



**2017/2177(DEC)**

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# DRAFT REPORT

on discharge in respect of the implementation of the budget of the European  
Asylum Support Office for the financial year 2016  
(2017/2177(DEC))

Committee on Budgetary Control

Rapporteur: Bart Staes

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## 1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### **on discharge in respect of the implementation of the budget of the European Asylum Support Office for the financial year 2016 (2017/2177(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Asylum Support Office for the financial year 2016,
- having regard to the Court of Auditors' report on the annual accounts of the European Asylum Support Office for the financial year 2016, together with the Office's reply<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> 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 2016, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of ... February 2018 on discharge to be given to the Office in respect of the implementation of the budget for the financial year 2016 (00000/2018 – C8-0000/2018),
- 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 1605/2002<sup>3</sup>, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office<sup>4</sup>, in particular Article 36 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<sup>5</sup>, and in particular Article 108 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 the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A8-0000/2018),

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<sup>1</sup> OJ C 417, 6.12.2017, p. 79.

<sup>2</sup> OJ C 417, 6.12.2017, p. 79.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 132, 29.5.2010, p. 11.

<sup>5</sup> OJ L 328, 7.12.2013, p. 42.

1. Postpones its decision on granting the Executive Director of the European Asylum Support Office discharge in respect of the implementation of the Office's budget for the financial year 2016;
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 Executive Director of the European Asylum Support Office, 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 Asylum Support Office for the financial year 2016  
(2017/2177(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Asylum Support Office for the financial year 2016,
- having regard to the Court of Auditors' report on the annual accounts of the European Asylum Support Office for the financial year 2016, together with the Office's reply<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> 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 2016, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of ... February 2018 on discharge to be given to the Office in respect of the implementation of the budget for the financial year 2016 (00000/2018 – C8-0000/2018),
- 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 1605/2002<sup>3</sup>, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office<sup>4</sup>, in particular Article 36 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<sup>5</sup>, and in particular Article 108 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 the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A8-0000/2018),

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<sup>1</sup> OJ C 417, 6.12.2017, p. 79.

<sup>2</sup> OJ C 417, 6.12.2017, p. 79.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 132, 29.5.2010, p. 11.

<sup>5</sup> OJ L 328, 7.12.2013, p. 42.

1. Postpones the closure of the accounts of the European Asylum Support Office for the financial year 2016;
2. Instructs its President to forward this decision to the Executive Director of the European Asylum Support Office, 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 Asylum Support Office for the financial year 2016  
(2017/2177(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the budget of the European Asylum Support Office for the financial year 2016,
  - 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 (A8-0000/2018),
- A. whereas in the context of the discharge procedure, the discharge authority stresses the particular importance of further strengthening the democratic legitimacy of the Union institutions by improving transparency and accountability, and implementing the concept of performance-based budgeting and good governance of human resources;
- B. whereas, according to its statement of revenue and expenditure<sup>1</sup>, the final budget of the European Asylum Support Office (“the Office”) for the financial year 2016 was EUR 65 370 233,75 representing an increase of 309,98 % compared to 2015; whereas the increase was due to new additional tasks expanding its mandate;
- C. whereas EUR 29 463 600 derives from the Union budget, EUR 21 710 759 derives from other contributions, mainly in the form of grant agreements from the Commission, and EUR 1 900 134 derives from contributions from associate countries (the Kingdom of Norway and the Swiss Confederation);
- D. whereas the Court of Auditors (“the Court”), in its report on the annual accounts of the European Asylum Support Office for the financial year 2016 (“the Court's report”), has stated that it has obtained reasonable assurances that the Office’s annual accounts are reliable, but could not obtain sufficient appropriate audit evidence on the legality and regularity of the underlying transactions;

#### ***Follow-up to the 2013 and 2014 discharges***

1. Notes with concern the number of outstanding issues and ongoing corrective measures in response to the Court’s comments in 2013 and 2014 related to late payments, internal control standards (ICS) and high staff turnover; calls on the Office to complete the corrective actions as soon as possible in the course of 2018 and report on their implementation to the discharge authority;

***Basis for the qualified opinion on the legality and regularity of the underlying transactions and the decision to postpone the granting of discharge***

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<sup>1</sup> OJ C 245, 29.07.2017, p.16

2. Notes that the Court in its report made material findings in relation to two out of five significant procurement procedures from 2016 for which payments were incurred during the year, which demonstrates a lack of rigour in the Office's procurement procedures:
  - a. recalls that two of the three tenderers participating in one audited procurement procedure for the provision of travel services under a framework service contract amounting to EUR 4 000 000 for the period from 2016 to 2020 were asked to provide additional information in relation to the same selection criteria; recalls that although neither of them submitted the requested information (curricula vitae (CVs) of the persons who would perform the task at the Office's premises), only one of them was excluded from the procedure for this reason; notes that the other tenderer was awarded the contract on the basis that the relevant CVs would be provided following the award of the contract; is therefore of the opinion that the procurement procedure did not comply with the principle of equal treatment and that the contract was awarded to a tenderer who did not fulfil all selection criteria; considers that the framework contract (FWC) and associated 2016 payments, amounting to EUR 920 561, are therefore irregular;
  - b. recalls that in February 2016 the Office directly awarded a FWC for interim services to support it in its response to the migration crisis for a period of 12 months amounting to EUR 3 600 000; recalls that the FWC was awarded to a single preselected economic operator without applying any of the procurement procedures laid down in the Financial Regulation; considers that the award was therefore not in compliance with the relevant Union rules and that the associated 2016 payments, amounting to EUR 592 273, are irregular;

Notes that the amounts involved in relation to the matters described above represent 2,9 % of the Office's total 2016 expenditure;

3. Notes from the Office's reply that, concerning point 2.a, the Office made its decision based on the fact that the contractor awarded the contract was the only one with the existing capacity to fulfil the contractual obligations; notes moreover that, concerning point 2b, the Office's actions were in the context of extreme urgency linked to the refugee crisis which was at its peak at the time, compounded by the necessity to implement Council decisions regarding the emergency tasks entrusted to the Office; notes that the contractor chosen under these extreme circumstances had previously been contracted by another Union agency located in Greece; notes that the decision was documented and approved in an exception request;
4. Asks the Office to report to the discharge authority on the measures taken to remedy the issues identified by the Court before 15 June 2018;
5. Notes that the European Anti-Fraud Office (OLAF) has opened an investigation on the Office's operations; fully respects the independence of OLAF's investigation and the fact that no separate part of such an investigation can be revealed before the entire investigation is closed;
6. Is of the opinion that granting a discharge before all the relevant information regarding the Office's operations are fully known would not be responsible; calls on OLAF to



inform the discharge authority of the outcome of the investigation as soon as it is closed in order to include any relevant findings into the 2016 discharge report on the Office;

### ***Comments on the legality and regularity of transactions***

7. Notes that, according to the Court's report, in August 2016, the Office launched an open procedure (five lots) to award an FWC to cover its needs for cultural mediators/interpreters in different countries; notes moreover that the total amount of the FWC for the four lots signed and audited (lots 2 to 5) was EUR 60 000 000 over four years; observes that these four lots were awarded to the same tenderer as first contractor-in-cascade; notes that this contractor met the financial requirements of the selection criteria (EUR 1 000 000 annual turnover) except for one of the three prior years, for which an availment contract was signed with a non-profit organisation which committed to make its "turnover" available to the contractor; recalls that the Financial Regulation permits reliance on the financial and economic capacities of other entities; regrets, however, that in this case it is not clear how the "turnover" of this entity could be made available or, given the nature of its activities, whether it could support the delivery of the services to be provided; considers that the Office should have rejected the offer as it did not demonstrate compliance with the tenderer's economic and financial capacity requirements; considers the FWC and all related payments are irregular (no payments made in 2016);

### ***Budget and financial management***

8. Notes that budget monitoring efforts during the financial year 2016 resulted in a budget implementation rate of 80,64 %; notes furthermore that the payment appropriations execution rate was 63,40 %;
9. Notes that the Office's work programme was amended three times and its budget four times in order to take into account significant changes that took place during 2016, in particular the significant increase in the operational support activities of the Office in the "hotspots" in some Member States and the implementation of the EU-Turkey Statement;

### ***Commitments and carry-overs***

10. Notes that the level of committed appropriations carried over for Title II (administrative expenditure) was high at EUR 2 500 000 or 43,9 % (compared to EUR 1 076 583 or 36,9 % in 2015); acknowledges that these carry-overs mainly relate to IT infrastructure, translations and publications, business consultancy and the costs for management board meetings for which contracts were signed towards the end of 2016 or invoices were only issued in 2017;
11. Notes that carry-overs are often partly or fully justified by the multiannual nature of the agencies' operational programmes, do not necessarily indicate weaknesses in budget planning and implementation and are not always at odds with the budgetary principle of annuality, in particular if they are planned in advance by the Office and communicated to the Court;

### ***Transfers***

12. Notes that the executive director effected 20 budget transfers during 2016 to compensate for budget shortfalls and to accommodate the exponentially increasing budgetary needs in the hotspots, in particular following the EU-Turkey Statement; notes moreover that one of the four transfers effected between titles was executed by a decision of the executive director even though it exceeded the 10 % threshold laid down in Article 27(1)(a) of the Financial Regulation; notes that the transfer was soon after endorsed by the management board in the second amendment to the 2016 budget;

### ***Procurement and staff policy***

13. Notes that in 2016 the Office processed 4 861 payments, of which 2 007 were made after the legal deadline (41 %); notes that this was mainly due to the exponential increase in the budget; acknowledges that, according to the Office, its operational activities increased exponentially leading to a significant increase in the number of financial transactions to be processed by the same number of staff; notes with satisfaction the various measures taken by the Office to address this situation; acknowledges that those measures are expected to lead to the normalisation of payments by the end of the first half of 2017; calls on the Office to report to the discharge authority on the effects of those measures;
14. Notes that, according to the Court's report, contracting authorities are to request in writing details of the constituent elements of the price or cost if they appear to be abnormally low, and are to give the tenderer the opportunity to present its observations; notes, however, that for two of the lots (lots 3 and 5), procuring cultural mediators/interpreters in different countries, the Office received financial offers which were 50 % and 31 % respectively lower than the next lowest offers; regrets that, whilst this is indicative of the offers being abnormally low, the Office did not consider it necessary to request any further explanation from the tenderer in this regard;
15. Recalls that in 2014 the Commission, on behalf of more than 50 Union institutions and bodies, including the Office, signed an FWC with one contractor for the acquisition of software licences and the provision of maintenance and support; notes that the framework contractor acts as an intermediary between the Office and suppliers that can address the Office's needs; notes that for these intermediary services the framework contractor is entitled to uplifts of 2 % to 9 % of the suppliers' prices; notes moreover that in 2016 total payments to the framework contractor amounted to EUR 534 900; regrets that the Office did not systematically check prices and uplifts charged with the suppliers' quotes and invoices issued to the framework contractor; notes from the Office's reply that it will introduce systematic checks for every quotation above EUR 135 000 from 1 January 2018;
16. Observes that, with the significant increase in tasks attributed to the Office in early 2016, it had its resources repeatedly increased, both in terms of financial appropriations and staff; notes with satisfaction that, in order to absorb and manage these resources in an effective way, it was decided to streamline the internal organisational structure taking into account the new additional tasks assigned to the Office; notes that the management board adopted a new organisational structure for the Office, as proposed by the executive director, on 12 May 2016; calls on the Office to report to the discharge authority on the improvements expected as a result of this new organisation;

17. Note that, as of 31 December 2016, the Office had 136 staff members both in service and appointed, including 86 temporary agents (out of 91 posts authorised under the Union budget), 43 contract agents and 7 seconded national experts; notes that 63,2 % of all staff were female while 36,8 % were male; calls on the Office to pay attention to the gender balance of staff and to take it into account when recruiting in the future;
18. Notes with satisfaction that there was an increase in the operational job types' category from 58,18 % in 2015 to 63,31 % in 2016 due to the rapid increase in operations-related activities during 2016;
19. Notes that the Office has received one complaint following an unsuccessful probationary period; asks the Office to inform the discharge authority after the complaint has been resolved;
20. Notes that in 2016, on average, the Office's staff was on sick leave for a total of 2,4 days; observes with some concern that the Office has not reported on the budget or on the number of days spent per staff member on well-being activities in 2016; notes that the Office did not name different well-being activities put in place in 2016 as requested by Parliament;
21. Observes with concern that the Office has no harassment prevention policy in place yet; calls on the Office to set up a network of confidential counsellors as a part of the policy on protecting the dignity of the person and preventing psychological and sexual harassment and to hold awareness sessions, provide standard information on harassment on its intranet site and introduce a programme for newcomers, including a presentation on health and wellbeing;

***Prevention and management of conflicts of interest, transparency and democracy***

22. Acknowledges that, according to the Office, in the first half of 2018, it will develop a practical guide for the management and prevention of conflicts of interests as well as binding rules for the protection of whistleblowers; calls on the Office to report to the discharge authority on the implementation of this measure;
23. Notes that the Office will increase further its pressure in order to receive and publish the declarations of interest of its management board members; recalls that transparency is a key element for upholding the trust of Union citizens in Union institutions; calls on the Office to report to the discharge authority on the issue;
24. Observes that the Office has not replied to whether all meetings with lobbyists (where such meetings were held) were usually registered and made public; calls on the Office to provide the discharge authority with an answer;
25. Notes that in 2016 the Office received eight requests for access to documents to which the Office granted a full access to seven documents while for one request the access was refused due to the fact that information was not available to the Office - referrals to the appropriate authorities were given;
26. Notes that the Office does not have any official vehicles but plans a future purchase of two vehicles;

### *Performance-based budgeting*

27. Welcomes the three main achievements identified by the Office in 2016, namely:
- it was active in supporting Member States, in particular Greece and Italy, in dealing with the unprecedented and continued pressure on their asylum systems;
  - it fully supported the implementation of the Union relocation scheme in Italy and Greece for persons in clear need of international protection;
  - it enhanced its activities to respond in a timely and efficient manner to challenges related to the coherent implementation of the Common European Asylum System;
28. Notes with satisfaction that in 2016 218 trainers participated in 15 “train-the-trainers” sessions organised by the Office; notes moreover that the Office administered 361 national training sessions on its e-learning platform “EASO Training Curriculum” for 5 833 national staff;

### *Internal controls*

29. Notes that at the beginning of 2016 out of the 16 ICS, four were partially implemented and one was not implemented; notes that the Office developed the missing implementing rules to the Staff Regulations (ICS number 3), established its annual performance appraisal system (ICS number 4), ran for the first time a risk management process (ICS number 6), adopted an IT Governance Charter as well as a Project Management Governance Charter (ICS number 7) and made progress in defining and implementing rules for document management by approving the records management policy (ICS number 11); calls on the Office to report to the discharge authority on the improvements related to the implementation of these standards;
30. Notes that, according to the Court’s report, the grant agreement for the purchase and subsequent donation to the Greek State of 90 fingerprint-scanning machines and 90 compatible computers (equipment) for an amount of EUR 1 100 000 required delivery of the equipment to the IT Division of the police in Athens and from there distribution to the hotspots located on the Greek islands; recalls that the description of the action required Office staff to be on the spot to ensure the proper delivery, installation and subsequent ownership transfer of the equipment to the Greek police; deeply regrets, however, that Office staff were not on the spot to meet this requirement and confirmation from the relevant Greek authorities that the equipment had been delivered to the hotspots in February and early March 2016 and is being used for its intended purpose was only received in July 2017; notes from the Office’s reply that it had first formally requested confirmation on the delivery and installation of the equipment in the hotspots on 23 May 2016 from the Greek authorities;
31. Observes that in 2016 the Office faced several challenges in its operating environment, including not only a substantial increase in its budget and expansion of its tasks but also a significant increase in the number of transactions, a change of the accounting officer with several interim solutions and the introduction of a paperless workflow system; regrets that this situation of considerable change and instability was neither mitigated by a revalidation of the accounting system nor by introducing a system of regular ex post

verifications of transactions; notes from the Office's reply that the revalidation of the accounting system is planned for 2017 and an ex post verification strategy will be considered in the medium term;

### ***Internal audits***

32. Notes that in 2016 the Office was subject to an audit conducted by the Internal Audit Service (IAS) on budget execution and procurement plan implementation in the Office; notes that the auditors recognised the ongoing efforts made by the Office to ensure the proper functioning of administrative processes, such as budget execution and procurement, while being confronted with the operational challenges linked to the Office's role in the refugee crisis; notes with satisfaction that the Office has significantly improved the execution of its budget and that budget implementation was deemed satisfactory; notes moreover that although carry-overs were relatively high, they were considered justified; notes that the Office should strengthen its planning for procurement procedures for administrative expenditure; notes that the monitoring of procedures and specific contracts concluded under FWCs is weak and should therefore be further strengthened; notes that the Office continues to work together with the IAS to develop concrete actions to minimise the identified risks; calls on the Office to report to the discharge authority on the measures taken to improve procurement procedures;
33. Notes that at the beginning of 2016 the Office had three open action plans resulting from three audits conducted in 2014 and 2015; observes with satisfaction that the Office completed 19 out of 20 outstanding follow-up actions stemming from audits conducted by the IAS; notes that the Office expects to close the one recommendation which is still open once the new Regulation establishing the fully-fledged agency is adopted;

### ***Other Comments***

34. Notes that on 4 May 2016 the Commission presented a proposal for a new Regulation that proposed transforming the Office into a fully-fledged agency;
35. Recalls that, pursuant to Article 46 of the Regulation (EU) No 439/2010<sup>1</sup>, the Office is to commission an independent external evaluation of its achievements; notes that the thematic scope of the evaluation covered Union added value and the effectiveness and impact of the Office in contributing to the implementation of the Common European Asylum System, including the asylum legislative package; notes that the external evaluators presented their findings and recommendations to the management board in January 2016; notes that the Office agreed to develop an action plan to address the external evaluators' nine recommendations; calls on the Office to report to the discharge authority on the implementation of the action plan;
36. Notes that, according to the Court's report, the Office purchased and installed 65 containers to be used as mobile offices in the Greek and Italian hotspots for a total amount of EUR 852 136; notes that some of the containers were placed in a location where similar containers not belonging to the Office were later destroyed by riots; regrets that the Office did not take out insurance to cover the containers against this

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<sup>1</sup> Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11).

risk; notes from the Office's reply that management decided that it was not cost-effective to obtain insurance;

37. Notes that the Office amended its lease agreement and, in the second half of 2016, expanded its office space to an additional block of the building where its premises are situated; observes that, as a consequence of the increase in responsibilities and tasks, the number of staff should increase to 500 by the end of 2020 thus creating a considerable demand for more office space; calls on the Office to report to the discharge authority on the expected budgetary consequences of this increase;
  38. Notes the opening of offices in Rome and in Athens and the expanding role of the Office across the Union as it reaches out closer to the hotspots;
  39. Notes the appointment of liaison officers to the Union Institutions in Brussels and to European Border and Coast Guard in order to foster closer relations and facilitate cooperation in areas of mutual interest;
  40. Notes from the Office's answers that the information exchange on Brexit between the Office and the Commission has been thorough and that the Office is following closely the advice of the Commission's Directorate-General on Migration and Home Affairs and is preparing accordingly, also in view of the Office's transformation into a new European Union Agency for Asylum;
  41. Observes that the Office did not reply to the discharge authority on their efforts to ensure a cost-effective and environmentally friendly working place and to reduce or offset CO<sub>2</sub> emissions; calls on the Office to pay attention also to the environmental implications of its activities, especially in the light of its future growth to up to 500 staff;
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42. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of ... 2018<sup>1</sup> on the performance, financial management and control of the agencies.

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<sup>1</sup> Texts adopted of that date, P8\_TA-PROV(2018)0000.