RESOLUTION (EU) 2020/1863 OF THE EUROPEAN PARLIAMENT

of 14 May 2020

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 (ERA) for the financial year 2018

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 2018,

— 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 (A9-0061/2020),

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 2018 was EUR 28 793 243, representing a decrease of 6,31 % compared to 2017; whereas the budget of the Agency derives mainly from the Union budget ([2]);

B. whereas the Court of Auditors (the 'Court'), in its report on the annual accounts of the Agency for the financial year 2018 (the 'Court's report'), has stated that it has obtained reasonable assurances 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 2018 resulted in a budget implementation rate of 99,98 %, representing a slight decrease of 0,02 % compared to 2017; notes that the payment appropriations execution rate was 88,96 %, representing an increase of 1,66 % compared to 2017;

2. Notes the Agency's role in ensuring the safety and interoperability of the European rail system and improving competitiveness of rail with other modes of transport, by reducing administrative and technical barriers, encouraging market entry and ensuring non-discrimination, spending public money more efficiently on public rail transport services and through better governance of the infrastructure; supports the Commission's vision of a European railway system that leads the world on safety performance;

3. Welcomes the Agency's role in the follow-up of the development, testing and implementation of the European Railway Traffic Management System (ERTMS), as well as in evaluating the specific ERTMS projects; notes, furthermore, that the 4th Railway Package includes a technical pillar that enhances the role of Agency by introducing new tasks to ensure a uniform implementation of the EU framework; stresses that, as the Agency receives greater responsibilities, it will need to be given the necessary financial, material and human resources to perform its new and additional tasks effectively and efficiently;

4. Recalls that the ERTMS is crucial to achieving a Single European Railway Area; stresses, therefore, that an optimised coordination of ERTMS development and deployment that ensures a single, transparent, stable, affordable and interoperable ERTMS system throughout Europe is a key priority;

([1]) OJ C 108, 22.3.2018, p. 76.
([2]) OJ C 108, 22.3.2018, p. 77, subsidy from the Commission (EUR 28 135 398), third countries contribution (EUR 657 845, note this is smaller than previous year).

5. Notes that, following the Agency's enlarged mandate in its new Regulation, in 2019 the Agency will start 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 [3], fees and charges represent assigned revenue for the Agency; notes that some amendments to the implementing rules for the Agency's Financial Regulation are necessary and notes from the Agency's reply that it has submitted a derogation request to the Commission to that aim; calls on the Agency to report to the discharge authority on the implementation of this new system;

6. Calls on the Agency to take into account the specific needs of SMEs during the certification process, in particular by reducing their administrative and financial burdens;

Performance

7. Notes that the Agency uses a set of Railway Indicators across its operational activities as Key Performance Indicators (KPIs) to assess the added value provided by its activities and other indicators to improve its budget management;

8. Encourages the Agency to implement the Court's recommendations;

9. Acknowledges that the Agency had a satisfactory level of achievement for its KPIs and its targets for outputs, achieving full completion of the initial activities after the entry into force of the Fourth Railway Package; notes that the Agency met its target of issuing reports, advice and opinions in a timely manner in 95 % of cases; points out that the Agency did not achieve the goal of 90 % achievement of all outputs using financial and human resource planning, with only 79,75 % categorised as fully achieved;

10. Welcomes the Agency's continued cooperation with the European Securities and Markets Authority in sharing accountancy services; further urges the Agency to explore possibilities of sharing resources for 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, with a special emphasis on the development of collaboration with the Paris-based Institute for Security Studies;

11. Encourages the Agency to pursue the digitalisation of its services;

12. Notes that the objective set by the European Parliament, the Council and the Commission of establishing a single European railway market has not been achieved; calls on the Agency to focus its efforts and publications on this area;

13. Notes that the aim of shifting traffic from road to rail can only be achieved if a competitive European railway area is established; calls on the Agency to draw up a set of measures designed to ensure that in future, rail transport can be incorporated into modern logistics chains;

14. Points out that the next five years will be crucial for the future of the rail sector and that the Agency must be provided with the funding and staff it needs in order to meet the coming challenges;

15. 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;

16. Notes that the results of the annual benchmarking exercise regarding the staff are similar to those of 2017 with 18,4 % of the staff assigned to administrative tasks (18,18 % in 2017), 69,7 % assigned to operational tasks (70,16 %), and 11,90 % of the staff assigned to control and financial tasks (11,67 %);

[3] Regulation (EU) 2016/796 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Railways and repealing Regulation (EC) No 881/2004 (OJ L 138, 26.5.2016, p. 1).

17. Welcomes the Agency's continued efforts to prepare for its new tasks as defined by the Fourth Railway Package and to take up, in June 2019, its role as the EU authority responsible for issuing authorisations for placing railway vehicles on the market, single safety certificates for railway undertakings and ERTMS trackside approvals; welcomes in particular that all the legal texts and management board decisions were adopted on time and that the Agency published the Application guide for vehicle authorisation; welcomes the other steps taken by the Agency to prepare for its new tasks (active stakeholders interaction, learning cases and shadow running, pilot National Safety Authorities monitoring); welcomes the development of the One-Stop Shop;

Welcomes the fact that the Agency has made a start on the task of harmonising the more than 14 000 national rules governing rail transport;

(a) deplores the fact that, unlike in the aviation and road transport sectors, in the rail sector harmonisation is still a distant objective;

(b) calls on the Agency significantly to step up its efforts to establish a single European rail area;

18. Notes that the Agency plays a key role in removing bureaucratic obstacles in the area of cross-border rail transport;

19. Notes that, as regards both infrastructure and rolling stock, far too little progress has been made in introducing the equipment required for the ERTMS in Europe, and calls on the Agency to propose measures to speed up that process;

20. Regrets that 37 non-conformities were registered in 2018, including 18 with financial impacts (among which 4 superior to 15 000 euros); requests the Agency to continue its efforts to improve its management as well as procurement procedures;

21. Notes that the Agency proposed to review the Framework for Good Administrative behaviour; requests that the Agency reports on the evolution of this framework in its next annual report; welcomes the fact that the Agency continued the training on Ethics and Antifraud; welcomes the fact that no cases of suspicion of fraud have been transmitted to OLAF; notes that the case reported in 2017 is still under investigation;

22. Welcomes the successful passing of the ISO 9001 confirmation audit;

Staff policy

23. Notes that, on 31 December 2018, the establishment plan was 89,19 % executed, with 132 temporary agents appointed out of 148 temporary agents authorised under the Union budget (compared with 139 authorised posts in 2017); notes that in addition 31 contract agents and 2 seconded national experts worked for the Agency in 2018;

24. Notes with concern the unequal gender balance reported for 2018 for senior managers (5 men and 1 woman) and for the management board (40 men and 15 women);

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

Procurement

26. Notes that, according to the Court's report, the Agency did not systematically check prices and uplifts charged with supplier's quotes and invoices issued to the framework contractor for the acquisition of software licences; acknowledges that the Agency applied the Commission framework contract and awaits the new framework contract where a reopening of competition is foreseen; calls on the Agency to adapt the *ex ante* controls on payments under framework contracts and to ensure there is a competitive procedure for all procurements;

27. Notes that, according to the Court's report, the Agency, through an amendment to a direct contract for the organisation of a conference, decided to contract and pay all related services separately, resulting in an artificial splitting of the contract, and thus rendering the contract and all related payments irregular; takes note of the Agency's reply that it intends to prepare terms of reference to sign a framework contract for the organisation of events;

Prevention and management of conflicts of interest and transparency

28. Notes that the Agency has published the declarations of conflicts of interest of the management board and members of staff and the CVs of its management board members and of part of its management staff on their website; welcomes the fact that since June 2019, all the Agency's senior management and member staff have to sign an annual declaration of conflicts of interest;

29. Notes that, according to the Agency, the Framework for Good Administrative behaviour in place encompasses strict measures on management of conflict of interests regarding individuals involved in the new tasks under the Fourth Railway Package; also notes that the framework has encountered practical difficulties and therefore is the subject of a revised proposal; notes that the case of suspicion of fraud reported in 2017 is still under investigation by the European Anti-Fraud Office; notes that no other case of suspicion of fraud has been reported since then; urges the Agency to report to the discharge authority on the outcome of this investigation;

30. Notes that the Agency adopted guidelines on whistleblowing, which were published on 21 November 2018;

Internal controls

31. Notes the fact that, following the Agency's re-organisation, the accounting officer is directly linked administratively to the executive director and is not in charge of the Finance and Procurement team anymore;

32. Notes that in 2018, an audit report on 'Programme, Project and Service Management in the Agency' was issued by the Commission's Internal Audit Service and that the Agency prepared an action plan to address any potential areas for improvement; calls on the Agency to report to the discharge authority on the measures taken in this regard;

Other comments

33. Notes that, by the end of the transitional period (16 June 2019), the Agency will transform itself from a body with a mere policy preparation and dissemination role into an authority working directly for the industry as regards authorisations for safety certifications and rolling stock; notes in this regard that the Agency's reorganisation has allowed the necessary changes to ensure the management of the new applications, drawing upon experts, and the development of both a training programme and a monitoring system;

34. Notes that on 15 April 2019, the Agency signed the headquarter agreement with the French authorities; acknowledges that the decision for the double seat is a Council decision that the Agency must apply;

35. Calls upon the Agency to focus on disseminating the results of its research to the public, and to reach out to public via the social media and other media outlets;

36. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 14 May 2020 ([4]) on the performance, financial management and control of the agencies.

([4]) Texts adopted, P9_TA(2020)0121.