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RESOLUTION (EU) 2024/2289 OF THE EUROPEAN PARLIAMENT

of 11 April 2024

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Fisheries Control Agency for the financial year 2022

THE EUROPEAN PARLIAMENT,

— having regard to its decision on discharge in respect of the implementation of the budget of the European Fisheries Control Agency for the financial year 2022,

— having regard to Rule 100 of and Annex V to its Rules of Procedure,

— having regard to the opinion of the Committee on Fisheries,

— having regard to the report of the Committee on Budgetary Control (A9-0100/2024),

A. whereas, according to its statement of revenue and expenditure [1], the final budget of the European Fisheries Control Agency (the 'Agency') for the financial year 2022 was EUR 34 967 797, representing an increase of 61,73 % compared to 2021, with approximately 41 % increase in the general EU subsidy and a considerable rise in assigned revenue from multiannual contribution agreements and grants; whereas the additional EU subsidy granted to EFCA, initiated in 2021, was linked to the legislative financial statement addressing the escalated monitoring requirements in EU waters neighbouring the United Kingdom; whereas approximately 84 % of the budget of the Agency derives from the Union budget and approximately 16 % from earmarked revenue;

B. whereas the Court of Auditors (the 'Court') states in its report on the Agency's annual accounts for the financial year 2022 (the 'Court's report') that it has obtained reasonable assurance that the Agency's annual accounts are reliable and that the underlying transactions are legal and regular;

Budget and financial management

1. Notes with appreciation that the budget monitoring efforts during the financial year 2022 resulted in a budget implementation of current year commitment appropriation rate of 99,41 %, representing a slight increase of 0,34 % compared to 2021; notes that the current year payment appropriations execution rate was at 57,78 %, representing a decrease of 16,70 % compared to 2021;

2. Notes with concern that, according to the Court, the Agency carried over EUR 11,9 million (41 %) of available 2022 commitment appropriations to 2023; observes that this included EUR 1,6 million (or 53 %) of appropriations under Title II, related to administrative activities (34 % in 2021), and EUR 10,1 million (or 63 %) of appropriations under Title III, related to operational activities (42 % in 2021); highlights that high rates of carry-overs contradict the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle; takes note of the Agency's reply on this matter highlighting that the high carry-overs of 2022 are the consequence of very particular circumstances which are not expected to be repeated;

3. Notes that the financial year 2022 was marked by a recovery from the COVID-19 pandemic's impacts on the previous two financial years, while at the same time EFCA's budget and resources continued to grow for additional tasks and projects as envisaged in its Single Programming Document for 2022; points out that the war in Ukraine could have an impact on the recognition and measurement of some assets and liabilities on the balance sheet and also on some revenue and expenses recognised in the statement of financial performance for subsequent reporting periods;

4. Stresses that it is the Member States that are primarily responsible for the control of fishing activities, while the Agency's tasks are supportive in nature; stresses that the recent revision of the Union fisheries control system will increase the Agency's supportive workload; emphasises the importance that growing obligations without sufficient resources to do so would be incoherent; stresses, therefore, that the financial and human resources available to the Agency need to be sufficient in the coming years;

[1] OJ C 38, 31.1.2023, p. 65.

Performance

5. Welcomes the fact that, in 2022, the Agency implemented 95,4 % of the Annual Work Programme (AWP) adopted by the Administrative Board in the framework of the Single Programming Document;

6. Notes with satisfaction that the Agency employs key performance indicators to evaluate the outcomes of its activities within two primary domains: operational activities and horizontal activities; acknowledges further that operational activities encompass key areas such as operational cooperation, assistance to cooperation, international dimension, and Union cooperation in Coast Guard functions; takes note that horizontal activities include communication and representation, information and communications technology and information security, as well as administrative and governance processes;

7. Observes that, during 2022, additional resources were granted to the Agency providing it with the necessary operational capacity for assisting the Member States and the Commission in the monitoring, control and surveillance regime harnessed to the Common Fisheries Policy (CFP), including the measures resulting from the Trade and Cooperation Agreement (TCA) with the United Kingdom; notes that, in addition, in 2022 three new projects subsidised by grants in the framework of the upcoming European Maritime Fisheries and Aquaculture Fund (EMFAF) were included; observes that those projects encompassed a study on the weighing process of fisheries products across the Union, a virtual regional training academy in the Western Mediterranean Sea for fisheries control and inspection, and the maintenance of the Handbook and online sectoral qualification framework (SQF) for Union cooperation in Coast Guard functions;

8. Recalls that the Agency is required to carry out an independent evaluation every five years responding to the legal obligation laid down in Article 48 of Regulation (EU) 2019/473 of the European Parliament and of the Council ([2]); observes that, for the period 2017-2021, the External Evaluator presented a draft final report in July 2022 which was submitted to the Members of the Administrative Board for comments; notes that the evaluation assessed the Agency's performance against the five criteria of effectiveness, efficiency, relevance, coherence, and Union added value, in line with the Commission's Better Regulation Guidelines; highlights that the evaluation has outlined ten recommendations focusing on different aspects, namely organisational aspects, whether the role and activities continue to be appropriate to meet the objectives set out in Regulation (EU) 2019/473, as well as specific activities of the Agency;

9. Recalls the Agency's vital contribution to the implementation of the CFP, in particular as regards fisheries control and the fight against illegal, unreported and unregulated fishing; welcomes the strengthening of the Agency's chartered offshore patrol vessels (OPV) to carry out fisheries controls and inspections in Union and international waters and to support national authorities; underlines the participation of the Agency in major international coalitions against illegal fishing, such as the Programme for Improved Regional Fisheries in Western Africa (PESCAO) operation;

10. Notes that, in 2022, the Agency reported 47 592 inspections (at sea and ashore), which led to the detection of 5 167 suspected infringements, representing a decrease in inspections of 11 % and an increase in suspected infringements of 28 % on the 2021 figures, respectively; points out that that observed decrease is not necessarily linked to a decrease in Member States' control efforts; invites the Agency to provide more detailed information on the reasons for those changes; points out that inspections and other follow-up activities play a key role not only in the proper management of fish stocks but also in ensuring a level playing field for Union fishers;

11. Highlights the role of the Agency in offering capacity-building and training to third countries and the Agency's crucial role in securing a level playing field with all coastal states;

Efficiency and gains

12. Highlights that the Agency continues to benefit from the efficiencies gained by adhering to the roadmap of the Commission in terms of on-boarding their existing corporate IT systems (SUMMA, e-Procurement pre-award and post-award modules, MIPS, AGM, Sysper modules, PPMT, etc.); notes that, in addition to the advantages found on the integration aspects between all those systems, there are clear benefits from reducing the maintenance costs of supporting the amendments and updates;

([2]) Regulation (EU) 2019/473 of the European Parliament and of the Council of 19 March 2019 on the European Fisheries Control Agency (OJ L 83, 25.3.2019, p. 18).

13. Welcomes that the Agency accepts the invitations for interinstitutional calls for tender received from the Commission and other agencies; notes that currently the Agency uses over 45 framework contracts signed by other entities; notes that this results in rotating the leading role between agencies, bringing efficiencies to the procurement efforts of agencies overall;

14. Draws attention to the centralisation of common administrative tasks that has also been successful in achieving efficiencies; takes note that the financial initiation and verification continue to be centralised, which allows for greater control of transactions, unifying the methodologies and containing the knowledge in those areas;

15. Notes that another efficiency gain in the area of Human Resources is achieved by sharing existing reserve lists of recruitment procedures with other agencies where the profile of the reserve list matches the needs of the requesting agency; notes that this practice allows use to be made of the reserve list of another agency, without the need to organise a resource-consuming recruitment procedure;

16. Takes note of the Agency's continued cooperation with the European Border and Coast Guard Agency (Frontex) and the European Maritime Safety Agency (EMSA) to support national authorities carrying out coastguard functions in line with Article 8 of Regulation (EU) 2019/473; considers that cooperation to be an example of synergy between Union agencies that should inspire agencies in other areas; calls on the Agency to continue its efforts in that regard and considers it appropriate also to increase the cooperation between the Agency and the European Environment Agency;

Staff policy

17. Notes that, on 31 December 2022, the establishment plan was 96,10 % filled, with 74 temporary agents appointed out of 77 authorised under the Union budget (65 authorised posts in 2021); notes that, in addition, 11 contract agents, six seconded national experts (SNEs) and 16 interim staff and consultants have worked for the Agency in 2022; notes furthermore that, in addition, a total of 13 contract agents were supported by ad hoc grants and contribution agreements across various projects;

18. Takes note of the reorganisation that took place in February 2022 to adjust the organisation to the additional tasks and resources assigned to the Agency to enhance the necessary operational capacity for assisting in the monitoring, control and surveillance of fisheries as required by the CFP, including the measures entailed by the TCA with the United Kingdom, and several new projects under the contribution agreements; highlights that the increase in staff was of almost 50 % as compared to the situation at the beginning of 2021, including temporary agents, contract agents and SNEs;

19. Takes note of the Agency's policy of promoting equal treatment of staff and of its goal of gender equality in terms both of numbers and of grades and responsibility levels; acknowledges the gender balance within the Agency's overall staff, with 54 out of 106 (51 %) being women; deplores the fact that 38 % of the staff of grade AD 8 (administrator's function group, grade 8) and higher were female (the same as in 2021); recalls the importance of ensuring gender balance and calls on the Agency to take that aspect into consideration with regard to appointments within its senior and middle management; notes that although the Agency has not adopted the 'Charter on diversity and inclusion' in 2022, its actions were addressed to comply with goal 5 of the Sustainable Development Goals on Gender Equality, as stated in its objectives;

20. Notes that as of 31 December 2022, the Agency has employed staff from 18 Member States; notes that 33 % of its staff are nationals of the Member State where the Agency is located; recalls the importance of geographical balance and encourages the Agency to continue to take the necessary measures to have a balanced and fair geographical representation;

21. Takes note that, since 1 October 2022, the Agency applies the rules on working time and hybrid working of the Commission by analogy;

22. Observes that in 2022, the implementation of Sysper modules included the introduction of the CCP 'Leave on Personal Grounds' functionality, the addition of 'NDP Payslips' for temporary and contract agents, the deployment of a new feature enabling the request for teleworking from abroad (Occasional Teleworking) for temporary and contract agents, along with an ADI '*ad interim*' workflow; furthermore, Sysper functionalities related to the implementation of new rules on working time and hybrid working were implemented, the STAGE module was deployed, and preparatory work was carried out for the EVAL and OBJ modules;

Prevention and management of conflicts of interest and transparency

23. Is aware that the Agency publishes on its website the declaration of interests and curricula vitae (CVs) of its Administrative Board members and of senior management; notes, furthermore, that the Agency updates regularly the table with all the meetings convened between its Executive Director and staff with organisations and self-employed individuals engaged in Union policymaking and policy implementation so as to ensure full transparency and trust in the Agency's activity and notes that the table is available through its website;

24. Calls on the Agency to continue regularly to update and make publicly available the information on relevant Executive Director and staff meetings with organisations or self-employed individuals engaged in Union policymaking and policy implementation so as to ensure full transparency and trust in the Agency's activity;

25. Takes note the Agency applies its conflict of interest policy to its staff, SNEs, remunerated external experts, trainees and members of the Administrative and the Advisory Board; notes that it is communicated to its staff through the intranet and training, and other servants and experts commit for compliance by signing declarations and confidentiality undertakings; notes furthermore that specific provisions on conflict of interest for the Agency contractors, including temporary agency personnel (interims) providing services, are laid down in the general conditions of the Agency's contracts;

26. Acknowledges that the Agency has had an anti-fraud strategy in place since 2014, which is regularly updated and is currently focusing on implementing actions to mitigate fraud risks identified in risk assessments; notes that the latest update in 2022, approved by the Administrative Board, emphasises continuous efforts in raising awareness on ethics and integrity;

Procurement

27. Takes note that, according to the Court, in 2022 the Agency signed a framework contract to the value of EUR 90 million for chartering three OPVs, with an initial duration of 24 months, to be tacitly renewed four times, each time for an additional 12 months, up to six years in total; recalls that point 1.1 of Annex 1 to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council [3] (the Financial Regulation) allows framework contracts with a duration of more than four years, but only in exceptional, duly justified cases; notes that the Agency justified the longer contract by the need to ensure an adequate return on investment to contractors, who were required to fit out the vessels with rigid-hull inflatable boats; notes furthermore that the Court found that justification to be insufficient, because the fit-out costs were estimated at around only 1 % of the total value of the contract and, in addition, the Agency retained the option to terminate the contract unilaterally after the first two years and after each subsequent year, which undermines the argument that the contractor needed a guaranteed six-year contract duration to secure a return on investment; highlights that the Court will consider subsequent associated payments irregular if the contract is extended beyond the four-year limit; observes that according to the Agency when preparing the procedure, the Agency considered that a normal four-year contract duration may not have been perceived by the market as providing sufficient return on investment and the successful delivery and continuity of the service subject of the related framework contract is critical for the its core operations;

28. Recalls the importance, for all procurement procedures, of ensuring fair competition between tenderers and of procuring goods and services at the best price, respecting the principles of transparency, proportionality, equal treatment and non-discrimination; calls on the Agency to improve its public procurement procedures, ensuring full compliance with the applicable rules, so that they achieve the best possible value for public resources;

Internal control

29. Expresses concern regarding the Court's finding that the procedures used for selecting and contracting external experts systematically lacked an adequate audit trail required under Article 36(3) of the Financial Regulation; notes that specifically, there was insufficient evidence obtained to support that experts were assigned to tasks based on pre-defined selection criteria related to their relative merits and that the principles of non-discrimination and equal treatment set out in Article 237 of the Financial Regulation were adhered to; calls on the Agency to strengthen its internal processes for selecting and contracting external experts and to report back to the discharge authority on any steps taken in this regard;

[3] 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).

30. Notes with concern that according to the Court, in May 2022, the Agency launched a negotiated procedure without prior publication of a contract notice for the lease of an OPV to be used in the waters between the Union and the United Kingdom, signing the contract in June 2022 to bridge a gap between previous and upcoming contracts under an ongoing open procedure which had lasted longer than initially expected; takes note that the Agency justified the urgency using an exception in the Financial Regulation, citing unforeseeable events which is an exception permitted by point 11.1(c) of Annex I to the Financial Regulation; observes that the Court concluded that, while some of the factors which produced that urgency may not have been foreseeable, some others were and the fact that they were not adequately taken into account indicates a weakness in the Agency's planning and its management of the procurement for chartering the three vessels; calls on the Agency to address and rectify the weakness in its planning and procurement management, as indicated by the Court, and to report back as soon as possible to the discharge authority on the measures taken in that regard;

Other comments

31. Takes note that the Agency has not implemented the Eco-Management and Audit Scheme (EMAS) certification as efforts are directed towards supporting other projects; recalls that the objective of the scheme is to promote continuous improvements in the environmental performance of organisations; encourages the Agency to take steps towards the implementation of EMAS;

32. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 11 April 2024 ([4]) on the performance, financial management and control of the agencies.

([4]) Texts adopted, P9_TA(2024)0280.