

2017 Discharge of the EU decentralised Agencies

WRITTEN QUESTIONS TO THE AGENCIES

Hearing on 3 December 2018

I. HORIZONTAL QUESTIONS TO BE ANSWERED BY THE AGENCIES' NETWORK

Budget and financial management

1. The Court emphasized the possible deficiencies on the independency of Accounting Officers, and the validations of accounting systems in many Agencies. The Network does not seem to fully accept this interpretation of the Court. Has the Network considered the situation as such sufficient, or is it planning to work towards the direction shown by the Court?
2. Some agencies are fee-funded. Most of these have indicated that they are not happy with their dependence on fees. This makes their funding unpredictable and it creates an unnecessary administrative burden and potential conflicts of interest. Is the network discussing this issue with the Commission and does it agree that fees are better collected by the Commission and that in their turn Agencies receive subsidies out of the EU-budget?

Performance

3. The Court noted that, as regards non-harmonised work methods and missed savings on shared resources, IT solutions and systems are still a general weakness within the Agencies, particularly in human resources and e-procurements. The Network has been doing remarkable progress on this issue, but how does the Network ensure that all Agencies will make the most of the common solutions, and on what schedule is this progress expected to be concluded, i.e. is the Network implementing an action plan as regards the full implementation of SYSPER II, e-procurement, and other similar systems?

Staff policy

4. Could the Agencies provide detailed information about the additional posts requested in 2017? What is the average staff turnover rate?
5. With regard to the additional posts, are there any clear indicators used to estimate the real added value provided by this increasing staff number? Could the Agencies provide information on if, and how, those indicators affect the choice to request additional posts?
6. With regard to transparency, could the Agencies provide detailed information about the recruitment procedure in use during 2017? How many posts have been

assigned in 2017? How many High Officials have been appointed in 2017? Were the vacant posts always published?

7. What were the costs in 2017 respectively for away days, closed conferences or similar events for staff in each agency? How many staff members participated in the respective events? Where did these events take place? How many hours did the respective events take place? Could you please list the above mentioned events?
8. How many working days were granted as vacation days in 2017 for years of service in each agency? How many persons were concerned?
9. How many management positions are vacant in each agency?
10. Does your Agency have difficulty recruiting staff in the city that you are based in because of a perceived lack of attractiveness of this city? Does a concertation system exist among agencies in order to establish a common strategy to attract qualified staff to areas which are perceived as less attractive? What measures have been taken up until now by your agency and what have been the concrete results?
11. Most of the agencies publish vacancy notices not on the website of the European Personnel Selection Office (EPSO), because EPSO accepts the publication of vacancy notices only if this is done in all EU official languages, which entails high translation costs. Did the agencies check how high the costs would be? Would the agencies post their vacancy notices on the EPSO website if there was a budget which would cover the costs?

Conflicts of interest and transparency

12. With regard to external advice, could the Agencies provide the selection criteria for the consultants? Was an ex-post evaluation - aimed to assess the cost-efficiency of this kind of expertise - carried out by the agencies in 2017?
13. Everyone working in or for ECHA makes an annual declaration of interests. These declarations are updated if the situation changes and are publicly available on the ECHA website. Anyone with a declared interest in an issue does then not participate in decision or opinion making on that matter. ECHA also has a Conflicts of Interest Advisory Committee to support the Agency's Executive Director in ensuring independence of decision making (<https://echa.europa.eu/about-us/the-way-we-work/procedures-and-policies/conflicts-of-interest>). Do you agree that this is a best practice and could usefully adopted by other Agencies with similar responsibilities? To what extent are the other Agencies currently transparent with regard to declarations of interests?

Procurement

14. The Court identified shortcomings in the public procurement procedures of many Agencies. How is the Network planning to work towards an ever more harmonised and reliable approach on public procurement?
15. With regard to the procurement procedures and the contracts implementation, which actions have been carried out by the Agencies in 2017 to better address the issue and reduce the risk of fraud and error?

Brexit

16. The withdrawal from the United Kingdom of the European Union will cause implications for several agencies. According to the Court of Auditors, five Agencies (ACER, BEREC Office, CEPOL, ENISA, EU-OSHA) did not carry out a comprehensive analysis of the likely Brexit impact on their organisation, operations and accounts. Why was there no analysis carried out by these agencies? How will the Brexit have an impact on them and how are the agencies planning to mitigate the risks involved?

Other comments

17. The Agencies provided certain replies to the Discharge Authority's Standardised Questionnaire that included data which was not corresponding with the numbers in the Agencies' Annual Reports. Could the Network please explain how these kind of discrepancies are monitored and is the Network making efforts in order to prevent them?
18. How much spent each agency on promotional materials and publications in 2017? Could the agencies name the target group to which they send their promotional materials and publications?
19. In general the visibility of agencies for European citizens is limited, whereas for their accountability and independence a high level of visibility is required. How does the Agencies Network and do the agencies ensure that citizens are aware of the work undertaken by the agencies? How is it prevented that only concerned citizens are reached? What is your opinion about centralising agencies in this regard? Could agencies concentrating on related policy fields be merged or relocated? Could tasks be redistributed?
20. When it comes to visibility, cooperation and communication between agencies are another relevant aspect. How do the agencies work together, especially when their work concentrates on related policy fields?

II. QUESTIONS TO BE ANSWERED BY INDIVIDUAL AGENCIES

ACER

1. ACER moved the REMIT data recovery site to the same location where the original data is stored. The Agency considers this the only possible solution, due to insufficient financial resources. Within the constraints of the current resources, what kind of a business continuity plan would the Agency implement in case of any unexpected event?

BEREC

2. BEREC paid translation procurements worth of €106.432,50 (i.e. 2,5% of its 2017 budget) to CdT in March 2017, which the ECA considered not justified. The Office, however, considers these payments necessary and duly justified, as their purpose was to establish a large bank of reserve lists for potential recruitments in order to proactively react to the trend of high staff turnover. Is BEREC implementing an action plan to mitigate its business continuity against the risks of high staff turnover, and to fight the original reasons causing the turnover?

CDT

3. The amount of EU Agencies using in-house services for translation is relatively high. This is causing duplication of services, and the Centre's capacity is not used to the greatest extent possible. Could CDT provide the Discharge Authority the results of the external evaluation on the appropriateness of the Centre's business model?

CEDEFOP

4. Why is the position of the Cedefop director vacant? Since when is this position vacant? How long will that position be vacant?

EASO

5. EASO received an adverse opinion from the Court on its payments for financial year 2017. Could EASO please provide further clarification on its internal investigations into the non-compliances identified by the ECA? The Discharge Authority would appreciate in particular additional detailed information on the chronological order of corrective actions taken by EASO, including reporting any suspected fraud to OLAF, and the consequent effects on the personnel involved in the irregularities.
6. The Court has shown serious concern towards the human resources situation at EASO. The Court considers that this puts EASO's operational continuity at risk, and creates weaknesses inter alia to its internal audit services, legal service etc. The Discharge Authority is aware of EASO's plans to prioritise recruitments for the most important services and to actively seek to normalise its operations and

avoid any irregularities in recruitment. Could EASO please provide more information on its recruitment action plan and its state of play?

7. The Court noted that EASO has been insufficiently able to mitigate the risks caused by the migration crisis, and that hence unexpected situations might endanger EASO's operational capacity. Considering in particular the upcoming enhancement of EASO's mandate, has the Office initiated any further action plans to prepare itself for any unexpected workload that may occur?
8. The Court noted that EASO has inadequate documentation of its procurements, recruitments etc. Could EASO please explain how it will revise its work methods and documentation systems in order to become more transparent and accountable in this regard?
9. The ECA drew attention to the fact that the human resources situation at the Office has deteriorated exponentially. The Office currently does not have the administrative capacity to fill the high number of vacancies. For the Office's management, out of 10 head of unit posts, 4 were vacant and out of 27 head of sector posts, 18 were vacant. How does EASO deal with this understaffing? Has the HR situation also an impact on other weaknesses stated by the ECA?
10. The Annual Report discusses the fact that the Agency has a high labour turnover since 2014. Such a situation creates a considerable risk to the achievement of the objectives. What is EASO's plan to ensure that employees stay in the Agency for a longer period? How did EASO make sure that the labour turnover is not affecting the achievement of objectives?
11. Since 2016, the Office has been facing an unprecedented expansion of tasks and activities to provide Member States with operational and technical assistance in the context of the migration crisis. How was EASO dealing with this pressure in 2017? Was the increase of staff from 125 to 200 enough to fulfil the new tasks?
12. An investigation by the OLAF was launched in October 2017. Some staff members in key managerial positions had to leave the agency or have resorted to taking time off. In your Governance Action Plan you stated that all key management positions will be filled by 2019, based on a recruitment plan. In its Human Resource Plan EASO states that there will be 297 new staff members. How will they be trained if not all the posts for the mid management have been fulfilled?
13. In the Governance Action Plan it became clear that there was a lack of transparency in procedures and processes across the board in the Agency and that this created a situation of mistrust and uncertainty among staff members. What kind of procedures and processes are involved? Moreover, EASO states

that staff were very often not aware of decisions taken by the Management Team. What measures have been taken in order to diminish the mistrust?

14. In the Governance Action Plan EASO states that it should promote its communication better with the sub offices in Rome, Athens and Cyprus. Which measures have been taken to improve the communication between EASO and the sub offices?
15. EASO has relied for a long time on interims to fill important fixed positions. What is the process to replace interims with fixed staff? Could you provide us more information regarding the process to gradually replace interims with fixed staff? Could you provide us the recruitment plan?
16. EASO's policy on the prevention and management of conflict of interests has been in place since November 2013. The Agency is currently in the process of updating this policy. Based on which criteria will the conflicts of interests policy be revised? Does the Agency also take as example other Agencies, such as the ECHA?
17. Up to 100 staff will be relocated to new office spaces. What is the reason that this action will only start in 2019? Does this delay affect the operationality of the Agency?
18. In your Governance Action Plan you state that key positions in finance, procurement, and human resources but also in core business areas were not published. What is the reason for this? Can you guarantee that this will not happen again in the future?

EBA

19. EBA is highly affected by Brexit, both physically and financially. As the Agency is soon moving to Paris, and its direct contributions from Member States are expected to potentially decrease in the future, its organisation and personnel have to be prepared for significant changes. Has EBA thoroughly prepared its staff and administration for the move, and is EBA ready to mitigate any operational or financial risks that may follow after Brexit?
20. Following the withdrawal from the United Kingdom of the European Union, the European Council decided to move EBA to Paris, France. What kind of actions have been undertaken to prepare the re-location? Are there any information on the potential costs of the re-location and regarding the impact on the rental agreement in London? Out of the total amount of staff based in London, how many will be pursuing their contracts in Paris?

ECDC

21. The number of staff of ECDC increased over 7% from 2016 to 2017 according to the ECA annual report, although the budget stagnated at 58 mio €. Why was there a significant increase of staff in the Agency? How did the Agency finance the new employees? In which sectors did the Agency have to make cuts to engage 19 new people? Is the Agency in need of higher funding to fulfil its objectives?

ECHA

22. The amount of the fees ECHA receives from companies requesting the registration of chemicals as required under the REACH regulation are dependent on the size of the companies. The Agency has found that the self-declarations they provide are too often inaccurate, and results ultimately to a large amount of fee corrections. ECHA has done tremendous work in this regard, but is still too dependent on the Member States verifications. Since ECHA has already discussed the problem with the Commission, has the Agency come to a conclusion on how to address the situation?
23. According to the ECA, fees are charged based on information provided by the companies. Ex-post verifications by the Agency identified the need for considerable fee corrections, with the total amount of corrections being unknown at the end of 2017. The Court states that 55 % of the companies who claimed to be of a micro, small or medium size (16 % of all companies) had categorised their size incorrectly resulting in lower fees. Which definition of SMEs is ECHA's using? Is there a way to avoid self-declarations made by applicants? Is there a way for ECHA to put pressure on Member States' national enforcement authorities for the verification of volumes declared by the companies?
24. Manufacturers could apply for the registration of their substances until 31 May 2018. It is often assumed that after this deadline the workload for ECHA would diminish. However, according to the Agency, the authorisation procedures will actually take up all the available resources. Can ECHA provide more detailed information on this change in activities and the necessary resources?

EFSA

25. The glyphosate scandal has raised attention on the monitoring and control system of the EU law in protecting citizens from any form of abuse. Endocrine disruptors, glyphosate, and other cases show how science can be exploited for political purposes. How the EFSA could guarantee the impartiality of EFSA's experts? Could EFSA explain its policy to identify clear-cut criteria to avoid any conflict of interests in all of its expertise?
26. In 2017, the Commission's Internal Audit Service issued an audit report on "The process for Evaluation of Regulated Products: Assessment Phase in Pesticides

Authorisation". The Authority is preparing an action plan to address any potential areas for improvement. What is the state of play of this action plan?

27. EFSA is dealing with new additional tasks such as the increased workload related to plant health, pesticides and novel foods. On short term this will mean that an adequate level of financial appropriations to deal with these new additional tasks is needed. How is EFSA dealing with that future challenges?
28. In June 2017, EFSA's Management Board adopted a new Independence Policy. According to the new policy, EFSA will be reinforced with external experts from Member States. How will you ensure their independence?

EIT

29. The Court emphasised that EIT is not encouraging the KICs to find own sources of financing, but instead it has increased reimbursement rates before the end of the eligibility period allowing the KICs to receive extra money for the same amount of previously approved eligible costs, and also retroactively added activities not foreseen in the initial business plans. Could EIT please provide the Discharge Authority an explanation on their policy to make significant changes for KICs contracts in the middle of their eligibility periods, and why does it not consider the goal of encouraging the KICS to find own sources of financing worth reaching for?
30. The Court noted that the business continuity and disaster recovery plan of EIT is severely outdated. Could the EIT please provide the Discharge Authority a state of play on the update of its business continuity plan, which has fortunately been announced to be adopted in 2018?

EMA

31. EMA experienced high dependency on external consultants in the establishment of new IT systems for the implementation of two regulations directing the Agency's work, which was to result in additional costs and decreased control over EMA's own projects. The Agency has taken several measures to improve the situation, but the results are expected to be seen only in the coming years. Could the Agency please provide the Discharge Authority an update on the issue in hand?
32. EMA is highly affected by Brexit, both physically and financially. Particularly the lease contract with no exit clause, and the corresponding €465 millions of contingent liabilities, puts the Agency in a rather difficult situation. Has EMA kept itself updated on the discussions regarding the lease contract, and has it thoroughly prepared its organisation for the upcoming move to Amsterdam? Is EMA ready to mitigate any operational or financial risks that may follow after Brexit?

33. Following the withdrawal from the United Kingdom of the European Union, the European Council decided to move EMA to Amsterdam, Netherlands. What kind of actions have been undertaken to prepare the re-location? Are there any information on the potential costs of the re-location in total and regarding the impact on the rental agreement in London? Out of the total amount of staff based in London, how many will be pursuing their contracts in Amsterdam?
34. In the course of last year's audit, the Court did an analysis of EMAs management of consulting services. Since there was no increase in the Agency's staff establishment plan that could enable it to build-up the necessary expertise in-house, the Agency used consulting firms to address the tasks. Would it be more productive for the Agency and all stakeholders to have a higher budget for staff to keep necessary expertise in-house? Is it even possible for EMA to lower the costs of external consulting services, regarding the complexity of their projects?
35. EMA is experiencing significant staff loss while at the same time requiring additional resources to prepare for its relocation to Amsterdam and to deal with growing workload in product-related activities. It is important that the Agency restores its full capacity as soon as possible to be able to address the increasing complexity of upcoming innovation in the pharmaceutical sector. What additional support has the Agency received from the European Commission and the Council in this regard? What strategy has the Agency put in place to address the staff loss issue and to attract talented people with the right expertise for the future?
36. A new EU regulation on veterinary medicines, which will be adopted in 2018 and become applicable across the EU in 2021, is introducing a number of important initiatives at the EU level related to the fight against Antimicrobial Resistance (AMR). Has the Agency been allocated sufficient resources to implement all the new tasks set out in the new veterinary regulation, in particular in the area of AMR?
37. Due to the Brexit the EMA will relocate from London to Amsterdam in 2019. In its Final programming document 2018-2020, the EMA expects to retain 80% of its staff; however, in reality 70% of the staff will be retained after the relocation . Additionally, because of legal problems (British and Dutch employment laws differ), employees with temporary contracts are not able to move to the Netherlands as well. How will the EMA fill up these vacancies? What will happen to the staff that is left behind?
38. Approvals of marketing authorisation applications are based on three criteria: efficacy, quality and safety. The European Parliament stated in its discharge 2016 resolution (P8_TA-PROV(2018)0150) that a fourth requirement should be added, 'Added Therapeutic Value (ATV)', comparing a medicine with the best available drug instead to placebos. Did the Management Board discuss the

addition of this fourth criterion? Was the addition of the criterion mentioned in discussions with the European Commission or representatives of the Commission?

39. The dependence on fees from the pharmaceutical industry is still high (89,34% in 2016 and 87,96% in 2017). How does the Agency view in this respect the danger of conflicts of interests for the EMA relying on fees from their clients since they have a commercial interest in having the medicine approved by the Agency? Would it be a solution if fees were collected by the Commission, so that EMA would remain fully funded from the EU budget?

EMCDDA

40. In its audit report of January 2016, the Commission's Internal Audit Service (IAS) highlighted a strong need to improve the Centre's management of IT projects. The Centre and the IAS agreed on a plan to take corrective action. In the Annual Report 2017, EMCDDA marked the status as "ongoing". What is the state of play of the implementation of the plan to take corrective action?

ESMA

41. ESMA will potentially be greatly affected by Brexit, as its most significant supervised entities are located in the UK. In addition to monitoring the situation actively, has the Authority made any concrete preparations to mitigate the potential operational and financial risks that may follow?

EU-LISA

42. The Court considered that the Agency might experience risks of over-reliance and dependency on external contractors in its large IT projects, particularly when considered together with its small number of staff in key operational units. Under constraints of the current resources, how is EU-LISA addressing the issue, is the Agency planning to implement an action plan in this regard?

FRONTEX

43. The Court considers that FRONTEX is too reliable on cooperating countries' proof of expenditure, and that the info the Agency receives is often insufficient. Since FRONTEX has done some restructuring in order to mitigate any risks involved, could the Agency please inform the Discharge Authority about the state of play of the issue in hand?
44. According to the Court, FRONTEX is still missing a comprehensive business continuity plan. When and how is the Agency planning to address this issue and adopt a new business continuity plan putting further consideration to the enhanced mandate and the new structure of the Agency?

45. In response to the migration crisis faced by the Union, the mandate of the Agency was considerably extended in 2016. The Agency's budget 2017 was again 21 % higher than the one of the previous year. In addition, the staff increased from 365 to 526 employees. How is the Agency dealing with those issues?
46. If we additionally take into account that, following the extension of its mandate, Frontex' staff will be doubled from 2016 to 2020. How is Frontex dealing with the increasing staff numbers? How does Frontex cope with the extension of the mandate in general?
47. The contributions to agencies from the EU general budget is EUR 2,5 billion. One of the agencies with the highest increase in its budget in 2017 was Frontex. Please specify how Frontex absorbed this increase in its budget, and insofar as the budget is used for additional staff, how the training of new staff has progressed.

GSA

48. Could GSA please provide the Discharge Authority an update on its Galileo Security Monitoring Centre's move from the United Kingdom (UK) to Spain, and the situation of the Galileo ground station located in UK territory, and any financial implications these changes have or are expected to cause?