RESOLUTION (EU) 2021/1624 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 budget of the European Chemicals Agency for the financial year 2019

THE EUROPEAN PARLIAMENT,

— having regard to its decision on discharge in respect of the implementation of the budget of the European Chemicals Agency for the financial year 2019,

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

— having regard to the opinion of the Committee on the Environment, Public Health and Food Safety,

— having regard to the report of the Committee on Budgetary Control (A9-0075/2021),

A. whereas, according to its statement of revenue and expenditure ([1]), the final budget of the European Chemicals Agency (the 'Agency') for the financial year 2019 was EUR 112 834 290 representing a decrease of 4,99 % compared to 2018; whereas approximately 39,51 % of the Agency's budget derives from fees and charges and 57,61 % from the Union and third countries ([2]) (in 2018, 72,47 % from fees and charges and 26,18 % from the Union and third countries); notes that the significant changes in budget composition when compared to the previous year are related to Regulation (EC) No 1907/2006 ([3]) which provided for a final registration deadline in 2018, and as no further registration deadlines are defined in Regulation (EC) No 1907/2006, no peaks in registration fee income are expected;

B. whereas the Court of Auditors (the 'Court'), in its report on the annual accounts of the Agency for the financial year 2019 (the 'Court's report'), states that it has obtained reasonable assurance that the Agency's annual accounts are reliable and that the underlying transactions are legal and regular;

Budget and financial management

1. Notes with satisfaction that budget monitoring efforts during the financial year 2019 resulted in a budget implementation rate of 98,79 %, representing a decrease of 1,13 % compared to 2018; notes with concern that the payment appropriations execution rate was 86,09 %, representing a decrease of 0,95 % in comparison to 2018;

2. Emphasises that the Agency is partly financed from the fees it receives from companies that request the registration of chemicals as required under Regulation (EC) No 1907/2006; notes that the applicable fees depend on the size of the companies and the volume of chemicals registered (different thresholds); notes that, according to the Court's report, since the first registrations in 2009, some 26 % of the companies claimed to be micro, small or medium-sized; notes with concern, however, that thanks to the Agency's effective system of ex-post verifications, the Agency has identified that some 50 % of the companies had incorrectly declared their size, resulting in lower fees; stresses that this finding demonstrates the limitations of a system that relies excessively on self-declarations made by applicants; notes that, in order to mitigate this situation, the Agency has, over the years, invoiced and cashed fee corrections and administrative charges amounting to EUR 32,2 million, and that the Agency has made considerable progress in recovering undue fee reductions and collecting overdue administrative charges; notes, however, that there is still a considerable verification workload ahead and that the remaining amount of necessary fee corrections was unknown at the end of 2019; calls on the Agency to report to the discharge authority on its efforts, and on the results achieved, to continue to reduce the considerable verification workload and to implement the fee corrections; asks the Commission to propose measures to solve this situation, thereby avoiding fraud in declaring the size of the applicants and granting more stable budget planning for the Agency;

([1]) OJ C 107, 31.3.2020, p. 255.
([2]) OJ C 107, 31.3.2020, p. 255.
([3]) Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

3. Notes, regarding follow-up of the Court's findings concerning the financial year 2018, that the Agency has revenues coming both from fees and charges payable by industry, and a balancing subsidy from the Union budget; notes that, as the third registration deadline under Regulation (EC) No 1907/2006 expired in May 2018, income from fees and charges started to drop significantly from 2019 onwards and this trend is expected to continue; points out that there is a risk that relatively stable expenditure and much less predictable revenue may have a negative effect on the Agency's operations and budget implementation; takes note, however, that according to the Agency's reply, it has engaged proactively and is in ongoing discussions with the Commission to work towards ensuring sustainable financing and overcoming challenges in its financing model; calls on the Agency and the Commission to keep the discharge authority updated on developments in this regard; points out that relying on a predictable balancing subsidy from the Union budget, combined with transferring the income from fees and charges to the Commission, may guarantee more predictable revenue for the Agency, necessary to fulfil its mandate;

Sustainability

4. Highlights the fact that with regard to Regulation (EU) No 649/2012 ([4]) ('PIC Regulation') and Regulation (EU) 2019/1021 ([5]) (the Regulation on Persistent Organic Pollutants (POPs)), the Agency is fully financed by a Union subsidy, which amounted to EUR 1,56 million in 2019 (EUR 1,10 million for PICs in 2018);

5. Welcomes the Agency's efforts to provide a cost-effective and environmentally friendly workplace and all the measures taken by the Centre to reduce its CO_2 emissions, its energy consumption and to develop a paperless workflow; notes with satisfaction that the Executive Director of the Agency has pledged that the Agency will be carbon neutral by 2030;

Performance

6. Acknowledges, that the Agency reworked its performance management model for the 2019 Work Programme, with a view to better indicating the impact and outcome of its work; regrets that the Agency achieved 34 out of 53 of its key performance indicator targets in 2019; notes the Agency's comment that the 19 targets that were not met relate mainly to input and output indicators that are difficult to predict based on several factors; urges the Agency to strive to achieve 100 % fulfilment of its key performance indicator targets;

7. Recalls that the Agency is the driving force among regulatory authorities in implementing the Union's chemicals legislation for the benefit of human health and the environment as well as for innovation and competitiveness; notes that it provides information on chemicals, helps companies comply with legislation and brings about advances in the safe use of chemicals;

8. Acknowledges that the Agency underwent a strategic reorganisation in 2019 and has a new strategic plan for 2019-2023 with the following three strategic priorities: identification and risk management of substances of concern, safe and sustainable use of chemicals by industry, and sustainable management of chemicals through the implementation of Union legislation;

9. Regrets the absence in the 2019-2023 strategic plan of any pro-active measures and resourcing for speeding up, improving and quantifying reductions in the number of animal tests and the replacement of such tests by new approach methodologies; reiterates the importance of the principles of the 3Rs (Replacement, Reduction and Refinement) in animal testing; notes the recommendation made by Parliament in its resolution of 10 July 2020 on the Chemicals Strategy for Sustainability ([6]) that there should be a team established within the Agency exclusively dedicated to animal protection and the promotion of non-animal test methods; notes with concern the reply given by the Agency's Director in discussion with the Committee on Budgetary Control on 7 January 2021 that the Agency has not followed up on Parliament's call to reduce animal testing; urges the Agency to strongly reduce its reliance on animal testing; calls on the Agency to contribute to international activities aimed at promoting alternative test methods within its mandate and to regularly publish information on the use of alternative methods under REACH;

([4]) Regulation (EU) No 649/2012 of the European Parliament and of the Council of 4 July 2012 concerning the export and import of hazardous chemicals (OJ L 201, 27.7.2012, p. 60).
([5]) Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p. 45).
([6]) Texts adopted, P9_TA(2020)0201.

10. Recognises that the new organisational structure, introduced at the start of 2019, was designed to increase the Agency's interconnectivity and facilitate more collaborative ways of working; welcomes the 50 % increase in full compliance checks of substances compared to 2018, which was achieved as a result of an increased focus on compliance checks through internal staff redeployment and without additional resources being allocated to the Agency;

11. Notes that the Agency continues to share its internal audit capability with the European Global Navigation Satellite Systems Agency, and that the Agency provided support to the Consumers, Health, Agriculture and Food Executive Agency for data protection services in 2019, furthermore, the Agency closely collaborates with other agencies, including by way of sharing services in the context of an inter-agency network and by way of sharing resources through memoranda of understanding; commends this cooperation as an example for other agencies that is worth following; encourages the Agency to seek further and broader cooperation with the Union's other agencies; encourages the Agency to initiate discussions on the topic of resources-sharing on overlapping tasks among other agencies with similar activities;

12. Calls on the Agency to continue to develop its synergies, increase cooperation and exchange of good practices with other Union agencies with a view to improving efficiency (human resources, building management, IT services and security);

13. Asks the Agency to develop guidance on the minimum information requirements needed to justify granting derogations concerning restrictions and to ensure that no derogation is accepted when registration dossiers are not compliant or updated;

14. Stresses the importance of increasing the digitalisation of the Agency in terms of internal operations and management procedures; stresses the need for the Agency to continue to be proactive in this regard, in order to avoid a digital gap between the agencies at all costs; draws attention, however, to the need to take all the necessary security measures to avoid any risk to the online security of the information processed;

15. Recalls the importance for the Agency of developing greater visibility in the media, on the internet, and in social media in order to make its work known;

Staff policy

16. Notes that, on 31 December 2019, the establishment plan was 96,75 % executed, with 446 temporary agents appointed out of 461 temporary agents authorised under the Union budget (compared with 452 authorised posts in 2018); notes that in addition, 122 contract agents and 14 seconded national experts worked for the Agency in 2019;

17. Notes that there was gender imbalance in 2019 with regard to the senior management positions (71 % male and 29 % female) and with regard to the management board (69 % male and 31 % female); asks the Agency to ensure there is gender balance at the senior management level in the future; asks the Commission and the Member States to take into account the importance of ensuring there is gender balance when appointing their members to the Agency's management board;

18. Notes that the Agency has an anti-harassment policy and related guidelines in place; acknowledges that it organised training sessions and made confidential counselling available, furthermore, notes that a pilot project with mediation in teams that have experienced conflicts was started in 2019; notes that the Agency had one informal harassment procedure in 2019;

19. Notes the publication of the Agency's vacancy notices on its website, on social media and on the EU Agencies Network's dedicated site, in order to publicise such notices more; notes the Agency's reply that it has started to review processes to be able to post vacancy notices on the website of the European Personnel Selection Office; calls on the Agency to publish vacancy notices on the website of the European Personnel Selection Office; calls on the Agency to explore further possibilities of attracting highly-qualified staff by broadening the reach of vacancy notices; calls upon the Agency to focus on disseminating the results of its research to the general public;

20. Welcomes the Agency's efforts to build a more diverse and inclusive work environment and culture by taking actions in favour of people with disabilities, asks the Agency to assess the possibilities of further strengthening and integrating the principles of equal opportunities in recruitment, training, career development and working conditions, as well as to raise staff awareness of these aspects; and requests the Agency to assess the possible reasonable improvements and modifications of the Agency's buildings (access, adequate office equipment) for people with reduced mobility or other disabilities;

21. Encourages the Agency to pursue the development of a long term human resources policy framework which addresses work-life balance, lifelong guidance and career development, gender balance, teleworking, geographical balance and the recruitment and integration of people with disabilities;

22. Underlines, furthermore, the necessity of ensuring there is adequate staffing reflecting the needs of the European Green Deal and the Union Chemical Strategy for Sustainability, the Circular Economy Action Plan and zero pollution ambition in particular, and for additional resources for any additional tasks required, such as the Agency conducting its own evaluations of substances;

Prevention and management of conflicts of interest, and transparency

23. Welcomes the fact that the Agency publishes on its website the CVs of all members of the Management Board and its Committees, including those of its chairs who are members of staff of the Agency, the Executive Director and all members of the Board of Appeal; welcomes the fact that the Agency publishes the declarations of interest of all members of the Management Board, the senior management and the Committee Chairs on its website;

24. Calls on the Agency to align its practices with the recommendations of the European Ombudsman of 7 May 2020 in case 2168/2019/KR in particular by ensuring, where necessary, that the option of forbidding its senior staff from taking up certain positions after their term-of-office has ended is invoked, by setting out criteria for when it will forbid moves of staff to the private sector; by informing applicants for senior posts in the Agency of the criteria when they apply, and by putting in place internal procedures so that once a member of its staff moves to another job, their access to confidential information is cut off with immediate effect;

25. Welcomes the further steps taken in order to enhance transparency and whistleblower protection, such as mandatory online training courses on whistleblowing for all staff, and a continued focus on awareness of ethics, procurement and contract management, and information security; notes that, according to the Agency, all meetings of its senior management with stakeholders are registered and published on its website to ensure that there is full transparency;

26. According to the Agency, its budgeted fee income for 2019 represents circa 39,5 % of its total income; acknowledges that the Agency has an exemplary system of monitoring and for preventing any conflicts of interest, and its view that there is a limited danger of such conflicts arising, due to the cost-covering purpose of the fees and the regular assessment of the Agency's staff involved in opinion-making to ensure there is independence; notes that the Agency would welcome a solution whereby the Commission would collect the fees on behalf of the Agency, thereby facilitating the Agency's financial management and helping to mitigate the risks of shortfalls; notes that the fees paid by industry vary substantially year by year, and that it is therefore not possible for the Agency to estimate the need for a balancing subsidy from the Union budget at a reasonable margin, which complicates budgetary planning; calls for a dialogue on how to reform the financing mechanism of the Agency, with the aim of putting it on a sustainable basis;

27. Underlines the fact that the current ethical framework applying to Union institutions and agencies suffers from considerable drawbacks due to its fragmentation and the lack of consistency between existing provisions; highlights that these issues should be addressed by setting up a common ethical framework, ensuring the application of high ethical standards for all Union institutions and agencies;

28. Underlines that certain officials fill in declarations of absence of conflicts of interest and provide self-assessments with regard to respect for ethical standards; highlights, however, that such self-declarations and self-assessments are not sufficient and that additional scrutiny is therefore needed;

Internal controls

29. Notes from the Court's report that, in one audited procurement procedure, the tender specifications did not give tenderers a clear understanding of how to price a certain item in their financial offers, and, since the offers were not comparable, the Agency decided to cancel and relaunch the procedure, which added extra time to the procedure and created a potential reputational risk for the Agency; notes the Agency's comment that procurement documents were considered to be clear and comprehensive, and the additional effort involved in relaunching the procedure was minimal, with no reputational consequences;

30. Notes from the Court's report, that the decision making process in recruitment procedures was not sufficiently structured and exhaustive to provide for a clear, chronological trail showing when the documents had been approved and by whom; notes the Agency's reply that it has altered its procedures to ensure that standard emails are sent to selection committee members after each meeting to record the meeting minutes and decisions taken by the Committee, furthermore, the Agency ensures that, after each meeting, electronic approval flows are finalised before advancing in the selection; calls on the Agency to improve its selection procedures so as to ensure that the processes are diligently carried out and transparent;

31. Notes that the Commission's Internal Audit Service conducted an assurance audit on the Agency's performance management, concluding with one very important recommendation related to the use of the four performance categories to ensure that each jobholder's performance is appraised without being compared with the performance of other staff, and one important recommendation to update the planning, monitoring and reporting procedure; notes that the Agency has already taken the necessary steps to implement both recommendations;

32. Notes with concern that, in May 2019, the Agency faced a crisis with an outage of all of the Agency's IT systems during the migration of servers to new infrastructure; the crisis was resolved in 48 hours; recommends that the Agency implement IT best practice procedures when performing IT operations with a high risk of disruption for the primary processes of the Agency;

33. Asks the Agency to improve the transparency and the user-friendliness of its database, and the interface between evaluation and follow-up risk management, including, for example, a short note on the Agency's registered substances in the database with regard to the compliance and evaluation status of the dossiers, adding the outcome of the substance evaluation (whether further risk management is needed or not), stating explicitly whether the dossier was found non-compliant and on what ground, and adding the outcome of Board of Appeal decisions as well as the follow-up delivered or intended to be delivered by the Agency;

34. Notes that the Agency developed a new integrated management system strategy and framework in 2019, which was approved by the Management Board on 15 December 2019 and replaced the Integrated Management Standards;

35. Encourages the Agency to pursue its efforts to perform its dossier evaluation checks under Regulation (EC) No 1907/2006 and to make the process more effective; recalls that dossier evaluation checks on over 2 000 dossiers covering 700 substances revealed that 70 % of the dossiers were not compliant with the legal information requirements of Regulation (EC) No 1907/2006 or did not contain sufficient information to ensure safe use for Union citizens and the environment;

Other comments

36. Notes that the process of moving to the Agency's new premises in Helsinki began on 21 December 2019 and that the new building was open and operational for the Agency's staff at the beginning of January 2020, concluding four years of preparations for relocating staff; invites the Agency to ensure its employees' well-being by providing sustainable and environmentally friendly working conditions;

37. Notes that the Agency developed an extensive communication package to support companies and minimise disruptions to the internal market during the preparation for the UK's withdrawal from the Union and the transition period; notes that the impact on the Agency of the UK's withdrawal from the Union is limited;

38. Notes with concern that the Agency has several litigation, appeal and complaint cases that have been sent to the Agency's Board of Appeal, the European Court of Justice, or the European Ombudsman and most of these cases have been dismissed (20 of 37 cases);

39. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 29 April 2021 ([7]) on the performance, financial management and control of the agencies.

([7]) Texts adopted, P9_TA(2021)0215.