

RESOLUTION (EU) 2019/1557 OF THE EUROPEAN PARLIAMENT**of 26 March 2019****on discharge in respect of the implementation of the budget of the European Union agencies for the financial year 2017: performance, financial management and control**

THE EUROPEAN PARLIAMENT,

- having regard to its decisions on discharge in respect of the implementation of the budget of the European Union agencies for the financial year 2017,
 - having regard to the Commission's report on the follow-up to the discharge for the 2016 financial year (COM(2018) 545),
 - having regard to the Court of Auditors' annual report ⁽¹⁾ on the annual accounts of the agencies for the financial year 2017,
 - having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 ⁽²⁾, and in particular Article 1(2) and Article 208 thereof,
 - having regard to 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 ⁽³⁾, and in particular Articles 68 and 70 thereof,
 - having regard to 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 ⁽⁴⁾, and in particular Article 110 thereof,
 - 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 also the opinions of the Committee on Employment and Social Affairs and the Committee on Civil Liberties, Justice and Home Affairs (A8-0140/2019),
- A. whereas this resolution contains, for each body within the meaning of Article 208 of Regulation (EU, Euratom) No 966/2012 and Article 70 of Regulation (EU, Euratom) No 2018/1046, cross-cutting observations accompanying the discharge decisions in accordance with Article 110 of Delegated Regulation (EU) No 1271/2013 and Section V of Annex V to Parliament's Rules of Procedure;
- B. whereas the recommendations of the Interinstitutional Working Group (IIWG2) on resources of decentralised agencies were endorsed by the Conference of Presidents on 18 January 2018; recalls the 6 recommendations issued under its mandate, specifically in relation to the 5 % staff reduction target, treatment of new tasks, regular evaluation of agencies, sharing of services, evaluation of agencies with multiple locations, and fee-financed agencies;
- C. whereas in the context of the discharge procedure, the discharge authority stresses the importance of further strengthening the efficiency, effectiveness, economy and accountability of Union institutions, and of implementing the concept of performance-based budgeting and good governance of human resources;
1. Emphasises that the agencies are highly visible in the Member States and have significant influence on policy, decision making and programme implementation in areas of vital importance to European citizens, such as security, safety, health, research, economic affairs, environment, gender equality, energy, transport, freedom and justice; reiterates the importance of the tasks performed by the agencies and their direct impact on the daily lives of Union citizens; reiterates also the importance of the autonomy of the agencies, in particular of the regulatory agencies and those with the function of independent collection of information; recalls that the main reasons for establishing the agencies were for the purpose of operating Union systems, facilitating the implementation of the European Single Market and making independent technical or scientific assessments; welcomes in this regard the effective overall performance of the agencies, and the progress made in enhancing their visibility to European citizens;

⁽¹⁾ OJ C 434, 30.11.2018, p.1.⁽²⁾ OJ L 298, 26.10.2012, p. 1.⁽³⁾ OJ L 193, 30.7.2018, p. 1.⁽⁴⁾ OJ L 328, 7.12.2013, p. 42.

2. Notes with satisfaction that, according to the annual report of the European Court of Auditors' (the 'Court') on Union agencies for the financial year 2017 (the 'Court's report'), the Court issued an unqualified audit opinion on the reliability of the accounts of all agencies; notes in addition that the Court issued an unqualified opinion on the legality and regularity of the revenue underlying the accounts for all agencies; observes that the Court issued an unqualified opinion on the legality and regularity of the payments underlying the accounts for all agencies, except for the European Asylum Support Office (EASO); points out with regret that for EASO's payments, the Court issued an adverse opinion;
3. Notes that for the 32 decentralised Union agencies, the 2017 budgets amounted to around EUR 2,35 billion in commitment appropriations, representing an increase of approximately 13,36 % compared to 2016, and to EUR 2,24 billion in payment appropriations, showing an increase of 10,31 % in comparison to 2016; notes moreover that of the EUR 2,24 billion, some EUR 1,62 billion were financed from the general budget of the Union, representing 72,08 % of the agencies' total financing in 2017 (69,81 % in 2016); acknowledges furthermore that some EUR 627 million were financed by fees and charges and by direct contributions from participating countries;
4. Recalls its request to streamline and accelerate the discharge procedure towards deciding on granting discharge in the year immediately following the year for which the discharge is granted, closing the procedure within the year following the accounting year in question; welcomes in this regard the positive efforts made and the good cooperation with the European Union Agencies Network (the 'Network') and the individual agencies, and in particular the Court, which shows clear potential for streamlining and accelerating the procedure on their part; appreciates the progress made so far and invites all relevant actors to continue their efforts towards further advancing the procedure;

Main risks identified by the Court

5. Notes with satisfaction that according to its report, the Court considers the overall risk to the reliability of accounts to be low for all agencies, since the agencies' accounts are based on internationally accepted accounting standards, and considering the fact that only a few material errors arose in the past;
6. Notes that according to its report, the Court considers the overall risk to the legality and regularity of transactions underlying the agencies' accounts to be medium, varying from low to high for specific budget titles; notes that the risk for Title I (staff expenditure) is generally low, for Title II (administrative expenditure) the risk is considered to be medium, and for Title III (operational expenditure) the risk is considered to be low to high, depending on the agencies and the nature of their operational expenditure; points out that risk sources usually derive from procurement and grant payments;
7. Observes that according to the Court's report the risk to sound financial management is medium and is mainly identified in the areas of information technology (IT) and public procurement; regrets that IT and public procurement remain areas prone to error;
8. Stresses that, from a broader perspective, the number of small agencies, each with their own administrative structures and procedures, constitutes a risk to administrative inefficiency and risks potential overlapping of incoherent methods, unless harmonisation is ensured and unless resources are shared efficiently;

Budget and financial management

9. Notes with satisfaction that according to the Court's report the number of observations on the legality and regularity of payments decreased to 8 in 2017, from 11 in 2016, which illustrates the agencies' continued efforts to comply with the Financial Regulation;
10. Calls on the Commission, the Network and the individual agencies to work together and provide constructive feedback throughout the negotiations for the post-2020 Multiannual Financial Framework, and to explore new sources of financing for the agencies in addition to the existing Union budget contributions; insists that future decisions on resources should not be made on a global basis, but rather should be linked to the tasks the agencies are entrusted to carry out based on legislation in force; stresses in this regard the importance of the agencies' thematic bundling and cooperation according to fields of policy;

11. Notes that the audited budgetary implementation reports of certain agencies differ from the level of detail provided by most other agencies, which demonstrates the need for clear guidelines on agencies' budget reporting; acknowledges the efforts made in order to ensure consistency in the presentation and reporting of accounts; observes discrepancies in certain information and documents disclosed by the agencies, especially regarding staff related figures, including in reports on the establishment plan (posts filled in, or maximum posts authorised under the Union budget); points out that some agencies do not state clearly in their reports the budgetary performance indicators used, and that the agencies have not always computed the respective amounts and percentages coherently through using the same elements for calculation; calls on the Commission, the Network and the individual agencies to work on streamlined and harmonised indicators and report to the discharge authority on the measures taken in this regard; furthermore, calls on the Commission in the coming years to automatically provide the discharge authority with the official budget (in commitment appropriations and in payment appropriations) and staff figures (establishment plan, contract agents and seconded national experts as of 31 December of the year in question) of the 32 decentralised agencies;
12. Recalls the proposal from the Network in relation to the reporting of cancelled carry-overs exceeding 5 % of the total budget of the previous year; believes however that reporting the share of cancelled carry-overs over the total amount carried over from year N – 2 to N – 1 constitutes a more relevant indicator as regards the implementation of the budgetary principle of annuality; highlights that the level of carry-over cancellations is indicative of the extent to which the agencies have correctly anticipated their financial needs; invites the Court and the Commission to propose and define a consistent formula for the calculation of cancelled carry-overs and calls on the agencies to include this information in their respective Consolidated Annual Activity Reports for the coming financial years;
13. Stresses the need to establish clear definitions of acceptable carry-overs in order to streamline the Court's and the agencies' reporting on this issue, as well as to enable the discharge authority to distinguish the carry-overs indicating poor budgetary planning from carry-overs as a budgetary tool which support multiannual programmes as well as procurement planning;

Performance

14. Encourages the agencies and the Commission to apply the principle of performance-based budgeting, to consistently seek the most effective ways to provide added value, and to further explore possible improvements in efficiency in relation to resources management;
15. Notes with satisfaction that the Network was set up by the agencies as an inter-agency cooperative platform to enhance the agencies' visibility, to identify and promote possible improvements in efficiency and to add value; recognises the added-value of the Network in its cooperation with the Parliament and welcomes its efforts in coordinating, collecting and consolidating actions and information for the benefit of Union institutions; furthermore appreciates the guidance provided by the Network to the agencies in their efforts to optimise their capacity to plan, monitor and report on results, budget and resources used;
16. Notes with satisfaction that some agencies cooperate according to their thematic grouping, such as the Justice and Home Affairs agencies ⁽⁵⁾ and the European Supervisory Authorities ⁽⁶⁾; encourages other agencies also to increase cooperation with each other whenever possible, not only in establishing shared services and synergies, but in their common policy areas as well; welcomes the new aggregated format of the Court's report which presents the agencies according to the headings of the Multi-Annual Financial Framework and thus groups them by areas of policy;

⁽⁵⁾ European Border and Coast Guard Agency (Frontex), European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), European Asylum Support Office (EASO), European Institute for Gender Equality (EIGE), European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), European Police College (CEPOL), European Police Office (Europol), European Union Agency for Fundamental Rights (FRA), The European Union's Judicial Cooperation Unit (Eurojust).

⁽⁶⁾ European Banking Authority (EBA), European Insurance and Occupational Pensions Authority (EIOPA), European Securities and Markets Authority (ESMA).

17. Emphasises the need to take efficiency into account when (re)locating agencies in Member States; expresses its disappointment with the outcome in this respect of the IIWG on decentralised agencies, as no specific proposals were developed to merge or co-locate agencies concentrating on related policy fields; urges the Commission to submit without delay an evaluation of agencies with multiple locations, as recommended by the IIWG, as well as proposals for possible mergers, closures and/or transfers of tasks to the Commission, on the basis of a careful in-depth analysis and using clear and transparent criteria, as was envisaged in the IIWG's terms of reference but which was never properly examined owing to a lack of proposals to that effect from the Commission;
18. Regrets that, while the agencies increased their use of similar budget management and accounting systems, they continue to use a multitude of IT solutions in other key areas, such as human resources management and procurement and contract management; shares the Court's view that further harmonisation of IT solutions in these areas would enhance cost-efficiency, reduce internal control risks and strengthen IT governance;

Staff policy

19. Notes that the 32 decentralised agencies employed 7 324 officials, temporary agents, contract agents and seconded national experts in 2017 (6 941 in 2016), representing an increase of 5,52 % compared with the previous year;
20. Notes that in order to properly handle new tasks, seek constant efficiency gains, fill vacant positions quickly and effectively and enhance their ability to attract experts, the agencies should continuously monitor and assess their staffing levels and their needs in terms of additional human and financial resources, and make relevant requests where necessary to be able to carry out their tasks and responsibilities adequately;
21. Recalls that during the follow-up meeting of the IIWG2 that took place on 12 July 2018, the Commission presented a note on the evolution of the number of establishment plan posts in which it considered that the 5 % staff reduction has been reached; points out that this conclusion was supported by the Parliament ⁽⁷⁾;
22. Emphasises that the IIWG2 also examined the EASA pilot case for fee-financed agencies; states that even if agencies are fully fee-funded, they are still fully accountable to the discharge authority considering the reputational risks involved; emphasises that fee-funding has advantages and disadvantages; stresses that fee-funding could lead to conflicts of interest, an unpredictable flow of income and that there is a need for good quality indicators;
23. Notes that the Commission applied an additional annual 1 % levy during the five-year period 2014-2018 to create a 'redeployment pool' from which it would allocate the posts to agencies with new tasks entrusted to them or which were in a start-up phase ⁽⁸⁾;
24. Observes that the decentralised agencies increased the use of contract staff to implement new tasks to partially compensate for the 5 % staff cut and for the levy for the creation of the redeployment pool; calls on the Network to develop a general policy to not replace permanent staff by more expensive external consultants;
25. Notes the challenge of insufficient staff some of the agencies are facing, especially when new tasks are attributed without additional personnel envisaged for their implementation; regrets that the Commission has not taken into consideration the request of the affected agencies for increase of their staff which puts in risk their good performance;
26. Notes with concern the number of factors hindering the operational performance of certain agencies, such as difficulties in hiring qualified people at given grades, partly because of the low correction coefficient in certain Member States, and implementation of activities through grant processes which were lengthy and administratively demanding; calls on the Network and the individual agencies to consider relevant solutions and report to the discharge authority on progress made in this regard;

⁽⁷⁾ Letter from J. Arthuis to A. Tajani: Ref. D(2018)30134.

⁽⁸⁾ Following the terminology used by the Commission to classify decentralised agencies as 'start-up phase', 'new tasks' or 'cruising speed' reflecting their stage of development and the growth of their Union contributions and staffing levels.

27. Calls on all agencies to disclose their level of staff turnover and to clearly indicate the positions, which are effectively occupied by 31 December of the relevant financial year, in order to ensure inter-agency comparability;
28. Regrets the gender imbalance in some agencies; calls on all agencies to constantly work on a balanced distribution on all levels of staff and report to the discharge authority on implemented measures and progress;
29. Notes with concern that most agencies do not publish their vacancy notices on the website of the European Personnel Selection Office (EPSO); understands however the agencies' concern regarding high translation costs; welcomes in this regard the inter-agency job board launched and maintained by the Network and invites the agencies to take full advantage of the platform; calls on EPSO also to promote the Network's job board on its general website for Union vacancy notices;
30. Encourages the Union agencies to consider adopting a fundamental rights strategy, including a reference to fundamental rights in a code of conduct that could define the duties of their staff and training for staff; setting up mechanisms ensuring that any violation of fundamental rights be detected and reported, and that risks of such violations be swiftly brought to the attention of the main bodies of the agency; establishing, whenever relevant, the position of a fundamental rights officer, reporting directly to the management board to ensure a certain degree of independence vis-à-vis other staff, in order to ensure that threats to fundamental rights are immediately addressed, and that a constant upgrading of the fundamental rights policy within the organisation takes place; developing a regular dialogue with civil society organisations and relevant international organisations on fundamental rights issues; making compliance with fundamental rights a central component of the terms of reference of the collaboration of the agency concerned with external actors, including in particular members of national administrations with whom they interact at operational level;
31. Notes with concern that there have been frequent reports of harassment and abuse in some agencies; believes that effective prevention policies should be implemented and efficient procedures found to resolve the problems for victims; calls on the Commission actively to monitor the rules applied by agencies to prevent any form of mistreatment in-house;

Procurement

32. Notes with concern that according to the Court's report shortcomings persist in the management of procurements, with 14 agencies showing weaknesses in this area, mostly relating to procurements of services; observes that the sources of these weaknesses include the lack of adequate balance between price and quality when awarding contracts, a non-optimal design of framework contracts, unjustified intermediary services and the use of framework contracts without enough detail; calls on the agencies to pay particular attention to the Court's comments and further improve their management of public procurement;
33. Considers the situation in EASO regarding procurement procedures to be unacceptable and calls on the Commission to bring more active oversight to bear on the procurement procedures carried out by agencies;
34. Welcomes the fact that the agencies increasingly use the Joint Procurement Portal (the central register of joint procurement opportunities) hosted by the agencies' extranet, which includes functionalities such as document-sharing and forum discussions, and which makes communication among agencies regarding procurement services more transparent and easier to manage;
35. Shares the Court's view regarding the use of similar tools and a single solution for the procurement of supplies or services (e-procurement) to achieve a more harmonised IT framework among agencies; calls on the Network to report to the discharge authority on progress made in this regard;

Prevention and management of conflicts of interests and transparency

36. Notes that 77 % of agencies had already set up and implemented internal rules or guidelines on whistleblowing and the other 23 % are in the process of adopting them; urges the remaining agencies to set up and implement internal rules on whistleblowing without further delay; calls on the Network to report to the discharge authority on the adoption and implementation of these measures;

37. Welcomes the fact that 29 agencies (94 %) have guidelines in place for granting public access to documents; calls on the remaining agencies who do not have such guidelines to adopt them without further delay; approves the development of internal systems in place to handle the requests, including specially trained access-to-document teams, dedicated to handling the incoming requests in agencies facing a higher frequency and complexity of requests; calls on the Network to develop common guidelines for applying public access to documents to be implemented by the agencies;
38. Notes that Declarations of Interest (DoI) of the management board members and senior management are in place in almost all agencies and that these are published by most of the agencies on their website, along with relevant CVs; calls on the Network to continue reporting to the discharge authority on this issue; stresses that management board members and senior management should submit declarations of interest instead of declarations of the absence of conflict of interests; reiterates that it is not for the members or management to declare themselves out of conflict of interest; recalls that a neutral body should assess the existence of conflict of interest;
39. Recalls that a number of agencies, in particular those issuing authorisations to third parties for bringing products on the market, are vulnerable if they do not have and implement clear and effective rules to prevent conflicts of interest; calls on all agencies to participate in the inter-institutional agreement on the transparency register that is currently subject of negotiations between the Commission, the Council and the Parliament;
40. Calls on the agencies to implement a comprehensive and horizontal policy concerning the avoidance of conflicts of interest; and, to use the European Chemicals' Agency's (ECHA) Independence Policy as a best practice and an exemplary system of monitoring and preventing any conflicts of interest; recalls that in accordance with this Independence Policy annual declarations of interests of all staff and experts concerned are compulsory and should be updated if the situation changes, and anyone with a declared interest in an issue is excluded from the decision or opinion making on that matter; encourages, furthermore, the agencies to set up a Conflicts of Interest Advisory Committee;

Internal controls

41. Acknowledges the Court's comment on the need to strengthen the accounting officers' independence by making them directly responsible to the agencies' Directors and management boards in relation to 11 agencies; notes the Network's reply stating that there is no background or risk analysis to justify this comment; invites the Court and the Network to come to a common approach on the issue and to report to the discharge authority on developments in this regard;
42. Notes with satisfaction that a large majority of the agencies (28) do not present weaknesses in the implementation of their internal control standards concerning their business continuity plans; calls on the remaining agencies to improve their situation in order to mitigate any potential risks and to report to the discharge authority on the measures taken;

Other comments

43. Points out that on 29 March 2017 the United Kingdom (UK) notified the European Council of its decision to withdraw from the Union; notes with concern that, unlike most other agencies, five of the agencies did not carry out a comprehensive analysis of the likely impact of the UK's withdrawal on their organisation, operations and accounts;
44. Notes the agreement reached at the General Affairs Council of 20 November 2017 to move the European Medicines Agency (EMA) and the European Banking Authority (EBA) from London to Amsterdam and Paris respectively; notes with concern the potential impact of the United Kingdom's withdrawal from the Union on these agencies, in terms of future costs and loss of expertise, creating a risk to business continuity; notes moreover the possible impact on the revenue and activities of several non-London based agencies; calls on the agencies to prepare to mitigate any potential risks that may follow and report to the discharge authority on the implementation of such preparatory measures;
45. Notes with concern that some agencies continue to have dual operational and administrative headquarters; considers it essential that dual headquarters not offering any operational added value should be done away with at the earliest opportunity;

46. Regrets that the new Financial Regulation does not foresee a reduction of the administrative burden that continues to be borne by the decentralised agencies; notes that the audit of the decentralised agencies 'remain under the full responsibility of the Court, which manages all administrative and procurement procedures required'; reiterates that the new audit approach involving private sector auditors has resulted in a significant increase in the administrative burden on the agencies, and that the time spent on procurement and administration of audit contracts has resulted in additional expenditure thus straining further the limited resources of the agencies; emphasises that it is necessary to resolve this issue; calls on the parties involved to provide solutions on the issue so as to significantly reduce the administrative burden;
 47. Acknowledges that the external evaluations of the agencies are in general positive and the agencies have prepared action plans to follow up on issues raised in the evaluation reports; notes that while most agencies' founding regulations provide for an external evaluation to be carried out periodically (usually every four to six years), the founding regulations of five decentralised agencies do not include such provision and the founding regulation of EMA requires an external evaluation only every ten years; calls on the Commission and on those agencies concerned to address this issue and report to the discharge authority on the measures taken;
 48. Welcomes the revision of the founding regulations of the three tripartite agencies — the European Foundation for the Improvement of Living and Working Conditions (Eurofound), the European Centre for the Development of Vocational Training (Cedefop) and the European Agency for Safety and Health at Work (EU-OSHA);
 49. Recalls that the yearly exchange of views regarding the draft annual work programmes and the multiannual strategies of the agencies in the committees responsible helps to ensure that the programmes and strategies reflect the actual political priorities — especially in the context of the European Pillar of Social Rights and the Europe 2020 strategy;
 50. Instructs its President to forward this resolution to the agencies subject to this discharge procedure, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).
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