



Plenary sitting

A9-0105/2024

12.3.2024

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 2022
(2023/2165(DEC))

Committee on Budgetary Control

Rapporteur: Petri Sarvamaa

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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 2022 (2023/2165(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 2022,
- having regard to the Court of Auditors' annual report on EU agencies for the financial year 2022, together with the agencies' replies¹,
- having regard to the statement of assurance² 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 2022, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 22 February 2024 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2022 (00000/2024 – C9-0000/2024),
- 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 966/2012³, 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 1077/2011⁴, 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

¹ OJ C, C/2023/594, 27.10.2023.

² OJ C, C/2023/112, 12.10.2023.

³ OJ L 193, 30.7.2018, p. 1.

⁴ OJ L 295, 21.11.2018, p. 99.

- the European Parliament and of the Council⁵, 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 (A9-0105/2024),
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 2022;
 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).

⁵ 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 2022 (2023/2165(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 2022,
- having regard to the Court of Auditors' annual report on EU agencies for the financial year 2022, together with the agencies' replies¹,
- having regard to the statement of assurance² 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 2022, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 22 February 2024 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2022 (00000/2024 – C9-0000/2024),
- 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 966/2012³, 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 1077/2011⁴, 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

¹ OJ C, C/2023/594, 27.10.2023.

² OJ C, C/2023/112, 12.10.2023.

³ OJ L 193, 30.7.2018, p. 1.

⁴ OJ L 295, 21.11.2018, p. 99.

the European Parliament and of the Council⁵, 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 (A9-0105/2024),
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 2022;
 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).

⁵ 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 2022 (2023/2165(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 2022,
 - 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 (A9-0105/2024),
- A. whereas, according to its statement of revenue and expenditure¹, 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 2022 was EUR 351 630 151, representing an increase of 62,41 % compared to 2021; whereas the Agency’s budget derives almost exclusively from the Union budget;
- B. whereas the increase in the budget of the Agency for 2022 is mainly justified by the Agency’s additional tasks related to the management of new large-scale IT systems and the interoperability of IT systems;
- C. whereas the Court of Auditors (the ‘Court’) in its report (the ‘Court’s report’) on the annual accounts of the Agency for the financial year 2022 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 a total amount of payments of EUR 17,8 million made in 2022 of which EUR 10,9 million linked to three specific contracts was found to be irregular and EUR 6,8 million was considered not to be compliant with the provisions of the associated framework contracts, representing in total 4,80 % of the payment appropriations available in 2022, thereby exceeding the materiality threshold set for the audit and resulting in a qualified opinion with respect to the legality and regularity of payments underlying the accounts; whereas, except for those non-compliant payments, the Court concludes that the underlying transactions as regards payments for the year ended 31 December 2022 are legal and regular in all material respects;

¹ OJ C 38, 31.1.2023, p. 103.

Budget and financial management

1. Notes that the budget-monitoring efforts during the financial year 2022 resulted in a budget implementation rate of 91,13 % in commitment appropriations, which represents a decrease of 8,87 % compared to 2021; furthermore notes with concern that the payment appropriations execution rate was 86,71 %, representing a decrease of 7,94 % compared to 2021;
2. Notes with concern that according to the Court's report the Agency carried over EUR 14,4 million (23 %) of available 2022 commitment appropriations to 2023 and that that amount included EUR 13,7 million (or 95 %) of appropriations under Title II, related to administrative expenditure (97 % in 2021); observes the recurrence of carry-overs of appropriations which lead the Court to recall that recurrent high rates of carry-overs contradict the budgetary principle of annuality and are indicative of structural issues in the implementation of the budget or weak budgetary planning; notes the Agency's reply that in 2022 carry-overs were performed for administrative activities which were necessary or recurrent, providing reassurance with respect to the sound financial management of the underlying operations; notes that according to the Agency's report with regard to the follow-up measures taken in light of the discharge in respect of the implementation of the budget of the Agency for the financial year 2021 (hereinafter the 'Agency's follow-up report') the Agency has drawn up an action plan that includes several measures implemented as of 2023 with a view to respect the annuality principle and to reduce the level of carry-overs; notes in this context that the signature in the fourth quarter of 2023 of the new framework contract for the provision of external support services is essential to reach those objectives; expects that the implementation of that action plan will lead to a significant improvement and calls on the Agency to report to the discharge authority on the progress made in that regard;

Performance

3. 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 its annual work programme for 2022 included 135 activities, with 90 activities delivered (67 %), 16 ongoing (12 %), 20 ongoing and delayed (15 %), and 9 postponed (7 %); notes the Agency's new approach whereby its activities are streamlined into portfolios and programmes to reflect the Agency's operating model and the interdependencies between projects and activities; invites the Agency to identify and report on the improvements achieved as a result of that new approach;
4. Commends the Agency for adopting all statutory corporate programming documents and mandatory corporate reports, in line with regulatory requirements and within legal deadlines, such as the Single Programming Document 2023-2025; notes that the Agency also adopted a strategy implementation roadmap to align its strategic operational objectives and to monitor the implementation of the Agency's long-term strategy for 2021-2027; notes further the Agency's efforts to improve its multiannual and annual planning processes through a new tool (Anaplan); notes that the Agency used the Common Assessment Framework (CAF) to analyse its strengths and weaknesses which led to the delivery in April 2022 of a self-assessment report with an action plan to serve the roadmap, detailing the Agency's priorities for operational

development; notes that the Agency applied for the label of ‘Effective CAF user’;

5. Welcomes the Agency's continuing support to the implementation of Union policies in the areas of free movement of people and goods, common travel visa, border control, and immigration and asylum, as well as to the cooperation between national law enforcement and judicial authorities, including with respect to combating organised crime, human smuggling and trafficking, and terrorism; expects a significant contribution of the Agency to the digitalisation of justice in order to improve cooperation between Union’s judicial authorities and providing better access to justice for Union citizens and businesses;
6. Recalls the Agency’s key role in ensuring the stable operation and continuous availability, as well as the evolution and maintenance of the Union's justice and home affairs (JHA) information systems such as the Schengen Information System (SIS), the Visa Information System (VIS) and the European Asylum Dactyloscopy database (Eurodac); recalls that those systems are critical in the areas of border control and law enforcement cooperation, visa insurance and checks, and the examination of asylum applications; notes that in 2022, excluding some incidents that resulted in short-term unavailability and delays, all core business systems complied with their respective service-level agreements, with SIS availability at 99,94 %, VIS availability at 99,69 %, and Eurodac availability at 99,88 %;
7. Commends the entry into operation of the renewed SIS in March 2023 (postponed from November 2022); notes the progress made, however with delays at various levels, with regard to analysis, design, development and testing of the new JHA systems, namely the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS) and the European Criminal Records Information System on third-country nationals (ECRIS-TCN), as well as with regard to the integration of those systems, including the shared biometric matching service; notes further that 947 carriers (both from inside and outside the Union) and 54 software providers for carriers registered with the Agency or applied for such registration in order to set-up system-to-system connections for EES and ETIAS; commends in this context the organisation of the industry roundtable titled ‘EES, ETIAS and Carriers Getting Ready for the Entry into Operation’ and the carriers registration and awareness campaign meant to increase awareness and boost registration; acknowledges that the VIS is undergoing major changes in line with the revised VIS Regulation; notes in this context that in 2022 the Agency launched two projects, one on the revised VIS and one on VIS interoperability, in order to structure the evolution of the VIS;
8. Notes further the progress made with regard to the new interoperability (IO) architecture that will integrate all the information systems managed by the Agency in order to improve information exchange and collaboration between law enforcement and judicial authorities across the Union; notes in that context that according to the Agency’s 2022 Consolidated Annual Activity Report (CAAR), while the Agency remained committed to delivering those new systems, the hindering effects of the supply chain disruptions, combined with the difficulties of some of the Agency's contractors to abide by the implementation schedules, resulted in delays that necessitated the review and revision of original plan; notes that such delays, in particular regarding the entry into operation of the EES central system, a cornerstone of

the interoperability architecture, have had a domino effect on the timeliness and execution of all interconnected projects; notes the measures taken by the Agency to address that issue by endorsing a new strategy for the implementation of the EES, the minimum viable product approach and a new interoperability roadmap, with the full revision of the IO timeline comprised of a number of waves that aim to deliver the components of the interoperability architecture components with intermittent releases every six to nine months up to 2026, as set out in the Agency's follow-up report; notes that according to the declaration of assurance by the Agency's executive director the extended timelines for the entry into operation of the EES programme is likely to impact the resources required to complete the development;

9. Notes with satisfaction that the Agency continued to deliver several other closely related statutory objectives, such as training for Member States on the use of JHA information systems and preparing statutory reports on their technical performance, annual statistics and lists of designated authorities; commends in this context that in 2022 the Agency delivered 48 trainings activities that reached over 3 000 participants, upgraded its e-learning platform and finalised its Member States training roadmap and the associated action plan; notes further that the Agency continued to expand its role in the Union's justice domain by starting preparations for the takeover of the e-CODEX system (a platform facilitating cross-border judicial proceedings through secure transmission of information), published a report on how the digitalisation of international travel will affect travellers headed to the Union, and co-authored a report with European Union Agency for Criminal Justice Cooperation (Eurojust) on using artificial intelligence solutions to support cross-border cooperation in criminal justice;
10. Notes the Agency's cooperation with other Union agencies, especially with the European Border and Coast Guard Agency (Frontex) on the development of ETIAS, with the European Union Agency for Law Enforcement Cooperation (Europol) on the implementation of the SIS Recast, EES, ETIAS, and Interoperability Regulations, with Eurojust) on the implementation of ECRIS-TCN and e-CODEX and the Interoperability Regulations and the coordination of activities related to the digitalisation of judicial cooperation, with the European Union Agency for Asylum (EUAA) on implementing the Commission Regulation on the 'DubliNet' electronic communications network, with the European Union Agency for Law Enforcement Training (CEPOL) on organising joint training courses on the use of JHA systems and with the European Union Agency for Fundamental Rights on organising joint training courses highlighting the aspect of fundamental rights in the management of JHA information systems; encourages the Agency to continue its cooperation with other Union agencies;

Efficiency and gains

11. Notes the measures taken by the Agency to improve its energy efficiency and environmental performance, including with regard to climate neutrality objectives, as set out in the Agency's follow-up report, CAAR, the Agency's replies to Parliament's written questions and the Court's report; notes in this context that in 2022 the Agency started to gradually implement its own environmental management system (EMS), based on the principles of EMAS and the Commission's European Green Deal Action Plan, and adopted its environmental policy; notes that the full implementation of the EMS and, consequently, the EMAS registration are foreseen to be achieved by 2024;

welcomes the Agency's participation in the greening network of the EU Agencies Network (EUAN) which offers the opportunity to benefit from material from other Union agencies with more experience in EMAS implementation; notes further that the Agency uses green public procurement criteria in business areas such as facility management, hardware projects and IT infrastructure and projects; commends the Agency for reporting on its environmental performance through a key performance indicator that indicates the Agency's carbon footprint; notes that the baseline for volumetric indicators for water, energy, paper consumption and waste production will be set in 2023 to be used for the calculation and evaluation of such indicators from then on;

12. Notes that according to the Agency's written replies to the Parliament's horizontal questions the Agency has concluded service level agreements (SLA) with several other Union agencies with respect to providing support in business continuity matters as well as to increase efficiency in other areas of cooperation; notes in this context that the Agency has SLAs with Frontex and EUAA for hosting their disaster recovery sites and an annual SLA with Europol for the organisation of joint Europol and eu-LISA security committee meetings; calls on the Agency to continue its cooperation with other Union agencies so that all available resources can be used; commends the Agency for its cooperation with the European Union Agency for Cybersecurity (ENISA) through an SLA that covers support services offered by ENISA on the planning, execution and evaluation of annual cybersecurity exercises;
13. Notes that in February 2022, the Agency adopted a sourcing strategy to clarify and harmonise its human resources (HR) planning in order to optimise the use of resources, in particular to balance the overall composition of the Agency's human resources (i.e. the ratio of in-house staff to external service providers); notes further that the Agency achieved efficiency gains using existing reserve lists created during previous selection procedures and grouped profiles and longer reserve lists to cover several posts within one recruitment procedure;
14. Commends the Agency for the progress made in 2022 towards the digitalisation of its processes; notes in the area of HR that the Agency implemented new modules of the SYSPER system (the Commission's integrated information system for HR management), namely the HR reporting module and the ATS module; notes in the area of procurement that in 2022 the Agency started to familiarise itself with the Commission's Public Procurement Management Tool (PPMT) and its requirements in order to meet the onboarding prerequisites which was successfully completed in 2023; notes that the Agency applies the eSubmission module for calls for tender above EUR 15 000; notes further that the physical signature from tenderers has been discontinued since the introduction of that module; calls on the Agency to step up its efforts towards the full implementation of the PPMT; notes lastly that in the area of prevention and management of conflicts of interest the Agency digitalised the submission of the mandatory declarations or requests to implement the relevant rules;

Staff policy

15. Notes that, on 31 December 2022, the establishment plan was 89,3 % implemented, with 192 temporary agents (193 in 2021) appointed out of the 215 temporary agents

authorised under the Union budget (compared to 213 authorised posts in 2021); notes that, in addition, 121 contract agents (CA) and 11 seconded national experts (SNEs) worked for the Agency in 2022, out of 167 CA and 11 SNEs authorised; notes that the number of budgeted CA posts increased by 35, from 132 to 167, due to the budget authorisation for the new tasks entrusted to the Agency (revised VIS, ETIAS, and Interoperability); notes that, despite the efforts of the Agency, the staff turnover increased from 5,5 % in 2021 to 7,1 % in 2022 and the occupancy rate dropped at 82 %, lower than the Agency's target of 94 %, in particular due to the a number of short duration and lower grade posts that the Agency has to offer;

16. Notes with concern the composition of the Agency's senior and middle management with respect to gender, with 12 men (86 %) and 2 women (14 %), of the management board with 50 men (82 %) and 11 women (18 %), and within the staff overall with 209 men (67 %) and 101 women (33 %); notes that according to the Agency's follow-up report the Agency continues the efforts towards reaching overall gender balance, focusing on communication and on the recruitment procedures to attract a higher number of female applicants; welcomes the Agency's participation in 2022 in the online global career fair 'Women in Tech'; welcomes further the appointment of the new Executive Director, thus reaching gender balance in senior management positions; recalls the importance to ensure gender balance and calls on the Agency to continue its efforts towards gender balance at all levels through concrete actions that attract applications from women for posts offered by the Agency; asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's management board;
17. Commends the Agency for its efforts in the HR area, striving to attract a diverse pool of candidates, to position the Agency as an employer of choice and to maintain talented staff; notes in this context that, in 2022, the Agency represented the EUAN at the virtual career fair for international organisations and intensified its employer branding activities through dedicated campaigns such as testimonials of members of staff in social media; commends the Agency for launching an internal mobility pilot programme, aimed at capitalising on the existing competencies of members of staff and fostering continuous professional growth within the Agency for its staff; notes in this context that the Agency has started developing its competency-based HR management strategy and revising its competency framework which will have an impact on vacancy notices and assessments of candidates;
18. Commends the Agency's policy for zero-tolerance on harassment; takes note that, in 2022, three administrative inquiries related to harassment were performed and concluded internally, with an additional case taken before the courts; calls on the Agency to proceed swiftly with holding those responsible for misconduct accountable; notes that, as of 2022, the Agency has signed a contract with an external law firm in order to be able to deal promptly with an increasing demand for administrative inquiries, including such inquiries linked to sexual or psychological harassment or to other disciplinary matters; notes that the Agency completed the selection of new confidential counsellors, with five new counsellors selected and trained to support the organisation in promoting further respect and dignity at the workplace and to support members of staff seeking assistance in situations perceived as psychological or sexual harassment;

19. Notes the Agency's measures to improve its employees' experience and well-being; notes that a mental health programme for staff and their families was initiated which includes a self-care subscription service, webinars and individual counselling sessions; notes that, upon derogation received in anticipation of a model decision, the Agency did not apply by analogy the Commission's decision of 24 March 2022 on working time and hybrid working; notes that as of September 2022, the Agency applied a decision by the executive director on interim hybrid working arrangements; further notes that on 16 November 2023 the Agency adopted the model decision with effective date of 1 January 2024; notes lastly, with appreciation, that the Agency has adopted EUAN's Charter on diversity and inclusion;

Procurement

20. Highlights the observations in the Court's report that led to a qualified opinion due to the irregularity of several payments made in 2022 for a total of EUR 17,8 million in connection with seven specific contracts, representing 4,8 % of the total payment appropriations available in 2022; notes that the irregularity of those payments is mainly linked to deviations from the corresponding framework contracts; notes that according to the Agency's replies to Parliament's written questions the irregularities with regard to payments made in 2022 can be grouped under three categories, namely amendment of fixed term contracts (EUR 6,5 million); extension of specific contracts beyond the maximum allowed time period (EUR 3,7 million); and lack of details on requirements in specific contracts (EUR 7,5 million); notes that some of those irregular payments, totalling EUR 10,5 million, relate to three specific contracts based on which payments were also made in 2021 and found irregular by the Court in its annual report on Union agencies for that year; notes that according to the statements made by the executive director of the Agency during her meeting with Parliament's Committee on Budgetary Control on 29 November 2023 (the 'statements of the executive director') six of the seven specific contracts identified in the Court's report have expired without outstanding payments; highlights that this has been a recurring issue for the Agency; notes the measures the Agency has taken to address them as set out in the Agency's replies to the Court's observations; calls on the Agency to continue to address that issue fully and report back to the discharge authority on the progress achieved;
21. Notes with grave concern that 2022 was the third year in a row for which the Court issued a qualified opinion regarding the Agency's procurement and contract management area, with elevated costs borne by the Agency, due to irregularities, delayed and inadequate tender procedures and lack of diligence displayed by the Agency with regard to procurement rules; notes the Agency's action plan for an in-depth review of its processes in order to identify and remove the root causes of the recurrent observations of the Court in that area as set out in the Agency's replies to Parliament's written questions, in the Agency's follow-up report and in the statements of the executive director; expects therefore a lasting improvement as a result of implementing that action plan, in particular given that six of the seven specific contracts deemed by the Court irregular have expired without outstanding payments; calls on the Agency to periodically report to the discharge authority on the progress achieved in the implementation of the action plan and any corrective actions undertaken;
22. Highlights that according to the Court's report in 2022, just as in 2021, the Agency

made payments based on a specific contract (of an amount of EUR 40 million) that did not properly implement the associated framework contract because it did not specify the details of the services acquired (the quantities and the date of delivery); notes that under that contract the Agency paid EUR 7,5 million in 2022; acknowledges that according to the Agency's comments included in the note of 13 November 2023 titled '2022 Discharge - ECA findings on eu-LISA. Brief note for MEPs' the root cause of the indeterminate nature of that contract, signed at the end of 2018, was the need to preserve funding for the EES-VIS interoperability, for which the budgetary planning, outside the Agency's control, shifted significantly from the actual adoption of the relevant legislation; notes that without that contract, the associated amount, necessary to ensure interoperability, would have been lost; notes, as set out in the Agency's reply to the Court's observation, the corrective measures that the Agency has taken through an amendment to that contract whereby a more detailed description of services provided was added; notes that the Agency did not extend that contract, which expired in 2022; recalls in this context that delays in the adoption and implementation of relevant legal acts are key factors in determining the level of detail and precision that the Agency is able to offer when initially establishing framework contracts; notes the view set out in the Agency's follow-up report that the shortening of the preparation period for the implementing acts would have a direct impact on the Agency's capacity to better plan its procurement and limit contractual changes;

23. Notes with concern that according to the Court's report the Agency used a negotiated procedure to award a contract, without prior publication of a contract notice; notes that the Agency justified this decision on grounds of extreme urgency against the advice of the Agency's procurement and legal services; notes the reasons of the Court as to why the use of that procedure was not justified; notes nevertheless the Agency's reply that a risk of maintenance gap of several months would have materialised because the timelines for implementing the EES programme formally changed at a later stage and the overall time necessary for the contract award and for transition to a new contractor was estimated to be of at least eight months; considers in this context that the Agency's approach was a sensible one; notes that according to the Agency's reply the awarded contract has meanwhile expired;
24. Notes further two observations regarding the Agency's management and control systems contained in the Court's report; notes the first observation with regard to the acquisition of hardware (EUR 27,7 million) for which the price lists of the hardware vendors were not obtained and *ex ante* checks were not performed; notes the second observation with regard to the procurement of a transversal operations framework contract with an estimated value of EUR 490 million that for six meetings of the evaluation committee no records were kept and only the final report was signed; calls on the Agency to improve its internal control systems to avoid such shortcomings in the future;
25. Notes that the Agency has eight observations from the Court's reports from previous years (2017, 2018 and 2021) with the status 'open'; urges the Agency to close those observations without delay and inform the discharge authority of the progress made in this regard;

Prevention and management of conflicts of interest and transparency

26. Notes that the Agency has implemented decisions on the prevention and management of conflicts of interest for its staff and on the outside activities during and after service of the Agency; welcomes that all members of staff have to submit declarations of interest once in two years, with the exception of members of staff involved in financial circuits and staff in senior management positions who have to submit such declarations annually; notes further that all Agency's staff has the obligation to also submit such declarations at any time when the situation changes; notes that the Agency publishes on its website the declarations of interest and the CVs of the staff in senior management positions; welcomes that as of 2022, both declarations of interest and CVs of the management board members and their alternates are published;
27. Welcomes that in March 2022, the Agency adopted the revised guidelines on whistleblowing; notes the Agency's statement that in 2022 it increased the clarity and visibility of the separate communication channels available to the staff, such as confidential counsellors or for whistleblowing; welcomes further the adoption of the guidelines on public access to documents; welcomes the entering into force as of September 2022 of the Agency's decision 09/08/2022 establishing a transparency register whereby meetings between the Agency's senior management and economic operators are published on the Agency's website;

Internal control

28. Acknowledges the importance of external audits on data protection compliance to ensure a high level of protection in connection with the Agency's processing of personal data; notes that, in 2022, the Agency continuously followed up on implementing recommendations identified in the audits conducted by the European Data Protection Supervisor (EDPS) of SIS, VIS and Eurodac; notes that, in 2022, a new EPDS inspection was carried out of Eurodac, VIS and SIS II which focused on the overall IT security governance, security incidents and data breaches, and methodology and practices for the secure development and testing of the systems, focusing on access control management in the different environments; notes that according to the Agency's follow-up report the status of the 2018 EDPS audit on VIS and SIS is 'completed' as all 43 recommendations have been completed, while the status of the 2019 EDPS audit on Eurodac is 'partially implemented' with 23 out of 29 recommendations completed;
29. Welcomes the Agency's annual self-assessment of its internal control system in 2022 resulting in 81 % of the Agency's internal control monitoring criteria being achieved or partially achieved; notes that the conclusion of that assessment is that the internal control system is present, functioning and effective, although some improvements are needed with regard to e.g. enforcement of accountability, *ex ante* controls and contract management; notes that a major deficiency on principle 10 'Selects and develops control activities' under the component 'Control activities' persists for a third year in a row; notes that, in 2022, the Agency continued to strengthen its controls on information management with the revision of the Agency's document long-term preservation policy and document preservation procedures, and with the adoption of Guidelines on Public Access to Documents; calls on the Agency to continue its efforts to reduce weaknesses in the area of control activities in order to mitigate risks related to the achievement of policies and operational and internal control objectives;

30. Notes that at the end of 2022 the implementation rate of audit recommendations from various audit and investigative bodies was 63 % with 20 recommendations implemented out of 32 recommendations due (12 recommendations were past the due date); notes that in total 33 recommendations were open at the end of 2022 out of which three were critical; calls on the Agency to implement the outstanding recommendations and to report to the discharge authority about the progress made;
31. Notes that, in 2022, the Agency requested the European Anti-Fraud Office (OLAF) to assess two cases of alleged fraud in recruitment procedures and one case of the possible existence of fraudulent activities on the part of a member of staff; notes that, in response to all three requests, OLAF decided not to open an investigation case; notes that, in 2022, the Agency addressed recommendations from OLAF investigations related to cases OC/2020/0441/A2 and OC/2017/1121/A2; welcomes the adoption of the Agency's anti-fraud strategy for 2022-2024 together with an action plan that comprises 12 actions;

Other

32. Notes that in 2022 the Agency was focused on ensuring the visibility of the Agency's achievements and increasing public awareness of its role in serving the interests of the Union citizens and delivering IT services to its stakeholders; commends in this context the Agency for the completion of its new online portal 'Discover eu-LISA 2.0' which provides stakeholders with an updated overview on the Agency's core tasks and business areas and for the publication of a special booklet to commemorate its 10th anniversary, with the latter being marked by the organisation, in cooperation with the Czech Presidency, of the Agency's conference '10 Years as The Digital Heart of Schengen', hosting 20 speakers and 388 participants; commends the Agency for having received in 2022 the Forbes Social Award for its innovative and inspirational initiatives in the field of public communication, standing out for its strong ethical vocation and its use of innovative communication strategies, techniques and tools; notes the improvement of the Agency's social media metrics in 2022;
33. Notes that, in 2022, the Agency adopted a large number of security and business continuity plans for its core business systems in order to guarantee a higher level of cybersecurity and resilience as required by the legal instruments and organised a cybersecurity exercise to verify the effectiveness of the security measures implemented for the protection of the central SIS; notes that the Agency substantially increased the level of monitoring of the corporate IT systems connected to the internet due to the increased cyber threat level derived from the Russia's illegal war of aggression against Ukraine;
34. Notes the continuing provision of hosting services for the backup systems of Frontex and the EUAA; notes the development and implementation of the 'data-centre-as-a-service' for centralising the operational management, monitoring and capacity planning of the IT infrastructure used by JHA systems; welcomes the progress made on the preparations for the future modular data centre which will provide additional buffer capacity and 50 % capacity increase for hosting new JHA systems; recalls the importance of compliance with Union law, notably in terms of data protection;

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35. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of [...] 2024² on the performance, financial management and control of the agencies.

² Texts adopted, P9_TA(2024)0000.

**ANNEX: ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

Pursuant to Article 8 of Annex I to the Rules of Procedure, the rapporteur declares that he has received input from the following entities or persons in the preparation of the report, until the adoption thereof in committee:

Entity and/or person
eu-LISA (Executive Director of eu-LISA)

The list above is drawn up under the exclusive responsibility of the rapporteur.

24.1.2024

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 2022 (2023/2165(DEC))

Rapporteur for opinion: Tomáš Zdechovský

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 2022 to be legal and regular in all material respects;
2. Regrets that in 2022, an amount of € 17.8 million, representing 4,8 % of the total payment appropriations available, was non-compliant expenditure which exceeded the materiality threshold set for the audit, therefore resulted a qualified opinion on the legality and regularity of payments by the Court, following qualified opinions on the irregularity of eu-LISA’s payments in 2020 and 2021; regrets that several observations from the Court from previous years are still ongoing; calls on eu-LISA to follow the observations from the Court and to step up efforts to implement corrective actions in all remaining cases of non-compliance and to report to the discharge authority on the progress achieved;
3. Notes with concern the observations of the Court on the legality and regularity of transactions, on management and control systems, and on budgetary management noting that the recurrent high rates of carry-overs, which represent €14,4 million of 2022 commitment appropriations carried over to 2023, contradict the budgetary principle of annularity and are indicative of structural issues in the budget process and implementation cycle;
4. Regrets that several 2022 payments were linked to three contracts including one specific contract of €40 million, which were found irregular in 2021 and 2022; notes the replies of the eu-LISA stipulating that number of irregular contracts were either revised and

amended, or not extended into 2023;

5. Notes with regret that, out of the nine observations from the Court dated in 2017, 2018 and 2021, only one was closed; acknowledges that eu-LISA developed an action plan to address the six ongoing observations from 2021; calls for a full implementation of this action plan; calls on the eu-LISA to fully address the Court's observations and to report on the progress achieved;
6. Notes the cooperation of eu-LISA with EU agencies, especially with the European Border and Coast Guard Agency (FRONTEX) on development of ETIAS, with the European Union Agency for Law Enforcement Cooperation (Europol) on implementing the SIS Recast, EES, ETIAS, and Interoperability regulations, with the European Union Agency for Criminal Justice Cooperation (Eurojust) on the implementation of ECRIS-TCN and e-CODEX, the Interoperability regulations, and the coordination of activities related to the digitalisation of judicial cooperation, with the European Union Agency for Asylum (EUAA) on implementing the Commission regulation on the 'DubliNet' electronic communications network, with the European Union Agency for Law Enforcement Training (CEPOL) on organising joint training courses on the use of Justice and Home Affairs (JHA) systems and with the European Union Agency for Fundamental Rights (FRA) on organising joint training courses highlighting the aspect of fundamental rights in the management of JHA information systems; encourages eu-LISA to continue its cooperation with the EU agencies;
7. Notes the continuing provision of hosting services for the backup systems of Frontex and the European Union Agency for Asylum; notes the development and implementation of the 'data-centre-as-a-service' for centralizing of the operational management, monitoring and capacity planning of the IT infrastructure used by JHA systems; welcomes the progress made on the preparations for the future modular data centre which will provide additional buffer capacity and 50% capacity increase for hosting new JHA systems; reminds the importance of compliance with EU legislation notably in terms of data protection;

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	23.1.2024
Result of final vote	+: 55 -: 0 0: 2
Members present for the final vote	Magdalena Adamowicz, Abir Al-Sahlani, Katarina Barley, Pietro Bartolo, Theresa Bielowski, Patrick Breyer, Saskia Bricmont, Jorge Buxadé Villalba, Damien Carême, Patricia Chagnon, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Erik Marquardt, Javier Moreno Sánchez, Maite Pagazaurtundúa, Diana Riba i Giner, Isabel Santos, Birgit Sippel, Vincenzo Sofo, Tineke Strik, Jana Toom, Milan Uhrík, Tom Vandendriessche, Elissavet Vozemberg-Vrionidi, Elena Yoncheva, Javier Zarzalejos
Substitutes present for the final vote	Cyrus Engerer, José Gusmão, Beata Kempa, Leopoldo López Gil, Janina Ochojska, Anne-Sophie Pelletier, Bergur Løkke Rasmussen, Róza Thun und Hohenstein, Maria Walsh, Tomáš Zdechovský
Substitutes under Rule 209(7) present for the final vote	Andrus Ansip, Hildegard Bentele, Maria da Graça Carvalho, Marisa Matias, Caroline Nagtegaal

**ANNEX: ENTITIES OR PERSONS
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

The rapporteur declares under his exclusive responsibility that he did not receive input from any entity or person to be mentioned in this Annex pursuant to Article 8 of Annex I to the Rules of Procedure.

VOTE FINAL PAR APPEL NOMINAL EN COMMISSION SAISIE POUR AVIS

55	+
ECR	Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Beata Kempa, Vincenzo Sofo
ID	Nicolaus Fest, Tom Vandendriessche
NI	Laura Ferrara
PPE	Magdalena Adamowicz, Hildegard Bentele, Maria da Graça Carvalho, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Leopoldo López Gil, Janina Ochojska, Elissavet Vozemberg-Vrionidi, Maria Walsh, Javier Zarzalejos, Tomáš Zdechovský
Renew	Abir Al-Sahlani, Andrus Ansip, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Moritz Körner, Caroline Nagtegaal, Maite Pagazaurtundúa, Bergur Løkke Rasmussen, Róza Thun und Hohenstein, Jana Toom
S&D	Katarina Barley, Pietro Bartolo, Theresa Bielowski, Cyrus Engerer, Maria Grapini, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Isabel Santos, Birgit Sippel, Elena Yoncheva
The Left	Cornelia Ernst, José Gusmão, Marisa Matias, Anne-Sophie Pelletier
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

0	-

2	0
ID	Patricia Chagnon
NI	Milan Uhrík

Légende des signes utilisés:

+ : pour

- : contre

0 : abstention

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	4.3.2024
Result of final vote	+: 19 -: 1 0: 1
Members present for the final vote	Olivier Chastel, Caterina Chinnici, Ilana Cicurel, Carlos Coelho, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Joachim Kuhs, Markus Pieper, Petri Sarvamaa, François Thiollet
Substitutes present for the final vote	Katalin Cseh, Bas Eickhout, Hannes Heide, Marian-Jean Marinescu, Sabrina Pignedoli, Wolfram Pirchner
Substitutes under Rule 209(7) present for the final vote	Dominique Bilde, Michael Gahler, César Luena, Miguel Urbán Crespo

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

19	+
ID	Dominique Bilde
NI	Sabrina Pignedoli
PPE	Caterina Chinnici, Carlos Coelho, Michael Gahler, Monika Hohlmeier, Marian-Jean Marinescu, Markus Pieper, Wolfram Pirchner, Petri Sarvamaa
Renew	Olivier Chastel, Ilana Cicurel, Katalin Cseh
S&D	Isabel García Muñoz, Hannes Heide, César Luena
Verts/ALE	Bas Eickhout, Daniel Freund, François Thiollet

1	-
The Left	Miguel Urbán Crespo

1	0
ID	Joachim Kuhs

Key to symbols:

+ : in favour

- : against

0 : abstention