RESOLUTION (EU) 2021/1551 OF THE EUROPEAN PARLIAMENT

of 29 April 2021

with observations forming an integral part of the decision on discharge in respect of the implementation of the general budget of the European Union for the financial year 2019, Section V – Court of Auditors

THE EUROPEAN PARLIAMENT,

— having regard to its decision on discharge in respect of the implementation of the general budget of the European Union for the financial year 2019, Section V – Court of Auditors,

— having regard to Rule 100 of and Annex V to its Rules of Procedure,

— having regard to the report of the Committee on Budgetary Control (A9-0059/2021),

A. whereas in the context of the discharge procedure, the discharge authority wishes to stress the particular importance of further strengthening the democratic legitimacy of Union institutions by improving transparency and accountability, and implementing the concept of performance-based budgeting and good governance of human resources;

1. Notes that the annual accounts of the Court of Auditors (the 'Court') are audited by an independent external auditor in order to apply the same principles of transparency and accountability that the Court applies to its auditees; notes with satisfaction the auditor's opinion that the financial statements give a true and fair view of the Court's financial position;

2. Notes that in 2019 the Court's budget amounted to a total of EUR 146 890 000 (compared to EUR 146 469 000 in 2018 and EUR 141 240 000 in 2017) and that 98 % of all appropriations were committed by the end of 2019 (compared to 96,21 % in 2018 and 97,73 % in 2017);

3. Recalls that the Court's budget is mostly administrative, with a large amount being used for expenditure concerning persons working within the institution (Title 1) and concerning buildings, movable property, equipment and miscellaneous operating costs (Title 2);

4. Recalls that the execution rates for Title 2 are not sufficiently improving with the rate of commitments amounting to 64,17 % (compared to 59,13 % in 2018 and 57,13 % in 2017) and the rate of payments amounting to 62,21 % (compared to 55,11 % in 2018 and 55,75 % in 2017); stresses the confirmation by the Court in its follow-up document to the 2018 discharge resolution that it will continue its efforts to improve the execution rates and to consider carefully their budget estimates;

5. Notes the Court's comment that it is more appropriate to monitor the budgetary execution of Title 2 from a two-year perspective; acknowledges that over the two-year period 2018-2019, 91,38 % of the payments on appropriations and 98,04 % of the payments on commitments were made;

6. Notes the continuation of carry-overs, e.g. of EUR 3 057 772 in 2019 under Chapter 21 (Data processing, equipment and movable property: purchase, hire and maintenance) compared to EUR 4 310 280 in 2018 due to on-going IT projects; states that the total carry-over for Title 2 from 2018 to 2019 amounted to EUR 6 068 597 and considers it a positive thing that this resulted in payments of EUR 5 777 454 on carry-overs;

7. Notes that the carry-over of appropriations for Title 1 and 2 from the financial year 2018 to the financial year 2019 amounted to EUR 7 406 944 and gave rise to payments amounting to EUR 6 553 576, a utilisation rate of 88,48 % which is equal to the utilisation rate in 2018;

8. Appreciates the fact that the Court is considering the suggestion in the 2018 discharge resolution that an independent annual report on the Union institutions should be presented as part of the reflections on the Court's strategy for the 2021-2025 period which should be adopted by the end of 2020; reiterates in this regard the need for a deeper examination by the Court of each and every institution in order to allow Parliament to fulfil its duties as discharge authority;

9. Welcomes the Court's dedication to prepare the first report on the performance under the Union budget, following the request by Parliament, aimed at assessing the results achieved from spending under the Union budget and, in particular, by providing an assessment of the performance under each Union policy; believes that performance audit is essential to evaluate the real impact of Union investments;

10. Regrets that the Court's follow-up to the 2018 discharge resolution provided only limited responses to Parliament's remarks; stresses that the follow-up is essential to enable Parliament's Committee on Budgetary Control to determine whether the Court has implemented Parliament's recommendations; calls on the Court to include all necessary responses and more detailed explanations on the implementation of Parliament's recommendations in its next follow-up report, making explicit reference to each paragraph of the discharge resolution and providing all necessary documentation;

11. Echoes the Court's recommendation that the Commission publish the annual management and performance report at an earlier point every year in order to examine and report on the regularity of the information presented; acknowledges the constraints following the COVID-19 pandemic that forced the Court to publish its 2019 annual report in November 2020;

Human resources

12. Notes that at the end of 2019, there were 853 permanent and temporary posts compared to 891 posts in 2013, constituting a decrease of 4,26 %; notes in particular that permanent posts decreased by 6,91 percentage points while temporary posts increased by 10,07 percentage points; asks the Court to assess whether the increasing tendency of using temporary posts is a response to the Court's specific needs or rather is a response to budgetary constraints; notes that the staff level is continuously reviewed and that the Court's establishment plan remains the same as in 2017 and in 2018 with 853 posts; notes that following the UK's withdrawal from the Union, and in accordance with the result of the negotiations, the establishment plan was adapted during 2019;

13. Appreciates the fact that the Court, in accordance with its 2018 to 2020 strategy, has extended its contacts with researchers, academia and think-tanks and that the Court as of 1 June 2020 has seconded 15 staff members to other international bodies; notes that the Court regularly hosts staff seconded from other international bodies and that the Court also provided 55 internships (compared to 60 in 2018) for university graduates for periods of three to five months; notes that, in 2019, six internships were unpaid; asks the Court to offer an allowance to interns that covers at least their living costs, even in the case of short-term internships; welcomes the fact that the Court entered into several partnerships with universities and professional organisations with a view to future cooperation;

14. Notes the fact that the Court's recruitment policy, based on the 2016 reform and the general principles and employment conditions of the Union institutions, makes the Court a task-based organisation; notes that members of staff are allocated to a Court-wide pool from which resources are allocated to audit chambers and tasks; notes that in the process of assigning members of staff from the pool to the tasks, the Court pays particular attention to ensuring that the necessary expertise and staff resources are made available in good time and that an adequate rotation of staff takes place across teams through a regular mobility exercise;

15. Appreciates that the Court followed up on the 2018 staff satisfaction survey and implemented activities related to staff well-being, such as the Court's network of confidential contact persons across the organisation to provide professional and, if requested, anonymous support to members of staff; notes that the Court also provides five free sessions with psychologists and organises presentations on how to deal with burnout and, for managers, on how to detect and deal with harassment;

16. Is concerned about the decrease in the number of female directors from 30 % in 2018 to 20 % in 2019 and the decrease in the number of female heads of unit from 39 % in 2018 to 35 % in 2019; notes, however, the slight increase in female Court members from 21 % in 2018 (6 out of 28 members) to 25 % in 2019 (7 out 28 members); underlines the commitment of Parliament's Committee on Budgetary Control to support a revision of the nomination process for Court members in order to reach gender balance (7 women and 21 men were members in 2019); recalls the invitation to Member States to be more active in encouraging women to apply for these kind of positions; reiterates that the Council should always present at least two candidates, one female and one male, during the appointment procedure;

17. Welcomes the Court's continuous efforts on the administrative level to promote equal career opportunities for staff and in particular to achieve gender balance in management positions; notes that the Court launched a leadership development programme in 2019, aimed at developing the skills of potential managers with equal participation by men and women;

18. Appreciates the participation of the Court in the Joint Committee of Equal Opportunities and in the equal opportunities action plan for the 2018-2020 period which also addresses the issues of age and disability; asks the Court to report on the implementation of the action plan to the discharge authority;

19. Urges the Court to strive for further improvements in the context of geographical balance of staff (specifically for AST functions groups 1-4 and 5-9 in which there is a significant overrepresentation of certain nationalities); calls on the Court to prepare an action plan for the recruitment of new staff members with attention to geographical balance, as stipulated in Article 7 of the Staff Regulations;

20. Notes that flexible working arrangements are available for all members of staff except for certain categories where this is not possible for practical reasons; notes, however, that a large majority of members of staff benefiting from those working arrangements in 2019 were women (87 % of staff working part-time and 68 % of staff who took parental leave); calls on the Court to reflect on this situation in the context of its career opportunities and diversity policies; encourages the Court to complete the flexible working arrangements with a protection of the staff members' right to disconnect;

21. Echoes the Court's remarks regarding the high cost of living in Luxembourg as constituting one of the main factors leading to difficulty in hiring and retaining staff; reiterates its concern about the growing problem of the purchase power disparity suffered by Union civil servants posted to Luxembourg;

Buildings, security

22. Welcomes the K2 building modernisation with the purpose of upgrading the building's technical installations, taking into consideration new environmental concerns, and transforming the current archiving spaces, which are no longer needed because of digitalisation, into a set of common collaborative and well-being spaces, such as meeting and videoconference rooms and coffee corners;

23. Values the fact that the Court performed a preliminary study in 2017 and that the outcomes of the study were taken into account in the current modernisation project; notes that the Court continues with the use of individual offices and only a few collaborative spaces; welcomes the fact that dedicated sessions were organised to share the project with the staff and that the feedback received was generally positive;

24. Welcomes the improvements to the security perimeter, in particular the construction of additional fences, new parking barriers and an entry lock for the car park in the K3 building, a project that was to be completed in 2020; notes that in 2019, in addition to regular expenses such as the periodical controls of installations, the Court invested EUR 123 000 in physical security;

25. Takes note of the measures taken with respect to the safety of staff, namely a contingency plan to deal with large-scale incidents, an internal procedure in case of a possible nuclear accident and a service level agreement with the European External Action Service to benefit from its advice regarding missions to countries with a high and critical level of threat;

Environment

26. Notes that an external eco-management and audit scheme (EMAS) audit was carried out at the end of 2019 and that as a result the Court has successfully renewed its EMAS certification for the period 2020 to 2022 and adopted a new action plan to face the climate emergency; notes that the Court's CO_2-balance is published on its site every year in order to track the Court's efforts to reduce its carbon footprint as part of the broader EMAS project and to achieve the Europe 2020 growth strategy goal of sustainable development, which was approved in 2010 by the European Council;

Digitalisation, cybersecurity

27. Welcomes the fact that the Court adopted a cyber-security action plan in mid-2018 with a three-year timeframe; notes that during 2019 the following objectives were achieved: a more effective and regular remedying of software vulnerabilities, the prevention of unauthorised access to cloud services, the review of information security governance and the improvement of security monitoring capabilities; welcomes the cyber-security awareness-raising session for the Court's staff; notes that the Court is also benefitting from the cyber-security services and infrastructure provided by the Computer Emergency Response Team for the EU institutions, bodies and agencies;

28. Welcomes the setting up of the digital steering committee with the aim of progressing the digital transformation of the audit under an initiative called 'ECA audit goes digital'; notes that in 2019, the ECA Lab, the Court's inter-disciplinary innovation laboratory focusing on the digital transformation of audit using data and technology, supported ten audit tasks, including a pilot project on using big data for performance audit; asks the Court to report to Parliament on any obstacles encountered while requesting data in a machine readable format from Union institutions;

29. Welcomes the fact that the Court's Decision No 6-2019 on the open data policy and the reuse of documents was published in April 2019 and that the Court's IT systems are based on solid architectural principles that take into account a cost-benefit approach in relation to mainstream technologies procured inter-institutionally; welcomes the fact that open source technologies are used at the Court in accordance with those principles; encourages the Court to prioritise open source technologies in order to prevent vendor lock-in, retain control over its own technical systems, provide stronger safeguards for the privacy and data protection of users and increase security and transparency for the public;

30. Notes with satisfaction that the Court set up an action plan in 2016 to be prepared for the Regulation (EU) 2016/679 ([1]) and to be compliant with that Regulation as soon as it became applicable to Union institutions, bodies, offices and agencies; notes that responsibilities for data protection and information security were restructured in 2019 in order to allocate and reinforce the resources allocated;

31. Encourages the Court to follow the recommendations of the European Data Protection Supervisor to renegotiate the interinstitutional licensing agreement and implementation contract, signed between the Union institutions and Microsoft in 2018, with the objective of achieving digital sovereignty, avoiding vendor lock-in and lack of control, and ensuring the protection of personal data;

Interinstitutional cooperation

32. Encourages the Court to develop further synergies and rationalisation with other Union bodies through inter-institutional cooperation; notes that the Court uses tools and services provided by or jointly with other institutions such as a service level agreement with the paymaster office of the Commission covering the management of pensions, financial rights and payroll; notes that the Court uses the Commission's IT tools in fields such as missions, HR, training and translation; welcomes the participation in joint procurement procedures with various other institutions for IT, translation, etc.;

33. Acknowledges the fact that, following the interinstitutionally agreed methodology, the cost of outsourcing translations in 2019 was EUR 2 740 366 and that if the corresponding translations had been done by in-house services, the total cost of the same pages would have been EUR 4 647 880;

34. Asks the Court to provide information on any improvements made with respect to the efficiency of administrative processes which are essential in light of an ever-increasing workload; recalls further the necessity of on-going reforms to ensure that the Court is well equipped to respond to future challenges;

35. Asks the Court to explore the possibility of joining the Transparency Register on the basis of a service level agreement; acknowledges the interinstitutional cooperation between the Court and other Union institutions and bodies through service level agreements; requests information as to whether a cost benefit analysis takes place before entering into any agreement;

([1]) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

36. Welcomes the administrative arrangement signed in 2019, providing a structured framework for cooperation between the Court and the European Anti-Fraud Office (OLAF) and facilitating a timely exchange of information under Regulation (EU, Euratom) No 883/2013 [2], and the Court's decisions related to internal investigations; welcomes the fact that the arrangement has already resulted in more efficient cooperation between the Court and OLAF, the establishment of permanent contact points allowing frequent exchanges, and faster and more regular feedback on cases transmitted by the Court to OLAF; notes that this arrangement also contains provisions on non-operational issues such as the organisation of training sessions, workshops and exchange of staff; notes that in 2019, the Court reported ten cases of suspected fraud to OLAF, compared to nine cases in 2018 (eight identified in the course of audit work and two denunciations made by third parties);

37. Notes that the European Public Prosecutor Office (EPPO) and the Court agreed to discuss a future administrative agreement to provide a framework for their cooperation; asks the Court to inform Parliament's Committee on Budgetary Control accordingly; welcomes the fact that the Court contributed to the creation of the EPPO's internal audit service;

38. Welcomes the fact that a memorandum of understanding with the European Central Bank (ECB) was signed in October 2019, setting out the practical arrangements for sharing information about the ECB's supervisory activities;

39. Appreciates the Court's cooperation with the supreme audit Institutions of the Member States, enabling the Court to promote independent external audit work in the Union and its Member States; takes note of the Court's involvement in the work of the International Organisation of Supreme Audit Institutions (INTOSAI), the European Organisation of Supreme Audit Institutions (EUROSAI) and the European Regional Group of INTOSAI, in particular in its working groups on environmental auditing, information technologies and the audit of funds allocated to disasters and catastrophes, and its task force on audit & ethics;

40. Notes that the European Ombudsman invited the Court (in the context of a consultation undertaken with all Union institutions) to comment on the Ombudsman's draft Practical recommendations for the EU administration on the use of official EU languages when communicating with the public (case SI/98/2018/DDJ) to which the Court replied by indicating that its current policy is already compliant; requests that national sign languages be included in this process;

Communication

41. Underlines the Court's efforts to further improve the way it communicates with its stakeholders, media and the general public; is aware that following the 2019 European elections the Court created a publications portal providing all Members of Parliament with relevant facts and figures; welcomes that this publications portal is now also publicly available on the Court's website and allows a quick and easy search of reports and publications; welcomes the current revamping of the Court's website to make the work and products more accessible and easier to follow;

42. Welcomes the fact that the Court sees a strong increase in media interest with particularly heavy coverage of its special reports;

Internal management, internal control, performance

43. Recognises that the Court applies a set of key performance indicators to monitor progress made; notes with appreciation that the Court's analysis showed that 96 % of the recommendations made in the 2015 annual report and 94 % of the recommendations made in the 2015 special reports have been implemented in full, mostly or in some respects; notes that the Court issued 6 annual reports, 36 special reports, 3 opinions, 18 audit previews and 4 other publications, being part of the altogether 67 publications it issued in 2019; notes that in 2019 approximately 52 % of the Court's audit resources were used for its statement of assurance work and the financial audits of the Union agencies and other bodies; asks the Court to report on the impact and satisfaction of its special reports and other products, as well as on the selected audit topics;

[2] Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

44. Calls on the Court to explore ways of providing more information on the administrative expenditure of other Union institutions in the context of the discharge; reiterates that the Court's overall audit approach necessitates further auditing work and more targeted assessment; repeats its call for a more dedicated review of the administrative expenditure and support activities of other Union institutions, specifically on topics that are becoming of higher or even critical relevance;

45. Welcomes the Court's efforts, in line with the Financial Regulation, to produce its special reports generally within 13 months while noting that the average time to produce the special reports still exceeds that time limit;

46. Welcomes the internal audit undertaken with respect to members' and high-grade officials' mission expenses, members' representation expenses and the use of the Court's car fleet with the objective of checking the reliability of the Court's management and control systems applicable to members and high-grade officials; notes that the vast majority of randomly selected operations examined by the internal audit service (IAS) complied with the rules and procedures applicable within the Court;

47. Notes that in his Opinion of 17 December 2020 ([3]), the Advocate General of the Court of Justice indicated that one particular member had breached the Court's code of conduct for members by abusing the rights and privileges attached to his position in the context of activities unrelated to his duties, leaving for unjustified absences and failing to declare external activities, transmitting confidential information in an unauthorised fashion, as well as having a conflict of interest; welcomes the fact that the Court asked OLAF to conduct an investigation, that it brought the case before the Court of Justice and that it is committed to complying with the recommended sanctions in order to recover all losses to the Union budget;

48. Notes that the audit showed that the case of the particular member investigated by OLAF was an isolated case; notes that the report concluded that the Court's management and control systems were affected by certain shortcomings which have, however, been effectively remedied since then and that in general the management and control procedures currently in place are reliable; takes into account the fact that the IAS made recommendations aimed at improving further the management and control system, that the audit report was strictly confidential, and that all members as well as the secretary-general of the Court received the report;

49. Notes that in the Opinion of the Advocate General of 17 December 2020, in which he clearly states that a breach of the obligations arising from the office of being a member of the Court took place, he recommends a sanction corresponding to the deprivation of two thirds of the particular member's pension rights and connected benefit as from the date of the judgment in the present case;

50. Notes that all audit tasks from the IAS' annual work programme 2019 have been closed with the exception of three which will continue in 2020: 'PMO service agreement', 'Audit of the building/facilities contract management model' and 'Training other than linguistic'; notes that in 2019 the IAS closed two remaining selected tasks from the annual work programme 2018; notes that the IAS confirmed the strategic importance of the horizontal committee responsible for the Court's quality assurance reviews related to audit policies, standards and methodologies; welcomes the fact that the IAS recommendation to develop the quality control arrangements is being implemented;

51. Acknowledges that the IAS reviewed the draft decision on the Court's internal control framework in 2019; notes that the IAS suggested including in the draft decision an additional provision to clearly instruct the authorising officers by delegation to implement the internal control principles and characteristics in 2019 and to conduct an overall assessment of the implementation and functioning of the entire internal control framework at least once a year, and that this should be done for the first time in the context of the 2020 annual activity report, at the latest;

([3]) Opinion of Advocate General Hogan delivered on 17 December 2020, *European Court of Auditors v Karel Pinxten*, C-130/19, ECLI:EU:C:2020:1052.

52. Welcomes the fact that the IAS considers that in general reliable ex-post controls have been conducted for most of the high risk areas of the work of the directorates of the secretariat-general, based on the risk register and the operational objectives; appreciates being informed, particularly in the context of the past problems identified by an OLAF investigation of a particular member of the Court, that the IAS has not observed any shortcomings that are of such importance as to seriously call into question the overall reliability of the internal control systems put in place by the authorising officer by delegation with regard to the legality and regularity of financial operations in 2019; would appreciate receiving such updates also in the future;

53. Agrees with the Court's current strategy to improve the added value of the statement of assurance, focus more on the performance aspects of Union action and make sure to deliver clear messages to the audiences; notes that in 2019 a group of four supreme audit institutions, being the supreme audit institutions of Estonia, the Netherlands, Denmark and the United States of America, carried out a peer review of the Court's strategy; notes that the report was published in March 2020 and provides valuable input for the next strategy;

Transparency

54. Notes that members are authorised to use official vehicles in the performance of official duties; notes that the use of official vehicles for other journeys is not included in the performance of such duties, and that since 1 January 2017 the costs and kilometres related to the use of official cars have decreased significantly; emphasises the new rules on the use of official cars and drivers to ensure that members' journeys are related only to the execution of their duties; reiterates its opinion that the use of official vehicles for private use should not take place under any circumstance, considering that this practice may harm the reputation of the Court and, in general, of the Union institutions; notes that the new rules entered into force on 1 January 2020 and introduced a monthly EUR 100 contribution for the non-official use of the vehicles as well as a liability on the part of the members and the secretary-general for certain costs and charges;

55. Regrets that only very limited follow up was done by the Court with respect to paragraph 18 of the 2018 discharge resolution on the need for a register of leave for members of the Court; notes that the Court will consider carrying out a comparative analysis of the rules and best practices existing in other Union institutions as regards the presence and absence of Union high-level public office holders as defined in Regulation (EU) 2016/300 ([4]); recalls that Parliament has called clearly on the Court to establish procedures for keeping a register of members' annual leave, sick leave and absence from work for other reasons in order to ensure that all leave taken by members is effectively recorded; stresses that the current practice could undermine the trust of Union citizens and institutions in the Court;

56. Notes that, in light of the obligations of the members to attend all meetings of the Court, of the chambers and of the administrative committee to which they belong, an attendance register is kept by the Court's secretariat; notes that it reflects the presence and absence of members and shows also which absences are considered as excused by the president of the Court; notes that the attendance register is part of the Court's rules implementing its rules of procedure;

Conflict of interest, harassment, whistleblowing

57. Asks the Court to provide information on the results of three harassment complaints reported and investigated in 2019; notes that they were handled in accordance with the procedures laid down in the policy for maintaining a satisfactory working environment and combating psychological and sexual harassment; acknowledges that in terms of expenditure, the investigations of each case were carried out internally and thus did not entail any additional costs; welcomes the intention to evaluate the Court's policy on protecting staff against harassment every three years and that this exercise was due to be carried out in 2020;

58. Highlights the fact that the supreme audit institutions of Poland and Croatia carried out a significant peer review of the Court's ethical framework; notes that in the opinions of the peers the Court's ethics control system should be further improved by a more comprehensive assessment of ethics risks, by greater consistency and clarity in its rules on ethics, and by improved information and communication activities;

([4]) Council Regulation (EU) 2016/300 of 29 February 2016 determining the emoluments of EU high-level public office holders (OJ L 58, 4.3.2016, p. 1).

59. Supports the conclusions of the peer review with respect to the need to introduce regular updates of declarations of interest, which would increase their reliability; continues to reiterate its concern that the declarations of interest are of a self-declaratory nature and that, given the current legal framework, neither the Court nor its ethics committee have any investigative powers to ensure the veracity and the exhaustiveness of the declared data; calls on the Court to ensure that members submit declarations of interest instead of declarations of the absence of conflicts of interest; underlines that the current procedures, including those of the ethics committee, need to be reinforced to ensure the absence of conflicts of interests; agrees that the ethics committee plays a crucial role to the extent that the president and the members of the Court may seek its advice on any question pertaining to ethics and on the interpretation of the code of conduct; notes, moreover, that the committee is entrusted with approving any external activity undertaken by the members, including former members who intend to carry out an activity in the two years after they leave the Court, but this cannot be considered in itself an effective instrument to ensure the absence of conflicts of interest as already underlined in last year's discharge resolution; welcomes the adoption of the revised Code of Conduct for members and former members of the Court of Auditors ([5]) and in particular the more extensive information required in Declarations of Interest and the enhanced role of the Ethics Committee; notes that the Court will publish a yearly report on the application of its Code of Conduct; further notes that the Court is currently reviewing the ethical framework concerning its staff.

([5]) OJ L 30, 28.1.2021, p. 10.