

RESOLUTION (EU) 2019/1456 OF THE EUROPEAN PARLIAMENT**of 26 March 2019****with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Asylum Support Office for the financial year 2017**

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Asylum Support Office for the financial year 2017,
 - having regard to Rule 94 of and Annex IV to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A8-0123/2019),
- A. whereas, according to its statement of revenue and expenditure ⁽¹⁾, the final budget of the European Asylum Support Office ('the Office') for the financial year 2017 was EUR 86 795 482, representing an increase of 32,78 % compared to 2016; whereas the increase was related to the new additional tasks expanding the Office's mandate; whereas EUR 75 376 000 of the Office's budget derives from the Union budget, the remaining part being contributions from associate countries and other income;
- B. whereas the Court of Auditors ('the Court'), in its report on the annual accounts of the European Asylum Support Office for the financial year 2017 ('the Court's report'), states that it has obtained reasonable assurances that the Office's annual accounts are reliable and that it has obtained sufficient audit evidence on the legality and regularity of revenue underlying the accounts; whereas, however, the Court issued a basis for an adverse opinion on the legality and regularity of the payments underlying the accounts meaning that the payment underlying the accounts for the year ended 31 December 2017 are materially affected by error;

Follow-up to the 2016 discharge

1. Recalls the European Parliament decision of 24 October 2018 ⁽²⁾ refusing to grant the Office's Executive Director discharge for the financial year 2016; welcomes in this regard the corrective measures taken in the meantime by the Office's Management Board and the new *ad interim* Executive Director; emphasises, however, that the budget for the financial year 2017 was implemented under the supervision of the Office's previous management;
2. Recalls the *in camera* presentation by the European Anti-Fraud Office (OLAF) to Parliament's Committee on Budgetary Control of 20 November 2018 on the outcome of the investigation by OLAF;
3. Regrets the irregularities discovered by OLAF regarding the breach of procurement procedures, misappropriation of EU funds, mismanagement, abuse of position in human resources issues, breaches of data protection rules, harassment and inappropriate behaviour towards staff members; calls on the Office to report to the discharge authority on the follow-up of the measures proposed by OLAF;
4. Acknowledges the major risks inherent to the nature of the Office's activities and extraordinary operational challenges caused by the migration influx in 2015, 2016 and 2017; regrets however that those risks were not mitigated by a solid governance structure and effective controls;

Basis for an adverse opinion on the legality and regularity of the payments underlying the accounts for the financial year 2017

5. Regrets to note that, according to the Court's report, the material and systematic instances of non-compliance of payments with the Office's Financial Regulation and other applicable rules and provisions, mainly related to public procurement and recruitment procedures underlying payments; regrets, furthermore, that the systematic nature of non-compliances demonstrated an inadequate internal control system; deeply regrets that the combined error from non-compliant payments amounts at least to EUR 7,7 million, or 10,3 % of the Office's total payments made in 2017;

⁽¹⁾ OJ C 415, 5.12.2017, p. 36.

⁽²⁾ Texts adopted, P8_TA(2018)0406.

Budget and financial management

6. Notes that budget monitoring efforts during the financial year 2017 resulted in a budget implementation rate of 96,88 %, representing a decrease of 2,25 % compared to 2016; notes furthermore that the payment appropriations execution rate was 92,03 %, representing an increase of 5,79 % compared to 2016; notes that the Office implemented 29 % of the associate countries' contributions and 96 % of grants for operational expenditure; calls on the Office to implement this amount fully;
7. Notes with concern that the Office is highly dependent on sufficient resources, mainly on experts, being made available by Member States, especially by Greece and Italy, as also addressed in the Court's Special Report No 6/2017 entitled 'EU response to the refugee crisis: the hotspot approach';

Cancellation of carry-overs

8. Regrets that the cancellations of carry-overs from 2016 to 2017 amounted to EUR 341 190, representing 11,68 % of the total amount carried over, showing an increase of 0,82 % in comparison to 2016;

Performance

9. Notes that the Office plays an active role in the Network of Justice and Home Affairs Agencies, supporting closer cooperation and greater synergies between the agencies working in that policy field; notes, furthermore, the renewed cooperation strategy of the joint EASO-Frontex Management Board for 2017-2018 and the settled focus on migration management support teams in the hotspots and data-sharing;
10. Notes that the Office uses qualitative indicators as Key Performance Indicators (KPIs) to demonstrate the impact of the Office's support in the implementation of the Common European Asylum System (CEAS), as well as other KPIs to enhance its budget management;

Staff policy

11. Notes with concern that, on 31 December 2017, the establishment plan was only 80,65 % filled, with 125 temporary agents appointed out of 155 temporary agents authorised under the budget of the Union (91 authorised posts in 2016); notes that in addition 68 contract agents and 5 seconded national experts were working for the Office in 2017; notes that no permanent staff are foreseen in the establishment plan and that the Office employs temporary agents and contractual agents and urges the budgetary authority to provide for the possibility to hire permanent staff;
12. Regrets that, according to the Court's report, as from the end of 2017, the human resources situation at the Office has deteriorated exponentially: for the Office's management, 4 out of 10 head of unit posts and 18 out of 27 head of sector posts were vacant; urges the Office to publish all vacant positions; notes, in addition, that in the administrative department, 3 out of 4 head of unit posts and 5 out of 10 head of sector posts were vacant; expresses its grave concern that this creates considerable managerial challenges for the Office and poses a significant risk to the continuation of the Office's operations at the current scale; regrets that, despite repeated attempts, the Office did not succeed in recruiting or retaining enough staff in 2017; acknowledges from the Office's reply that it is investing in staff satisfaction and taking measures in order to diminish staff turnover, such as implementing flexible ways of working, also to compensate the low correction coefficient of Malta; calls on the Office to keep the discharge authority up to date on the corrective measures taken to mitigate those risks; urges the Office to give priority to filling the vacant mid management posts with highly qualified permanent staff, in order to train the other new staff members;
13. Notes that, according to the Court's report, in 2017, payments in respect of staff amounted to EUR 13,5 million; regrets that the Court found serious weaknesses in four of the fourteen recruitment procedures audited; points out, as an example, that some recruitment procedures for administrative officers were not suitable for the grade advertised, and that for one procedure, the Office did not adequately document the eligibility checks of candidates;
14. Notes the Office's increased presence in Italy in 2017 due to the necessity of further support in the form of employing mobile teams and a Helpdesk in Rome; notes the opening of an operational office in Nicosia within the premises of the Asylum Service and the permanent placement of a Field Coordinator in Nicosia in line with the amendment to the Special Support Plan to Cyprus;

15. Notes that the Office has initiated an internal process with a view to adopting the Commission decision on the policy on protecting the dignity of the person and preventing harassment, and that it will set up a network of confidential counsellors; calls on the Office to report to the discharge authority on the implementation of that policy;

Procurement

16. Notes that, according to the Court's report, the number of procurement procedures increased significantly from 87 in 2015 to 140 in 2017 and that the number of payments increased by 225 %, from 2 578 in 2015 to 8 381 in 2017; welcomes the fact that the Office registered considerable progress during 2017 in decreasing the ratio of late payments; notes that the overall percentage of late payments significantly decreased from 65 % in January 2017 to 9,5 % in December 2017 and that this positive trend continues in 2018, with a ratio of late payments at targeted level of less than 10 %;
17. Notes that, according to the Court's report, in 2017, payments for interim services amounted to EUR 7,7 million; recalls that that contract was considered irregular by the Court in its 2016 audit; deeply regrets that the Office nevertheless paid EUR 4,8 million under this irregular contract in 2017; calls on the Office to report to the discharge authority on the corrective measures envisaged in this regard;
18. Notes that, according to the Court's report, a contract amounting to EUR 4 million for travel services was considered irregular by the Court in its 2016 audit; regrets that the Office nevertheless paid EUR 1,5 million under that irregular contract in 2017; calls on the Office to report to the discharge authority on the corrective measures envisaged in this regard;
19. Notes with concern that, according to the Court's report, the Office did not carry out an adequate assessment of needs and of alternative solutions before entering into multi-million euro contracts related to interim services; regrets, furthermore, that the monitoring of contracts was poor, which exposed the Office to significant financial and reputational risks; acknowledges that the Office is carrying out an internal inquiry into this matter; calls on the Office to report to the discharge authority on the outcome of the inquiry and the measures taken to mitigate those risks;
20. Notes with satisfaction that the Office has taken steps to strengthen its procurement sector by adding seniority and additional support staff to the procurement sector and that measures have also been taken to strengthen procurement procedures, including the introduction of systematic checks for every quotation above EUR 135 000 from 1 January 2018;

Prevention and management of conflicts of interest and transparency

21. Acknowledges from the Office that, in 2018, it began to implement the Commission decision regarding whistleblowing and developed a practical guide for the management and prevention of conflicts of interests as well as rules for the protection of whistleblowers; calls on the Office to report to the discharge authority on the implementation of those measures;
22. Notes with concern that, although the Office publishes the declarations of interest and CVs of its Management Board members on its website, it does not publish the declarations of interests of the senior management; calls on the Office to publish those missing documents and to report to the discharge authority on the measures taken in this regard;
23. Notes with concern that, according to the Court's report, the Office lacks an adequate verification of legal services to ensure that services are used for the purpose of defending the Office only, and not to defend the interests of individuals; regrets that the related procedures to protect against conflicts of interests are not always effective; notes from the Office's reply that internal inquiries continue into this matter; calls on the Office to report to the discharge authority on the outcome of those inquiries and the measures taken to mitigate the risks involved;

Internal controls

24. Regrets that the operational challenge caused by the migration crisis was not mitigated by a solid governance structure and effective internal controls in 2017; notes with concern that, according to the Court's report, the Management Board did not establish an internal audit capability within the Office and that the operations in Greece and Italy were not covered by an internal audit activity; regrets that until the end of 2017, the Management Board's supervision of financial management was limited;

25. Notes with concern that, according to the Court's report, the lack of internal controls led to numerous instances of material non-compliance as regards payments for interim services, staff expenditure, rent and related works, travel expenditure as well as other payments;
26. Regrets the existence of critical internal control deficiencies in 8 of the 15 Internal Control Standards in 2017, and that moderate deficiencies affected the rest of them; expresses its concern that during 2017, the Office did not monitor regularly the implementation of internal control systems;
27. Notes that during 2017, the Commission issued a revised set of Internal Control Standards that were adopted by the Management Board at its meeting in November 2017; notes that those new standards began to apply in 2018 and that the Office has established indicators to monitor the implementation of the new standards against a timeline; calls on the Office to report to the discharge authority on the implementation of the new Internal Control Standards;

Other comments

28. Acknowledges nevertheless the efforts of the Office to address the weaknesses identified by the Court in an efficient and speedy way; calls on the Office to report regularly to the European Parliament on progress in terms of efficiency and implementation of those measures to address the key issues identified by the Court; calls on the Office to justify thoroughly to the European Parliament the gaps between resources currently available, the ones programmed but not yet available, and the ones not yet programmed but truly necessary in order for the Office to fulfil its mission;
29. Regrets that the Office did not publish its Annual Activity Report for 2017 by the deadline of 1 July 2018, as stipulated in Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ⁽⁷⁾; notes that the report was adopted by the board on 10 January 2019;
30. Notes that on 4 May 2016 the Commission presented a proposal for a new regulation that would transform the Office into a fully-fledged agency and that, following the discussions on the reform of the CEAS, the Commission proposed an amended regulation on 12 September 2018;
31. Recalls the fact that the Office is one of the few multi-location Union agencies; notes with concern that the Office entered into lease contracts in several locations without having carried out an adequate local market analysis; points out, for example, that in Lesbos the Office adapted the office space to its needs and accepted works contracts worth EUR 0,7 million, representing several times the annual value of the lease contract and entailing financial risks from investing considerable amounts to rented premises; calls on the Office to review its lease and works contracts and to report to the discharge authority on measures taken to mitigate any financial and operational risks;
32. Notes that the Office amended its lease agreement in Malta and that, in the second half of 2016, it expanded its office space to an additional block of the building where its premises are situated; emphasises that, as a consequence of the increase in responsibilities and tasks, the number of staff should increase to 500 by the end of 2020 thus creating a considerable demand for more office space; repeats its calls on the Office to report to the discharge authority on the expected budgetary consequences of this increase and on the measures planned to address the demands; regrets that the Office did not manage to reach an agreement in 2017 with Transport Malta, the owners of the headquarters, for the lease of additional premises within the complex and that this had a direct impact on rental costs and on other related costs, such as building maintenance and security; notes that the Lease Agreement was signed on 9 October 2018;
33. Welcomes the appointment of the new *ad interim* Executive Director, who took office in 6 June 2018; acknowledges the new management's commitment to ambitious reforms and warmly welcomes in this regard the Governance Action Plan, endorsed by the Management Board, which proposes a set of measurable objectives and deliverables aimed at reinforcing the internal governance of the Office, rebuilding internal capacity and restoring trust; calls on the new management to continue its determined and transparent efforts to develop a more accountable, trustworthy and efficient governance structure, and related procedures, for the Office; reminds the Office to be fully transparent in procedures and processes across the board in the Office in order to rebuild the trust and certainty among staff members; and to report to the discharge authority on the developments as regards the implementation of the new Governance Action Plan;

⁽⁷⁾ OJ L 328, 7.12.2013, p. 42.

34. Notes with concerns, that no one recognised the appalling behaviours of the former Executive Director over several years; regrets that the unacceptable behaviours were not made aware of earlier; regrets that the responsible monitoring bodies failed to uncover the various irregularities; calls the Commission to propose an early reaction mechanism to those kinds of misbehaviours;
 35. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 26 March 2019 ⁽⁴⁾ on the performance, financial management and control of the agencies.
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⁽⁴⁾ Texts adopted, P8_TA(2019)0254 (see page 361 of this Official Journal).