



2021/2157(DEC)

16.2.2022

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 Agencies for the financial year 2020: performance, financial management and control
(2021/2157(DEC))

Rapporteur for opinion: Ramona Strugariu

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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. Reiterates the important role of the Union's justice and home affairs (JHA) agencies and of the European Data Protection Supervisor (EDPS), and the important support they provide to the Union institutions, bodies, offices and agencies, and to the Member States in the areas of fundamental rights, security and justice by carrying out operational, analytical, managerial and monitoring tasks; reiterates, therefore, the need to ensure adequate financial and human resources to the JHA agencies and EDPS to enable them to fulfil their mandates in a fully transparent manner and in full compliance with fundamental rights;
2. Welcomes the fact that the Court of Auditors (the 'Court') declared that, overall, the audit of the annual accounts of the agencies for the financial year 2020 and the revenue and payments underlying them confirmed the positive results reported in previous years and that the Court confirmed the legality and regularity of the annual accounts of all JHA agencies and the revenue underlying those accounts for the financial year 2020;
3. Highlights that the agencies should focus on missions and activities with clear European added value and that the organisation of such missions and activities should be optimised to avoid overlaps in the best interest of the Union taxpayers;
4. Notes the Court's recommendation that the agencies' implementation of the budget should be subject to effective and efficient internal controls which should include *ex ante* controls aimed at preventing errors and irregularities before operations are authorised;
5. Notes the Court's observation with regard to excessive levels of carry-overs, in particular for the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), the European Union Agency for Fundamental Rights and the European Border and Coast Guard Agency (Frontex), and the recommendation that the agencies should further improve their budget planning and implementation cycles;
6. Notes that the Court did not audit the 2020 accounts of the European Public Prosecutor's Office ('EPPO'), as EPPO only launched its operations on 1 June 2021;
7. Notes that the Court found that the payments underlying the accounts were legal and regular for all agencies except for eu-LISA, for which a qualified opinion was issued because of two payments that were not compliant with the provisions of framework contracts entered into by eu-LISA, amounting in total to EUR 10 405 074 in 2020, representing 4,1 % of the total payment appropriations available to eu-LISA in 2020; acknowledges eu-LISA's reply that the largest irregular payment was connected to a specific contract and that the fact that it did not amend the relevant framework contract in time was a purely administrative matter; underlines that following the issuance of the Court observation, eu-LISA responded promptly, signing an amendment to that

framework contract in order to rectify the initial omission;

8. Notes that the Court did not address ‘other matters’ with regard to JHA agencies, with the exception of the European Asylum Support Office (EASO) (now the European Union Agency for Asylum), for which the Court drew attention to the launch of an open procedure for the provision of temporary agency workers to support its headquarters and its operations in Malta which resulted in judicial proceedings against EASO before the General Court by the unsuccessful tenderer challenging the outcome of the procurement procedure;
9. Appreciates all the efforts made by the agencies to maintain the high standard of their outputs, despite limitations posed by the COVID-19 pandemic; notes with satisfaction the joint paper on the COVID-19 response by the JHA agencies which captures the agencies’ individual and joint efforts to deal with the impact of the pandemic; welcomes the JHA agencies’ responses to the COVID-19 pandemic which led to unprecedented challenges for all; notes the Court review of the COVID-19 responses by the agencies which focused on three main areas (implementation of business continuity measures, day to day operations and recruitment procedures, and measures taken to support the wellbeing of staff); welcomes, furthermore, the Court's finding that the agencies, including JHA agencies, adapted well to the COVID-19 unprecedented situation by activating business continuity plans in good time to ensure the continuation of key governance processes' and staff's well-being; notes, however, that EASO did not have an approved business continuity plan at the outset of the pandemic;
10. Welcomes the cooperation within the JHA Agencies Network; calls on the JHA agencies to continue to develop synergies, increase cooperation and exchange good practices between them with a view to improving efficiency;
11. Welcomes the fact that the Court has declared that in most cases the agencies have taken corrective actions to address previous years' audit observations and calls on the JHA agencies to continue their efforts to follow up on the Court's observations, in particular in the fields of internal control, public procurement procedures and budgetary management;
12. Stresses the importance of ensuring gender balance in the governing bodies of all the agencies; reiterates that there is a persisting significant gender imbalance on the management boards of several JHA agencies; regrets the lack of gender balance and diversity within the staff of some JHA agencies; notes that some agencies resorted to take measures to achieve gender balance in senior management when positions became vacant; underlines that the responsibility for nominating members to the management boards lies with authorities of the Member States and not with the agencies themselves; calls, therefore, on the agencies to remind the Member States proactively of the importance of gender balance and to work on reaching gender balance in senior management as well as at all levels of staff and to report to the discharge authority on implemented measures and on progress in that respect; calls on Member States to ensure gender balance when nominating members to the management boards;
13. Notes the judgment of the Court of 11 November 2021¹ as regards the use of interim

¹ Judgment of the Court of 11 November 2021, *UAB „Manpower Lit“ v E.S. and Others*, C-948/19,

workers, addressing several questions concerning the application of Directive 2008/104/EC² on temporary agency workers to Union agencies; calls on those agencies to intensify their efforts to reduce the number of interim workers replacing members of staff;

14. Calls on all JHA agencies to take measures to ensure full compliance with Union transparency rules as well as with fundamental rights and data protection standards; calls upon them to comply with financial regulations and high management standards; considers that the disclosure of meetings and interactions between JHA agencies and third parties would ensure enhanced transparency by JHA agencies, provided that this is done in a manner that does not put operations at risk; encourages the JHA agencies to step up efforts in this direction;
15. Recalls the need for horizontal guidance from the Commission to Union offices, bodies and agencies on how to calculate contributions from third countries consistently in order to increase accountability and transparency, as pointed out by the Court;
16. Calls on all JHA agencies to take into account sustainability in their overall business processes in order to improve the agencies' environmental performance and to report to the discharge authority on implemented measures and progress;
17. Calls on all the agencies to continue presenting and publishing the results of their work and activities to citizens in order to increase general knowledge about their existence;
18. Calls on all JHA agencies to promote and ensure diversity in its recruitment policy; urges all JHA agencies to develop internal policies and practices to ensure inclusiveness and diversity, and to prevent any type of discrimination; invites the Court to systematically report on those issues in its future reports; urges all JHA agencies to implement a clear anti-harassment policy to prevent and firmly condemn harassment within their organisations; underlines the detrimental effect of a high staff turnover within some of the Union offices, bodies and agencies and calls for the implementation of human resources and social policies to remedy it; calls for the dependency on external recruitment to be addressed; notes the outcome of case C-948/19³ before the Court of Justice of the European Union;
19. Notes the Court's observation regarding an increase in weaknesses concerning human resources management, related in particular to recruitment procedures such as a vacant managerial post for an excessive period of time (EASO) and to the management of grades for new staff members (Frontex);
20. Recalls the importance of establishing and maintaining an active dialogue between the Commission and the agencies over the allocation of appropriate resources and the design of the respective establishment plans, especially with regards to the grade at which posts are allocated.

ECLI:EU:C:2021:906.

² Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ L 327, 5.12.2008, p. 9).

³ Judgment of the Court (Second Chamber) of 11 November 2021 in case C-948/19, *UAB „Manpower Lit“ v E.S. and Others*, ECLI:EU:C:2021:906.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	15.2.2022
Result of final vote	+: 58 -: 3 0: 7
Members present for the final vote	Magdalena Adamowicz, Abir Al-Sahlani, Konstantinos Arvanitis, Malik Azmani, Katarina Barley, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareș Bogdan, Patrick Breyer, Saskia Bricmont, Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Damien Carême, Caterina Chinnici, Clare Daly, Marcel de Graaff, Anna Júlia Donáth, Lena Düpont, Lucia Ďuriš Nicholsonová, Cornelia Ernst, Laura Ferrara, Nicolaus Fest, Jean-Paul Garraud, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Peter Kofod, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Nuno Melo, Nadine Morano, Javier Moreno Sánchez, Emil Radev, Paulo Rangel, Karlo Ressler, Diana Riba i Giner, Ralf Seekatz, Birgit Sippel, Sara Skyttedal, Vincenzo Sofo, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Yana Toom, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Elena Yoncheva, Javier Zarzalejos
Substitutes present for the final vote	Malin Björk, Tanja Fajon, Daniel Freund

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

58	+
ECR	Joachim Stanisław Brudziński, Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Vincenzo Sofo, Jadwiga Wiśniewska
ID	Peter Kofod, Tom Vandendriessche
NI	Laura Ferrara, Martin Sonneborn
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Lena Düpont, Andrzej Halicki, Jeroen Lenaers, Lukas Mandl, Nuno Melo, Nadine Morano, Emil Radev, Paulo Rangel, Karlo Ressler, Ralf Seekatz, Sara Skyttedal, Tomas Tobé, Elissavet Vozemberg-Vrionidi, Javier Zarzalejos
Renew	Abir Al-Sahlani, Malik Azmani, Anna Júlia Donáth, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Ramona Strugariu, Yana Toom
S&D	Katarina Barley, Pietro Bartolo, Caterina Chinnici, Tanja Fajon, Maria Grapini, Sylvie Guillaume, Evin Incir, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Birgit Sippel, Bettina Vollath, Elena Yoncheva
Verts/ALE	Patrick Breyer, Saskia Bricmont, Damien Carême, Daniel Freund, Alice Kuhnke, Diana Riba i Giner, Tineke Strik

3	-
ID	Nicolaus Fest, Marcel de Graaff
NI	Milan Uhrík

7	0
ID	Nicolas Bay, Jean-Paul Garraud, Annalisa Tardino
The Left	Konstantinos Arvanitis, Malin Björk, Clare Daly, Cornelia Ernst

Key to symbols:

+ : in favour

- : against

0 : abstention

