



2023/2172(DEC)

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
Border and Coast Guard Agency for the financial year 2022
(2023/2172(DEC))

Rapporteur for opinion: Tomáš Zdechovský

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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. Welcomes the fact that the Court of Auditors (the ‘Court’) has declared the transactions underlying the annual accounts of the European Border and Coast Guard Agency (Frontex or Agency) for the financial year 2022 to be legal and regular in all material respects;
2. Recalls its previous discharge resolutions, which identified shortcomings regarding fundamental rights framework, transparency, data protection and management culture which led the Parliament to refuse discharge of the Agency’s 2020 budget; welcomes the cooperation with the Discharge authority; notes the progress made by the interim and new management following up the recommendations to ensure business continuity in the Frontex, oversight and accountability; calls on the new management to continue engaging in deeply reformatting the organisational culture of the Agency and to periodically report to the discharge authority on its progress;
3. Highlights the need of a strong, effective and well-functioning Frontex, that is able to assist Member States, in efficiently managing the common external borders of the European Union, in ensuring integrated border management in full compliance with fundamental rights;
4. Notes the Frontex’s prompt response and support provided to Member States to deal with the consequences of the Russian invasion of Ukraine; welcomes the deployment of about 500 standing corps officers working along the eastern border from Finland to Romania, including more than 350 officers working at the EU-Ukraine borders; ; acknowledges that the Central Mediterranean remains the main migratory route into the EU; notes that sufficient resources and procedures of the EU and Member States must be allocated to contribute to saving lives, in line also with the Search and Rescue Convention at the same time, not to lead to disembarkation of migrants in unsafe ports;
5. Notes that in 2022, Frontex supported Member States with deployment of over 617 thousand work-days of standing corps, over 111 thousand asset-days of maritime, aerial and terrestrial assets in 20 operations including new 102 operational locations; further notes the increase in Frontex’ support to the effective return of 24,868 irregular arrivals provided to Member States; welcomes the deployment and assistance of Frontex personnel to the Republic of Moldova following the signature of the EU-Moldova agreement on border management cooperation;
6. Notes that Frontex is the largest EU agency which received more significant budget increases in the last years, in line with its new responsibilities; recalls that EU contributed EUR 788 million in 2023 in comparison to EUR 704 million in 2022; recalls that Frontex has been strengthened in terms of staff and technical equipment with its new mandate in 2019; notes that in view of the complex geopolitical situation highlighted by unprovoked Russian aggression in Ukraine, the importance of Frontex in supporting Member States increased significantly and efforts must continue in terms of

human and material resources; stresses that such increases in responsibility and budget for the Agency need to be accompanied by corresponding measures to ensure accountability, transparency, and scrutiny of the Agency's respect for Union law;

7. Welcomes that Frontex implemented 99,4% of its 2022 budget demonstrating the efficiency and effectiveness of internal controls put in place and the significant improvements made in the budget management; welcomes that measures have been taken and progress achieved to address some observations; notes however that many observations from previous years from the Court have not been closed yet on including on high levels of carry-overs and cancellations, as well as delays in the payments process and cancellations; notes the two observations on public procurements that should be addressed to avoid cases of irregularities in the implementation of procurement contracts, the delays in Frontex payments and lack of mitigating measures to address potential conflict of interest for recruitment; recalls that the shortcomings may expose Frontex to reputational and legal risks;
8. Welcomes that over the course of the last two years the Agency went through significant managerial changes, including a new deputy fundamental rights officer (FRO), a new chair of its Management Board, two new deputy executive directors and the appointment of a new executive director; notes the establishment of action plans with national authorities to right the wrongs of the past and present; further welcomes steps taken by Frontex to undergo a transition process and to improve the management culture and promote staff well-being; calls upon the new leadership to undertake reforms that are needed most notably in respect of fundamental rights, transparency and efficiency in internal procedures, and to increase accountability towards the Parliament and Council in accordance with the applicable legal framework;
9. Welcomes the strengthening of the Fundamental Rights Office, the creation of a network of fundamental rights focal points in all its entities to develop fundamental rights expertise in all areas of activity, as well the Fundamental Rights Action Plan; recalls that out of the 87 activities foreseen by the action plan to mainstream fundamental rights across all activities of the Agency, eight have been fully implemented; 56 have been implemented and were ongoing (are implemented on a systematic manner and a rolling-basis); 17 were partially implemented; and two were delayed;
10. Notes that following the recommendations for an effective border agency compliant with fundamental rights and in order to improve accountability, regularity, and legality of all Frontex activities additional 22 Fundamental Rights Monitors (FROMs) were externally recruited; recalls that all FROMs should be recruited on AD level, as soon possible through the appropriate procedures; points out that, based on the Agency's updated mandate, the number of FROMs should continue to grow; welcomes that the Fundamental Rights Office conducted 1 183 deployment days visiting 50 countries which is a substantial increase in comparison to the previous year;
11. Recalls that Frontex and relevant Member States authorities constitute the main guarantor for strong and protected European external borders while upholding fundamental rights and international protection obligations; notes that the FRO has concluded in his opinion of 1 September 2022 that the conditions for triggering Article

46 of the Frontex regulation were met; further notes that the Agency Working Group on Fundamental Rights Art 46 issued series of recommendations concerning fundamental rights in Greece of which in October 2023 four were fully implemented; notes the Agency Working Group intends to monitor further progress and that recommended measures continue to be applied; calls for all recommendations to be fully implemented as matter of priority and on Frontex to continue informing the Parliament on the progress made;

12. Notes Frontex' measures on transparency and scrutiny, namely providing Parliament and the Council with an overview of its activities through a new reporting tool called the 'dashboard'; encourages the chairpersons of the Management Board to continue inviting Parliament observers to its meetings and to consider extending the invitations to all agenda items, including in camera points, and to continue providing all supporting documents without exception and, if deemed necessary, in a confidential manner;
13. Recalls the Ombudsman recommendations in case Case OI/4/2021/MHZ that Frontex should ensure a more proactive approach to transparency with a view to ensuring greater accountability for its operations and recommendations from the Ombudsman in case Case OI/4/2022/PB in relation to the practices of the Agency in dealing with requests for access to documents; notes the development and continued implementation of comprehensive action plan to address the recommendations issued to Frontex in 2020 and 2021 by the Ombudsman aimed at the effectiveness and transparency of Frontex' complaints mechanism, role and independence of Frontex's FRO, compliance with fundamental rights obligations and accountability;
14. Recalls the Decision of European Data Protection Supervisor (EDPS) in relation to two Management Board decisions, in which EDPS highlighted several areas including increased processing and sharing of personal data that could lead to non-compliance with Regulation 2018/1725; notes that the Agency created an implementation plan to address EDPS recommendations; invites the Agency to continue cooperating with EDPS to address all outstanding issues;
15. Notes the preparation of an action plan to follow up on the issues raised in the European Anti-Fraud Office (OLAF) report presented to the Management Board in January 2023; calls on the Agency to fully address issues presented in OLAF report and continue reporting on the progress made in this regard; recalls the second OLAF investigation into management practices at the Agency which is underway, only nine months after the first OLAF investigation was closed; requests that allegations of misconduct are thoroughly checked and investigated; calls on the Agency to ensure the full and sincere cooperation with OLAF throughout all stages of the investigation and to regularly report to the Parliament about the progress of the state and outcome of the investigation;
16. Expresses concerns about the remaining outstanding legal cases and criticism on the agency's involvement in human rights violations, particularly pushbacks at the EU's external borders, which does not comply with its own regulations;
17. Notes the Court's emphasis on matter paragraph related to the incorrect calculation of contributions from Schengen associated countries (SAC); is concerned that the agreements between the EU and the SAC serving as legal basis for calculating their

contributions to EU budget are unclear and allow divergent interpretations resulting in a lower contribution by SAC calculated around 7%; recalls the Agency's reply that this is an established practice for calculations of the SAC contributions endorsed by the Management Board and Commission; calls the Commission to examine these agreements as there is no single automatic formula for setting the contributions to the EU and agencies budgets;

18. Further notes the second Court's emphasis on matter paragraph which related to certification of the accounts for the second year in a row; notes the Agency's reply that accounts could not be certified due to missing information relating to an IT system (Mission Management System), owned by the Commission, which supplies accounting data;
19. Calls on Frontex to fully implement, as a matter of priority, all pending recommendations from European audit and scrutiny bodies in particular those of the European Parliament's Frontex Scrutiny Working Group, the European Ombudsman, the Court and the Frontex's Working Group Fundamental Rights and Legal Operational Aspects of Operations (WG FRaLO), as well as all the actions required extracted from the OLAF report following its relevant investigation and remedy all the issues highlighted therein; encourages the Agency to step up ongoing efforts and take all actions needed to ensure full respect of EU standards, in particular in the field of budgetary and financial management, fundamental rights, organisational culture and transparency;

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	23.1.2024
Result of final vote	<div style="display: flex; justify-content: flex-end; align-items: center;"> <div style="text-align: right; padding-right: 10px;"> + : - : 0 : </div> <div style="text-align: right;"> 42 12 2 </div> </div>
Members present for the final vote	<p>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, 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, Lukas Mandl, 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</p>
Substitutes present for the final vote	<p>Cyrus Engerer, José Gusmão, Beata Kempa, Leopoldo López Gil, Janina Ochojska, Anne-Sophie Pelletier, Bergur Løkke Rasmussen, Maria Walsh, Tomáš Zdechovský</p>
Substitutes under Rule 209(7) present for the final vote	<p>Andrus Ansip, Hildegard Bentele, Maria da Graça Carvalho, Marisa Matias, Caroline Nagtegaal</p>

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

The rapporteur has received input from the following entities or persons in the preparation of the opinion:

Entity and/or person
European Border and Coast Guard Agency (“FRONTEX”)

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

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

42	+
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
Verts/ALE	Patrick Breyer, Saskia Briemont, Alice Kuhnke, Erik Marquardt, Diana Riba i Giner, Tineke Strik

12	-
ECR	Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Beata Kempa, Vincenzo Sofo
ID	Patricia Chagnon, Nicolaus Fest
NI	Milan Uhrík
The Left	Cornelia Ernst, José Gusmão, Marisa Matias, Anne-Sophie Pelletier

2	0
ID	Tom Vandendriessche
Verts/ALE	Damien Carême

Key to symbols:

+ : in favour

- : against

0 : abstention