



2022/2134(DEC)

1.3.2023

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 2021: performance, financial management and control
(2022/2134(DEC))

Rapporteur for opinion: Saskia Bricmont

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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 EU Justice and Home Affairs (JHA) agencies, as they are indispensable for the implementation of EU policies, and the important support they ensure to the Union institutions and bodies and Member States in the sectors 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 JHA agencies; notes that all agencies should effectively perform their mandates;
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 year ended 31 December 2021 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 justice and home affairs (JHA) agencies and the revenue underlying those accounts for the financial year 2021;
3. Recalls that for the 2021 financial year, the Court issued unqualified ("clean") audit opinions on the accounts of all 44 agencies; Stresses that the Court issued three 'emphasis on the matter' paragraphs on four agencies, including on Frontex for reliability of the accounts regarding the carry-over to 2021, for reliability of the accounts concerning the incorrect calculation of contributions from non-EU Schengen area countries, and for reliability of the accounts and for the legality and regularity of payments concerning certification of the accounts; is concerned about weaknesses in recruitment at Frontex related to the evaluation process; reiterates its deep concern about the findings of the OLAF report and reaffirms that JHA Agencies must comply with fundamental rights and sound budgetary management as a pre-requisite for the discharge to be granted; highlights that Frontex is currently undergoing a transition process, following the resignation of its former Executive Director, in light of an OLAF investigation into the mismanagement of Frontex; notes the various actions taken by the ad-interim management to improve its activities and standards; calls on Frontex to fully implement these necessary reforms, also after the appointment of a non-interim Executive Director, and to report to the discharge authority about the progress achieved;
4. Notes that the EDPS requested to the Court of Justice of the European Union to annul two provisions of the amended Europol Regulation, arguing that they seriously undermine legal certainty for individuals' personal data and threaten the independence of the EDPS;
5. 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 six payments that were considered not compliant to the provisions of framework contracts, amounting in total to EUR 18.11 million in 2021, representing 6,2 % of the total payment appropriations available in 2021; calls on the Commission to better coordinate the allocation of resources to eu-LISA with the adoption of relevant

legislative acts; notes 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;

6. Notes with concern the weaknesses in public procurement procedures which are increasing and remain the main source of irregular payments and that the Court reported shortcomings in previous years for 22 EU agencies, including in relation to contracts signed by Frontex, eu-LISA, Eurojust, CEPOL and EASO;
7. Notes with concern the Court's findings on weaknesses in management and control systems in relation to 16 EU agencies and EPPO, including Frontex, Europol and CEPOL; notes that in particular for Frontex this is a returning issue; calls on these agencies and on the EPPO to step up their efforts towards effectively addressing these weaknesses and to report to the discharge authority about the progress achieved;
8. Notes that weaknesses in budgetary management can result in high carry-overs or late payments; is concerned that the Court found such shortcomings at Frontex, eu-LISA, EPPO and FRA; acknowledges that such situation could indicate a structural issue, weak budgetary planning, or possibly a contravention of the budgetary principle of annuality; recalls the importance of ensuring appropriate budget planning and its implementation cycles; notes however that in certain cases the level of high carry-overs is also a result of factors that are outside of the Agencies' control such as the nature of their activities expanding on multi-annual periods, or the necessity to recur to external contractors over periods that extend beyond the financial year, due to understaffing;
9. Welcomes the Court decision to examine potential 'revolving door' situations in its audit and asks that this topic, as well as the associated risk of conflict of interests, to be followed up and included in its future annual reports; shares the opinion by the Court that Agencies are particularly prone to the risk of 'revolving door' situations, in particular due to their governance model, which includes boards; expresses deep concern that the EU legal framework applicable to managing 'revolving door' risks lacks clear requirements on compliance and monitoring, and that it do not apply to members of the agencies' management boards; urges the agencies to ensure that internal rules managing 'revolving door' and potential conflict of interests risks are put in place and fully and correctly implemented;
10. Considers that the EU legal framework for managing 'revolving door' and conflict of interests risks should define a common legal basis defining a minimum level of requirements to prevent such situations, as well as the manner in which monitoring compliance of current and former staff with the 'revolving door' and conflict of interest requirements should take place; welcomes that FRA and Europol are two of the nine EU decentralized agencies that have provisions covering the risk of 'revolving door' situations in relation to members of its board, and requests that such provisions are fully implemented to prevent any potential future 'revolving door' case; calls on all EU agencies to take over this practice and implement provisions covering the risk of 'revolving door' situations; calls on the Commission to propose changes to prevent any risk of 'revolving door' and conflict of interest; welcomes that most agencies publish the declarations of interest of their senior management and members of their respective management boards; recalls that such declarations should have a clear format allowing

for the listing of any interests that may come in conflict with the nature of the position occupied; calls on the remaining agencies to follow this model and publish yearly declarations of interest of the above-mentioned representatives without further delay;

11. Reiterates its concern that the Court has identified a recurrent shortcoming applying to several agencies in the use of external staff and interim workers; calls for the dependency on external recruitment by agencies to be addressed and for applicable labour law to be respected; is concerned about the lack of appropriate grading for posts managing procurement procedures; notes the judgement of the Court of Justice of 11 November 2021 in Case C-948/19 which considered as part of the scope of the application of Directive 2008/104/EC temporary agency workers to Union agencies; calls on the agencies to rely as much as possible on permanent staff and on the Commission to ensure appropriate human resources allocations for this purpose;
12. Notes that for the 139 observations that had not been addressed at the end of 2020 among EU agencies, corrective action had been completed in 67 cases and was ongoing in 39 cases in 2021; calls on all the agencies to ensure follow-up on current and previous year's audit observations by the Court;
13. Reminds that cooperation among JHA agencies must be fully transparent and accountability ensured; requests all JHA agencies to take measures to ensure full compliance with EU transparency rules as well as with financial regulations, fundamental rights and data protection and sound budgetary management standards; considers that the disclosure of meetings and interactions between JHA Agencies and third parties when this can be ensured without prejudice to its operational activities, contributes to ensuring transparency by JHA Agencies; urges JHA Agencies to step up efforts in this direction;
14. 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;
15. Regrets the lack of gender balance and diversity in the Management boards and within the staff of some JHA Agencies; calls on all JHA agencies to ensure a gender balanced distribution on all levels of staff; further calls on all JHA agencies to take into consideration geographical balance when conducting their recruitment procedures and report to the discharge authority on implemented measures and progress achieved; further calls on all JHA Agencies to develop internal policies and practices to ensure inclusiveness and diversity, and prevent any type of discrimination; asks the Court to systematically inform about it in its future reports;
16. Urges all JHA agencies to implement a clear anti-harassment and anti-racism policy to prevent and firmly condemn any such behaviour within the organisation;
17. Recalls that whistle-blower protection within EU agencies is very important and should be in line with directive (EU)2019/1937; insists that a strong transparency and whistle-blower culture should be encourage.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	1.3.2023
Result of final vote	+: 56 -: 5 0: 1
Members present for the final vote	Magdalena Adamowicz, Abir Al-Sahlani, Malik Azmani, 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, 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
Substitutes present for the final vote	Susanna Ceccardi, Gwendoline Delbos-Corfield, Loucas Furlas, Beata Kempa, Philippe Olivier, Dragoș Tudorache, Petar Vitanov, Tomáš Zdechovský
Substitutes under Rule 209(7) present for the final vote	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

56	+
ECR	Patryk Jaki, Assita Kanko, Beata Kempa, Vincenzo Sofo, Jadwiga Wiśniewska
ID	Susanna Ceccardi, Annalisa Tardino, Tom Vandendriessche
PPE	Magdalena Adamowicz, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Karolin Braunsberger-Reinhold, Lena Düpont, Gheorghe Falcă, Loucas Furlas, Andrzej Halicki, Jeroen Lenaers, Nuno Melo, Ljudmila Novak, Stanislav Polčák, Karlo Ressler, Sara Skytvedal, Tomas Tobé, Javier Zarzalejos, Tomáš Zdechovský
Renew	Abir Al-Sahlani, Malik Azmani, Lucia Ďuriš Nicholsonová, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Ramona Strugariu, Yana Toom, Dragoş Tudorache
S&D	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	Saskia Bricmont, Gwendoline Delbos-Corfield, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

5	-
ID	Patricia Chagnon, Jean-François Jalkh, Philippe Olivier, Bernhard Zimniok
NI	Milan Uhrík

1	0
Verts/ALE	Patrick Breyer

Key to symbols:

+ : in favour

- : against

0 : abstention