



2022/2117(DEC)

2.3.2023

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 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

PA_NonLeg

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

Date adopted	1.3.2023
Result of final vote	<div style="display: flex; justify-content: space-between;"> +: 63 </div> <div style="display: flex; justify-content: space-between;"> –: 1 </div> <div style="display: flex; justify-content: space-between;"> 0: 0 </div>
Members present for the final vote	<p>Magdalena Adamowicz, Abir Al-Sahlani, 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</p>
Substitutes present for the final vote	<p>Susanna Ceccardi, Gwendoline Delbos-Corfield, Loucas Furlas, Beata Kempa, Philippe Olivier, Dragoș Tudorache, Petar Vitanov, Tomáš Zdechovský</p>
Substitutes under Rule 209(7) present for the final vote	<p>Gheorghe Falcă, Jean-François Jalkh, Petra Kammerevert, Marisa Matias, Martina Michels, Ljudmila Novak, Stanislav Polčák, Mick Wallace, Bernhard Zimniok</p>

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-Rareş 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, Dragoş 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

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NI	Milan Uhrík

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Key to symbols:

+ : in favour

- : against

0 : abstention