

RESOLUTION OF THE EUROPEAN PARLIAMENT**of 10 May 2012****with observations forming an integral part of its Decision on discharge in respect of the implementation of the budget of the European Aviation Safety Agency for the financial year 2010**

THE EUROPEAN PARLIAMENT,

- having regard to the final annual accounts of the European Aviation Safety Agency for the financial year 2010,
 - having regard to the Court of Auditors' report on the annual accounts of the European Aviation Safety Agency for the financial year 2010, together with the Agency's replies ⁽¹⁾,
 - having regard to the Council's recommendation of 21 February 2012 (06083/2012 – C7-0051/2012),
 - having regard to Article 319 of the Treaty on the Functioning of the European Union,
 - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾, and in particular Article 185 thereof,
 - having regard to Regulation (EC) No 216/2008 of the European Parliament and of the Council ⁽³⁾ establishing a European Aviation Safety Agency, and in particular Article 60 thereof,
 - having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽⁴⁾, and in particular Article 94 thereof,
 - having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Transport and Tourism (A7-0124/2012),
- A. whereas the Court of Auditors stated that it has obtained reasonable assurances that the annual accounts of the European Aviation Safety Agency ('the Agency') for the financial year 2010 are reliable and that the underlying transactions are legal and regular,
- B. whereas on 10 May 2011 Parliament granted the Executive Director of the Agency discharge for implementation of its budget for the financial year 2009 ⁽⁵⁾, and in its resolution accompanying the discharge decision, *inter alia*:
- urged the Agency to implement an activity-based structure for the operational budget in order to establish a clear link between the work programme and the financial forecasts and improve performance monitoring and reporting,

⁽¹⁾ OJ C 366, 15.12.2011, p. 21.

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

⁽³⁾ OJ L 79, 19.3.2008, p. 1.

⁽⁴⁾ OJ L 357, 31.12.2002, p. 72.

⁽⁵⁾ OJ L 250, 27.9.2011, p. 140.

- drew attention to the fact that once again the Agency carried forward to 2010 a high level of appropriations for operating expenditure,
 - requested that a report be attached to each year's budget on the unspent appropriations carried over from previous years, explaining why those monies have not been used and how and when they will be used,
 - noted deficiencies in staff selection procedures which put at risk the transparency of those procedures,
- C. whereas the Agency is financed by fees and charges and a contribution from the Union,
- D. whereas the budget of the Agency for the financial year 2010 was EUR 137 200 000 compared to EUR 122 200 000 in 2009, which was an increase of 12,27 %; whereas the contribution of the Union to the budget of the Agency for 2010 was EUR 34 197 000 ⁽¹⁾, which represents an increase of 0,87 % compared to 2009,

Budget and financial management

1. Recalls that two-thirds of the Agency's budget comes from fees and charges paid by the industry, one third comes from Union subsidies, and the initial Union contribution to the Agency for 2010 amounted to EUR 32 879 000; notes however that EUR 1 318 000, coming from the recovery of surplus, was added to that amount which, as a result, makes a total Union contribution of EUR 34 197 000;
2. Notes that the Agency's budget increased by 61 % from EUR 85 200 000 to EUR 137 200 000 from 2007 to 2010 while staff numbers rose from 333 to 524;
3. Notes that under Article 3 of Commission Regulation (EC) No 593/2007 of 31 May 2007 on the fees and charges levied by the European Aviation Safety Agency ⁽²⁾ the revenues from fees constitute assigned revenues which can be carried over by the Agency as long as they have not been used; notes that industry receipts may be related to more than one financial year; notes that the reserve that can be used during the subsequent years is adjusted based on the budget result for the year; notes that the amount of the reserve decreased over the last two years from EUR 29 000 000 at the end of 2008 to EUR 21 000 000 at the end of 2010;
4. Notes from its final annual accounts for the financial year 2010 that the Agency used only non-differentiated appropriations and that as a result the commitment appropriations were equal to the payment appropriations; notes moreover that the overall budget implementation rate was 99,51 % for the 2010 appropriations;
5. Calls on the Agency to further take adequate measures in order to avoid deficiencies that put at risk the transparency of the procurement process as well as the principle of sound financial management;

Accounting

6. Ascertains from its final annual accounts that in 2010 the Agency changed its revenue recognition method from a cost-based method to a method based on the straight-line method proposed in EC Accounting Rule number 4;
7. Understands from the Agency that the change was made to improve accuracy and transparency on how the revenue earned is based and to take account of the 2009 Court of Auditors' recommendation to apply a method reflecting more accurately the amount of revenue allocated to a financial year;

⁽¹⁾ OJ L 64, 12.3.2010, p. 613.

⁽²⁾ OJ L 140, 1.6.2007, p. 3.

8. Acknowledges from the Annual Activity Report of the Agency that the Enterprise Resource Planning system was further enhanced and systematically used for all types of financial transactions and for the year-end closing;

Procurement procedure

9. Notes from its AAR that 23 high value tendering procedures covering both operational and administrative needs were managed throughout 2010, that 20 of them were finalised and 29 high value contracts signed with a value of approximately EUR 14 000 000; notes in addition that 428 contracts were signed following the low value procurement procedures totalling approximately EUR 1 650 000;
10. Acknowledges, in particular, from the Court of Auditors that, for two large procurement procedures, the evaluation method did not allow tenders offering the best financial bid to achieve the highest price score; notes from the Agency that these two procurement procedures refer to:

— the renewal of a four-year cleaning services contract amounting to EUR 1 000 000,

— a Framework Contract of a maximum of four years for studies on aircraft engine certification requirements and standards with a maximum value of EUR 2 500 000 for which the awarded contractor did not complete all cost elements in its application,

notes that the Agency replied that no negative impact on the outcome was to be reported and will nevertheless take into account the considerations of the Court and in the future address the risk identified through paying even more attention to financial evaluation formulas;

Human resources

11. Notes that, once more, the discharge authority found deficiencies in staff selection procedures which put at risk the transparency of these procedures; acknowledges from the Court of Auditors that there was no evidence that thresholds for being invited to interview or being put on the reserve list had been defined before the examination of the applications started; notes that this could be to cover up a situation of nepotism or conflict of interest; asks that everything be done in order to avoid conflicts of interest; calls on the Commission to ensure that the Agency applies Union rules correctly; stresses the importance of transparency in procurement and staff selection procedures;
12. Notes that the Agency did not inform the discharge authority of the actions taken to make the selection procedures of its experts/staff more transparent as requested in 2009, although understands that the matter was addressed in 2010 after the Court of Auditors once again underlined the issue in its report; stresses, once more, that the impact of these deficiencies is even more crucial when considering that the objectives of the Agency are as follows: issuing certification specifications, taking decisions regarding airworthiness and environmental certification and conducting standardisation inspections of the competent authorities in the Member States;
13. Notes the Agency's reply to the Court that its guidelines for panel members indicate clearly the minimum threshold which candidates have to meet in order to be invited for interviews (50 %) or to be put on the reserve list (65 %) but that it reserves its right to decide on what constitutes a maximum reasonable number of candidates to be invited according to their merit ranking;
14. Reminds the Agency of the importance of ensuring adequate training and qualification criteria for inspection teams and team leaders; calls on the Agency to take concrete steps and inform the discharge authority thereof;
15. Notes that, from 2009 to 2010, the Agency's staff numbers rose from 509 to 578, including temporary and contracting agents;

Conflict of interest

16. Notes that the Agency's technical staff members need to be commonly recruited from national aviation authorities and the aviation industry; understands that the staff members must have sufficient and up-to-date technical experience of working in the field of aviation to perform a technical check of documents demonstrating compliance for the purposes of ensuring an adequate level of aviation safety as requested by the applicable Union legislation; is concerned however that this situation could cause conflicts of interest if a staff member recruited from an aircraft manufacturer works and takes decisions at the Agency on the certification of the aircraft he/she used to work on while employed by the manufacturer and, if not detected and adequately managed, could result in a conflict of interest situation; recognises however that the Agency has put in place a certification procedure where impartiality of the decision-making process is guaranteed through the collegiality of the technical assessments and the decision-making process itself; also understands that the Agency is in the process of setting up an Agency-wide policy in the area of codes of conduct including identification, prevention, monitoring and dealing with the consequences of potential conflict of interest cases which will help the Agency to further improve the identification and handling of conflict of interests situations in such a way that aviation safety is not put at risk at any time;
17. Calls on the Agency to take duly into consideration the professional background of its staff members in order to avoid any conflict of interest; is of the opinion that the Agency's conflicts of interest policy should set out to which extent and under which conditions an Agency employee can be involved in the certification of an aircraft on which they worked prior to joining the Agency;
18. Calls on the Agency to adopt effective processes that duly address potential cases of allegations of conflicts of interest within the Agency; also calls on the Agency to publish on its website the declaration of interests and professional background of its experts, management staff, Management Board members and of any other persons whose activities are related to the certification process; indicates that the Agency should follow the OECD guidelines in the area of conflicts of interest;
19. Noting that the Agency is involved in decisions of vital importance for all citizens and taking into account its exposure due to its importance to the industry, the discharge authority is looking forward to receiving and discussing the findings and recommendations from the Special Report on conflict of interest situations to be released by the Court of Auditors before the end of June 2012;

Performance

20. Calls on the Agency to further implement the existing activity-based structure for the operational budget in order to establish a clear link between the work programme and the financial forecasts and further improve performance monitoring and reporting;
21. Calls on the Agency to make a Gantt diagram part of the programming for each of its operational activities where relevant; stresses also how important it is for the Agency to set SMART objectives and RACER indicators in its programming as it has done in its Annual Work Programme and in its AAR since 2008;

Internal control

22. Notes from its AAR that the Agency consolidated its Integrated Management System in 2010 including the concept of 'internal control', which aims at ensuring that the risks are correctly mitigated, in order to enhance the Agency's ability to achieve operational, quality, compliance or financial objectives;
23. Notes that, in December 2010, the Agency's Integrated Management System achieved certification against the internationally recognised ISO 9001:2008 Quality Management Standard;

Standardisation inspections process

24. Calls on the Agency to further improve the documentation of inspection planning and inspection programming; reminds the Agency of the importance of documenting the risk assessment and criteria used when establishing its inspection planning in order to justify its internal decision-making process for cases presenting significant deficiencies affecting Union citizens' safety;

25. Calls moreover the Agency to further improve its effectiveness in managing key safety concerns by:
- monitoring information,
 - reducing the length of the reporting and implementing time-frame,
 - documenting the decision-making process between the Agency and the Commission,
 - adequately mitigating the risks of any potential conflict of interest situation;
26. Calls moreover on the Agency to classify, monitor and follow up its inspection findings classified as 'Observations'; takes note from the Agency that it has developed an operating procedure to define those findings and to communicate them to the Commission; calls therefore on the Agency to inform the discharge authority on the action taken;

Internal audit

27. Acknowledges that several 'very important' recommendations from the Internal Audit Service (IAS) aimed at reducing outstanding risks to the Agency are still open and are currently under review by the IAS;
28. Notes in particular that in 2010 the IAS performed an audit on the Standardisation Inspection Process in order to assess and provide an independent assurance on the internal control system related to the standardisation inspection process in the Agency, the purpose of which is to monitor the application of relevant Union Regulations by the national aviation authorities and report to the Commission; also notes that the Agency has already developed a corrective action plan which was agreed by the IAS and already provided to the IAS for its review evidence of implementation regarding the recommendations set out in paragraphs 25 to 27 of this report;
29. Calls in this respect on the Agency to further:
- document its risk assessments after its annual inspection programmes and inspection visit,
 - improve the monitoring of and reporting on the significant deficiencies which raise safety concerns,
 - follow-up and monitor its observations after inspection visits;
30. Draws attention to its recommendations from previous discharge reports, as set out in the Annex to this resolution;
31. Refers, in respect of the other observations accompanying its Decision on discharge, which are of a horizontal nature, to its resolution of 10 May 2012 ⁽¹⁾ on the performance, financial management and control of the agencies.

⁽¹⁾ Texts adopted, P7_TA(2012)0164 (see page 388 of this Official Journal).

EUROPEAN PARLIAMENT RECOMMENDATIONS OVER PAST YEARS

European Aviation Safety Agency	2006	2007	2008	2009
Performance	The Agency should carefully check the consistency of the expenditure forecasts; the Agency's cost analysis system showed costs of about EUR 48 000 000 versus revenue of about EUR 35 000 000; insufficient programming	The Agency should carefully check the consistency of the expenditure forecasts that are to be presented for adoption by the budgetary authority	<ul style="list-style-type: none"> — Calls on the Agency to set out a diachronic analysis of operations carried out in this and the previous years — Calls on the Agency to set SMART objectives and RACER indicators — Calls on the Agency to make a Gantt diagram 	<ul style="list-style-type: none"> — Calls on the Agency to set SMART objective and RACER indicators — Calls on the Agency to consider making a Gantt diagram part of the programming for each of its operational activities, with a view to indicating in a concise form the amount of time spent by each staff member on a project — Urges the Agency to implement an activity based structure for the operational budget in order to establish a clear link between the work programme and the financial forecasts and the improve performance monitoring and reporting — Calls on the Agency to set out a comparison of its operations that were carried out during the year for which discharge is to be granted and during the previous financial year
Fees and charges regulation	n.a.	The Agency should not confuse to use the former regulation on fee levied with the new one	<ul style="list-style-type: none"> — Calls on the Agency to establish a monitoring system at the level of certification projects — Calls on the Agency to put forward a detailed plan to guarantee that the system of annual flat fees might not generate income which is significantly above the actual costs of the services rendered 	<ul style="list-style-type: none"> — Calls on the Agency to improve its monitoring system for certification projects to make sure that, over the entire duration the fees levied do not deviate significantly from the actual cost — Calls on the Agency to correctly estimate for the establishment of the 2010 financial statements, the accrued expenditure related to the management of certification tasks outsourced to national aviation authorities
Carry-over of appropriations/Procurement issues	The budgetary principle of annuality was not observed: contrary to its Financial Regulation, the Agency used its differentiated payment appropriations carried over from 2005 despite the fact that it had enough payment appropriations for 2006	Transparency issues on the award criteria and the financial evaluation method	<ul style="list-style-type: none"> — Calls on the Agency to remedy the enterprise resource planning system resulting from a delay in signing the service contract. (Calls on the Agency to present a much more realistic forecast to the Commission and the Parliament during the next years) 	<ul style="list-style-type: none"> — Agency carried forward to 2010 a high level of appropriations for operating expenditure (65 % from Title III, Operational Activities. The percentage of commitments carried forward is 13 %)

European Aviation Safety Agency	2006	2007	2008	2009
			<ul style="list-style-type: none"> — Calls on the Commission to examine ways of ensuring that the principle of needs-based cash management is implemented in full, in order to ensure that the Agency's cash reserves are kept as low as possible 	<ul style="list-style-type: none"> — Calls for more accurate and timely management of contracts and for far more realistic forecasts to be presented to Parliament and Commission for the next financial year — Requests that a report be attached to each year's budget on the unspent appropriations carried over from previous years explaining why those monies have not been used and how and when they will be used
Human resources	n.a.	Calls on the Agency to improve its recruitment and resource planning systems	Calls on the Agency to improve its recruitment and resource planning systems	<ul style="list-style-type: none"> — Notes deficiencies in staff selection procedures which put at risk the transparency of these procedures. Court of Auditors reported that the decisions by the selection boards were insufficiently justified and documented since thresholds for being invited to interview or put on the reserve list were not defined in advance and minutes were missing — Urges the Agency to inform the discharge authority on the actions taken to redress this situation and make the selection procedures of its experts/staff more transparent
Internal audit	The Agency has not yet implemented an effective claim management system, possibly including interest on late payment	n.a.	Calls on the Agency to take steps to fulfil 13 (two are considered critical) out of 28 recommendations made by the Internal Audit Service → i.e. the recommendations concern the budgetary uncertainty, the absence of risk analysis, the absence of an appraisal and promotion policy, the cut-off procedure and a procedure for recording exceptions which have been closed	Acknowledges that the Agency has implemented 20 out of the 26 recommendations made by the IAS since 2006