

RESOLUTION (EU) 2022/1798 OF THE EUROPEAN PARLIAMENT**of 4 May 2022****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 Criminal Justice Cooperation (Eurojust) for the financial year 2020**

THE EUROPEAN PARLIAMENT,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Union Agency for Criminal Justice Cooperation (Eurojust) for the financial year 2020,
 - 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 (A9-0102/2022),
- A. whereas, according to its statement of revenue and expenditure ⁽¹⁾, the final budget of European Union Agency for Criminal Justice Cooperation (Eurojust) (the 'Agency') for the financial year 2020 was EUR 41 700 000, representing an increase of 7,05 % compared to 2019; whereas the Agency's budget derives almost exclusively 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 2020 (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 2020 resulted in a budget implementation rate of 99,99 %, representing an increase of 0,11 % compared to 2019; notes that the execution rate of payment appropriations was 58,07 %, representing a decrease of 5,54 % compared to 2019;

Performance

2. Stresses the essential role that the Agency plays in supporting and coordinating the work of national judicial authorities in investigating and prosecuting serious organised cross-border crime;
3. Highlights the continuous increase in the total number of cases supported by the Agency in the past five years and stresses the recent trend of cases referred to the Agency becoming more and more complex, requiring support over longer periods of time;
4. Welcomes the fact that the Agency launched a Focus Group of Prosecutors and Investigative Judges Fighting Migrant Smuggling, bringing together practitioners specialised in the field and all actors in the security and criminal justice chain to further strengthen the fight against migrant smuggling;
5. Welcomes the further operational cooperation with Frontex; expresses its satisfaction over the negotiation of a working agreement governing the future relation between Frontex and the Agency;
6. Welcomes the cooperation between the Agency and eu-LISA in the context of the Regulation (EU) 2019/816 of the European Parliament and of the Council ⁽²⁾;

⁽¹⁾ OJ C 179, 10.5.2021, p. 1.

⁽²⁾ Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726 (OJ L 135, 22.5.2019, p. 1).

7. Notes that the Agency uses key performance indicators (KPIs) to assess the added value provided by its activities and to improve its budget management, such as the number of reports/analyses directly supporting cases, the number of case referrals from Member States and the adoption of appropriate working arrangements with the European Public Prosecutor's Office ('the EPPO') in operational matters; notes that the Agency defined 50 KPIs in its annual working plan for 2020, a reduction of 44 % compared to the annual working plan for 2019; notes that, excluding the KPIs impacted by the COVID-19 pandemic, the Agency achieved the targets for 22 of 30 KPIs (73 % achieved compared to 71 % in 2019);
8. Notes that the support of the Agency to Member States, Norway and Iceland, in collaboration with the Council and the European Judicial Network, has played an important role in compiling and disseminating information on practical and legal issues arising from the COVID-19 pandemic; notes that in April 2020 the Agency published guidelines on operational support during the COVID-19 pandemic, containing the business contingency measures implemented to ensure continuous operational assistance to the national desks and national authorities;
9. Notes that the Agency continued to strengthen operational cooperation and the increase of case referrals by the liaison prosecutors, resulting in 291 new cases in 2020 and representing a 17 % increase compared to 2019; welcomes the fact that the Agency has reinforced the operational cooperation with its partners and third countries with the appointment of liaison prosecutors from Serbia, Georgia and Albania, and through a 4 % increase in the number of common cases; notes positively that the network of the Agency contact points increased to 55 countries with the participation of Uzbekistan, Sri Lanka, Mexico and Kosovo; is pleased that the Agency has stepped up its cooperation on criminal matters between the Union and its South partner countries (Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestine and Tunisia) by becoming the host of the new phase of the EuroMed Justice Programme;
10. Notes that in 2020 prosecutors from across the Union and beyond turned to the Agency for assistance in 8 799 cross-border criminal investigations, an increase of 13 % compared to 2019, and that 4 200 were new cases opened during 2020, 164 of which were related to the COVID-19 pandemic; welcomes the fact that the Agency provided legal, financial and operational support to 268 joint investigation teams in 2020 and facilitated the execution of 1 284 European Arrest Warrants;
11. Highlights the fact that the Agency participated actively in the Standing Committee on Operational Cooperation on Internal Security meetings and related activities, and expanded its deliverables in crime priority areas; welcomes the fact that the Agency enhanced its strategic cooperation with partners in the Area of Freedom, Security and Justice through a strong collaboration with the Justice and Home Affairs (JHA) agencies, by chairing the JHA agencies network and continuing to explore synergies with judicial networks;
12. Welcomes the close cooperation with Union and international partners, including the Commission and OLAF and other JHA agencies; highlights the progress in the collaboration between the Agency and the EPPO and welcomes the negotiation of the working agreement to govern their future relations; welcomes the participation of the Agency in the EU Victims' Rights Platform;

Staff policy

13. Notes that, on 31 December 2020, the establishment plan was 99 % implemented, with 204 temporary agents appointed out of 207 temporary agents authorised under the Union budget (compared to 208 authorised posts in 2019); notes that, in addition, 16,2 contract agents (compared to 16 authorised posts in 2020) and 16,5 out of 21 full-time equivalent (FTE) seconded national experts worked for the Agency in 2020;
14. Stresses the importance of the Agency having suitable human and economic resources at its disposal, not least in view of the increase in its activities;

15. Welcomes the achieved gender balance within the Agency for 2020 with 5 men and 5 women in senior and middle management, and notes with concern the lack of gender balance with 17 men (65,4 %) and 9 women (34,6 %) in the Agency's executive board, and that the staff overall is composed of 71 men (32 %) and 152 women (68 %); asks the Agency to ensure gender balance at the staff level in the future; 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 executive board;
16. Notes with appreciation the Agency's existing measures and ongoing efforts to prevent harassment; welcomes the fact that in 2020, the Agency offered refresher training on psychological and sexual harassment to all staff and additional training on conflict management and resolution was provided to the confidential counsellors and managers;
17. Notes that in 2019 the Agency initially reported to have two ongoing cases of alleged harassment in the Agency; notes that the Agency corrected this figure, since one of these two cases originated in 2018, when a member of staff filed a request for assistance alleging harassment by a line manager, which led to an administrative enquiry that concluded that claim was found to be unsubstantiated and that the enquiry was closed in March 2019; notes that the members of staff involved in the case were placed in different organisational entities and that no further action was taken, with the decision to close the enquiry not being refuted, and that the case was closed in November 2020; notes that the second case was initiated in 2019 concerning another manager, that the case was closed in November 2020 with no further action required, and that an appeal was lodged by the complainant in February 2021 against the decision to close the case;
18. Notes that the Agency recruited 16 temporary and contract agents in 2020 through external recruitment procedures; notes that two appointments have been made to offset the effects of part-time work that was on average 3,9 FTE throughout the year, in accordance with Article 38(2) of Commission Delegated Regulation (EU) 2019/715 ⁽³⁾; welcomes the use of this possibility by the Agency to accommodate part-time work for its staff;

Procurement

19. Notes that, according to the Court's report, a number of weaknesses in the Agency's audited public procurement procedures were detected; notes that in one case, where the Agency signed a framework contract with a single economic operator, the Court concluded that the use of this sort of framework contract was not appropriate for the nature of the services required (the leasing of vehicles), as the related market is subject to frequent fluctuations in price; acknowledges the Court's observation that the Agency should have used a framework contract with a reopening of competition in order to ensure that the required services were acquired as economically as possible; notes the Agency's reply to this observation and its commitment to prepare more robust *ex ante* documentation aimed at clarifying why a certain procurement procedure has been followed; calls on the Agency to step up efforts to address such weaknesses in the future;
20. Notes that, according to the Court's report, in another case, the Agency signed a specific contract in which pricing deviated from the price lists attached to the original framework contract for digital forensics and incident response; notes that the Agency approved the invoice and made the payment to the contractor without noticing the discrepancy in the hourly pricing rate and that this demonstrated that no checks were made as to whether the specific contract and the invoiced amount corresponded to the actual terms of the service-level agreement; notes that the Court considers the excess amount paid (EUR 3 600) as irregular; calls on the Agency to evaluate this control weakness and to exclude that there is no systemic issue in its payment procedures and to inform the discharge authority on the results of the evaluation and actions taken;
21. Notes with regard to procurement procedures that, during 2020, 31 contracts were signed for a total value of EUR 8 265 812; further notes that the Agency aims to embrace green procurement in all its tender procedures;

⁽³⁾ Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1).

22. Welcomes the fact that the Agency has completed the Court's observation from 2018 concerning the use of a negotiated procurement procedure deemed as not justified;

Prevention and management of conflicts of interest, and transparency

23. Acknowledges the Agency's existing measures and its ongoing efforts to secure the transparency, prevention and management of conflicts of interest; notes that the executive board adopted Decision 2020-07 of 15 June 2020 regarding the updated anti-fraud strategy that underlines the need to raise awareness on the internal rules of the Agency on ethics and on conflicts of interest; notes that the Agency's guidelines on whistleblowing were amended by the Agency's college in January 2019 and that the review of those guidelines is ongoing; notes that a code of ethics for members of the college and the executive board was adopted by College Decision 2020-09 of 15 December 2020;
24. Regrets the fact that the CVs of senior management, external experts and in-house experts of the Agency are not published on its website; calls on the Agency to publish these CVs immediately; notes that the Agency has adopted an updated standard operating procedure on the management of conflicts of interest by Decision AD 2020-44 of the administrative director and that no conflicts of interest were reported in 2020;
25. Notes that, in accordance with Article 16(3)(b) of Regulation (EU) 2018/1727 of the European Parliament and of the Council (*), the executive board adopted, on 15 June 2020, an anti-fraud strategy that includes an action plan for 2020, updating the previous action plan of 6 November 2018; welcomes the fact that the update of the anti-fraud strategy was communicated to all post-holders, and is accessible together with other anti-fraud materials through the anti-fraud portal on the Agency's intranet;
26. Calls on the Agency to take measures to ensure full compliance with Union transparency rules as well as with fundamental rights and data protection standards;

Internal control

27. Welcomes the Agency's assessment of its internal control system, that concluded that all internal control principles and components are implemented and function effectively; calls on the Agency to properly reflect the Court's findings in its annual assessment, in particular the observation related to the absence of *ex ante* checks on agreed prices in contracts and the invoiced rates that potentially concerns a systemic issue;
28. Notes that, in the beginning of 2020, the Agency had nine open recommendations stemming from audit engagement by the internal audit service, two related to activity based management stemming from the audit on monitoring and reporting/building blocks of assurance carried out in 2016, and seven resulting from the 2019 audit on cooperation with Europol; notes that the Agency achieved significant progress in 2020 with the implementation of the two recommendations pending since 2016, together with five of the seven recommendations resulting from the audit on cooperation with Europol; calls on the Agency to conclude the implementation of all the recommendations;
29. Notes that the limited review of the implementation of the new legal framework covered aspects related to planning, governance, risk management and general compliance measures adopted by the Agency for the newly adopted Regulation (EU) 2018/1727 and Council Regulation (EU) 2017/1939 (†); notes that the preliminary survey took place via online meetings in June 2020, followed by fieldwork in September 2020; notes that the audit report included two recommendations; welcomes the fact that the Agency submitted its action plan on the two recommendations in February 2021 and encourages the Agency to implement the agreed actions;
30. Notes that the limited review on the implementation of the new internal control framework in the Agency started in April 2020 and the fieldwork for the limited review took place in February 2021; notes that in 2020 the Agency provided an overview of the main internal and external developments that could have an impact on its work;

(*) Regulation (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust), and replacing and repealing Council Decision 2002/187/JHA (OJ L 295, 21.11.2018, p. 138).

(†) Council Regulation (EU) 2017/1939 of 12 October 2017 implementing enhanced cooperation on the establishment of the European Public Prosecutor's Office (the EPPO) (OJ L 283, 31.10.2017, p. 1).

COVID-19 response and business continuity

31. Notes that the Agency responded to the COVID-19 pandemic by activating its business continuity plan, that a business continuity team was formed, and that, based on the team's recommendations, the administrative director adopted measures to counter the potential impact of the COVID-19 pandemic on the Agency's staff and operational processes; expresses its satisfaction that the Agency maintained full operational continuity during the COVID-19 crisis; highlights the coordinating role that Agency has played in compiling and disseminating information on the main practical and legal issues arising from the COVID-19 pandemic in the field of judicial cooperation in criminal matters, as well as providing information about the impact of national measures taken in this context; notes that the staff were expected to telework unless their job required physical presence in the Agency's premises and that the Agency encouraged a flexible approach to the organisation of work, taking diverging staff needs into account; notes that data protection issues were considered in the assessment of IT tools and that software for secure teleworking and video-conferencing was introduced;

Other comments

32. Calls for buildings to be modernised in order to meet zero-emission standards, in particular by installing solar panels on all buildings belonging to the Agency;
33. Welcomes the fact that the Agency established a dedicated team to monitor security logs and respond to potential cyber security incidents, and that the Agency carried out a risk assessment for all new ICT solutions, both on-site and externally hosted, and that penetration tests were performed for all new systems (on-site) exposed to the internet; notes that the Agency has a specific rule-set, aligned with Council Decision 2013/488/EU ⁽⁶⁾ and also has a series of additional policies and procedures for the protection of non-classified information and devices processing such information; welcomes the actions taken by the Agency as regards its cyber security, especially in light of the sensitive information processed by the Agency, and calls on the Agency to keep its protection against cyber threats at an appropriate level, taking account of the risks identified;
34. Welcomes the fact that the Agency is taking part in the digital criminal justice programme, seeking a leading role in the programme for the digitalisation of judicial operational cooperation across the Union's institutions, bodies, offices and agencies and the Member States;
35. Notes with appreciation that the Agency strengthened its external communication capabilities by launching a new website, establishing its presence on social media video platforms and organising a virtual open day event;
36. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 4 May 2022 ⁽⁷⁾ on the performance, financial management and control of the agencies.

⁽⁶⁾ Council Decision 2013/488/EU of 23 September 2013 on the security rules for protecting EU classified information (OJ L 274, 15.10.2013, p. 1).

⁽⁷⁾ Texts adopted, P9_TA(2022)0196.