RESOLUTION (EU) 2021/1609 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 Railways 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 Railways 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 Transport and Tourism,

— having regard to the report of the Committee on Budgetary Control (A9-0077/2021),

A. whereas, according to its statement of revenue and expenditure [1], the final budget of the European Union Agency for Railways (the 'Agency') for the financial year 2019 was EUR 27 139 347, representing a decrease of 5,74 % compared to 2018; whereas the budget of the Agency derives mainly from the Union budget;

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'), has stated 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 the budget monitoring efforts during the financial year 2019 resulted in a budget implementation rate of 99,98 %, equal to the implementation rate in 2018; notes that the payment appropriations execution rate was 92,22 %, representing an increase of 3,27 % compared to 2018;

2. Notes that the indicative ceilings of 10 % used by the Court of Auditors to assess the budget execution at the level of the carry-overs for Title 1 (staff) and 20 % for Title 2 (administrative) have been reached; notes with regret that the indicative ceiling for Title 3 (30 % for operational expenditure) has not been reached;

3. Notes that increased revenue linked to fees is balanced by a decrease in the subsidy granted to the Agency; regrets that the increased activity is not considered by the Commission to be a ground for increasing that subsidy;

4. Notes that, following the enlargement of the Agency's mandate under its new Regulation, in 2019 the Agency started to collect fees and charges for certification tasks, taking into account the specific needs of medium-sized enterprises (SMEs); notes that, according to Regulation (EU) 2016/796 of the European Parliament and of the Council, fees and charges represent assigned revenue for the Agency; notes that amendments to the implementing rules for the Agency's Financial Regulation have been introduced;

5. Notes that in 2019, 36 ex-post nonconformities (non-compliance events) were registered in the Agencies' nonconformity register, compared to 29 in 2018 and 7 in 2017; notes that these non-compliance events relate mainly to mission rules, ex-post commitments, contract management and payments and internal procedures; notes that the Agency indicated that corrective measures have been put in place and awareness has been raised; calls on the Agency to stop the trend towards an increasing number of ex-post nonconformities and to emphasise preventive measures;

6. Recalls the importance of increasing the digitalisation of the agency in terms of its own 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 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;

[1] OJ C 107, 31.3.2020, p. 70.

Performance

7. Underlines the successful use of Key Performance Indicators (KPIs) by the Agency to assess its efficiency in conducting its missions; acknowledges that the Agency attained a satisfactory level of achievement for its Key Performance Indicators and its targets for outputs; notes that out of 136 KPIs, 118 were achieved or partly achieved whereas 18 were not achieved; notes a considerable underperformance of KPI 5 '100 % Member States having their vehicle-related National Technical Rules cleaned up' with a final score of 67 % and notes the absence of an explanation for this result, which is low compared to the target of 100 %; calls on the Agency to provide a supporting narrative, along with the scores of the Key Performance Indicators;

8. Urges the Agency to explore possibilities of resources sharing on overlapping tasks among other agencies with similar activities; encourages the Agency to actively seek further and broader cooperation with all of the Union agencies; encourages the Agency to explore the possibility of staff sharing in certain non-expert, technical and administrative fields;

9. Calls upon the Agency to aim its focus on disseminating the results of its research to the general public;

10. Recalls that the Agency has the smallest budget among the transport agencies despite the outstanding environmental performance and other benefits of rail transport; stresses in particular that the Agency should not be put in a position where it feels compelled to request additional support from the Commission, due to inadequate financial means, especially at a time when railways are a policy priority of the European Union; calls for an increase of the budget of the Agency in order to provide it with the necessary means to enable it to act as an efficient authority and to fulfil its tasks, particularly those with regard to increasing competitiveness, improving safety and cross-border interoperability;

Staff policy

11. Notes that, on 31 December 2019, the establishment plan was 93,92 % executed, with 139 temporary agents appointed out of 148 temporary agents authorised under the Union budget (compared with 148 authorised posts in 2018); notes that, in addition, 35 contract agents worked for the Agency in 2019; notes that on 31 December 2019, no seconded national experts worked for the Agency;

12. Is very concerned by the lack of gender balance reported for 2019 for senior managers (89 % male and 11 % female) and the management board (70 % male and 30 % female); 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; invites the Agency to increase its effort to achieve a better gender balance at all levels;

13. 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.

14. Notes that the Agency has adopted the policy on protecting the dignity of the person and preventing harassment, confidential counsellors are promoted and staff are encouraged to address their issues to them; notes that one alleged harassment case was reported, but none was investigated nor taken to court;

15. Notes that the results of the annual benchmarking exercise regarding the staff are similar to those of 2018 with 19,39 % of the staff assigned to administrative tasks (20,33 % in 2018), 69,95 % assigned to operational tasks (68,88 %), and 11,04 % of the staff assigned to control and financial tasks (10,79 %);

16. Regrets that the Management Board did not manage in 2019 to decide on a language arrangement for the Agency;

Procurement

17. Notes that, according to the Court's report, the Agency failed to formally appoint at least one member of an evaluation committee of a procurement procedure, jeopardising the transparency of the procurement procedure; notes the Agency's reply to the Court's finding and the measures taken by the Agency to prevent a recurrence of this failure;

18. Notes that, according to the Court's report, the Agency concluded three separate framework contracts 'in cascade' with three companies; notes from the Court's observations that the Financial Regulation stipulates that it is possible for this to be done without reopening the tendering procedure provided that the framework contract precisely sets out all of the terms governing the provision of the works, supplies or services concerned; notes that the Court concluded that the framework contract is not sufficiently specific, further notes from the Court's observations that the bidders' financial offers were based only on a daily rate for a day of work, without considering important elements such as worker profiles or the complexity of the work involved; notes from the Court's conclusion that the use of this sort of framework contract was not appropriate, considering the level of detail available on the work to be performed and that the financial data was also insufficiently detailed to ensure that the work was performed as economically as possible; notes the Agency's reply that the tender in question concerned assistance for the Agency's new task and accordingly to the Agency, it would not be proportionate to organise a reopening of a competition (lasting at least 3 weeks) for technical assistance (lasting a maximum of 15 days) when the legal requirement to assess the completeness of an application file is one month; calls on the Agency to keep the discharge authority informed in respect of expenditure under these framework contracts;

Prevention and management of conflicts of interest and transparency

19. Notes that, according to the Agency's own statement, the Agency's exposure to conflicts of interest has increased as of 16 June 2019, when the Agency became an authority with significant decision making powers; notes that the Agency's management board adopted a framework of good administrative behaviour in May 2019 that contains strict measures on management of conflicts of interest for individuals involved in the implementation of the 4th Railway Package and that the Management Board further clarified rules on gifts and hospitality and the use of social media; calls on the agency to closely monitor the effectiveness of the measures taken and to report to the discharge authority on the experience and possible need for adjustments;

20. Notes that the Agency has published the declarations of interests of the management board and senior management, and the CVs of its management board members and of its executive director on their website; calls the Agency to publish the CVs of its senior management and to report to the discharge authority on the measures taken in that regard;

21. Notes the continuation of steps taken in order to enhance the transparency of the Agency's activities by reporting the meetings that the Agency's staff has with external stakeholders, in particular the director's meetings with organisations and self-employed individuals, and their availability on the Agency's website;

22. Notes that the suspected fraud case, first reported in 2017, was closed by the European Anti-Fraud Office in September 2019, without recommending the taking of any action; notes that the investigation did not establish any evidence of fraud or irregularity affecting the financial or other interests of the Union;

Internal controls

23. Notes the observation in the Court's report that the Commission, under a service level agreement, invoiced the Agency for the provision of different IT services, but that that invoice was partially based on an incorrect number of users; notes the limited financial impact of overcharging the Agency EUR 4 675; notes, however, the weaknesses in the internal controls of the Agency identified of by the Court, which demonstrate that no check had been carried to ensure that the invoiced amount complied with the terms of the service level agreement; calls on the Agency to assess the identified weakness, to introduce preventive measures, to address the risks identified and to inform the discharge authority about the measures taken by June 2021;

24. Notes that in 2019 all but one of the open recommendations from the Internal Audit Service were closed; notes that the one open recommendation stems from the 2018 audit on project and service management and refers to the effective use of MS Project; notes that the Agency reported in September 2020 in its follow-up report on the 2018 discharge, that the recommendation would be closed in June 2020; reminds the Agency that this recommendation should be implemented in accordance with the its agreed action plan; calls on the Agency to keep the discharge authority informed in respect of the implementation of this recommendation and to provide an explanation for any delay by June 2021;

25. Points out the role of the Agency in ensuring the safety and interoperability of the European railway system and in improving the competitiveness of railway with respect to other modes of transport, reducing administrative and technical obstacles, promoting market access and guaranteeing non-discrimination, making more efficient use of public funds in public rail transport services and improving infrastructure governance; supports the Commission's vision of a European rail system that is a world leader in terms of safety performance; calls for an increase of the budget of the Agency in order to provide it with the necessary means to enable it to act as an efficient authority and to fulfil its tasks, particularly those with regard to increasing competitiveness, improving safety and cross-border interoperability;

26. Welcomes the fact that, by 16 June 2019, the Agency had successfully started to perform its role as the EU authority responsible for issuing authorisation for placing railway vehicles on the market, single safety certificates for railway undertakings and ERTMS trackside approvals, in the legal framework of the 4th Railway Package; notes that those two missions were conducted in relation to the eight Member States that transposed the technical pillar of the 4th Railway Package in 2019; welcomes the continued development of the 'one-stop shop'; insists on the need for the Agency to be given the necessary financial, material and human resources alongside greater responsibilities are attributed to the Agency in order to carry out these new and additional functions in an efficient and effective way;

27. Welcomes that the Agency was subject to a second ISO 9001 surveillance audit to certify that the management system is complying with the ISO requirements and that no non-conformities were identified by the certification body;

Other comments

28. Notes that the Agency has started discussions with the French authorities concerning the construction of a new building; encourages the Agency to include state-of-the-art requirements as regards the well-being of personnel and environmental standards;

29. Welcomes the efforts made by the Agency to create an environment-friendly working frame;

30. Recalls the importance for the agency to develop greater visibility in the media and on the Internet in order to make its work known;

31. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 29 April 2021 ([2]) on the performance, financial management and control of the agencies.

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