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**A7-0137/2012**

18.4.2012

# REPORT

on discharge in respect of the implementation of the budget of the European Maritime Safety Agency for the financial year 2010  
(C7-0284/2011 – 2011/2223(DEC))

Committee on Budgetary Control

Rapporteur: Monica Luisa Macovei

## CONTENTS

	<b>Page</b>
1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION.....	3
2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION.....	5
3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	6
ANNEX.....	11
OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM.....	13
RESULT OF FINAL VOTE IN COMMITTEE.....	16

## 1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### **on discharge in respect of the implementation of the budget of the European Maritime Safety Agency for the financial year 2010 (C7-0284/2011 – 2011/2223(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Maritime Safety Agency for the financial year 2010,
  - having regard to the Court of Auditors' report on the annual accounts of the European Maritime Safety Agency for the financial year 2010, together with the Agency's replies<sup>1</sup>,
  - having regard to the Council's recommendation of 21 February 2012 (06083/2012 – C7-0051/2012),
  - having regard to Article 319 of the Treaty on the Functioning of the European Union,
  - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup>, and in particular Article 185 thereof,
  - having regard to Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency<sup>3</sup>, and in particular Article 19 thereof,
  - having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>4</sup>, and in particular Article 94 thereof,
  - having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Transport and Tourism (A7-0137/2012),
1. Grants the Executive Director of the European Maritime Safety Agency discharge in respect of the implementation of the Agency's budget for the financial year 2010;
  2. Sets out its observations in the resolution below;
  3. Instructs its President to forward this Decision and the resolution that forms an integral part of it to the Executive Director of the European Maritime Safety Agency, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the

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<sup>1</sup> OJ C 366, 15.12.2011, p. 52.

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<sup>3</sup> OJ L 208, 5.8.2002, p. 1.

<sup>4</sup> OJ L 357, 31.12.2002, p. 72.



## 2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

**on the closure of the accounts of the European Maritime Safety Agency for the financial year 2010  
(C7-0284/2011 – 2011/2223(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Maritime Safety Agency for the financial year 2010,
  - having regard to the Court of Auditors' report on the annual accounts of the European Maritime Safety Agency for the financial year 2010, together with the Agency's replies<sup>1</sup>,
  - having regard to the Council's recommendation of 21 February 2012 (06083/2012 – C7-0051/2012),
  - having regard to Article 319 of the Treaty on the Functioning of the European Union,
  - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup>, and in particular Article 185 thereof,
  - having regard to Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency<sup>3</sup>, and in particular Article 19 thereof,
  - having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>4</sup>, and in particular Article 94 thereof,
  - having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Transport and Tourism (A7-0137/2012),
1. Approves the closure of the accounts of the European Maritime Safety Agency for the financial year 2010;
  2. Instructs its President to forward this Decision to the Executive Director of the European Maritime Safety Agency, 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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<sup>1</sup> OJ C 366, 15.12.2011, p. 52.

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<sup>3</sup> OJ L 208, 5.8.2002, p. 1.

<sup>4</sup> OJ L 357, 31.12.2002, p. 72.

### 3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with observations forming an integral part of its Decision on discharge in, respect of the implementation of the budget of the European Maritime Safety Agency for the financial year 2010**

**(C7-0284/2011 – 2011/2223(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Maritime Safety Agency for the financial year 2010,
  - having regard to the Court of Auditors' report on the annual accounts of the European Maritime Safety Agency for the financial year 2010, together with the Agency's replies<sup>1</sup>,
  - having regard to the Council's recommendation of 21 February 2012 (06083/2012 – C7-0051/2012),
  - having regard to Article 319 of the Treaty on the Functioning of the European Union,
  - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>2</sup>, and in particular Article 185 thereof,
  - having regard to Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency<sup>3</sup>, and in particular Article 19 thereof,
  - having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>4</sup>, and in particular Article 94 thereof,
  - having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Transport and Tourism (A7-0137/2012),
- A. whereas the Court of Auditors stated that it has obtained reasonable assurances that the annual accounts of the European Maritime Safety Agency ("the Agency") for the financial year 2010 are reliable and that the underlying transactions are legal and regular,

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<sup>1</sup> OJ C 366, 15.12.2011, p. 52.

<sup>2</sup> OJ L 248, 16.9.2002, p. 1.

<sup>3</sup> OJ L 208, 5.8.2002, p. 1.

<sup>4</sup> OJ L 357, 31.12.2002, p. 72.

- B. whereas on 10 May 2011 Parliament granted the Executive Director of the Agency discharge for implementation of its budget for the financial year 2009<sup>1</sup>, and in its resolution accompanying the discharge decision, inter alia:
- called on the Agency to consider making a Gantt diagram part of the programming for each of its operational activities, with a view to indicating in a concise form the amount of time spent by each staff member on a project and encouraging an approach geared towards achieving results; calls, accordingly, on the Agency to inform the discharge authority of the steps taken by the Agency in that respect;
  - urged the Agency to correctly apply procurement procedures but welcomed the fact that in its 2009 Annual Activity Report (AAR) the Agency included a specific Annex on negotiated procedures, in order to inform the budgetary authority,
- C. whereas the budget of the Agency for the financial year 2010 was EUR 54 400 000 compared to EUR 53 300 000 in 2009, which was an increase of 6,1 %; whereas the contribution of the Union to the budget of the Agency for 2010 was EUR 31 949 360 compared to EUR 24 435 000 in 2009<sup>2</sup>, which represents an increase of 30,75 %,

### ***Budget and Financial Management***

1. Acknowledges from the Agency that it received EUR 54 400 000 in commitment appropriations and EUR 50 600 000 in payment appropriations; takes note that this is an increase of 11,21% in commitment appropriations, but a decrease of 5,33% in payment appropriations compared to 2009;
2. Notes from the Agency's Report on Budgetary and Financial Management that, in 2010, the Agency had a budget execution rate of 98 % in terms of committed appropriations and of 89 % in terms of payment appropriations; notes also that, compared to 2009, the Agency's budget execution rates increased for both commitment appropriations (+ 4 %) and payment appropriations (+ 8 %); calls on the Agency to take the necessary action to further improve its budget implementation and to keep the discharge authority regularly informed on this matter;

### ***Carryovers***

3. Notes from the Agency's Report on Budgetary and Financial Management that the amount of appropriations carried over from 2010 to 2011 to cover unpaid commitments at year end amounted to EUR 1 214 272,92; understands from the Agency that this level of carryovers is 43 % lower compared to 2009; calls nevertheless on the Agency to take further action to decrease its carryovers and respect the principle of annuality;
4. Regrets that the Court of Auditors did not mention the Agency's appropriations carried over and cancelled in its report on the annual accounts of the Agency for the financial year 2010;

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<sup>1</sup> OJ L 250, 27.9.2011, p. 181.

<sup>2</sup> OJ L 64, 12.03.2010, p. 615.

### ***"A posteriori" commitments***

5. Acknowledges that following the request of the Parliament the Agency has included in its 2010 AAR specific information on *a posteriori* commitments (i.e. legal commitments that were entered into before the corresponding budgetary commitments were made); notes the Agency's efforts to reduce *a posteriori* commitments (from more than 20 in 2007 to 5 in 2010); but is concerned that such commitments are an infringement of Article 62(1) of the framework Financial Regulation and that the Agency has perpetuated this deficiency since 2006;

### ***Procurement procedure***

6. Observers from the Agency's AAR that the Legal and Financial Affairs unit dealt with a total of 54 procurement procedures in 2010;
7. Urges the Agency to correctly apply procurement procedures and ensure adequate data on planned public procurement in its Annual Work Programme (AWP); in particular, considers it a matter of concern that the AWP does not explicitly disclose all information referred to in the Financial Regulation and its implementing rules; reminds the Agency that if a financing decision on planned operational procurement is not adequately supported by underlying data then this may call into question the validity of the Agency's decision; notes from the Agency that as from 2011, a specific annex has been introduced in the Final Work programme, with an indication of the global budgetary envelope reserved for the procurements during the year, an indicative number of the contracts and indicative timeframes grouped per activities;
8. Calls on the Agency to ensure accurate and timely reporting on negotiated procedures to the Administrative Board; acknowledges, in fact, that the Agency's negotiated procedures, which should be used under strictly defined conditions, are not necessarily reported to the Administrative Board;

### ***Human resources***

9. Is concerned that the independence of the Accounting Officer of the Agency was reported to be at risk in 2010; notes, in fact, that:
  - his appointment was still at "interim" at the beginning of the year;
  - his responsibilities were not formally defined; and
  - the evaluation of the performance of his duties was made by the Agency's Executive Director without any involvement of the Administrative Board;
10. Welcomes the decision of the Administrative Board of 14 June 2010 to formalise the appointment of the Accounting Officer of the Agency; notes the decision of the Administrative Board of 10 November 2011 amending the general provision for



implementing Article 43 of the Staff Regulations that clarifies the role of the Administrative Board towards the Accounting Officer;

11. Underlines nevertheless that weaknesses remain with regard to the Accounting Officer, notably concerning the definition of his responsibilities and the evaluation of the performance of his duties; notes that the Agency has taken actions to remedy the earlier reported situation;

### ***Performance***

12. Welcomes the fact that the Agency adopted in March 2010 its five-year multiannual work programme; notes also that the 2010 Annual Report of the Agency reports for each operational activity the input, outcome of its activity and, for comparison, each entry also provides the planned input and output, as stated in the agency Work Programme for 2010;
13. Regrets that in its annual report for 2010 the Court of Auditors did not make any reference to Agency's budget transfers; considers that the high number of budget transfers in the Agency was a matter of concern for the Parliament during the previous years (49 in 2009, 52 in 2008 and 32 in 2007); asks, therefore, the Court of Auditors to inform immediately the discharge authority of the situation as regards transfers in 2010;
14. Reiterates its call to the Agency to consider making a Gantt diagram part of the programming for each of its operational activities, in order to indicate in a concise form the amount of time spent by each staff member on a project and encourage an approach geared towards achieving results; calls, accordingly, on the Agency to inform the discharge authority of the concrete steps taken;
15. Draws attention to the new tasks assigned to the Agency in the proposal for a regulation amending its founding Regulation (EC) No 1406/2002; calls on the Commission to increase the resources allocated to the Agency and on the Agency to manage those resources soundly and effectively so as to properly fulfil the new responsibilities entrusted to it on the basis of that Regulation;

### ***Internal audit***

16. Acknowledges that the Agency still has to implement 15 "very important" recommendations from the Internal Audit Service; is concerned that the implementation of 8 of these recommendations has been delayed by 6-12 months, while one has been rejected; notes that the first 11 "very important" recommendations concern the legal and financial decision-making process, the human resources management and the internal control standards; notes also that the rejected recommendation concerns the responsibility for the performance evaluation of the Accounting Officer; urges, therefore, the Agency to explain to the discharge authority the reasons behind this rejection and calls on the Agency to take action on the delayed recommendations;
17. Notes the Agency's initiative of sharing an Internal Audit function (Internal Audit Capability-IAC) with the Community Fisheries Control Agency;

18. Acknowledges in particular that the IAC provided internal consultancy regarding internal control issues such as:

- the development of the Business Continuity Plan for maritime applications;
- the development of the Business Continuity Plan for support activities;
- the procedure for Registration of Exceptions;

notes the Agency's statement that the Business Continuity Plan for maritime applications, the Business Continuity Plan for support activities and the procedure for Registration of Exceptions have been adopted;

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19. Draws attention to its recommendations from previous discharge reports, as set out in the Annex to this resolution;

20. Refers the Agency to, and urges it to comply with, the Resolution of the European Parliament of 10 May 2011 on the 2009 discharge: performance, financial management and control of EU agencies<sup>1</sup>;

21. Refers, in respect of the other observations accompanying its Decision on discharge, which are of a horizontal nature, to its resolution of ... 2012 on the performance, financial management and control of the agencies.

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<sup>1</sup> OJ L 250, 27.9.2011, p. 269.

**ANNEX**  
**European Parliament recommendations over past years**

European Maritime Safety Agency	2006	2007	2008	2009
Performance	n.a.	-Incorrect budget presentation	-The Agency failed to prepare a multiannual work programme and its annual work programme was not related to its commitment budget -Calls on the Agency to set SMART objectives and RACER indicators, as well as to make a Gantt diagram→promoting a result-oriented approach -Calls on the Agency to set out a diachronic analysis of operations carried out in this and the previous years	- Calls on the Agency to consider making a Gantt diagram part of the programming for each of its operational activities -Calls on the Agency to set out a comparison of the operations that were carried out during the year for which the discharge is to be granted & during the previous financial year
Budgetary and financial management	The procedures for establishing the budget and the establishment plan were not sufficiently rigorous→ inadequate planning of staff recruitment and incorrect budget presentation -The budgetary principle of accuracy was not strictly observed -Some contracts allowed for 100% pre-financing: this practice is not in line with the principles of sound financial management	-Incorrect budget presentation: for differentiated appropriations, the budget did not include the schedule of payments due in subsequent financial years to meet budget commitments entered into earlier financial year  -Legal commitments were entered into before the corresponding budgetary commitments  -The procedures for establishing the budget were not sufficiently rigorous→high number of budgetary transfers (32 in 2007)	-Weaknesses in the planning and monitoring of the payment appropriations for operational activities (7,5 million euro have been cancelled)  -Calls on the Agency to step up its training and communication efforts in order to avoid situations in which legal commitments are entered before the corresponding budgetary commitments were made  -Calls on the Commission to examine ways to ensuring that the principle of needs-based cash management is implemented	-Court of Auditors noted the high number of budget transfers in 2009, urges the Agency to improve its planning & monitoring in order to reduce the number of budget transfers  -Urges the Agency to correctly apply procurement procedures
Human resources	n.a.	--Transparency issues in the recruitment procedures: For the audited recruitment procedures, the selection criteria and the threshold scores for passing to the next stage of competitions were not decided upon before the evaluation process started	-Calls on improving human resources strategy→ Transparency issues (see Internal Audit)	- Notes deficiencies in staff selection procedures, urges the Agency to redress the present weaknesses

European Maritime Safety Agency	2006	2007	2008	2009
Internal Audit	n.a.	n.a.	<p>-Calls on the agency to take steps to fulfil 7 out of 32 recommendations made by the Internal Audit Service → i.e. the adoption of the Staff Regulation Implementing Rules regarding the recruitment of temporary staff in accordance with the Staff Regulations; the controls in the selection procedure to ensure more transparency and equal treatment of candidates; the development of a career planning strategy</p>	<p>- Calls on the Agency to rapidly implement the IAS very important recommendations, stresses in particular:</p> <ul style="list-style-type: none"> <li>-provide strategic planning &amp; monitor the Agency's stakeholders with an overview of the residual oil pollution risks;</li> <li>-comply with administrative procedures;</li> <li>-analyse possible options for equipment management &amp; evaluation of their financial &amp; operational impact</li> <li>-document vessels mobilisation decisions</li> </ul> <p>-Notes that the IAS recommendations which still need to be implemented by the Agency include establishing;</p> <ul style="list-style-type: none"> <li>-an internal risk assessment;</li> <li>an inventory of existing internal procedures;</li> <li>-a roadmap for the development &amp; implementation of the remaining procedures;</li> <li>-a record of the exceptions procedures; &amp;</li> <li>-a review of the internal control system</li> </ul>

7.2.2012

## **OPINION OF THE COMMITTEE ON TRANSPORT AND TOURISM**

for the Committee on Budgetary Control

on discharge in respect of the implementation of the budget of the European Maritime Safety Agency for the financial year 2010  
(C7-0284/2011 – 2011/2223(DEC))

Rapporteur: Knut Fleckenstein

### **SUGGESTIONS**

The Committee on Transport and Tourism calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the fact that the Court of Auditors found the European Maritime Safety Agency's accounts for the financial year 2010 to be reliable and regarded the transactions underlying them, taken as a whole, as legal and regular;
2. Notes that the Agency received EUR 53 791 000 in commitment appropriations and EUR 50 014 000 in payment appropriations from the Union budget for 2010 ;
3. Also notes that staff numbers rose from 212 to 219;
4. Welcomes the fact that the Court of Auditors made no further observations with regard to the Agency's budgetary and financial management, particularly in view of the fact that the Court of Auditors criticised the Agency's accounts for the years 2008 and 2009 in that respect;
5. Welcomes the fact that the Agency has remedied the shortcomings in its recruitment procedures to which the Court of Auditors drew attention in its report on the Agency's 2009 accounts;
6. Refers the Agency to, and urges it to comply with, Parliament's report of 15 April 2011 on 'the 2009 discharge: performance, financial management and control of EU agencies';
7. Draws attention to the new tasks assigned to the Agency in the proposal for a regulation

amending Regulation (EC) No 1406/2002; calls on the Commission to increase the resources allocated to the Agency and on the Agency to manage those resources soundly effectively so as properly to properly fulfil the new responsibilities entrusted to it on the basis of that Regulation;

8. Proposes that Parliament grant the Executive Director of the European Maritime Safety Agency discharge for the implementation of the Agency's budget for the financial year 2010.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	6.2.2012
<b>Result of final vote</b>	+: 28 -: 3 0: 0
<b>Members present for the final vote</b>	Inés Ayala Sender, Georges Bach, Philip Bradbourn, Antonio Cancian, Michael Cramer, Christine De Veyrac, Saïd El Khadraoui, Ismail Ertug, Knut Fleckenstein, Jacqueline Foster, Mathieu Grosch, Jim Higgins, Dieter-Lebrecht Koch, Georgios Koumoutsakos, Eva Lichtenberger, Marian-Jean Marinescu, Gesine Meissner, Dominique Riquet, Olga Sehnalová, Brian Simpson, Laurence J.A.J. Stassen, Keith Taylor, Silvia-Adriana Țicău, Giommara Uggias, Artur Zasada, Roberts Zīle
<b>Substitute(s) present for the final vote</b>	Burkhard Balz, Spyros Danellis, Michel Dantin, Anna Rosbach
<b>Substitute(s) under Rule 187(2) present for the final vote</b>	Ioan Enciu



## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	27.3.2012
<b>Result of final vote</b>	+: 21 -: 1 0: 0
<b>Members present for the final vote</b>	Jean-Pierre Audy, Ryszard Czarnecki, Tamás Deutsch, Martin Ehrenhauser, Jens Geier, Gerben-Jan Gerbrandy, Ingeborg Gräßle, Cătălin Sorin Ivan, Iliana Ivanova, Monica Luisa Macovei, Eva Ortiz Vilella, Aldo Patriciello, Crescenzo Rivellini, Petri Sarvamaa, Theodoros Skylakakis, Bogusław Sonik, Bart Staes, Georgios Stavrakakis, Michael Theurer
<b>Substitute(s) present for the final vote</b>	Amelia Andersdotter, Philip Bradbourn, Zuzana Brzobohatá, Chris Davies, Edit Herczog, Derek Vaughan