



**2020/2167(DEC)**

25.2.2021

# **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 Border and Coast Guard Agency for the financial year 2019  
(2020/2167(DEC))

Rapporteur for opinion: Caterina Chinnici

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## 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. Stresses the increasing role and budget of the European Border and Coast Guard Agency ('the Agency' or 'Frontex'), commonly referred to as Frontex, in promoting, coordinating and developing European integrated border management in full respect of fundamental rights;
2. Welcomes the fact that the Court of Auditors ('the Court') has declared the transactions underlying the annual accounts of the Agency for the financial year 2019 to be legal and regular in all material respects and that its financial position on 31 December 2019 is fairly presented;
3. Notes that the budget of the Agency was increased from EUR 406 million to EUR 446 million (representing an increase of 9,8 %); takes note of the increase in the Agency's staff in 2019 from 630 to 749 (representing an increase of 18,8 %) and notes that the Agency reached an occupancy rate of 82% of the staff establishment plan at year-end (without counting the posts reserved for the standing corps); calls on the Agency to take into account the observations of the Court in this respect, improving the guidance given to selection committee members and verifying more closely the candidates' financial entitlements for the salary payments; points to the fact that although the Agency has received a large number of new posts, it was struggling to recruit all the necessary staff and recorded high vacancy rates in 2019; underlines the challenges posed for the Agency by the long planning cycle leading to the adoption of the Single Programming Document in light of the volatile environment it is operating in;
4. Welcomes the finding by the Court that the simplified and transparent financing scheme, in place since early 2018, covering the deployment of human resources, seems to be contributing to a reduced administrative workload, increased simplification and better monitoring of grants; regrets, however, the finding by the Court that, in 2019, while the Agency managed grant agreements with cooperating countries for operational activities amounting to 183 million euros representing 55 % of the Agency's budget, reimbursements of equipment-related expenditure (some 35 % of the Agency's operational expenditure in 2018, amounting to EUR 64 million) are still based on actual cost and as such, more prone to errors and that the intention to move to a unit cost-based scheme for reimbursements for this type of cost, has so far, been unsuccessful in its current form; further notes the Court's recommendation that the Agency should work on the development of a simplified and transparent financing scheme that also covers equipment-related costs; notes with regret that the Agency made reimbursements to cooperating countries without the necessary supporting documentation; notes that the Court nevertheless found that the Agency has taken steps to improve the ex-ante verifications and that the Agency re-introduced ex post verifications on reimbursements in 2019, in line with the Court's recommendations made in previous years; calls on the Member States to ensure that their respective border agencies submit the correct documentation to Frontex for actual costs incurred within the time period stipulated in

grant agreements;

5. Calls on the Agency to urgently take corrective action with regard to all outstanding observations of the Court, including the adoption and implementation of a sensitive posts policy in line with its own internal control standards, addressing the risk of double funding from the Internal Security Fund, managed by the Commission, and Frontex funding, and addressing the level of carry-overs, which remains high;
6. Reiterates that there is a persisting significant gender imbalance on the Agency's management board; urges that this imbalance be remedied as soon as possible; calls, therefore, on the Agency to remind Member States proactively of the importance of gender balance and calls on Member States to ensure gender balance when nominating their members to the Agency's management board;
7. Welcomes the creation of a register of documents but considers that the current register does not fulfil the legal requirements of Regulation (EC) No 1049/2001<sup>1</sup> as all documents produced and/or held by the Agency should be listed in the register; acknowledges that in line with Article 4 of that Regulation, the Agency may refuse access to documents where it is in the public interest as regards public security, defence and military matters, international relations or the financial, monetary or economic policy of the Union or a Member State; reiterates its call on the Agency to ensure full transparency in all its activities; more particularly, given the expected further significant overall increase of the Agency's budget in the coming years and its enhanced responsibilities, calls on the Agency to provide it with more detailed information on the implementation of its budget on operational activities per chapter listing the precise activities financed under the articles and items; regrets that the report of the Court of Auditors is assessing only legality and regularity of the Agency's spending; given the size and scope of the Agency's budget, calls on the Court to conduct a more qualitative assessment of the Agency's performance in the future, which would allow the discharge authority to better assess how the Agency's budget is being spent;
8. Notes with concern the serious and repeated allegations of the Agency's involvement in pushbacks of migrants and the allegations of violations of fundamental rights; urges the Agency to reinforce internal reporting processes particularly as regard fundamental rights, and to support a whistle-blower culture, making full use of the strengthened role of the Inspection and Control Office and the Frontex Guidelines on Whistleblowing ; notes the explanation provided by the Executive Director to the Committee on Civil Liberties, Justice and Home Affairs on 1 December 2020; notes the steps taken by the Agency in partnership with the Fundamental Rights Agency to improve fundamental rights protection in its operations, notably through a Service Level Agreement; understands, however, that this cannot substitute the recruitment of the Fundamental Rights Office, the Deputy Fundamental Rights Officer and the Fundamental Rights Monitors; notes, in that regard, the letter by reply of 18 December 2020 from the Director General for Migration and Home Affairs, Monique Pariat insists, therefore, that the Agency recruit the 40 fundamental rights monitors as required under Article 110(6) of Regulation (EU) 2019/1896 as a matter of urgency; calls on the Agency to establish a regular mechanism by which the Agency briefs Members of Parliament

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<sup>1</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

about ongoing operations including about serious incidents concerning fundamental rights violations at the external borders;

9. Recalls that Article 46 of the European Border and Coast Guard Regulation (EBCGR) provides for the obligation for the Executive Director of Frontex to suspend, terminate or not launch activities in case of violations of fundamental rights or international protection obligations that are of a serious nature or are likely to persist; underlines that Frontex' management board decided to conduct an internal inquiry after claims that the Agency was involved in pushbacks of migrants at Greece's external borders, involving the Fundamental Rights Officer, the Consultative Forum and the Fundamental Rights Agency, notes that, on the basis of the information available to it, the Management Board decided on 21 January 2021 to close their investigation on eight of the 13 incidents; notes, with concern other allegations surrounding the conduct of the Agency where it is present at some external land borders of the Union takes note of Frontex' recent decision to suspend its mission in Hungary following the ruling of the CJEU (Case C-808/18);
10. Takes note of the fact that OLAF has initiated an investigation on Frontex and that the Ombudsman has launched an inquiry into the Frontex complaints mechanism to deal with alleged breaches of fundamental rights as well as the role and independence of Frontex's 'Fundamental Rights Officer'; further takes note of the establishment of a Working Group within the LIBE Committee to monitor and investigate on the management and operation of Frontex;
11. Concludes that the increased competences and budget for the Agency need to be accompanied with a corresponding increase in accountability and transparency; stresses that the budget discharge for the Agency is conditional on such accountability and transparency, and especially on the Agency's commitment to Union law; stresses in this context the need for a full clarification of the alleged violations of fundamental rights at the external borders; underlines that an action plan is required to improve the mechanisms for monitoring and reporting fundamental rights violations and complaints in the Agency, including the hiring of 40 fundamental rights monitors able to fulfil the tasks of Article 110 of the Frontex Regulation<sup>2</sup>; recommends, on the facts available, the Committee on Budgetary Control to postpone the granting of discharge in respect of the implementation of the Agency's budget for the financial year 2019 until these elements have been adequately clarified and presented by the Agency and until the OLAF investigation is completed.

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<sup>2</sup> Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624.

## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	24.2.2021
<b>Result of final vote</b>	+: 48 -: 11 0: 4
<b>Members present for the final vote</b>	Magdalena Adamowicz, Malik Azmani, Katarina Barley, Fernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Patrick Breyer, Saskia Bricmont, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Clare Daly, Marcel de Graaff, Anna Júlia Donáth, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Jean-Paul Garraud, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Balázs Hidvéghi, Evin Incir, Sophia in 't Veld, Patryk Jaki, Livia Járóka, Marina Kaljurand, Assita Kanko, Fabienne Keller, Peter Kofod, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Nuno Melo, Roberta Metsola, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Terry Reintke, Ralf Seekatz, Michal Šimečka, Birgit Sippel, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Tomas Tobé, Dragoş Tudorache, Milan Uhrík, Bettina Vollath, Jadwiga Wiśniewska, Elena Yoncheva, Javier Zarzalejos
<b>Substitutes present for the final vote</b>	Malin Björk, Isabel Santos, Tom Vandenkendelaere

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

<b>48</b>	<b>+</b>
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Andrzej Halicki, Jeroen Lenaers, Nuno Melo, Roberta Metsola, Emil Radev, Paulo Rangel, Ralf Seekatz, Tomas Tobé, Tom Vandenkendelaere, Javier Zarzalejos
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Maria Grapini, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Isabel Santos, Birgit Sippel, Bettina Vollath, Elena Yoncheva
Renew	Malik Azmani, Anna Júlia Donáth, Sophia in 't Veld, Moritz Körner, Maite Pagazaurtundúa, Michal Šimečka, Ramona Strugariu, Dragoş Tudorache
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Alice Kuhnke, Terry Reintke, Tineke Strik
The Left	Pernando Barrena Arza, Malin Björk, Clare Daly, Cornelia Ernst
NI	Laura Ferrara, Martin Sonneborn

<b>11</b>	<b>-</b>
PPE	Nadine Morano
ECR	Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Nicola Procaccini, Jadwiga Wiśniewska
ID	Nicolas Bay, Nicolaus Fest, Jean-Paul Garraud, Marcel de Graaff
NI	Milan Uhrík

<b>4</b>	<b>0</b>
PPE	Balázs Hidvéghi, Livia Járóka
Renew	Fabienne Keller
ID	Peter Kofod

Key to symbols:

+ : in favour

- : against

0 : abstention