

RESOLUTION (EU) 2019/1528 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 Border and Coast Guard Agency 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 Border and Coast Guard Agency 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 (A8-0153/2019),
- A. whereas, according to its statement of revenue and expenditure ⁽¹⁾, the final budget of the European Border and Coast Guard Agency ('the Agency') for the financial year 2017 was EUR 280 560 000, representing an increase of 20,54 % compared to 2016; whereas the increase was related to the considerable extension of the Agency's mandate in 2017, in response to the migration crisis faced by the Union; whereas the Agency's budget derives mainly from the Union budget;
- B. whereas the Court of Auditors ('the Court'), in its report on the annual accounts of the European Border and Coast Guard Agency (Frontex) for the financial year 2017 ('the Court's report'), has stated that it has obtained reasonable assurances that the transactions underlying the Agency's annual accounts are legal and regular;

Budget and financial management

1. Notes that the budget-monitoring efforts during the financial year 2017 resulted in a budget implementation rate of 97,63 % representing a slight decrease of 0,27 % compared to 2016; notes with concern that the payment appropriations execution rate was low at 66,42 %, representing a slight increase of 0,35 % compared to 2016;
2. Notes from the Court's report that the initial budget of the Agency included a EUR 8 800 000 statutory financial operational reserve for financing the deployment of rapid border interventions and return interventions; notes that the Agency transferred overall EUR 3 800 000 from the reserve to its operational budget to fund other activities; notes with concern that the transfers are not in compliance with the Agency's financial regulation; takes note from the Agency's reply that it considers that the legislator should provide for clarification on the implementation of transfers from the reserve; calls on the Agency to avoid such non-compliant actions in the future and report to the discharge authority on which clarification the Agency considers necessary;

Cancellation of carryovers

3. Regrets the high level of cancellations of carryovers from 2016 to 2017, amounting to EUR 11 125 174 and representing 14,96 % of the total amount carried forward, a similar rate as in 2016; calls on the Agency to report to the discharge authority on the measures to be taken to ensure complete use of the appropriations carried over in order to avoid substantial resources being de-committed as in the previous years;

Performance

4. Notes with satisfaction that the Agency uses various Key Performance Indicators (KPIs) to measure the added value provided by its activities; takes note that the Agency plans to revise its indicators in 2019; invites the Agency to further develop the KPIs for enhancing its budget management, particularly taking into account the extension of its mandate and the continuously increasing budget, and report to the discharge authority on the developments made in that regard; expresses its concerns as regards the part of the budget that could not be absorbed by the Agency;

⁽¹⁾ OJ C 108, 22.3.2018, p. 112.

5. Recalls that, in response to the migration and asylum situation in 2015 faced by the Union, the mandate of the Agency was considerably extended in 2016 for the Agency to be able to better address the needs and challenges being faced at the external borders of the Union; stresses that in 2017 systems and procedures were still in the process of being adapted to cope with the new mandate of the Agency which was updated in 2016 by Regulation (EU) 2016/1624 of the European Parliament and of the Council ⁽²⁾;
6. Regrets that the majority of the Agency's operational programmes lack quantitative objectives and specific target values for the joint operations; notes with concern that this, together with insufficient documentation from cooperating countries, might hamper the ex post evaluation of the effectiveness of joint operations in the long term; calls on the Agency to set relevant strategic objectives for its activities and to establish an effective result-oriented monitoring and reporting system with relevant and measurable KPIs;
7. Notes the management board's approval of the reorganisation of the Agency structures in June 2017, affecting the allocation of resources; calls on the Agency to report to the discharge authority on the implementation of this new organisational structure;
8. Notes with satisfaction that all Member States and Schengen associated countries participated in at least one joint operation and that 26 Member States took part as organisers or participants in return operations coordinated and co-financed by the Agency, amounting to two more Member States than in 2016;
9. Welcomes the fact that the Agency promotes interagency cooperation, especially in the field of coastguard function, but also in the field of customs and law enforcement cooperation, in order to fully exploit the advantages of multi-purpose operations as an important element of integrated border management;
10. Notes with satisfaction that the Agency cooperates with other agencies, inter alia by supporting them in recruitments, building projects and security consultancies, and shares offices with the European Union Agency for Law Enforcement Cooperation, the European Union's Judicial Cooperation Unit and the European Asylum Support Office in the framework of the European Regional Task Force in Italy and Greece;
11. Urges the Agency to develop a comprehensive business continuity plan;

Staff policy

12. Regrets that, on 31 December 2017, the establishment plan was only 74,43 % filled, with 262 temporary agents appointed out of 352 temporary agents authorised under the Union budget (275 authorised posts in 2016); notes that, in addition, 139 contract agents and 113 seconded national experts have been working for the Agency in 2017;
13. Notes again with concern the gender imbalance in the Agency's management board; recalls that Member States are responsible for nominating members of the management board; calls on Member States to ensure gender balance when nominating their members to the Agency's management board; calls on the Agency to proactively remind Member States of the importance of gender balance; points out that measures aimed at achieving a better geographical balance in the Agency's staff composition would be desirable;
14. Notes that 2017 was the second year of the five-year growth plan following the adoption of Regulation (EU) 2016/1624 that significantly increased resources in the area of the Agency's budget and staff; notes from the Court's report that, following the extension of its mandate, the Agency's staff will more than double from 365 in 2016 to 1 000 in 2020; notes moreover that the planned increase in staff will require additional office space; calls on the Agency to report to the discharge authority on the measures taken in order to address the challenges concerning the increasing staff numbers and to keep it closely informed of the further steps, including financial calculations, relating to the construction of the new headquarters;

⁽²⁾ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

15. Notes with concern that the Agency experiences difficulties in finding staff with the required profiles, often because of the low salary correction coefficient (66,7 %); calls on the Agency to report to the discharge authority on the outcome of the discussions with the Commission on possible mitigating measures, and the Agency's plans for other possible measures to attract new staff, particularly taking into account the Agency's extending mandate and increasing amount of recruitments; calls on the Agency to appoint a new fundamental rights officer without further delay in order to ensure that threats to fundamental rights-related issues are immediately addressed, and that the fundamental rights policy within the organisation be constantly upgraded;
16. Deeply deplores that, despite repeated calls of Parliament and a significant overall staff increase for the Agency, the fundamental rights officer still lacks adequate human resources and is therefore clearly hampered from properly conducting the tasks entrusted to her by Regulation (EU) 2016/1624; urges the Agency to provide its fundamental rights officer with adequate resources and staff, in particular for setting up a complaint mechanism and for further developing and implementing the Agency's strategy for monitoring and ensuring the protection of fundamental rights.
17. Welcomes the suggestion of the Court to publish vacancy notices also on the website of the European Personnel Selection Office in order to increase publicity; understands the Agency's concern as regards translation costs;
18. Notes that the Agency uses the 'Code of Conduct for all persons participating in Frontex operational activities' and confidential reporting as measures to address matters of harassment;
19. Notes with concern from the Court's report that in 2017 the Agency continued making irregular recruitments on external selection procedures, appointing candidates at higher AST grades than the maximum grade provided for by the Staff Regulations; points out that in this regard two recruitments were considered irregular in 2017 (14 in 2016); takes note of the Agency's justification for the recruitments and acknowledges that since March 2017 the Agency has not appointed any external candidates for grades higher than AST4;

Procurement

20. Acknowledges from the Agency that it was revising its entire financial scheme in 2017 aiming at simplifications, switching from grants to service contracts and introducing flat rates; calls on the Agency to report to the discharge authority on the implementation of the new scheme;
21. Notes from the Court's report that by the end of 2017, the Agency had not yet introduced all of the tools launched by the Commission aimed to introduce a single solution for the electronic exchange and storage of information with third parties participating in public procurement procedures (e-procurement); notes that the Agency had introduced e-invoicing and e-tendering for certain procedures, but not e-submission; calls on the Agency to introduce all of the necessary tools to manage procurement procedures and report to the discharge authority on their implementation;

Prevention and management of conflicts of interests and transparency

22. Acknowledges the Agency's existing measures and ongoing efforts to secure transparency, prevention and management of conflicts of interest, and whistle-blower protection; takes note from the Agency that it drew up draft internal rules on whistleblowing but, after being advised to do so by the Commission, it will implement the Commission model decision once notified to the agencies; calls on the Agency to report to the discharge authority on the implementation of this decision and to adopt its whistleblowing policy without further delay;
23. Recalls that the provisions on information and communication as part of the accountability of the Agency towards the public were considerably modified by Regulation (EU) 2016/1624, requiring the Agency to be more transparent about its activities; regrets that the Agency still does not fully live up to those new rules and calls upon it to implement them without delay;

Internal control

24. Notes from the Court's report that the Agency's grant expenditure increased considerably from EUR 123 000 000 in 2016 to EUR 167 000 000 in 2017; notes with concern that in 2017 the Agency did not carry out any *ex post* verifications on grant expenditure reimbursements; takes note that the Agency considers that the *ex ante* verifications performed before reimbursement had improved and, once the *ex ante* coverage reached a certain level, could provide the necessary assurance; points out, however, that as the Court has consistently reported since 2014, the proof of expenditure claimed by cooperating countries is often insufficient, which was also confirmed in 2017; calls on the Agency to report to the discharge authority on the measures taken to mitigate these risks;
25. Takes note that the Agency revised its internal control framework (ICF) and altered the former compliance-based approach into a risk-based one; acknowledges that the revised ICF was adopted in November 2017 and, subsequently, a consolidated Frontex Improvement Log was established;
26. Notes from the Court's report that the Agency financed support to Iceland's Coast Guards for the deployment of an airplane in Greece and that, before reimbursing the expenditure claimed by Iceland, the Agency asked for invoices as evidence for one category of declared expenditure; regrets that although the invoices were never provided, the Agency reimbursed EUR 440 000, which shows that the *ex ante* verification was ineffective; takes note of the Agency's consideration that the hourly maintenance cost estimation gives sufficient grounds for approving the expenditure;
27. Notes with concern that the Agency still has no comprehensive business continuity plan approved by the management board; calls on the Agency to take the necessary steps in order to adopt such a plan and report to the discharge authority on its adoption;
28. Requests the management board of the Agency to adopt clear service level agreements for the continuity of its activities in case of a site disaster, as well as corresponding IT recovery objectives and maximum allowable data loss for its most critical systems and applications; requests the Agency to develop the supporting plans, to exercise them adequately and have test results responsibly endorsed by its management board;

Other comments

29. Observes that the headquarters agreement between the Agency and the Polish government entered into force on 1 November 2017; notes that it has an effect on several processes of the Agency with major consequences on the working conditions and the management facilities; asks the Agency to report to the discharge authority on the resulting projects, in particular the construction of the new headquarters building and the establishment of a European school in Warsaw;
30. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 26 March 2019 ⁽³⁾ on the performance, financial management and control of the agencies.

⁽³⁾ Texts adopted, P8_TA(2019)0254. See page 361 of this Official Journal.