RESOLUTION (EU) 2021/1654 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 Asylum Support Office 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 Asylum Support Office 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 (A9-0068/2021),

A. whereas, according to its statement of revenue and expenditure ([1]), the final budget of the European Asylum Support Office (the 'Office') for the financial year 2019 was EUR 102 936 916,68, representing an increase of 5,40 % compared to 2018; whereas the budget of the Office derives mainly from the Union budget;

B. whereas the Court of Auditors (the 'Court'), in its report on the annual accounts of the Office for the financial year 2019 (the 'Court's report'), states that it has obtained reasonable assurance that the Office's annual accounts are reliable and that it has obtained sufficient audit evidence on the legality and regularity of revenue underlying the accounts; whereas, however, the Court issued a qualified opinion in relation to the its findings reported for the financial years 2016, 2017 and 2018 on the legality and regularity of the payments; whereas, for the financial year 2019, the Court's audit found another error and associated payments; whereas, except for the effects of the financial years 2016, 2017, 2018 and the payments related to the finding of 2019, the Court is of the opinion that payments underlying the annual accounts for the year ended 31 December 2019 are legal and regular in all material aspects;

Follow-up to the 2018 discharge report

1. Welcomes the appointment of a new executive director on 16 June 2019; welcomes the detailed follow-up report by the Office on the observations of Parliament for the financial year 2019, in particular the steps made in the area of procurement with the successful conclusion of the framework contract for temporary agency workers in Italy that was awarded in 2019 and its full compliance with Union procurement rules; notes the corrective measures introduced in order to improve the governance structure and to restore transparency and the reputation of the Office;

2. Notes with satisfaction that in 2019 the Office continued the improvement towards a fully effective and efficient internal control system addressing control environments, risk management, control activities, information and communication and monitoring activities; welcomes the conclusion of the internal control self-assessment that concluded that, compared to 2018, the overall status of the internal control systems in 2019 had significantly improved;

The outcome of the investigation of the European Anti-Fraud Office (OLAF)

3. Notes that, following receipt of a report of the European Anti-Fraud Office at the end of 2018, which was extensively covered in the discharge report for 2018, the Office has initiated three disciplinary procedures, which are currently ongoing; calls on the Office to report to the discharge authority on the outcome of those disciplinary procedures once completed;

Budget and financial management

4. Notes that budget monitoring efforts during the financial year 2019 resulted in a budget implementation rate of 95,22 %, at approximately the same level as 2018 (95,02 %); notes that the payment appropriations execution rate was at 89,86 %, representing an increase of 1,78 % compared to the previous year (88,08 %);

([1]) OJ C 391, 18.11.2019, p. 41.

5. Recalls that, according to the reports of the Court for the financial years 2016 and 2017, the Office's procurement procedures for interim workers in Greece and for the Office's rented premises in Lesbos were irregular; recalls that, according to the report of the Court for the financial year 2018, the Court concluded that the Office's procurement procedures for interim workers in Italy were irregular, though no payments were made on those contracts yet; notes with concern that, according to the report of the Court for the financial year 2019, the Office's procedures for selecting and contracting external experts systematically lacked a solid audit trail, which in turn resulted in a lack of evidence that the Office had treated experts equally in its selection procedures; notes that, according to the Court's opinion, with the exception of the effects of the qualified opinion on the legality and regularity of payments for the financial years 2016, 2017 and 2018, amounting to EUR 13 868 576, and the error found in 2019, amounting to EUR 111 304, payments underlying the accounts for the year ended 31 December 2019 are legal and regular in all material aspects; deplores the fact that, as concluded by the Court, the Office's payments to interim workers in Italy and Greece were irregular; welcomes the fact that corrective actions were implemented by the Office in 2019 to address those irregularities;

6. Recalls the importance of the Office for the development of the Common European Asylum System and emphasises the positive contribution of the Office to enhancing the coherence of asylum case processing, strengthening the practical cooperation of Member States on asylum in Europe, assisting Member States in fulfilling their obligations as regards giving protection to people in need, and in acting as a centre of expertise on asylum; recalls that in 2019, about 17 700 applications for international protection were lodged by unaccompanied minors in EU+ countries; stresses the importance of providing a specific reception system for minors that protects their condition;

7. Welcomes the fact that, since 2018, the Office has followed up on all of the Court's observations and welcomes the acknowledgment of the Court that 30 out of 61 measures in the action plan were completed while 31 had an ongoing status; stresses that a fair and human treatment of asylum seeker applications is a Union priority; notes the finding of the Court in 2019 that contingency funds in the Office's budget to cover unforeseen and urgent operational needs were absent; welcomes in that regard the recently created budget item to allocate contingency funds necessary to cover expenditure stemming from unforeseen and urgent operational activities in support of Member States;

Performance

8. Notes with regret that the Office executed a total of 9 871 payments in 2019, 1 312 of which (13,29 %) were late; notes that interest amounting to EUR 25 652,34 was paid for 46 invoices; notes the improvements in the timely payments of invoices in November and December 2019; encourages the Office to maintain and improve its performance in that regard and to continue reporting about that matter in its annual activity report;

9. Notes with appreciation the progress achieved by the Office in 2019 in implementing its annual work programme; notes that the Office successfully achieved 82 % of the 347 pre-established annual targets, exceeded expectations on 43 % of the Key Performance Indicators (KPIs), achieved 31 % of the KPIs, nearly achieved 8 % of the KPIs and did not achieve 8 % of the KPIs;

10. Notes that additional indicators were adopted by the management board on 7 June 2019, subsequently amended on 18 February 2020, which call for quarterly reporting to the management board in the following areas: implementation of the Office's work programme, budget and finance, human resources, staff engagement, internal controls, and procurement;

Staff policy

11. Notes that, on 31 December 2019, the establishment plan was 75,35 % executed, with 214 temporary agents appointed out of 284 temporary agents authorised under the Union budget (compared to 214 authorised posts in 2018); notes that, in addition, 72 contract agents and 9 seconded national experts worked for the Office in 2019; notes with satisfaction that the Office's recruitment plan provides for a staff of 500 by 2020; points out the fact that the Office would not be in position to provide Member States with critical support to their asylum systems without resorting to the use of temporary agents and seconded national experts from the Member States; acknowledges the Office's proposal suggesting an asylum reserve pool of 500 Member State experts; calls on the Member States and the Commission to urgently assess and address that issue, allowing the Office to fully pursue its mandate; welcomes the fact that the recruitment situation has significantly improved; stresses that the Office must continue registering progress in recruitment; calls on the Office to report to the discharge authority about the status of implementation;

12. Regrets the Office's continued reliance on interim workers to compensate for the lack of deployed national experts; calls on Member States to comply with their obligations with regard to national experts since failure to do so compels the Office to rely on external contractors;

13. Encourages the Office 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;

14. Notes with concern that in 2019 senior management comprised eight men and three women; notes with satisfaction that a good gender balance was achieved with regard to the management board (16 men and 16 women); asks the Office to ensure gender balance at the senior management and staff level in the future;

15. Notes that the Office adopted a policy on protecting the dignity of the person and preventing harassment in 2019;

16. Notes the Office's reply that 81 % of posts were filled in 2019 (representing an increase of 7 % as compared with 2018) and that turnover decreased from 10 % in 2018 to 7 % in 2019;

17. Notes the pending case before the Court of Justice (C-948/19, Manpower Lit.) as regards the use of interim workers, addressing several questions concerning the application of Directive 2008/104/EC [2] to Union agencies;

Procurement

18. Welcomes the adoption of the Office's Standard Operating Procedures on Procurement Rules and Contract Management on 15 February 2019 and the steps taken as regards training and communication with the field offices on procurement matters;

Prevention and management of conflicts of interest, ethics and transparency

19. Notes the Court's finding that the Office's adherence to the 5 % staff reduction target has led to shortages in the area of IT services both in Greece and Italy to predict the timing and duration of relevant contracts and welcomes the fact that the Office has reformulated its templates for contracts to include a list of deliverables that are to be performed under the contract; calls on the Office to be vigilant in ensuring that there is no ambiguity or misconception as regards the temporary worker relationship or employment relationship between the Office and ICT consultants;

20. Notes the Office's reply to the discharge authority on the declaration of interests, which stated that all staff sign a declaration of interests upon entry into service; notes that the declaration of interests and CVs of all members of the management board and the executive director have been published on the Office's website; calls on the Office to urgently publish, without delay, the declarations of interests and CVs of the other senior management members on its website and to report to the discharge authority on the measures taken in that regard; stresses that such declarations should be established independently and should not solely rely on self-declarations;

21. Welcomes the revision of the Office's policies for the prevention and management of conflicts of interest, based on the latest guidelines of the Commission; recommends integrating those policies in all activities of the Office, such as training, procurement and recruitment of staff;

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

23. 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;

24. Notes with appreciation that ethics and integrity processes were reinforced, including awareness-raising measures; welcomes the adoption by the management board of a policy on protecting the dignity of the person and preventing psychological and sexual harassment, as well as the implementation of a procedure for the nomination of confidential counsellors, together with the nomination of an ethics correspondent as part of the human resources team; calls on the Office to report back to the discharge authority about the implementation and effectiveness of those measures;

[2] Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency workers (OJ L 327, 5.12.2008, p. 9).

25. Welcomes the adoption of guidelines on whistleblowing by the management board's decision of 20 September 2019 and notes that the Office's human resources team informed staff by email about these developments; calls on the Office to report to the discharge authority on the implementation and effectiveness of that measure;

Internal controls

26. Welcomes, as noted by the Court, the re-establishment of the internal legal service, the recruitment of a senior legal office, with plans to further strengthen this function, the recruitment of an ex-post controller and the establishment of a new internal and ex-post control service; notes that the establishment of an internal audit capability is still under consideration, awaiting the implementation of a cost-effectiveness analysis;

27. Welcomes the decision of the executive director of 30 September 2019 on the identification and management of sensitive functions within the Office; calls on the Office to document mitigating controls where exceptions to the list are necessary;

28. Notes, with regard to the challenges faced due to the multi-location character of the Office, the efforts taken by the Office to comply with the applicable rules when signing contracts for the lease of offices; notes that the Office is expected to have a policy for managing premises and related services by the first quarter of 2021; calls on the Office to continue to balance operational needs with the need to comply with applicable rules;

Other Comments

29. Notes the adoption of a new organigram by the Office's management board on 26 November 2019; acknowledges the reinforcement of the Office's governance structures, including the responsibilities of the executive office; stresses the importance of further strengthening the procurement function in light of the Court's ongoing findings regarding irregular procedures and associated payments; notes the Office's reply to the Court's finding and the measures taken by the Office to prevent a recurrence of those failures;

30. Highlights media reports that the Office illegally collected personal data about migrants, without informing the people subject to that data collection ([3]); notes the letter sent by the European Data Protection Supervisor (EDPS) to the Office concerning the monitoring of social media, in which he concluded that the Office's activities in that regard were in breach of the General Data Protection Regulation (GDPR) ([4]); welcomes the Office's decision, following the letter sent by the EDPS, to halt its social media monitoring activities indefinitely;

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

32. Encourages the Office to continue promoting their work and activities to increase its public visibility;

33. Calls on the Office 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);

34. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 29 April 2021 ([5]) on the performance, financial management and control of the agencies.

([3]) https://euobserver.com/investigations/146856
([4]) https://edps.europa.eu/sites/default/files/publication/19-11-12_reply_easo_ssm_final_reply_en.pdf
([5]) Texts adopted, P9_TA(2021)0215.