RESOLUTION (EU) 2021/1630 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 Union Agency for Law Enforcement Cooperation (Europol) 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 Union Agency for Law Enforcement Cooperation (Europol) 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 Civil Liberties, Justice and Home Affairs,

— having regard to the report of the Committee on Budgetary Control (A9-0096/2021),

A. whereas, according to its statement of revenue and expenditure [1], the final budget of the European Union Agency for Law Enforcement Cooperation (Europol) (the 'Agency') for the financial year 2019 was EUR 141 620 456, representing an increase of 4,33 % compared to 2018; whereas the Agency's budget mainly derives from the Union budget;

B. whereas the Court of Auditors (the 'Court'), in its report on the annual accounts of the European Union Agency for Law Enforcement Cooperation (Europol) 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 99,42 %, representing an increase of 3,31 % compared to 2018; notes that the payment appropriations execution rate was 86,61 %, indicating a decrease of 0,31 % compared to 2018;

2. Notes the late payments issued by the Agency in 20 % of the cases in 2019; notes that the level of late payments was even higher in previous years but calls on the Agency to increase its efforts in making payments within prescribed terms in order to avoid reputational risk; welcomes the mitigation actions taken by the Agency in that regard, which resulted in an overall immaterial interest amount of EUR 1 624,53 being paid in 2019;

3. Notes that, according to the Court's report, in 2019 the Agency frequently failed to make payments within prescribed terms, exposing the Agency to reputational risks; notes that, according to the Agency's reply, in 2019 the Agency was faced with an understaffing situation which affected the financial administration but that the Agency is conscious of the risk profile regarding payment delays and carefully monitors the payment amounts on a monthly basis and has taken mitigation actions to adhere to the principles of sound financial management; notes that, according to the Agency's reply, the overall value of invoices paid late amounted to approximately EUR 6,6 million in 2019, representing 4,6 % of the payments made;

4. Notes that in 2019 the Agency received a final budget of EUR 138,3 million and an increase of 15 temporary agents; highlights, however, that the draft estimate budget adopted by the Agency's management board called for a total allocation of EUR 143,3 million and a net increase in posts of 43 temporary agents; underlines that due to the budgetary and staffing shortfall, the Agency has had to deprioritise a number of objectives and actions; calls on the Commission and the co-legislators to enhance their dialogue with the Agency with regard to addressing the budgetary and staffing shortfalls;

[1] OJ C 184, 28.5.2019, p. 1.

Performance

5. Notes with satisfaction that the Agency uses certain measures as key performance indicators to assess the added value provided by its activities and other measures to improve its budget management, such as budget outturn rate, work programme objectives implementation rate and satisfaction with the Agency's image;

6. Reminds the Agency to regularly review and update its performance measurement system and key performance indicators to ensure that it efficiently contributes, and to ensure its expertise, at Union level; encourages the Agency to carefully analyse the outcomes and use them to improve its strategy and activity planning;

7. Notes that the Agency implemented 79 % of work programme objectives and 75 % of the actions contained in the 2019 work programme;

8. Notes with appreciation that in 2019 the Agency continued to carry out joint activities and shared services with other Union agencies, including the European Union Agency for Criminal Justice Cooperation, and that the Agency joined 21 interinstitutional procurement procedures;

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

10. Notes that, according to the assessment of the management board, a number of important projects and activities were deprioritised and did not materialise due to the fact that the budget and establishment plan allocated to the Agency for 2019 was significantly lower than the initial estimates and that an in-depth revision of the annual work programme was required;

11. Welcomes that, in collaboration with eu-LISA, the Agency managed to integrate searches in SIS II into the USE user interface and that further progress was achieved towards establishing access to VIS; deplores, however, the fact that the setting up of a SIRENE office within the Agency did not materialise in 2019; encourages the Agency to step up its efforts towards advancing in aligning and coordinating its internal resources with the developments of Union interoperability initiatives;

12. Underlines the important role of the Agency in supporting Member States' criminal investigations and providing operational analysis; emphasises also the extension of its tasks and its growing role in the prevention and combating of terrorism, cybercrime and other serious and organised forms of crime across the Union;

13. Highlights that the number of operations that the Agency supported grew from 1 748 in 2018 to 1 921 in 2019 (representing an increase of 9,89 %) and that operational meetings funded by the Agency increased from 427 in 2018 to over 500 in 2019 (representing an increase of 17 %), which underlines the increase in the Agency's work; stresses the highly specialised investigations supported by the Agency in recent years to counter highly sophisticated organised criminal networks, drug trafficking, illicit waste disposal and illicit trafficking on dark web;

Staff policy

14. Notes that, on 31 December 2019, the establishment plan was 92,89 % implemented, with 549 temporary agents appointed out of 591 temporary agents authorised under the Union budget (compared to 576 authorised posts in 2018); notes that, in addition, 196 contract agents and 66 seconded national experts worked for the Agency in 2019;

15. Notes that the Agency ended 2019 with a vacancy rate of 3,6 %, which was higher than the 2 % target; acknowledges that mitigation measures such as increasing the pace of publishing vacancy notes or using reserve lists were put in place; notes with concern, however, that the Agency also recorded a higher than expected turnover rate of 11,7 %, compared to 8,7 % in the previous year; notes that, according to the Agency's reply, the turnover rate was the result of a high number of resignations and a number of contracts ending in 2019 and that the Agency has closely monitored the situation; calls on the Agency to address that issue in light of potential 'revolving door' situations;

16. Is very concerned by the lack of gender balance reported for 2019 for senior managers (139 men and 28 women), the management board (43 men and 10 women) and staff; invites the Agency to increase its efforts to achieve a better gender balance at all levels; asks the Commission and the Member States to take into account the importance of ensuring gender balance when nominating their members to the Agency's management board;

17. Notes that the Agency has adopted a policy on protecting the dignity of the person and preventing harassment; notes that two cases of alleged psychological harassment and related inappropriate behaviour were reported and subsequently investigated by means of a formal administrative inquiry in 2019 and a decision on the outcome was to be taken in 2020; calls on the Agency to report to the discharge authority on the findings of the inquiry;

18. Welcomes the fact that the scope of the existing e-recruitment tool was successfully expanded to also cover restricted posts; notes with satisfaction that the Agency implemented the Court's observation from 2017 on publication of vacancy notices on the EPSO website;

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

Public procurement

20. Notes with concern the finding of the Court, which also relates to the follow-up of the previous year's findings, that the Agency irregularly prolonged the duration of a framework contract for the provision of business travel services by signing amendments in 2018 and 2019 after the contract had expired, rendering the amendments and related payments irregular; notes the Agency's reply that the prolongation in 2019 was the result of a conscious business decision to preserve business continuity and did not constitute a weakness in *ex-ante* control and that, furthermore, an internal audit was to commence in the fourth quarter of 2020 with a view to obtaining additional assurances on the Agency's contract management approach; calls on the Agency to improve the regularity of transactions and to strengthen accordingly contract management and *ex-ante* controls;

21. Notes that, according to the Court's report, for the procurement of furniture, accessories and related services, the terms used in the documents for the call for tender were not specific enough, undermining the competitive nature of the tendering procedure; notes, moreover, that the Agency did not sufficiently check the accuracy of underlying prices and the calculation of discounts applied for the non-standard items before submitting the order form to the contractor; calls on the Agency to ensure full compliance with the principles of competition law in all tendering procedures; notes that, according to the Agency's reply, the tender documentation included the subject matter of the procurement and the applicable exclusion, selection and award criteria, thus allowing for competitiveness and notes that, with regard to the discount given by the contractor, the contractor had offered a higher discount than the standard rate included in the contract and the Agency thus acted in compliance with the principles of sound financial management, in line with the provisions of the contract; calls on the Agency to ensure that tendering specifications are comprehensive to allow fair and effective competition;

Prevention and management of conflicts of interest, ethics and transparency;

22. Notes the Agency's existing measures and ongoing efforts to secure transparency, prevention and management of conflicts of interest, whistleblower protection and the fight against harassment; notes that two cases of alleged psychological harassment and related inappropriate behaviour were reported and subsequently investigated by means of a formal administrative inquiry in 2019 and a decision on the outcome was to be taken in 2020; deplores the fact that the CVs and declarations of interest of some of the members of the Agency's management board have not been published on the Agency's website; reiterates its calls on the Agency to rapidly publish the CVs and declarations of interest of all members of the Agency's management board and to report to the discharge authority on the measures taken in that regard;

23. 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 coordination between existing provisions; calls for those issues to be addressed by the setting up of a common ethical framework, which would ensure the application of high ethical standards for all Union institutions and agencies;

24. 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

25. Notes, in light of comments and observations from the discharge authority related to the audit of the Commission's Internal Audit Service on human resources management and ethics in the Agency, that three important recommendations were issued, two of which were implemented in 2019, and one open recommendation relating to the update of the administrative inquiry and disciplinary procedure process description was expected to be implemented by the end of 2020;

26. Notes that the internal audit capability completed the following audit engagements: operational analysis, the grant management process, the validation of user access rights granted in ABAC, and an ISO 17020:2012 audit of the Agency's forensic laboratory; notes that, while the internal audit capability concluded that internal controls are in place and are effective, 41 new recommendations were made during 2019 with a 95 % implementation rate of critical and very important recommendations that were expected to be completed in 2019;

27. Notes that the management board adopted the Agency's internal control framework in December 2018 and that, during the course of 2019, the Agency concluded that internal control framework components are present and functioning, with minor improvements needed;

Other comments

28. 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 that regard in order to avoid a digital gap between Union agencies at all costs; stresses, however, the need to take all necessary security measures to avoid any risk to the online security of information processed;

29. Notes that, with the continuing uncertainty surrounding the UK's withdrawal from the Union, in the first quarter of 2019 the Agency explored all possible opportunities to maintain an effective operational relationship with the UK as a third country;

30. Encourages the Agency to continue promoting its work, research and activities in order to increase its public visibility;

31. Highlights the fact that a complex approach is needed in order to make the Union institutions' home pages accessible to persons with all kind of disabilities as provided for in Directive (EU) 2016/2102 ([2]), including the availability of national sign languages; suggests that organisations representing disabled persons be involved in this process;

32. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 29 April 2021 ([3]) on the performance, financial management and control of the agencies.

([2]) Directive (EU) 2016/2102 of the European Parliament and of the Council of 26 October 2016 on the accessibility of the websites and mobile applications of public sector bodies (OJ L 327, 2.12.2016, p. 1).

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