



10 July 2019

## **REPORT OF EU-OSHA'S EXECUTIVE DIRECTOR TO THE DISCHARGE AUTHORITY ON THE FOLLOW-UP TO THE 2017 BUDGETARY DISCHARGE**

## 1 Introduction

In March 2019, the European Parliament granted discharge to EU-OSHA's Director in respect of the implementation of its budget for the financial year 2017.

The EU-OSHA Financial Regulation of 15 January 2014, transposing the provisions of the Framework Financial Regulation for the decentralised agencies (FFR), as adopted by Commission Delegated Regulation (EU) N° 1271/2013 of 30<sup>th</sup> September 2013, states:

*"Article 110 Follow-up measures:*

- 1. The [Executive] Director shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.*
- 2. At the request of the European Parliament or the Council, the [Executive] Director shall report on the measures taken in the light of those observations and comments. The director shall send a copy thereof to the Commission and the Court of Auditors"*

This report provides an overview of the measures taken by the European Agency for Safety and Health at Work in the light of the observations and comments made by the Discharge Authority in its report, in respect of the implementation of the budget for the financial year 2017.



## 2 European Parliament's observations, and measures taken by the European Agency for Safety and Health at Work (EU-OSHA)

Observation number	Observation of the Discharge Authority	Response and measures taken by the European Agency for Safety and Health at Work	Status/Reference
1 Budget and financial management	<p>Notes that the budget monitoring efforts during the financial year 2017 resulted in a budget implementation rate of 96.03 %, representing a slight decrease of 0.28 % compared to 2016; notes with concern that the payment appropriations execution rate was at 72.23 %, representing only a slight increase of 1.88 % compared to the previous year.</p>	<p>Carry-overs for Title III mainly concerned large-scale research projects with a duration of more than one year and were related to the 2017 annual work programme and in line with the procurement planning annexed to the Programming Document.</p>	Clarified
2 Cancellation of carry-overs	<p>Notes that the cancellations of carry-overs from 2016 to 2017 amounted to EUR 194,467.98 representing 4.93 % of the total amount carried over, showing an increase of 1.17 % in comparison to 2016; notes, furthermore, the relatively high level of unplanned carry-overs from 2017 to 2018 for title II, amounting to EUR 200,000, relating mainly to internal office space re-organisation.</p>	<p>Main share of the cancelled appropriations are for staff appropriations. At year-end and before the carry-forward exercise, every open commitment (RAL) subject to carry-forward is to be justified by the responsible authorising officer.</p> <p>Regarding the level of carry-over for the Title II, at the time of the preparation phase of budget, priority is given, due to scarce appropriations, to the operational activities and staff expenditure. Should some funds be available at year-end they might be allocated to projects planned but not budgeted due to the lack of appropriations. In order to anticipate similar situation in future budget exercises, a list of possible additional IT purchase(s) – in the case of availability of appropriations thanks to, for example, favourable price renegotiation - might be annexed to the Programming Document</p>	Clarified



<p>3 Performance</p>	<p>Notes that the Agency uses certain key performance indicators to measure its performance and to enhance its budget management; notes furthermore with satisfaction that the Agency plans to introduce a revised performance management framework in 2018, which aims to provide more meaningful performance indicators to better assess the added value provided by the Agency's activities; calls on the Agency to report to the discharge authority on the implementation of this framework.</p>	<p>Implemented</p> <p>Ensuring good alignment between expected outcomes at the strategic and operational level and the actual effects reached during the implementation of the activities is of key importance. To this end, during 2018 the performance indicators framework has been recast to ensure that the right dimensions of the Agency's work are captured – which are largely of qualitative nature.</p> <p>The Agency formulated the new framework taking into account the need to ensure good data quality – both by gathering a critical mass of informed feedback and cutting on administrative burden when it comes to data collection. Communication is also a key aspect, as evidenced by a Parliament's observation in the horizontal discharge report on Agencies regarding the need to make performance information accessible and readable to stakeholders and the general public. To this end, indicators were formulated in such a way so as to meet this requirement. The Agency's Board adopted the framework as part of the Programming Document 2019-2021 and the first report on the new indicators will be available in the Annual Activity Report 2019.</p>
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<p>12 Staff policy</p>	<p>Notes that the Agency has a policy on protecting the dignity of the person and preventing harassment in place; notes with concern that one investigation on harassment was initiated in 2016 and concluded in 2017; regrets that the result showed a breach of Article 12a (3) of the Staff Regulations; calls on the Agency to report to the discharge authority on the disciplinary measures taken and on the measures foreseen in order to mitigate such risks in the future.</p>	<p>Implemented</p> <p>The Agency is strongly committed to the prevention of harassment, promoting the policy and procedures of anti-harassment at work and condemning inappropriate behaviour. EU-OSHA's policy is of zero tolerance towards harassment and discrimination/or violence in the workplace.</p> <p>In the case of the investigation initiated in 2016, EU-OSHA decided to open an administrative enquiry based on evidence of a breach of the Staff Regulations. Several measures were used including mandating external investigators to conduct an independent enquiry, on-the-spot investigations, obtaining documents and information, conducting hearings of the person concerned, of the alleged victims and witnesses, and – upon taking the decision - reassign the person to a non-managerial function with the result of losing the managerial allowance. The case was concluded in 2017 with the person leaving the Agency on early retirement.</p> <p>In this context EU-OSHA has implemented several actions as mitigating measures:</p> <ul style="list-style-type: none"> <li>- regular awareness raising sessions on the topic are offered to managers and all staff;</li> <li>- a specially dedicated page on the Agency intranet has been designed to raise awareness on staff conduct, incl. anti-harassment;</li> <li>- EU-OSHA adopted the policy on protecting the dignity of the person and preventing psychological harassment and sexual harassment, which entered into force on 01 June 2017, as well as the manual of informal procedures within the framework of this policy dated 12 September 2017.</li> <li>- EU-OSHA has internally established a Confidential Counsellors network, composed of 4 Confidential Counsellor and 1 Coordinator from Human Resources.</li> </ul>
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13 Procurement	<p>Notes from the Court's report that by the end of 2017 the Agency was not yet using any of the tools launched by the Commission aimed to introduce a single solution for the electronic exchange of information with third parties participating in public procurement procedures (e-procurement); calls on the Agency to implement all the necessary tools and report to the discharge authority on the progress made in that regard.</p>	<p>The Agency started implementing e-procurement in November 2018 with the launch of its first e-tender. During the course of 2019 the Agency has also started to use a new module of the e-procurement suite, e-submission. The Agency intends to explore further use of the whole e-procurement suite during the course of 2019 and 2020.</p>		Implemented
15 Procurement	<p>Notes with concern from the Court's report that the Agency signed a framework contract for the provision of IT consultancy services from 2014 to 2017, for which prices were set contingent to the time spent on the projects and not linked to the delivery, and over which the Agency has limited monitoring possibilities, since for example in 2016 half of the services were carried out offsite its premises; calls on the Agency to report to the discharge authority on the measures taken in this regard.</p>	<p>The Agency took note of the auditors' comments during their visit and is already applying their advice to its current ICT and consultancy framework contracts by making use of Quoted Times and Means specific contracts when appropriate.</p>		Implemented



<p>16 Prevention and management of conflict of interests and transparency</p>	<p>Acknowledges the Agency's existing measures and ongoing efforts to secure transparency and the prevention and management of conflict of interest; notes furthermore from the Agency that it plans to adopt the model decision on whistle-blowing for which the Commission has given an ex ante agreement.</p>	<p>The Agency adopted on 20 November 2018 the model decision on Guidelines on whistleblowing for which the EC gave an ex -ante agreement communicated to the Agency on 02 March 2018. EU-OSHA also adopted by analogy on 23 January 2019 the Commission Decision on outside activities and assignment and on occupational activities after leaving the service. In terms of measures on transparency, the Agency organised two separate info sessions to its staff on both set of rules and posted related information on specially designed pages on intranet.</p>	<p>Implemented</p>
<p>17 Prevention and management of conflict of interests and transparency</p>	<p>Notes from the Court's report that there is a need to strengthen the accounting officer's independence by making him directly responsible to the Agency's Executive Director and management board; calls on the Agency to report to the discharge authority on the steps taken in this direction; recognises that in response to this recommendation by the Court, the Agency is currently preparing a decision for the Governing Board to outsource the position of Accounting Officer to DG BUDG.</p>	<p>The function of the Accounting Officer has been outsourced to DG BUDG with effect from 1 July 2019.</p>	<p>Implemented</p>
<p>18 Prevention and management of conflict of interests and transparency</p>	<p>Calls on the Agency to use the new Founding Regulation as an opportunity to further enhance the independence of the Accounting Officer.</p>	<p>The European Parliament and the Council adopted EU-OSHA's new founding regulation (Regulation (EU) 2019/126) on 16 January 2019. The new regulation entered into force on 20 February 2019. In addition, the function of the Accounting Officer has been outsourced to DG BUDG as of 1 July 2019.</p>	<p>Implemented</p>



<p>19 Other comments</p>	<p>Notes that the Agency carried out an analysis of the likely impact of the United Kingdom's decision to withdraw from the Union on its organisation, operations and accounts; calls on the Agency to report to the discharge authority on the outcome of that analysis.</p>	<p>The Agency acted promptly at the decision of one of its Member States (UK) to withdraw from the Union (so-called "Brexit"). A task force has been established and a thorough analysis conducted on all key functions of the Agency (HR personnel, budget, accounts, operations, procurement, treasury). The result of the analysis has shown a low impact on Agency's operations in both cases of an orderly and a "hard" Brexit.</p>	<p>Implemented</p>
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