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*Plenary sitting*

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**A9-0105/2023**

3.4.2023

# REPORT

on discharge in respect of the implementation of the budget of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2021  
(2022/2117(DEC))

Committee on Budgetary Control

Rapporteur: Ramona Strugariu

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## 1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

**on discharge in respect of the implementation of the budget of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2021 (2022/2117(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2021,
- having regard to the Court of Auditors' annual report on EU agencies for the financial year 2021, together with the agencies' 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 2021, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2023 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2021 (06248/2023 – C9-0099/2023),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012<sup>3</sup>, and in particular Article 70 thereof,
- having regard to Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011<sup>4</sup>, and in particular Article 47 thereof,
- having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of

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<sup>1</sup> OJ C 412, 27.10.2022, p. 12.

<sup>2</sup> OJ C 412, 27.10.2022, p. 12.

<sup>3</sup> OJ L 193, 30.7.2018, p. 1.

<sup>4</sup> OJ L 295, 21.11.2018, p. 99.

- the European Parliament and of the Council<sup>5</sup>, and in particular Article 105 thereof,
- having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the opinion of the Committee on Civil Liberties, Justice and Home Affairs,
  - having regard to the report of the Committee on Budgetary Control (A9-0105/2023),
1. Grants the Executive Director of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) discharge in respect of the implementation of the Agency's budget for the financial year 2021;
  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 Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), 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>5</sup> OJ L 122, 10.5.2019, p. 1.

## 2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

### **on the closure of the accounts of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2021 (2022/2117(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2021,
- having regard to the Court of Auditors' annual report on EU agencies for the financial year 2021, together with the agencies' 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 2021, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2023 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2021 (06248/2023 – C9-0099/2023),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012<sup>3</sup>, and in particular Article 70 thereof,
- having regard to Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011<sup>4</sup>, and in particular Article 47 thereof,
- having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of

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<sup>1</sup> OJ C 412, 27.10.2022, p. 12.

<sup>2</sup> OJ C 412, 27.10.2022, p. 12.

<sup>3</sup> OJ L 193, 30.7.2018, p. 1.

<sup>4</sup> OJ L 295, 21.11.2018, p. 99.

the European Parliament and of the Council<sup>5</sup>, and in particular Article 105 thereof,

- having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the opinion of the Committee on Civil Liberties, Justice and Home Affairs,
  - having regard to the report of the Committee on Budgetary Control (A9-0105/2023),
1. Approves the closure of the accounts of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2021;
  2. Instructs its President to forward this decision to the Executive Director of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), 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>5</sup> OJ L 122, 10.5.2019, p. 1.

### 3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

**with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2021 (2022/2117(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the budget of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2021,
  - having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the opinion of the Committee on Civil Liberties, Justice and Home Affairs,
  - having regard to the report of the Committee on Budgetary Control (A9-0105/2023),
- A. whereas, according to its statement of revenue and expenditure<sup>1</sup>, the final budget of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) (the ‘Agency’) for the financial year 2021 was EUR 216 513 780, representing a decrease of 9,83% compared to 2020, in line with the downward trend going on since 2019, when the Agency’s budget was increased by 40,23% compared to the previous year; whereas the Agency’s budget derives almost exclusively from the Union budget;
- B. whereas the Court of Auditors (the ‘Court’) in its report on the annual accounts of the Agency for the financial year 2021 (the ‘Court’s report’) states that it has obtained reasonable assurance that the Agency’s annual accounts are reliable, and that the underlying transactions as regards revenue are legal and regular in all material aspects; whereas the Court identified payments of, in total, EUR 18,11 million of which it considered EUR 15,67 million not to be compliant with certain provisions of the Agency’s financial regulation and EUR 2,44 million not to be compliant with the provisions of the relevant framework contracts, representing in total 6,20% of the payment appropriations available in 2021 which exceeds the materiality threshold set for the audit and, consequently, resulted in a qualified opinion on the legality and regularity of payments underlying the Agency’s accounts; whereas, except for those non-compliant payments, the Court concluded that the underlying transactions as regards payments for the year ended 31 December 2021 are legal and regular in all material respects;

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

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<sup>1</sup> OJ C 162, 13.4.2022, p. 22.

1. Notes with appreciation that budget-monitoring efforts during 2021 resulted in a budget implementation rate of 100 % which represents an increase of 24,39 % compared to 2020; notes, furthermore, that the payment appropriations execution rate was 94,65 %, representing an increase of 0,24 % compared to 2020;
2. Welcomes the fact that, in 2021, no non-automatic carry-overs were performed; notes, however, a high amount of automatic carry-overs (EUR 11,1 million) of non-differentiated payment appropriations for Title II (infrastructure and operating expenditure), representing 56 % of the total of EUR 19,8 million for that title and 93,55 % of the total amount (EUR 11,8 million) of automatic carry-overs from 2021 to 2022; echoes the Court's opinion that high rates of carry-overs contradict the budgetary principle of annuality and are indicative of structural issues in the implementation of the budget; notes the Agency's reply that carry-overs of Title II expenditure related mainly to external support service providers, contracted by the Agency to address systematic understaffing following the assignment of new tasks to the Agency that were not accompanied by an adequate allocation of human resources; further notes that the timeliness of contracts with such external service providers were not aligned with the calendar year, but with the duration of the necessary services provided; calls, nevertheless, on the Agency to address those issues and report to the discharge authority on the measures taken in that respect; calls on the Commission to improve coordination between the allocation of new tasks and the necessary resources in order to reduce the need for resorting to external service providers;
3. Considers that the Agency should continue its dialogue with the Commission in order to propose changes to its multiannual budget planning, so that it only receives funds for developing systems once legal certainty is ensured;

### *Performance*

4. Welcomes the fact that the Agency uses certain tools, such as key performance indicators, to assess the added value provided by its activities and to improve its budget management; notes that, according to the statement of the Agency, it has achieved its objectives for 2021 as set out in its establishing regulation, Regulation (EU) 2018/1726<sup>2</sup>, and delivered the results defined in its 2021 annual work programme, both in terms of outcomes and performance; welcomes the continued efforts made in 2021 by the Agency to adapt to its updated mandate as set out in that Regulation, which entered into force on 11 December 2018, and notes the adoption of a long-term strategy for the period 2021-2027, guiding the Agency's long-term development and activities and its future multiannual and annual programming;
5. Notes that the performance and availability of the IT systems operated by the Agency was in accordance with the relevant service-level agreements; notes the continued development of new IT systems for the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), and the system to identify the Member States holding information on previous convictions of third-country nationals (ECRIS-TCN) and of interoperability between the new and the existing systems; further notes

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<sup>2</sup> Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).



that the entry into operation of those new systems was postponed by several months, while the overall schedule for the completion of the interoperability architecture by end of 2023 was preserved; commends the Agency for having completed several projects, such as the installation of the National Uniform Interfaces, the upgrade of the communication infrastructure for the Visa Information System (VIS), and the release of the shared Biometric Matching Service (BMS); welcomes the fact that the Agency has stepped up its efforts in research and innovation through projects in the areas of artificial intelligence, technologies for seamless and contactless border crossing, and internal security; notes that the Agency is on track with the project for the second extension of its operational site in Strasbourg; further notes that the Agency reviewed that project in order to make additional capacities available earlier than the expected delivery in 2028 through a modular data centre, reduction of office space and a phased construction approach for the site extension;

6. Welcomes the fact that the Agency, along with the European Union Agency for Asylum (the successor to the European Asylum Support Office) and the European Border and Coast Guard, provide active support to the Member States which are the main entry points for migrants and asylum seekers into the Union; notes that the Agency operates the central component of a series of large-scale IT systems in the area of freedom, security and justice, which are connected to national systems;
7. Welcomes the Agency's continuing support in the implementation of Union policies in the areas of free movement of people and goods, common travel visa, border control, immigration and asylum, as well as in the cooperation between national law enforcement and judicial authorities, including with respect to combating organised crime, human smuggling and trafficking, and terrorism;

### ***Staff policy***

8. Notes that, on 31 December 2021, the establishment plan was 90,61 % implemented, with 193 temporary agents appointed out of the 213 temporary agents authorised under the Union budget (compared to 202 authorised posts in 2020); notes that, in addition, 107 contract agents and 10 seconded national experts worked for the Agency in 2021, out of 132 contract agents and 11 seconded national experts authorised;
9. Highlights that, in 2021, seven members of staff left the Agency, representing a turnover of 5,5 %, higher than the target of 5 % and higher than the 3,7 % baseline of 2020; welcomes the monitoring and evaluation of reasons with respect to that indicator by the Agency's management; notes from the Agency's replies that among the identified causes, contracts with limited duration, contracts with low grades and the heavy workload were reported during exit interviews organised by the Agency; highlights the need for increased flexibility in terms of the availability of human resources in order to allow the Agency to adapt to fluctuations in the workload and possible delays in the adoption of relevant legislative acts; calls on the Commission to engage in a constructive dialogue with the Agency and address those issues when determining the availability of resources in future establishment plans;
10. Notes with concern the composition of the Agency's senior management with respect to gender with two men (100 %) and no women, of its management board with 49 men (81,7 %) and 11 women (18,3 %), and of its staff overall with 215 men (69,4 %) and 95

women (30,6 %); acknowledges that the responsibility of appointing persons to the management board lies with the relevant national authorities in each Member State; calls on the Member States to actively consider gender balance as a factor when nominating and appointing members of the Agency's management board; takes note of the Agency's efforts to improve gender balance and welcomes the slight improvement registered in 2021; calls, nevertheless, on the Agency to work actively towards gender balance and report to the discharge authority on an action plan in that respect; recalls also the importance of ensuring a balanced geographical representation within the Agency's management and staff;

11. Notes that in 2021 the Agency launched 15 selection procedures and received 1 944 applications for a total of 18 recruitment procedures; commends the Agency for the reported efficiency gains and for the improvement of the Agency's recruitment process and of its image as an attractive employer; notes in that sense the Agency's various actions such as the 'Agile recruitment' pilot project, its participation in the online global career fair 'Women in Tech', the publication of vacancy notices beyond the Agency's website and the grouping of profiles or the use of existing reserve lists for equivalent grades and function groups; further notes that an analysis of the Agency's competency framework was carried out and encourages the Agency to develop its competency-based human resources management strategy;
12. Commends the Agency for its policy for zero-tolerance on harassment; notes that in 2021, 14 cases related to psychological or sexual harassment were dealt with by the Agency; further notes in this context that the Agency performed two preliminary assessments which led to the launch of three administrative inquiries and the dismissal of one staff member; welcomes the organisation by the Agency of webinars and awareness sessions on harassment prevention and the role of its confidential counsellors, as well as its measures to improve well-being at work and the work-life balance of the Agency's staff through webinars on mental health and individual counselling sessions;
13. Welcomes the fact that the Agency is using all basic modules of the SYSPER human resources management tool and several optional modules; encourages the Agency to continue the digitalisation of its human resources management system;

### ***Procurement***

14. Notes the Agency reporting that the Transversal Engineering Framework, the largest tender ever signed by the Agency, has proven viable for several of the Agency's key operational activities, while maximisation of the benefits of transversal procurement through coordination of the inputs of different contractors across several projects remains a goal; observes that in 2021 several important tenders were prepared and contracts were signed, namely regarding the central system of the ECRIS-TCN, an the updated version of the VIS/BMS new test environment and the assessment of the technology for the future document management system solution;
15. Highlights the Court's qualified opinion on the legality and regularity of payments due to the irregularity of six payments made in 2021 for a total of EUR 18,11 million in connection with several framework contracts, representing 6,20 % of the payment appropriations available in 2021; notes with concern that 2021 is the second year in a

row for which the Court issued a similar qualified opinion regarding the Agency's procurement and contract management area; notes that, according to the Agency, compliance in this area is affected by several factors linked to operational and budgetary planning, the sourcing model, managing contractual evolutions and insufficient staffing which restrict the possibility for the Agency to limit the scope, duration and value of contracts; highlights that given the additions and updates to the large scale IT systems managed, the Agency had transitioned from vertical to transversal sourcing, rendering the initial vertical procurement model inherited from the Commission no longer viable; notes that the main reasons behind this transition related to reducing vendor lock-in and achieving economies of scale or reducing costs;

16. Highlights the Court's observations concerning a specific contract of EUR 40 million to implement a framework contract related to large-scale IT systems that the Agency signed without specifying the details of the services acquired; notes from the Agency's explanations that the rapid pace of evolution in technology requires enhanced flexibility in the field of IT procurement; points out that the framework contracts drafted by the Agency require a large degree of flexibility in order to adapt not only to technological evolutions, but also to legislative changes such as establishing new or adapting existing large-scale IT systems managed by the Agency; underlines that repeated delays in the adoption and implementation of relevant legal acts, aspects completely outside of the Agency's control, are key factors in determining the level of detail and precision that the Agency is able to offer when initially establishing framework contracts; further notes the information from the Agency that its procurement policies and practices have improved over the last several years, but that it has little impact on older ongoing contracts; calls on the Agency to take stock of the experience gained and of the insights provided by the Court in order to guarantee lasting improvements in this area; supports the Agency in its endeavour to adopt a comprehensive set of procurement guidelines and its first contract management policy and calls on the Agency to provide the discharge authority with such documents once approved; calls on the Agency, the Court and the Commission to explore possible solutions towards enhancing procurement flexibility and adaptability for the efficient implementation of the Agency's mandate;
17. Notes the Agency's position that the formal irregularities identified by the Court did not result in any financial prejudice to the Union's budget;
18. Highlights that in 2021, 759 legal commitments were signed by the Agency; notes that the Agency employs 14 procurement member of staff (11 officers and 3 assistants); highlights that the Agency does not dispose of an appropriate level graded post in order to organise a fully operational procurement unit; calls on the Commission to take into consideration these needs when determining the availability of resources in future establishment plans;

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

19. Acknowledges the Agency's existing measures and ongoing efforts to secure transparency, prevention and management of conflicts of interest, and the protection of whistleblowers; welcomes the fact that in 2021 the Agency revised and adopted its guidelines on whistleblowing in order to introduce the Internal Audit Capability of the Agency with the role of providing confidential and impartial guidance on the whistleblowing rules;

20. Notes with appreciation that the Agency publishes yearly the declarations of interest and the CVs of the members of its management board and its senior management on its website; welcomes the fact that the Agency has established a transparency register whereby meetings between its senior management and economic operators are published on its website;

### ***Internal control***

21. Notes that, in 2018, the EDPS conducted a data protection audit with respect to the second generation Schengen Information System (SIS II) and VIS, and in 2019 an inspection with respect to Eurodac, all operated and managed by the Agency, following which a total of 72 recommendations were issued; notes that the Agency has been implementing those recommendations and that it organises quarterly follow-ups to monitor the progress of their implementation; encourages the Agency to keep its activities regarding data protection high on its agenda; calls on the Agency to report to the discharge authority about the progress made in the implementation of those recommendations;
22. Welcomes the Agency's annual assessment of its internal control system that concluded that its internal control system is present, functioning and effective, although some improvements are needed; further welcomes the progress made regarding the Court's observations and Parliament's discharge resolutions from previous years and the fact that the Agency has implemented the Court's recommendations from 2018 and 2019 concerning non-compliance with public procurement rules; recalls that work with regard to two remaining observations is still ongoing; calls on the Agency to step up its efforts to implement corrective measures regarding the Court's outstanding observations;
23. Notes that at the end of 2021 the implementation rate of audit recommendations was 77 % (24 recommendations implemented and 37 recommendations due); notes that in total 32 recommendations were open at the end of 2021 out of which none were 'critical'; notes with concern that seven recommendations were past the due date, meaning that the implementation of the recommendation was ongoing though the deadline for implementation had lapsed; calls on the Agency to implement the outstanding recommendations without further delay and to report to the discharge authority about the progress made; considers that the findings of report OC-2020-0441-A2 of the European Anti-Fraud Office (OLAF) should be made available to the discharge authority; further calls on the Agency to provide the discharge authority with a report on the implementation of the recommendations from OLAF;

### ***Digitalisation and green transition***

24. Commends the Agency for its various measures to improve energy efficiency, from the use of green electricity and recycled paper only to heating the building in Tallinn through the reuse of heat from the server room; calls on the Agency to accelerate the procedures for certification under the Union's Eco-Management and Audit Scheme (EMAS); further calls on the Agency to provide the discharge authority with the Agency's latest environmental statement reports;
25. Notes the Agency's additional measures taken in 2021 in the area of cybersecurity, such as the adoption of six standards on the matter and the initiation of the establishment of a

computer security incident response team, as well as its continuous cooperation with the Computer Emergency Response Team for the EU institutions, bodies and agencies (CERT-EU) and the implementation of a structured IT security risk management and control framework; notes that in 2021 the Agency collaborated with ENISA (the European Union Agency for Cybersecurity), on the practical implementation of the Union's cybersecurity legislation and on the Agency's annual cybersecurity exercise; calls on the Agency to adopt new tools in the areas of budget and procurement digitalisation such as e-Signature, e-Contracts and e-Invoicing;

### ***Business continuity along crisis***

26. Commends the Agency for its ability to ensure the uninterrupted availability and resilience of the systems under its management and the normal functioning of the Schengen area, despite the challenges caused by the COVID-19 pandemic that continued in 2021; notes in this context, nevertheless, that implementation schedules regarding the development of the new systems were revised due to hardware unavailability, delays in equipment delivery and installation, and less frequent on-site presence of staff and contractors;
27. Commends the Agency for its cooperation with other Union institutions, bodies, offices and agencies for the exchange of knowledge and best practices in matters related to business continuity; further commends the Agency for its participation in the initiatives of the Inter-Institutional Security Training and Awareness Group and the JHA Security Officers Network in order to tackle common security matters;

### ***Other***

28. Welcomes the Agency's active online presence in 2021 and notes the improvement of its social media metrics; commends the Agency for its contribution to online external campaigns such as 'Digital EU' and 'Women in Tech', and for organising events with good outreach such as its annual conference and the eu-LISA Industry Roundtables;

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29. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of ...<sup>3</sup> on the performance, financial management and control of the agencies.

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<sup>3</sup> Texts adopted, P9\_TA(2023)0000.

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

for the Committee on Budgetary Control

on discharge in respect of the implementation of the budget of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2021  
(2022/2117(DEC))

Rapporteur for opinion: Saskia Bricmont

### **SUGGESTIONS**

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

1. Welcomes the fact that the Court of Auditors (the ‘Court’) has declared the transactions underlying the annual accounts of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) for the financial year 2021 to be legal and regular in all material respects with exception of the qualified opinion on the legality and regularity of the payments underlying the accounts; notes that its budget in 2021 decreased to EUR 264 million (-9.83% compared to 2020) while its staff increased from 274 to 310 (+13.13%);
2. Notes that in 2021, eu-LISA continued the development of new IT systems, as well as of the interoperability between the new and already existing systems; further notes the completion of several projects;
3. Regrets the fact that the Court issued a qualified audit opinion with respect to the legality and regularity of the payments underlying the accounts of eu-LISA both for 2020 and for 2021; notes the Court’s explanation that the qualified opinion was issued in relation to six payments; notes that three of these payments related to a specific contract which implemented a framework contract without specifying the details of the services required (quantities and delivery dates), and thus did not create a clear legal commitment; notes that the Court also identified contracts, and other payments outside of the initial sample affected by the same non-compliance; further notes the three other non-compliant payments from the initial sample related to three different specific contracts, which were non-compliant with the corresponding framework contracts, amounting in total to EUR 18.11 million in 2021, representing 6,2 % of the total payment appropriations available in 2021; welcomes that eu-LISA recorded the payment affected by potential error/irregularity in the internal control system of



eu-LISA through a non-compliance report and an exception report; notes from eu-LISA's reply that compliance in this area is affected by several factors linked to budgetary planning, the sourcing model, managing contractual evolutions, as well as understaffing, restricting the possibility of eu-LISA's to limit the scope, duration and value of contracts; takes note that the new tasks of eu-LISA contain short deadlines and that the Commission adopted a more flexible approach to the budget assigned to the eu-LISA for new tasks; reminds, however, the importance of compliance with framework contracts to avoid reputational risks and considers that any suggestion to reduce the overall operational costs of eu-LISA should be planned in advance;

4. Notes that the eu-LISA signed a specific contract of €40 million to implement a framework contract related to large-scale IT systems, without specifying the details of the services acquired and with an extended duration; highlights the repeated concerns by the Court about the risks associated with the lack of coordination between the allocation of resources to eu-LISA and the adoption of legislation, including delegated and implementing regulations, defining the requirements for the IT systems to be developed; further notes that the Court found that these risks materialised: the resulting time pressure on eu-LISA to commit and spend the funds before they lapse, had contributed to non-compliances in procurement procedures and contract implementation; notes as well that these non-compliances included absence of information, in a specific contract, on the quantities and delivery dates of the services acquired, and changes of contract scope, duration or value going beyond the flexibility allowed by the Financial Regulation; notes eu-LISA's explanations that the contract was concluded under a working modality foreseen in the corresponding framework contract; underlines that eu-LISA must take the necessary preparedness measures to ensure no delays on its part in the implementation of new relevant legislation, once adopted; calls on the Commission to improve coordination between the allocation of resources and tasks to eu-LISA; calls on eu-LISA, the Court and the Commission to explore possible solutions to ensure that the situation is addressed;
5. Notes that eu-LISA amended the value of three contracts, two in 2021 and one 2019, which increased the maximum amount of the contracts by 50 % (€70.4 million, €20 million and €40 million respectively); stresses that the three contracts correspond to the Implementation and Maintenance of the Entry Exit System (EES), the provision of the Common Shared Infrastructure (CSI) and the Maintenance of the Schengen Information System (MWO SIS II); notes the opinion of the Court that eu-LISA should improve its contract management to ensure that specific contracts are always aligned with the framework contracts; takes note of eu-LISA's reply that the increase of volume was triggered by changes in the legislation which required eu-LISA to source a higher volume of identical supplies and services initially tendered for; further takes note that the initial project and its evolutions are to be considered in the light of the ever-evolving nature of each large-scale IT system managed by eu-LISA; highlights that all contractual prices as well as the terms and conditions were left unchanged;
6. Notes that according to eu-LISA, irregularities identified regarding the legality and regularity of the payments do not have a financial impact, but are rather non-compliant with rules affecting some specific tenders, and that in almost all cases, the issue was the flexibility allowed under the financial rules, which the Court considered to have been exceeded; underlines the flexibility allowed under the financial rules and requests that measures are put in place to ensure legal certainty; considers that eu-LISA should

continue its dialogue with the Commission in order to propose changes to its multiannual budget planning, so that it only receives funds for developing systems once legal certainty is ensured;

7. Notes the Court' ongoing observations from 2018, 2019 and 2020 on the budgetary management; takes note that the rate of carry-overs remain substantial compared to the total budget (€11.41 million of 2021 commitment appropriations have been carried over to 2022); stresses that according to the Court, recurrent high rates of carry-overs contradict the budgetary principle of annuality and may be indicative of structural issues in the implementation of the budget; welcomes that in 2021 no non-automatic carry-overs were performed; acknowledges eu-LISA's reply that carry-overs mainly related to contracting external support service providers, to address systematic understaffing following the assignment of new tasks to eu-LISA, over timeframes that did not align with the calendar year, but with the necessary duration of the services provided;
8. Recalls that several observations from the Court from previous years are still ongoing; calls on the Agency to follow the observations from the Court and to step up efforts to implement corrective measures to address them; further calls on eu-LISA to report to the discharge authority about the progress made in this regard;



## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	1.3.2023
<b>Result of final vote</b>	+: 63 -: 1 0: 0
<b>Members present for the final vote</b>	Magdalena Adamowicz, Abir Al-Sahlan, Malik Azmani, Katarina Barley, Pietro Bartolo, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Karolin Braunsberger-Reinhold, Patrick Breyer, Saskia Bricmont, Patricia Chagnon, Caterina Chinnici, Clare Daly, Lena Düpont, Lucia Ďuriš Nicholsonová, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Erik Marquardt, Nuno Melo, Maite Pagazaurtundúa, Karlo Ressler, Diana Riba i Giner, Birgit Sippel, Sara Skytvedal, Vincenzo Sofo, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Yana Toom, Milan Uhrík, Tom Vandendriessche, Jadwiga Wiśniewska, Javier Zarzalejos
<b>Substitutes present for the final vote</b>	Susanna Ceccardi, Gwendoline Delbos-Corfield, Loucas Fourlas, Beata Kempa, Philippe Olivier, Dragoș Tudorache, Petar Vitanov, Tomáš Zdechovský
<b>Substitutes under Rule 209(7) present for the final vote</b>	Gheorghe Falcă, Jean-François Jalkh, Petra Kammerevert, Marisa Matias, Martina Michels, Ljudmila Novak, Stanislav Polčák, Mick Wallace, Bernhard Zimniok

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

63	+
ECR	Patryk Jaki, Assita Kanko, Beata Kempa, Vincenzo Sofo, Jadwiga Wiśniewska
ID	Susanna Ceccardi, Patricia Chagnon, Jean-François Jalkh, Philippe Olivier, Annalisa Tardino, Tom Vandendriessche, Bernhard Zimniok
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Karolin Braunsberger-Reinhold, Lena Düpont, Gheorghe Falcă, Loucas Fourlas, Andrzej Halicki, Jeroen Lenaers, Nuno Melo, Ljudmila Novak, Stanislav Polčák, Karlo Ressler, Sara Skyttedal, Tomas Tobé, Javier Zarzalejos, Tomáš Zdechovský
Renew	Abir Al-Sahlani, Malik Azmani, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Maite Pagazaurtundúa, Ramona Strugariu, Yana Toom, Dragoș Tudorache
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Maria Grapini, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Petra Kammerevert, Łukasz Kohut, Juan Fernando López Aguilar, Birgit Sippel, Petar Vitanov
The Left	Clare Daly, Marisa Matias, Martina Michels, Mick Wallace
Verts/ALE	Patrick Breyer, Saskia Bricmont, Gwendoline Delbos-Corfield, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

1	-
NI	Milan Uhrík

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	22.3.2023
<b>Result of final vote</b>	+ : 20 - : 2 0 : 0
<b>Members present for the final vote</b>	Gilles Boyer, Olivier Chastel, Caterina Chinnici, Ilana Cicurel, Corina Crețu, José Manuel Fernandes, Luke Ming Flanagan, Daniel Freund, Isabel García Muñoz, Jean-François Jalkh, Claudiu Manda, Alin Mituța, Markus Pieper, Petri Sarvamaa, Eleni Stavrou, Angelika Winzig, Lara Wolters, Tomáš Zdechovský
<b>Substitutes present for the final vote</b>	Maria Grapini, Niclas Herbst, Mikuláš Peksa
<b>Substitutes under Rule 209(7) present for the final vote</b>	Anne-Sophie Pelletier

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

20	+
ID	Jean-François Jalkh
PPE	José Manuel Fernandes, Niclas Herbst, Markus Pieper, Petri Sarvamaa, Eleni Stavrou, Angelika Winzig, Tomáš Zdechovský
Renew	Gilles Boyer, Olivier Chastel, Ilana Cicurel, Alin Mituța
S&D	Caterina Chinnici, Corina Crețu, Isabel García Muñoz, Maria Grapini, Claudiu Manda, Lara Wolters
Verts/ALE	Daniel Freund, Mikuláš Peksa

2	-
The Left	Luke Ming Flanagan, Anne-Sophie Pelletier

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention