RESOLUTION (EU) 2023/1872 OF THE EUROPEAN PARLIAMENT

of 10 May 2023

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Chemicals Agency (ECHA) for the financial year 2021

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 2021,

— 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 (A9-0133/2023),

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 2021 was EUR 110 728 826 representing an increase of 1,25 % compared to 2020; whereas approximately 26 % of the Agency's budget derives from fees and charges and 72 % from the Union and third countries;

B. whereas the Court of Auditors (the 'Court') in its report on the annual accounts of the Agency for the financial year 2021 (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 2021 resulted in a budget implementation rate of current year commitment appropriations of 98,39 %, representing a slight decrease of 0,10 % compared to 2020 and that the current year payment appropriations execution rate was 86,23 %, representing a decrease of 1,31 % in comparison to 2020;

2. Notes that, the Agency is financed by fees paid by industry and a balancing Union contribution in accordance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council ([2]), Regulation (EC) No 1272/2008 of the European Parliament and of the Council ([3]) and Regulation (EU) No 528/2012 of the European Parliament and of the Council ([4]), and by a Union contribution in relation to activities in accordance with a number of Environmental directives and international conventions; notes, moreover, that in 2021 the Agency collected fee and charges income totalling EUR 30 198 445, while it received EUR 79 665 478 (including third countries' contributions) from the Union budget and EUR 4 349 206 from contributions under specific agreements; recognises that, since the final registration deadline under Regulation (EC) No 1907/2006 in 2018, the Agency's fee income has significantly decreased, requiring it to rely increasingly on the Union to finance its operations;

([1]) OJ C 141, 29.3.2022, p. 120.

([2]) 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]) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

([4]) Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products (OJ L 167, 27.6.2012, p. 1).

3. Stresses the need to address the lack of predictability of the Agency's fee income; calls on the Commission to present its proposal to strengthen the governance of the Agency and increase the sustainability of its financing model without delay, in line with its commitment expressed in the Chemicals Strategy for Sustainability ([5]);

Performance

4. Notes that the Agency reviewed the strategic plan for 2019-2023; notes that the Agency achieved 194 out of 214 actions and outputs set in the 2021 work programme and that the remaining 18 actions and outputs were not met mainly due to the COVID-19 pandemic, specifically, to delayed or less than foreseen input received from partners; appreciates that the key performance indicators were fulfilled and the fact that the Agency has drawn attention to measures that can improve the efficiency and effectiveness of the Agency's work; however recommends that the Agency takes note of the indicators that have not yet been achieved or are lagging behind;

5. Observes 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 the Agency provides information on chemicals, helps companies comply with legislation and promotes the safe use of chemicals;

6. Notes the Agency's achievements in the field of identification and risk management of substances of concern, which include, amongst others, a total of 371 compliance checks conducted in 2021 and the provision of the draft evaluation and the draft risk profile for two substances, aimed at identifying new persistent organic pollutants; notes the achievements in the field of safe and sustainable use of chemicals by industry, which include, amongst others, the obligation to notify hazardous mixtures for professional and consumer use that started in 2021; notes the Agency's achievements in the field of sustainable management of chemicals through the implementation of Union legislation, in particular, the ad hoc support provided to the Commission in the early phase of implementing the Chemicals Strategy for Sustainability;

7. Welcomes the fact that the Agency has stepped up its compliance monitoring efforts and has been largely successful in detecting non-compliant registrations and in following up on companies that need to clarify the data supplied; notes with concern that, despite those efforts, approximately 40 % of those companies are still non-compliant; notes that enforcement in cooperation with Member States is a time-consuming process and cases could be resolved more quickly if the Agency had the legislative means at its disposal to withdraw registration numbers from companies that do not comply with the rules;

8. Notes that the Agency collaborates closely with other Union agencies, such as the European Food Safety Authority, the European Centre for Disease Prevention and Control and the European Medicines Agency, by means of memoranda of understanding; underlines the importance of such an approach, in order to ensure that the work of each agency is consistent with that of the other agencies and to meet the requirements of sound financial management; welcomes the sharing of services and encourages cooperation among the Union agencies where possible;

9. Notes that in 2021 the Agency started a joint project with the European Environment Agency to support the Commission with developing a framework of indicators on chemicals to monitor the drivers and impacts of chemical pollution and measure the effectiveness of chemicals legislation;

10. Observes that the Agency provided scientific-technical support to the Commission in the implementation of the Chemicals Strategy for Sustainability, and that it has published its five-year report on the operation of Regulation (EC) No 1907/2006 and of Regulation (EC) No 1272/2008 ([6]);

([5]) Chemicals Strategy for Sustainability: Towards a Toxic-Free Environment, COM(2020) 667, 14 October 2020, p. 16.

([6]) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

Staff policy

11. Notes that, on 31 December 2021, the establishment plan was 97,41 % executed, with 453 temporary agents appointed out of 467 temporary agents authorised under the Union budget (compared to 463 authorised posts in 2020); notes that in addition 130 contract agents and 3 seconded national experts worked for the Agency in 2021;

12. Underlines the necessity of ensuring that the Agency's staffing is adequate and reflects the needs of the European Green Deal, the Union Chemical Strategy for Sustainability, the Circular Economy Action Plan and the zero pollution ambition in particular;

13. Regrets that the high gender imbalance within the Agency's senior and middle management increased, with 27 (82 %) positions occupied by men and 6 (18 %) by women; notes that the Agency reports, for the management board, a gender balance distribution of 15 men (42 %) and 21 women (58 %) and, for staff overall, 261 men (46 %) and 312 women (54 %); welcomes the fact that in March 2022, the Agency adopted its Charter on Diversity and Inclusion, which aims to increase the ratio of underrepresented genders at both support and management levels; calls on the Agency to take concrete measures to achieve gender balance at all levels of the Agency's hierarchy as soon as possible and report back to the discharge authority;

14. Notes that the Agency has an anti-harassment policy and related guidelines in place; welcomes the fact that in 2021 the Agency organised harassment prevention training for all staff; acknowledges that the management is promoting appropriate behaviour by organising meetings between the staff and confidential counsellors and offering mediation in cases of conflict through trained mediators in the workplace;

15. Recalls the importance of developing a long-term human resources policy on work-life balance, lifelong guidance and the offer of specific training possibilities for career development, gender balance at all staff levels, teleworking, the right to disconnect, the enhancement of a geographical balance to have appropriate representation from all Member States, and the recruitment and integration of people with disabilities as well as ensuring that they are treated equally and that their opportunities are widely promoted;

Prevention and management of conflicts of interest, and transparency

16. Notes with appreciation the fact that the Agency continues to publish on its website the CVs of all members of the management board and its committees, including those of its chairs who are Agency staff members, of the Executive Director and of all members of the board of appeal; welcomes the fact that the Agency's conflicts of interest prevention policies cover the whole duration of the employment of staff and that, to safeguard independence, the external experts who participate in the scientific committees, management board and enforcement forum are screened against six targeted eligibility criteria;

17. Notes that no cases of whistleblowing were reported in 2021; notes with satisfaction that the Agency has put in place the necessary framework governing the protection of whistleblowers at the Agency level;

18. Insists on the need to put in place more systematic rules on transparency, incompatibilities, conflicts of interest, illegal lobbying and revolving doors; notes nevertheless that members of the Agency's staff must notify new occupational activities for the first two years after leaving the service of the Agency and that the Agency can forbid the new activity or impose conditions in relation to the new activity; notes that the Agency's Anti-Fraud Strategy was revised by the Agency's management board in December 2016; calls on the Agency to strengthen its internal control mechanisms, including the setting up of an internal anticorruption mechanism;

Internal control

19. Notes that in 2021 the Internal Audit Service (IAS) did not conduct a specific audit, focusing on the preparation of the strategic audit plan for 2022-2024; notes with satisfaction that the follow-up of the 2020 audit on integrated regulatory strategy concluded that all recommendations can be closed; notes with satisfaction that the IAS closed the remaining open recommendations from the follow-up audit on performance management conducted in 2020;

20. Notes that the Agency's internal audit capability conducted three assurance audits on the regularity and the quality of internal control systems and the efficiency and effectiveness of the operations; notes that the first audit on the identification and evaluation of environmental aspects at the Agency resulted in three recommendations; notes that the second audit on the planning, monitoring and reporting process of the Agency resulted in five important recommendations; notes that the third audit on the biocidal active substances approval (under the Review Programme) process resulted in five recommendations (including one very important recommendation);

21. Notes that the Agency's internal audit capability conducted two follow-up audits to verify the implementation of the action plans, which reached the conclusion that one very important and two important actions are still being implemented; calls on the Agency to report to the discharge authority any developments in that regard;

22. Recalls the importance of strengthening management and control systems to ensure the proper functioning of the Agency; strongly insists on the need for effective management and control systems to avoid potential conflicts of interest, missing *ex-ante*/*ex-post* controls, inadequate management of budgetary and legal commitments, and failures to report issues in the register of exceptions;

Digitalisation and the green transition

23. Notes with satisfaction that in 2021 the Agency implemented a mandatory security awareness-raising campaign and implemented more advanced email protection measures, involving security features like sandboxing of email attachments, safe links for URLs in the email messages and advanced detection, among others; notes with appreciation that the Agency has improved the capability of detection of any ongoing intrusion and misuse of identities in order to detect further advancement to more critical systems after having initial unauthorised access to one of lower profile Agency system;

24. Notes that the Agency applies and follows state-of-the-art security practices in order to protect confidential information at rest in the Agency's Information Systems and in transit with authorised users such as Member State authorities, and that it regularly validates the effectiveness of the security measures in place by performing internal risk assessments and vulnerability assessments as well as security testing executed by independent security experts;

25. Notes that the Agency developed an environmental work programme for 2020-2022, that sets targets to decrease the consumption of natural resources, to lower waste and to reduce the carbon footprint of the Agency; notes with satisfaction that the Agency's ISO 14001 certified environmental management system (EMS) successfully underwent a surveillance audit, an internal audit, an external environmental review and an environmental verification audit;

26. Recalls the importance of increasing the digitalisation of the Agency in terms of internal operation and management, but also in order to speed up the digitalisation of 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; 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;

27. Encourages the Agency to work in close cooperation with ENISA (European Union Agency for Cybersecurity) and CERT-EU (Computer Emergency Response Team for the EU Institutions, bodies and agencies) and to carry out regular risk assessments of its IT infrastructure and to ensure regular audits and tests are carried out on its cyber defences; suggests to offer regularly updated cybersecurity-related training programmes to all staff members within the Agency; calls on the Agency to develop its cybersecurity policy more swiftly, deliver it before 31 December 2023 and report back to the discharge authority;

Business continuity during the COVID-19 crisis

28. Notes that following previous years' large-scale and long-term teleworking, the Agency has put efforts into introducing new kinds of awareness raising for the staff; notes that in 2021 the Agency organised the 18th Security Officers Network annual meeting, discussing matters related to the new identity management tool, IT and IT-security implications of the Chemicals Strategy for Sustainability;

Animal testing

29. Highlights the fact that the Agency has continued its efforts to phase out animal testing in Europe to the extent possible under the current regulatory framework; welcomes the fact that the Agency introduced a mandate for non-animal methods into its Computational Assessment Unit B2; acknowledges that this is a necessary step in the right direction, but it is not sufficient; encourages the Agency therefore to work with all stakeholders in order to accelerate the transition to full use of non-animal methods for chemical safety testing; reiterates that the law requires companies to use alternative methods whenever possible, so companies should only carry out tests on animals as a last resort;

30. Encourages the Agency to establish a taskforce focused on reducing and replacing animal testing;

31. Welcomes the fact that the Commission will work together with the Agency on a roadmap to identify the need for a transition to an animal-free system for regulating industrial chemicals; is of the opinion that European Food Safety Authority and European Medicines Agency should be part of the team working on the roadmap; calls for the roadmap to contain ambitious and far-reaching milestones to accelerate the regulatory use and acceptance of non-animal methods;

Other comments

32. Notes that in 2021 fire safety training and evacuation training courses were organised for all corporate services staff, as well as separate training sessions for service providers in the Agency's premises; welcomes the fact that the Emergency Rescue Plan was updated and communicated to the Helsinki Rescue Authorities; notes that radiation safety training was organised for the Agency's Radiation Safety Officer by the Finnish certified training organisation;

33. Notes that in 2021 the Agency continued to promote its work through media, that resulted in more than 4 000 clippings, 58 % of the coverage being in general media; notes that the Agency's staff continued active sharing of content via their own social media channels, and that the Agency was active on social media (Twitter, LinkedIn and Facebook) in 2021, and that the Agency worked together with Member States and stakeholders on joint campaigns, such as on the Unique Formula Identifier code;

34. Encourages the Agency to continue to develop its synergies (for instance human resources, building management, IT services and security), and to reinforce its cooperation, its exchange of good practices and its discussions regarding areas of mutual interest with other Union agencies with a view to improving efficiency;

35. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 10 May 2023 ([7]) on the performance, financial management and control of the agencies.

([7]) Texts adopted, P9_TA(2023)0190.