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REPORT

on discharge in respect of the implementation of the budget of the European Union Agency for Fundamental Rights for the financial year 2014
(2015/2166(DEC))

Committee on Budgetary Control

Rapporteur: Derek Vaughan

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1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the budget of the European Union Agency for Fundamental Rights for the financial year 2014 (2015/2166(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Union Agency for Fundamental Rights for the financial year 2014,
- having regard to the Court of Auditors' report on the annual accounts of the European Union Agency for Fundamental Rights for the financial year 2014, together with the Agency's reply¹,
- having regard to the statement of assurance² as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2014, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 12 February 2016 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2014 (05584/2016 – C8-0064/2016),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- 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 1605/2002³, and in particular Article 208 thereof,
- having regard to Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights⁴, and in particular Article 21 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 Communities⁵,
- 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 Council⁶, and in particular Article 108 thereof,

¹ OJ C 409, 9.12.2015, p. 334.

² OJ C 409, 9.12.2015, p. 334.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 53, 22.2.2007, p. 1.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ OJ L 328, 7.12.2013, p. 42.

- having regard to Rule 94 of and Annex V 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 (A8-0108/2016),
1. Grants the Director of the European Union Agency for Fundamental Rights discharge in respect of the implementation of the Agency's budget for the financial year 2014;
 2. Sets out its observations in the resolution below;
 3. Instructs its President to forward this decision, and the resolution forming an integral part of it, to the Director of the European Union Agency for Fundamental Rights, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the closure of the accounts of the European Union Agency for Fundamental Rights for the financial year 2014 (2015/2166(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Union Agency for Fundamental Rights for the financial year 2014,
- having regard to the Court of Auditors' report on the annual accounts of the European Union Agency for Fundamental Rights for the financial year 2014, together with the Agency's reply¹,
- having regard to the statement of assurance² as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2014, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 12 February 2016 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2014 (05584/2016 – C8-0064/2016),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- 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 1605/2002³, and in particular Article 208 thereof,
- having regard to Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights⁴, and in particular Article 21 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 Communities⁵,
- 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 Council⁶, and in particular Article 108 thereof,

¹ OJ C 409, 9.12.2015, p. 334.

² OJ C 409, 9.12.2015, p. 334.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 53, 22.2.2007, p. 1.

⁵ OJ L 357, 31.12.2002, p. 72.

⁶ OJ L 328, 7.12.2013, p. 42.

- having regard to Rule 94 of and Annex V 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 (A8-0108/2016),
1. Notes that the final annual accounts of the European Union Agency for Fundamental Rights are as annexed to the Court of Auditors' report;
 2. Approves the closure of the accounts of the European Union Agency for Fundamental Rights for the financial year 2014;
 3. Instructs its President to forward this decision to the Director of the European Union Agency for Fundamental Rights, 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).

3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Union Agency for Fundamental Rights for the financial year 2014 (2015/2166(DEC))

The European Parliament,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Union Agency for Fundamental Rights for the financial year 2014,
 - having regard to Rule 94 of and Annex V 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 (A8-0108/2016),
- A. whereas, according to its financial statements, the final budget of the European Union Agency for Fundamental Rights ("the Agency") for the financial year 2014 was EUR 21 229 000, representing a decrease of 0,56 % compared to 2013; whereas 99 % of the budget of the Agency derives from the Union budget;
- B. whereas the Court of Auditors ("the Court"), in its report on the annual accounts of the Agency for the financial year 2014 ("the Court's report"), has stated that it has obtained reasonable assurances that the Agency's annual accounts for the financial year 2014 are reliable and that the underlying transactions are legal and regular;

Budget and financial management

1. Notes that budget monitoring efforts during the financial year 2014 resulted in a budget implementation rate of 100 %, which is the same as the previous year, and that the payment appropriations execution rate was 69,45 %, representing a decrease of 0,82 % compared to the previous year; acknowledges that the high overall level of committed appropriations indicated that commitments were made in a timely manner;

Commitments and carry-overs

2. Notes that the level of committed appropriations carried over to 2015 was at 25 % for Title II (administrative expenditure) and at 75 % for Title III (operating expenditure); acknowledges from the Court that the carry-overs under Title II mainly relate to the planned purchase of IT goods and services for which payments were due in 2015; acknowledges, furthermore, that the carry-overs under Title III mainly reflect the multiannual nature of the Agency's operational projects where payments are made according to planned schedules;
3. Notes that the implementation rate of appropriations carried forward from 2013 to 2014 was at 97,68 % in 2014, with only 147 430 EUR having been cancelled, representing 2,32 % out of the total amount; notes, furthermore, that this low level of cancellations is well below the Agency's target;

Transfers

4. Notes that three budgetary transfers, made between budgetary titles and above 10 % of the approved budget, were approved by the Agency's Management Board in 2014; notes that these transfers amounted to EUR 947 932 and mainly related to the reallocation of the surplus under administrative expenditure, to operational projects or within operational expenditure;

Procurement and recruitment procedures

5. Notes from the Agency that, in order to improve the quality of tenders, all procurement procedures were subject to a supervisory review before the launch of calls for tender; takes note of the fact that, further to these reviews, corrective actions, such as modifications to the tender specifications, were taken where necessary;
6. Observes that the Agency introduced a new appraisal system as of 2014 as a result of the changes to the Staff Regulations introduced by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council¹; notes in particular that the Agency's appraisal reports now include an overall assessment on whether the jobholder's performance has been satisfactory; ascertains that training sessions were provided to staff on how to set specific, measurable, achievable, relevant and time-bound (SMART) objectives, robust performance indicators and how to write clear assessments;
7. Welcomes the fact that the Agency participates in the Commission's procurement procedures whenever possible; notes furthermore that the Agency launched shared procurement procedures with the European Union Agency for Network and Information Security (ENISA) for the development of intranet applications and with the European Institute for Gender Equality (EIGE) for the collection of data supporting the implementation of operational projects;

Prevention and management of conflicts of interests and transparency

8. Acknowledges that the Agency revised and adopted its harmonised rules for prevention of conflicts of interest concerning its Management Board and Scientific Committee at the end of 2014; notes, moreover, that the Agency developed and adopted guidelines for the prevention of conflicts of interest for its staff;
9. Notes from the Agency that it published the declarations of interest as well as the curricula vitae (CVs) of the members of its Management Board and Scientific Committee as well as of its management team;
10. Notes that the Agency applies the Commission's whistleblowing guidelines as per the Decision of its Executive Board²; notes furthermore that its staff members are obliged to report facts pointing to possible illegal activity, including fraud or corruption, or to a serious failure to comply with their professional obligations; ascertains that the Agency raised awareness on this policy internally; acknowledges that the Agency will continue to

¹ Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (OJ L 287, 29.10.2013, p. 15).

² http://fra.europa.eu/sites/default/files/eb_decision_2012_04-whistleblowing_rules.pdf

apply the Commission's whistleblowing guidelines until the Commission adopts a new policy on whistleblowing, foreseen for 2016;

11. Deplores the fact, however, that legal proceedings have been brought against the Agency on several occasions in connection with cases involving the mistreatment of whistleblowers, and emphasises that the European Ombudsman has stated that the Agency is guilty of maladministration by refusing to carry out a proper, detailed investigation of allegations of psychological harassment made by a whistleblower; calls on the Agency to comply with the rulings handed down by the Civil Service Tribunal, in particular the judgment of the Civil Service Tribunal of 8 October 2015¹;
12. Encourages the Agency to better raise awareness of the conflict-of-interest policy among its staff, alongside ongoing awareness-raising activities and the inclusion of integrity and transparency as an obligatory item to be discussed during recruitment procedures and performance reviews;
13. Calls on the Agency to pay special attention to the protection of whistleblowers in the context of the soon-to-be-adopted Directive of the European Parliament and of the Council on the protection of undisclosed know-how and business information (trade secrets) against their unlawful acquisition, use and disclosure;
14. Calls for those Union institutions and agencies which have introduced codes of conduct, including the European Parliament, to step up their implementation measures, such as checks of declarations of financial interests;

Internal audit

15. Notes that no new audits were made by the Commission's Internal Audit Service (IAS) during 2014; notes furthermore that the Agency followed up on the two audits conducted in 2013 on human resources and contract management; ascertains that the Agency submitted action plans to address the IAS' recommendations, which were assessed favourably by the IAS; acknowledges from the Agency that in 2015 the IAS performed a follow-up audit which ended in a positive outcome with no open recommendations marked as "Very important"; notes that all recommendations issued by the IAS before December 2013 were closed;

Other comments

16. Notes from the Court's report that the amendment of the Staff Regulations in 2004, by Council Regulation (EC, Euratom) No 723/2004², included provisions that future remuneration of officials recruited before 1 May 2004 should not be less than under the previous Staff Regulations; observes that the Court's audit revealed this was not complied with and, in the case of 10 of the 26 officials employed at the time, this led to an underpayment of EUR 45 892 for the period 2005-2014; acknowledges from the Agency that the calculation of salaries is externalised to the Commission's Paymaster's Office;

¹ Judgment of the Civil Service Tribunal (Second Chamber) of 8 October 2015, DD v European Union Agency for Fundamental Rights (FRA), joined cases F-106/13 and F-25/14, ECLI:EU:F:2015:118.

² Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 amending the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities (OJ L 124, 27.04.2004, p. 1).

notes that the Agency undertook necessary actions to remedy this issue;

17. Notes with satisfaction that the basic information about the Agency is provided on its website in all Union languages; notes that the Agency regularly posts information and updates, including interactive data visualisations, infographics, photos and videos, about its latest reports and other work on its social media channels;
18. Ascertains that an independent evaluation of the Agency was undertaken in 2012 to evaluate the effectiveness, efficiency, added value, utility, coordination and coherence of the Agency's work; notes that one of key priorities included in the Agency's Strategic plan 2013-2017, which is based on this evaluation, is to help enhance the Agency's contribution to processes at national level; takes note that the Agency is developing a stronger connection to the Member States as well as increasing its cooperation with national stakeholders in order to bring the Agency's evidence-based advice to the centre of national fundamental rights policy making and implementation;
19. Notes with satisfaction that in February 2014 the Agency launched a webpage for children as part of its website section on the rights of the child where children can find information on what their rights are, who decides on their rights, what the Agency does for children and links if they want to know more;
20. Calls on the Agency to enhance its procedures and practices aimed at safeguarding the financial interests of the Union and to actively contribute to a results-oriented discharge process;
21. Calls for an overall improvement in the prevention of, and the fight against, corruption through a holistic approach, commencing with better public access to documents and more stringent rules on conflicts of interest, the introduction or strengthening of transparency registers and the provision of sufficient resources for law enforcement measures, and also through improved cooperation among Member States and with relevant third countries;
22. States that the annual reports of the Agency could play an important role in compliance regarding transparency, accountability and integrity; calls on the Agency to include a standard chapter on these components in its annual report;

◦ ◦
23. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of [xx xxxx 2016]¹ [on the performance, financial management and control of the agencies].).

¹ Texts adopted of that date, P[8_TA(-PROV)(2016)0000].

19.2.2016

OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on Budgetary Control

on the discharge in respect of the implementation of the budget of the European Union
Agency for Fundamental Rights for the financial year 2014
(2015/2166(DEC))

Rapporteur: Monica Macovei

SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Notes the Court of Auditors conclusions that the annual accounts of the Agency present fairly its financial position at 31 December 2014 and that its transactions are legal and regular; acknowledges that the high amounts carried over under title II mainly relate to the planned purchase of IT goods and services for which payments were only due in 2015, and the carry-overs under title III mainly reflect the multi-annual nature of the Agency's operational projects, where payments are made according to planned schedules; acknowledges the Agency's response regarding the nature of the carry-overs and the low level of cancellations in its budget;
2. Welcomes that according to the Court of Auditors report, the 2014 budget appropriations were fully committed.
3. Notes that under the new Staff Regulations as amended in 2004 remuneration of officials and other servants recruited before 1 May 2004 should not be less than the one under previous Staff Regulations; regrets that the Agency did not comply with this requirement in 10 cases; acknowledges that following the Court of Auditors' observations, the Agency took corrective measures in 2015; stresses the importance of sound human resources management and protection of staff rights;
4. Notes that the Agency still does not have its own internal binding rules for the protection of whistleblowers, despite the recommendation made by Parliament in 2015, although draft provisions pending formal adoption have existed since 2012; notes that the Agency has been applying the Commission whistleblowing guidelines following an Executive

Board decision in 2012 and requires that those internal rules be adopted and published without delay, in accordance with Article 22c of the Staff Regulations as they entered into force on 1 January 2014; asks for a track record of whistle-blowing cases handled in accordance with those rules;

5. Acknowledges that the Agency adopted in 2014 a practical guide on management and prevention of conflict of interest for its staff; asks the Agency to provide the discharge authority with a track record of cases of conflict of interest identified and to ensure that all CVs and declarations of interest of its Management Board experts and management team members are published, along with a clear set of rules against "revolving doors".

RESULT OF FINAL VOTE IN COMMITTEE ASKED FOR OPINION

Date adopted	16.2.2016
Result of final vote	+: 54 -: 2 0: 0
Members present for the final vote	Jan Philipp Albrecht, Michał Boni, Caterina Chinnici, Ignazio Corrao, Rachida Dati, Agustín Díaz de Mera García Consuegra, Frank Engel, Cornelia Ernst, Tanja Fajon, Laura Ferrara, Monika Flašíková Beňová, Lorenzo Fontana, Kinga Gál, Nathalie Griesbeck, Sylvie Guillaume, Jussi Halla-aho, Monika Hohlmeier, Brice Hortefeux, Sophia in 't Veld, Eva Joly, Sylvia-Yvonne Kaufmann, Timothy Kirkhope, Barbara Kudrycka, Kashetu Kyenge, Marju Lauristin, Juan Fernando López Aguilar, Monica Macovei, Roberta Metsola, Claude Moraes, József Nagy, Péter Niedermüller, Soraya Post, Judith Sargentini, Birgit Sippel, Branislav Škripek, Helga Stevens, Traian Ungureanu, Bodil Valero, Udo Voigt, Josef Weidenholzer, Cecilia Wikström, Kristina Winberg, Tomáš Zdechovský
Substitutes present for the final vote	Marina Albiol Guzmán, Carlos Coelho, Anna Maria Corazza Bildt, Pál Csáky, Daniel Dalton, Dennis de Jong, Gérard Deprez, Anna Hedh, Petr Ježek, Emil Radev, Christine Revault D'Allonnes Bonnefoy, Barbara Spinelli, Elissavet Vozemberg-Vrionidi

RESULT OF FINAL VOTE IN COMMITTEE RESPONSIBLE

Date adopted	4.4.2016
Result of final vote	+ : 15 - : 4 0 : 0
Members present for the final vote	Louis Aliot, Inés Ayala Sender, Dennis de Jong, Martina Dlabajová, Ingeborg Gräßle, Verónica Lope Fontagné, Monica Macovei, Dan Nica, Gilles Pargneaux, Georgi Pirinski, Petri Sarvamaa, Claudia Schmidt, Bart Staes, Marco Valli, Derek Vaughan, Anders Primdahl Vistisen, Tomáš Zdechovský
Substitutes present for the final vote	Marian-Jean Marinescu
Substitutes under Rule 200(2) present for the final vote	Bodil Valero