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*Committee on Budgetary Control*

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**2014/2128(DEC)**

10.2.2015

## **DRAFT REPORT**

on discharge in respect of the implementation of the budget of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013 (2014/2128(DEC))

Committee on Budgetary Control

Rapporteur: Ryszard Czarnecki

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## 1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### **on discharge in respect of the implementation of the budget of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013 (2014/2128(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013, together with the Agency's replies<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 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of ... on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2013 (00000/2015– C8-0000/2015),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>3</sup>,
- 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>4</sup>, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice<sup>5</sup>, and in particular Article 33 thereof,

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<sup>1</sup> OJ C 442, 10.12.2014, p. 326.

<sup>2</sup> OJ C 442, 10.12.2014, p. 326.

<sup>3</sup> OJ L 248, 16.9.2002, p. 1.

<sup>4</sup> OJ L 298, 26.10.2012, p. 1.

<sup>5</sup> OJ L 286, 1.11.2011, p. 1.

- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>1</sup>,
  - 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>2</sup>, and in particular Article 108 thereof,
  - 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 (A8-0000/2015),
1. Grants the Executive Director of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice discharge in respect of the implementation of the Agency's budget for the financial year 2013 / Postpones its decision on granting the Executive Director of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice discharge in respect of the implementation of the Agency's budget for the financial year 2013;
  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 Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice, 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 357, 31.12.2002, p. 72.

<sup>2</sup> OJ L 328, 7.12.2013, p. 42.

## 2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### **on the closure of the accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013 (2014/2128(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013,
- having regard to the Court of Auditors' report on the annual accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013, together with the Agency's replies<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 2013, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of ... on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2013 (00000/2015 – C8-0000/2015),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>3</sup>,
- 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>4</sup>, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice<sup>5</sup>, and in particular Article 33 thereof,

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<sup>1</sup> OJ C 442, 10.12.2014, p. 326.

<sup>2</sup> OJ C 442, 10.12.2014, p. 326.

<sup>3</sup> OJ L 248, 16.9.2002, p. 1.

<sup>4</sup> OJ L 298, 26.10.2012, p. 1.

<sup>5</sup> OJ L 286, 1.11.2011, p. 1.

- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities<sup>1</sup>,
  - 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>2</sup>, and in particular Article 108 thereof,
  - 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 (A8-0000/2015),
1. Notes that the final annual accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice are as annexed to the Court of Auditors' report;
  2. Approves the closure of the accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013 / Postpones the closure of the accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013;
  3. Instructs its President to forward this decision to the Executive Director of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

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<sup>1</sup> OJ L 357, 31.12.2002, p. 72.

<sup>2</sup> OJ L 328, 7.12.2013, p. 42.

### 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 Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013 (2014/2128(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the budget of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice for the financial year 2013,
  - 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 (A8-0000/2015),
- A. whereas, according to its financial statements, the final budget of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (“the Agency”) for the financial year 2013 was EUR 61 345 072; whereas the entire budget of the Agency derives from the Union budget,
- B. whereas the Court of Auditors, in its report on the annual accounts of the European Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom for the financial year 2013 (“the Court’s report”), has stated that it has obtained reasonable assurances that the annual accounts of the Agency are reliable and that the underlying transactions are legal and regular,
- C. whereas the Agency's core mission is to fulfil the operational management tasks regarding the Second Generation Schengen Information System (SIS II), the Visa Information System (VIS) and EURODAC,
1. Notes from the Court’s report that as the Commission granted financial autonomy to the Agency on 22 May 2013, the audited period for the financial year 2013 runs from 22 May 2013 to 31 December 2013; notes furthermore that 2013 was the first year in which the Court proceeded to conduct an audit on the Agency’s financial statements;

#### *Comments on the reliability of the accounts*

2. Notes with concern that the Court's report emphasizes the issues related to the valuation of the SIS II, VIS and EURODAC systems in the Agency’s accounts; notes furthermore that, although the valuation was not materially misstated, the Court found the issues as essential and drew attention to this matter; notes that the operational management of those systems is the Agency's core task, and that the systems were transferred from the Commission to the Agency in May 2013 by way of a non-exchange transaction; notes moreover that in the absence of reliable and complete information in respect of the total

development cost of those systems, the value of the systems was recorded in the Agency's accounts at their net book values as per the Commission's books and updated at year-end; is concerned that those values relate mainly to hardware and off-the-shelf software components and do not include software development costs;

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

3. Notes that according to Regulation (EU) No 1077/2011<sup>1</sup>, the Commission was responsible for the establishment and initial operation of the Agency until it was granted financial autonomy; notes with concern that a delay in the completion of the Agency's accounting system affected its payment planning and its preparation of the provisional accounts;
4. Notes that a more detailed analysis per budget title could not be carried out by the Court as a result of the budget being executed by the Commission;
5. Acknowledges from the Agency's final annual accounts that budget implementation rates were 96 % for commitment appropriations and 67 % for payment appropriations;
6. Takes note that according to Regulation (EU) No 1077/2011, countries associated with the implementation, application and development of the Schengen acquis and EURODAC-related measures must make a contribution to the Agency's budget; notes furthermore that although Schengen associated countries were using the systems managed by the Agency in 2013, the Commission's negotiations were still ongoing; calls on the Agency to inform the discharge authority about the state of play as regards the negotiations;

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

7. Notes that the budget monitoring efforts during the financial year 2013 resulted in a budget implementation rate of 98,95 % and that the payment appropriations execution rate was 28,94 %;
8. Notes that the high level of committed appropriations carried forward to 2014 comes mainly from Title II and Title III appropriations and is due to the fact that the Agency has number of multiannual contracts related to its core activities;

### ***Procurement and recruitment procedures***

9. Notes that for 2012, neither sampled transactions nor other audit findings have led to any comments on the Agency's procurement procedures in the Court' report;

### ***Internal controls***

10. Takes note that the project to implement the Agency's internal control standards (ICS) was ongoing at the end of 2013, and that the ICS were approved by the Management Board in June 2014;

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<sup>1</sup> See Article 32.



11. Notes from the Court's report that the Agency has no insurance coverage for fixed tangible assets except for multi-risk fire for its seat premises in Tallinn; calls on the Agency to inform the discharge authority about the results of any remedial actions taken regarding this matter;

### *Internal audit*

12. Takes note that the Internal Audit Capability of the Agency started to function in October 2013;
13. Notes that the Commission's Internal Audit Service (IAS) carried out a preliminary risk assessment of the Agency's major administrative processes in order to prepare future internal audit plans; points out that the IAS identified a number of potential high risk areas which have been included in the audit activities for 2014, including business continuity, procurement, governance, facilities management and others; takes note that the Agency has started implementing measures aimed at mitigating the identified risks;

### *Performance*

14. Acknowledges that the Agency's seat is located in Tallinn while its operational activities are carried out in Strasbourg; agrees with the Court's opinion that it is likely that management effectiveness would increase and administrative costs would be reduced if all staff were centralised in one location;
15. Takes note that at the time of the Court's audit, negotiations were ongoing between the Agency and the host Member State with the aim of reaching a headquarters agreement that would clarify the conditions under which the Agency and its staff will operate; calls on the Agency to inform the discharge authority about the state of play of the negotiations;

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16. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of ... 2015<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(2015)0000.