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**TEXTS ADOPTED**

*Provisional edition*

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**Discharge 2016: European Maritime Safety Agency (EMSA)**

**1. European Parliament decision of 18 April 2018 on discharge in respect of the implementation of the budget of the European Maritime Safety Agency for the financial year 2016 (2017/2157(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Maritime Safety Agency for the financial year 2016,
- having regard to the Court of Auditors' report on the annual accounts of the European Maritime Safety Agency for the financial year 2016, together with the Agency'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 20 February 2018 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2016 (05941/2018 – C8-0067/2018),
- 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 (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency<sup>4</sup>, and in particular Article 19 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30

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<sup>1</sup> OJ C 417, 6.12.2017, p.156.

<sup>2</sup> OJ C 417, 6.12.2017, p.156.

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

<sup>4</sup> OJ L 208, 5.8.2002, p. 1.

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>1</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 Transport and Tourism (A8-0078/2018),
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 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 Maritime Safety Agency, 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).

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<sup>1</sup> OJ L 328, 7.12.2013, p. 42.

## **2. European Parliament decision of 18 April 2018 on the closure of the accounts of the European Maritime Safety Agency for the financial year 2016 (2017/2157(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Maritime Safety Agency for the financial year 2016,
  - having regard to the Court of Auditors' report on the annual accounts of the European Maritime Safety Agency for the financial year 2016, together with the Agency'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 20 February 2018 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2016 (05941/2018 – C8-0067/2018),
  - 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 (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency<sup>4</sup>, and in particular Article 19 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 Transport and Tourism (A8-0078/2018),
1. Approves the closure of the accounts of the European Maritime Safety Agency for the financial year 2016;
  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

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<sup>1</sup> OJ C 417, 6.12.2017, p. 156.

<sup>2</sup> OJ C 417, 6.12.2017, p. 156.

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

<sup>4</sup> OJ L 208, 5.8.2002, p. 1.

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

to arrange for its publication in the *Official Journal of the European Union* (L series).

### **3. European Parliament resolution of 18 April 2018 with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Maritime Safety Agency for the financial year 2016 (2017/2157(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the budget of the European Maritime Safety Agency 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 Transport and Tourism (A8-0078/2018),
- 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 the 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 Maritime Safety Agency (the “Agency”) for the financial year 2016 was EUR 70 215 156, representing an increase of 6,05 % compared to 2015;
- C. whereas the Court of Auditors (the “Court”), in its report on the annual accounts of the European Maritime Safety Agency for the financial year 2016 (the “Court’s report”), has stated that it has obtained reasonable assurances that the Agency’s annual accounts are reliable and that the underlying transactions are legal and regular;

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

1. Notes that the budget monitoring efforts during the financial year 2016 resulted in a budget implementation rate of 98,07 %, representing a decrease of 1,16 % compared to 2015 and the payment appropriations execution rate 97,80 %, representing an increase of 1,28 %;
2. Takes note of the implementation for Budget 2016 of the final phase of a two-part budget restructuring in 2014 and 2015 affecting budgetary years 2015 and 2016; notes that the new structure is intended to better support the business needs of the Agency by isolating project financed activities and the financing earmarked for those specific actions (R0 funds); invites the Agency to inform the discharge authority on the practical impact and efficiencies gained with the new budget structure;

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

3. Observes that out of the total amount carried forward from 2015 to 2016 (EUR 36 450 711), 54 % were consumed, 43 % remained as “open amount” (amount due, not yet paid) and 2 % of the total has been cancelled;
4. Points out that carry-overs are often partly or fully justified by the multiannual nature of

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<sup>1</sup> OJ C 84, 17.03.2017, p.82.

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 annularity, in particular if they are planned in advance by the Agency and communicated to the Court;

### ***Transfer***

5. Notes that the Agency made a total of 8 transfers between budgetary titles in 2016; acknowledges that these transfers were below 10 % of the appropriations for the financial year of the budget line from which the transfer is made in the case of transfers from one title to another, with the exception of transfers made at year-end in line with the Administrative Board decision adopted by written Procedure N° 11/2016 on budget transfers from one title to another beyond the limit of a maximum of 10 %;

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

6. Notes that the Agency launched 66 procurement procedures, out of which 5 were special negotiated procedures and the remaining 61 encompassed open and low value negotiated procedures;
7. Acknowledges from the Agency that in 2016 the Agency had 202 posts in its authorised establishment plan; observes that the Agency took into consideration the target of 198 posts which is the target as from 1 January 2017; notes that the occupation rate against that target was 98,48 %;
8. Notes the results of the third benchmarking exercise on the Agency's posts, with 21,80 % of the jobs dedicated to administrative support and coordination, 70,93 % to operational tasks and 7,26 % to neutral tasks; notes that five posts earmarked in the 2015 establishment plan were cut in 2016 as part of the first 5 % staff cut implemented in line with the Commission Communication on the programming of resources for decentralised agencies, bringing the number of statutory posts down from 207 to 202, and that the Agency implemented its 2016 Working Programme with only 198 posts, since 4 posts were frozen due to the cuts foreseen in 2017; notes that the total number of staff remained the same at 246; welcomes the fact that the increase of 14 statutory posts connected with cooperation in respect of coastguard tasks is foreseen in 2017;
9. Regrets the significant gender imbalance of 19 % to 81 % within the Agency's management board, showing no improvement from last year; acknowledges, however, from the Agency that the nomination of those members does not fall under its remit and that the Agency's senior management gender balance ratio was 50:50;
10. Stresses that the work-life balance should be part of the staff policy of the Agency; calls on the Agency to provide a more accurate breakdown of the relatively high amount (EUR 7 841,70) spent on well-being activities per staff member in 2016; observes that the average number of sick leave per staff was 5,9 days;
11. Welcomes the fact that the Agency has a general implementing rule in place on the prevention of psychological and sexual harassment; calls on the Agency to support the organisation of training and information sessions in order to increase the awareness of the staff;
12. Notes with appreciation the fact that the Agency did not receive any complaints, law-

suits or reported cases linked to hiring or firing of staff in 2016;

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

13. Welcomes the fact that the Agency made publicly available on its website the “Declarations of Commitment and Confidentiality” signed by its Administrative Board Members as well as their CVs;
14. Notes with satisfaction that the Agency’s Administrative Board adopted in 2015 a fraud prevention and detection strategy and that a number of specific actions were implemented in the course of 2016, including training courses on Ethics and Integrity;
15. Appreciates the fact that the Agency had no conflict of interest case in 2016;
16. Welcomes the fact that the Agency has adopted a policy for whistleblowers which provides staff with all relevant information on whistleblowing and ensures members of staff who report serious wrongdoings or concerns in good faith that they are afforded confidentiality; notes with satisfaction that no cases were reported in 2016;
17. Expresses the need to establish an independent disclosure, advice and referral body with sufficient budgetary resources, in order to help whistleblowers use the right channels to disclose their information on possible irregularities affecting the financial interests of the Union, whilst protecting their confidentiality and offering them the support and advice that they need;

***Main achievements***

18. Welcomes the three main achievements identified by the Agency in 2016, namely:
  - it implemented a new methodology for visits to Member States, and piloted the integration of cost-efficiency assessment in the horizontal analyses related to cycles of visits to Member States;
  - the first operational services under the Copernicus maritime surveillance project were rolled out, marking the beginning of a synergy that will sustain and boost the Agency's earth observation products and services for the years to come;
  - it set up a dedicated, voluntary tool to support the work of the Members States in the enforcement and implementation of Union legislation and standards for mitigating shipping related environmental risks; (Sulphur Directive<sup>1</sup> and Port waste reception facilities Directive<sup>2</sup>);
19. Regrets that the Agency does not use impact indicators and outcome indicators to further improve the use of the key performance indicators; notes however that the Agency single programming document clearly indicates the expected impact and

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<sup>1</sup> Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (OJ L 132, 21.5.2016, p. 58).

<sup>2</sup> Commission Directive (EU) 2015/2087 of 18 November 2015 amending Annex II to Directive 2000/59/EC of the European Parliament and the Council on port reception facilities for ship-generated waste and cargo residues (OJ L 302, 19.11.2015, p. 99).

outcome for each activity;

### ***Internal audit***

20. Acknowledges that in 2016 the Agency's auditing bodies did not issue any critical audit recommendations or observations that could lead to a reservation in the annual declaration of assurance; notes with satisfaction that all recommendations and observations stemming from various audits from years before 2016 were closed at 31 December 2016;
21. Notes that the IAS performed an audit on Project Financed Actions at EMSA and concluded that, overall, the Agency's management and control systems for project-financed actions are adequately designed and effectively and efficiently implemented; notes however that the IAS identified areas for improvement related to availability of management information on the planning and use of resources for project-financed actions; takes note that the IAS issued three recommendations on 30 January 2017 of which one was accepted by the Agency; calls on the Agency to report to the Discharge Authority on the implementation of the recommendations;
22. Welcomes the fact that the Agency has developed its own follow-up tool in relation to the recommendations issued by the Internal Audit Service and the European Court of Auditors and that all audit recommendations and observations issued by 31 December 2016 have been implemented;

### ***Internal control***

23. Notes that the Agency developed and implemented a series of internal measures to ensure that its activities are subject to control and to provide reasonable assurance to management of the achievement of its objectives; observes that the Agency implemented a full set of Internal Control Standards (ICS), based on equivalent standards established by the Commission, and minimum requirements which were adopted by its Administrative Board; notes that the main developments during 2016 concerned Fraud Prevention and detection and Document management;
24. Notes that, according to the Court's report, in 2014 the Agency concluded a framework contract amounting to EUR 3 500 000 for the purchase of IT-related goods and services over a six-year period; observes that the Agency underestimated the needs and likely contract value, leading to an 80 % consumption of the contract at the end of 2016; regrets that a new procurement procedure had to be launched four years earlier than expected, resulting in additional administrative costs; acknowledges from the Agency's reply that defining the needs related to this contract was particularly challenging as at the time of the procurement the negotiations on the Delegation Agreement for Copernicus were still ongoing and, more importantly, it was not clear if and to which extent IT costs would be eligible under this agreement;
25. Notes that, according to the Court's report, in 2016 the Agency concluded seven framework contracts for the purchase of oil pollution response systems; observes that the procurement procedure was launched under the assumption that the total value of the seven frameworks contracts would be EUR 7 000 000; regrets that this assumption underestimated the Agency's needs and seven framework contracts for an amount of EUR 7 000 000 each were signed, leading to a total value of the contracts of



EUR 49 000 000; acknowledges from the Agency's reply that in the period between the initial estimation of the needs and the actual launch of the tender the forecasted needs evolved;

### *Performance*

26. Notes that during 2016, cooperation with participating Member States and Union bodies continued, including provision of services to Frontex (border control), EFCA (fisheries monitoring), OLAF (customs and illegal cross border activities), MAOC-N (law enforcement - narcotics) and EUNAVFOR (anti-piracy and anti-people smuggling);
27. Notes that the proposal for a revision of the Agency's Founding Regulation for the development of European cooperation on coastguard functions had a significant impact on the Agency's multi-annual programming exercises, conducted in 2016; takes note, moreover, of the pilot project launched by the Parliament aiming to explore and further develop, in 2016 and 2017, inter-agency synergies between the Agency, Frontex and EFCA to enhance cooperation on coastguard functions; welcomes the conclusion of the legislative process and adoption of the revision at the end of 2016;
28. Reiterates that the Agency's tasks can be performed more efficiently at the European level than at national level, which is the case with its contribution to maritime safety and the prevention of pollution from ships as well as from offshore installations for gas and oil exploitation in Europe; welcomes the fact that the Agency is looking for synergies of actions with other Union agencies in order to gain in effectiveness and efficiency and to reduce costs; welcomes and encourages in this framework the Agency's collaboration with other Union Agencies in support of EU Migration Agenda, such as the provision, by the Agency, of an increasing number of services to Frontex in accordance with the renewed and updated three-year Service Level Agreement concluded in 2016; also notes that the Agency has completed the procurement of services of Remotely Piloted Aircraft Systems (RPAS) for maritime surveillance; encourages the Agency to cooperate with other Union Agencies in addressing the refugee crisis, including in the performance of critically important activities outside its original mandate, such as by contributing know-how, operational support and staff to help to tackle the refugee crisis;

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29. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 18 April 2018<sup>1</sup> on the performance, financial management and control of the agencies.

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<sup>1</sup> Texts adopted, P8\_TA-PROV(2018)0133.