharge procedure between the two institutions to be implemented in amendments to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management (the IIA).<sup>3</sup> The present IIA does not contain any regulation of the interinstitutional collaboration during the discharge procedure, unlike the very detailed provisions on the collaboration during the budgetary procedure, including a special annex (II) of this.

In Denmark's view, the Council should be prepared to enter into discussions with the Parliament to ensure that each arm of the discharge authority can scrutinise, in full transparency, the other's implementation of the administrative budget. The discussions on the future discharge procedure between the two institutions should be linked with broader budgetary issues, including the necessary amendments of the IIA following the entry into force of the Lisbon Treaty.

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<sup>2</sup> Document A7-0047/2009 of 25 November 2009 (provisional edition).

<sup>3</sup> Official Journal of the European Union of 14 June 2006, C 139/01.

Discussions with the Parliament on a formalization of the discharge procedure between the two institutions should be facilitated by the entry into force of the Lisbon Treaty. This implies the establishment of a new European External Action Service (EEAS) as a single service with its own budget under the authority of the High Representative for Foreign Affairs and Security Policy. The staff of EEAS will among others be drawn from the General Secretariat of the Council, whereupon the existing administrative expenditure of the Council in the field of Foreign Affairs and Security Policy will be brought to an end.

## Solution

### Premises

Denmark would like to see a durable solution to the future relations between the Council and the Parliament during the annual discharge procedure. In our opinion a solution should be based on full transparency with regard to the financial management of the budget of both institutions in line with the budgetary management of all other EU institutions. Consequently the Council as well as the Parliament on an equal basis will have the possibility to ask critical questions concerning the budget implementation of each other to be able to make an assessment of the quality of the financial management. Furthermore an amended discharge procedure shall secure symmetry in the exchange of information between the Parliament and the Council during the discharge, including financial and other reporting on the budget implementation of the respective institutions. Finally it may be necessary to adjust the existing discharge timetables of the Council and the Parliament to secure a meaningful and smooth application of a new formalized discharge procedure.

### Proposal

An agreement on the formalization of the discharge procedure between the Council and the Parliament should be included in the amended IIA and contain the following main elements:

- A new part xx of the IIA designated “Improvement of Interinstitutional Collaboration during the Discharge Procedure”.
- A point referring to the broader provisions of the discharge in the Lisbon Treaty and the Financial Regulation on the general budget.
- A point on the purpose of the agreement, which may be formulated as follows: “To improve the sound financial management of EU funds by strengthening the collaboration between the Council and the Parliament during the annual discharge procedure.”
- A point on the principles of the mutual exchange of information between the Council and the Parliament during the annual discharge procedure - such as equality, symmetry and transparency.

- A point of the types of necessary information to be exchanged between the Council and the Parliament, including annual financial and other reporting on the budget implementation of the respective institutions.
- A point on the mutual obligation of both institutions to submit any information at each institution's request, required for the smooth application of the discharge procedure for the financial year in question - such as delivering answers to written questions on the budget implementation of the respective institutions.
- A point on the agenda, form, place and timing of meetings on discharge matters to be held between the Council and the Parliament during the year.

#### Time frame

If possible a solution on the future discharge procedure should be found before the Parliament decides on the discharge concerning the financial year 2008 (probably in the end of April 2010). Therefore the Council should soon discuss how to ensure an effective and efficient availability of information in the future on the discharge, cf. the initial discussions at Coreper meeting of 10 September 2009. This implies among others to provide for practical mechanisms as regards the mutual exchange of information between the two institutions. As part of the preparation for another Coreper meeting, the Budget Committee should discuss the matter as soon as possible.