

**RESOLUTION (EU) 2020/1878 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 Asylum Support Office (EASO) 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 Asylum Support Office 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 Civil Liberties, Justice and Home Affairs,
  - having regard to the report of the Committee on Budgetary Control (A9-0077/2020),
- A. whereas, according to its statement of revenue and expenditure <sup>(1)</sup>, the final budget of the European Asylum Support Office (the ‘Office’) for the financial year 2018 was EUR 97 665 322, representing an increase of 12,52 % compared to 2017; whereas the increase was related to reinforcing operational activities; whereas the budget of the Office derives mainly from the Union budget <sup>(2)</sup>;
- B. whereas the Court of Auditors (the ‘Court’), in its report on the annual accounts of the European Asylum Support Office for the financial year 2018 (the ‘Court’s report’), states that it has obtained reasonable assurances 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 basis for a qualified opinion in relation to the Court’s findings reported for the financial years 2016 and 2017 on the legality and regularity of the payments; whereas, except for the effects of the financial years 2016 and 2017, the Court is of the opinion that payments underlying the annual accounts for the year ended 31 December 2018 are legal and regular in all material aspects;

**Follow-up to the 2017 discharge report**

1. Notes the decision of the Office’s management board of 6 June 2018 to release the previous executive director from his duties with immediate effect; notes the designation of an ad interim executive director on 6 June 2018 and the appointment of a new executive director on 16 June 2019; welcomes the follow-up report by the Office on the observations of Parliament for the financial year 2017, in particular the corrective measures taken by the Office’s management board, the ad interim executive director and the new executive director to improve the governance structure and efficiency of the Office, restore transparency and build trust; supports and appreciates the measures outlined by the 2019 EASO Governance Action Plan; notes the positive message and intention for future close cooperation expressed by the new executive director in the public hearing of 4 September 2019 and the Agencies’ hearing in Parliament’s Committee on Budgetary Control of 4 December 2019;

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

2. Deplores the findings of OLAF as regards irregularities surrounding the breach of procurement procedures, misappropriation of Union funds, mismanagement, abuse of position in human resources issues, breaches of data protection rules, harassment and inappropriate behaviour towards staff in 2017; reiterates its call on the Office to report to the discharge authority on the follow-up of the measures proposed by OLAF; understands the Office’s request to report in more detail in the appropriate setting due to confidentiality and data protection issues;
3. Notes the decision of the Office’s management board of 6 June 2018 to release the executive director from his duties with immediate effect; emphasises, however, that the budget for the financial year 2017 was implemented under the supervision of the Office’s previous management; highlights that the report concerns the discharge procedure for the financial year 2017; recognises the commitment of the new executive director to delivering significant reforms ensuring solid governance;

<sup>(1)</sup> OJ C 306, 30.8.2018, p. 4.

<sup>(2)</sup> OJ C 306, 30.8.2018, p. 6.

**Basis for an adverse opinion on the legality and regularity of the payments underlying the accounts for the financial year 2017**

4. Notes, in light of comments and observations from the discharge authority related to the Office's high dependency on sufficient resources, mainly on experts being made available by Member States, that shortages of experts are reported to the Member States and Commission at different levels; notes, furthermore, that, in order to compensate for the shortages faced in Member States' nominations and deployments, the Office has increased the deployment of locally recruited interim staff and that, in 2018, only 26 % of the deployments of the operational needs were covered by Member State experts; points out the fact that the Office would not be in position to provide Member States with critical support to their asylum systems without the use of temporary agents; 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 this proposal;

**Budget and financial management**

5. Regrets that limited annual budgets and the partial absence of contingency funds in the Office's budget to cover the financing of unforeseen urgent operational needs create budgetary uncertainties and hamper emergency planning; notes that the Office is in constant dialogue with the Commission and budgetary authorities regarding its operational planning and resource allocation; acknowledges that the Office makes partial use of contributions from associate countries as a contingency for operational expenditure, in particular in order to deal with unplanned requests for support from Member States; calls on the Office to continue to address budgetary constraints in close consultation with the Commission and the budgetary authorities;
6. Highlights the fact that proposed budgetary cuts may hamper the Office's ability to continue to properly fulfil its functions in providing the necessary support to Member States, as entrusted to it through its mandate; recalls the fact that strengthening the mandate of the Office and the increase in the workload should be accompanied by adequate budgetary allocations;
7. Welcomes the renewed cooperation strategy of the joint EASO-Frontex management board; notes, moreover, with appreciation that the Office plays an active role in the Network of Agencies in streamlining common actions such as the call for the recruitment of confidential counsellors, participation in joint procurement procedures for framework contracts and staff mobility programmes; strongly encourages the Office to actively seek further and broader cooperation with all of the Union agencies; points to the recommendation in the Court's Special Report on Migration Management to ensure complementarity and better coordination between the Asylum, Migration and Integration Fund and the Office; urges the Office to work on the concept of resources sharing overlapping tasks among other agencies with similar activities;

**Performance**

8. Notes that, on 31 December 2018, the establishment plan was only 68,22 % executed, with 146 temporary agents appointed out of 214 temporary agents authorised under the Union budget (compared with 155 authorised posts in 2017); notes that, in addition, 61 contract agents and 3 seconded national experts worked for the Office in 2018; notes with satisfaction that the recruitment plan of the Office provides for 500 staff by 2020;
9. Notes the lack of managers in the administration department, as four out of five management posts were either vacant or saw the persons occupying them suspended from their duties, but acknowledges the response given by the Office that the vacancy notice for the head of the Human resources and security Unit will be published in the first quarter of 2020; notes as well that, due to the fact that the Office was affected by reorganisation, the recruitment of the head of the Finance and procurement Unit is ongoing and the head of the ICT Unit was filled in 2019; calls on the Office to make additional efforts to fill the vacant posts in collaboration with the Commission and Member States and to keep the discharge authority informed as to the corrective measures taken to mitigate that risk;
10. Regrets to note that, according to the Court's report, as from the end of 2017, the human resources situation at the Office has deteriorated exponentially; notes that, by the end of 2018, the Office had 216 staff members, 89 offer letters were sent out and 60 contracts were signed; observes, however, that there were still 78 vacancies to be filled by the end of 2018; express grave concern that this situation entails a significant risk to the continuation of the Office's operations at the current scale; notes the commitment expressed by the executive leadership to the transparent and efficient fulfilment of the Office's recruitment plan;

11. Notes with concern that in 2018 senior management comprised only men (nine members), but that the negative gender balance was changed by the appointment in 2019 of a woman as executive director; notes with satisfaction that a good gender balance was achieved with regard to the management board (16 men and 15 women);
12. Notes the presentation by the executive director to the management board on 26 November 2019 of a new organigram; considers that a reorganisation of staff should contribute to strengthened internal control, quality assurance and risk management and to compliance with actions required by the Court and the Internal Audit Service of the Commission;

### **Staff policy**

13. Notes with concern that, on 31 December 2018, the establishment plan was only 68,22 % executed, with 146 temporary agents appointed out of 214 temporary agents authorised under the Union budget (155 authorised posts in 2017); notes that, in addition, 61 contract agents and 3 seconded national experts worked for the Office in 2018;
14. Notes with satisfaction that, as regards housing arrangements concerning the accommodation of asylum support teams and other Office forces in the Member States (e.g. as regards privileges and immunities for the Office's own staff, Member States' experts and contracted experts), the Office signed a hosting arrangement with Cyprus in July 2019, was to sign a hosting agreement with Greece in January 2020 and is in the process of concluding a new agreement with Italy to fully respect Regulation (EU) No 439/2010 of the European Parliament and of the Council<sup>(3)</sup> and in line with other hosting arrangements of the Office; calls on the Office, together with the Commission, to continue seeking effective arrangements with Member States concerning the accommodation of asylum support teams and other Office forces;
15. Notes the Office's replies to the observations of the Court and its efforts to address them under the new executive director by, inter alia, prioritising the conclusion of hosting arrangements with Italy, Greece and Cyprus concerning the accommodation of asylum support teams and other Office forces in the Member States, increasing the transparency of recruitment procedures and reinforcing its legal service in the course of 2019;
16. Notes that the Court has identified a horizontal trend across agencies in the use of external staff hired in IT consultancy roles; calls for the dependency on external recruitment in such an important and sensitive area to be reduced as much as possible in order to limit any potential risks;
17. Notes that, according to the Court's report, in 2018 the Office launched an open public procurement procedure to establish framework contracts for the provision of the services of temporary workers in Italy; notes that the Office discontinued the procedure because only one tender was received and the Office considered the offer unacceptable because the financial offer exceeded the estimated maximum budget; observes that the Court found that the tender specifications contained a significant mistake amounting to EUR 25 000 000; notes, however, that the Office has accepted these findings and has adopted and implemented corrective actions that include: terminating the framework contract for the services of temporary agency workers in Italy; launching a new procurement procedure for the services of temporary agency workers in Italy; launching an additional call for Member State experts and, where possible, using alternative arrangements for the deployment of experts to cover the period until the entry into force of a new framework contract; temporarily significantly scaling down the number of the Office's temporary agency workers deployed in Italy and, together with Italian authorities, maintaining the level of business continuity for essential support measures; notes also that the new procurement procedure was concluded and the new framework contract was awarded in December 2019 so that business continuity is assured throughout the procedure; calls on the Office to apply the Union's public procurement rules in a rigorous manner;

<sup>(3)</sup> Regulation (EU) No 439/2010 of the European Parliament and of the Council of 19 May 2010 establishing a European Asylum Support Office (OJ L 132, 29.5.2010, p. 11).

18. Notes that the Office uses service contracts with IT companies which were formulated in a way that could imply the assignment of temporary agency workers instead of clearly defined IT services or products; recalls that the provision of temporary agency workers to perform precise tasks for a specific duration is subject to Directive 2008/104/EC of the European Parliament and of the Council<sup>(4)</sup> and to specific rules adopted by the Member States; notes that the use of IT service contracts for the provision of labour is not compliant with the Union's Staff Regulations or Union social and employment rules; notes with satisfaction that the Office revised its template for time and means contracts in order to include in each contract a list of deliverables that are to be performed under the contract; calls on the Office to continue to be diligent and to make sure that the way in which contracts are formulated prevents any confusion between the procurement of IT services and of interim workers;

#### **Procurement**

19. Acknowledges from the Office that in 2018 it began to implement the Commission decision regarding whistleblowing and developed a practical guide for the management and prevention of conflicts of interests, with an adoption calendar by the management board by the third quarter of 2019 as well as rules for the protection of whistleblowers; notes with appreciation that the Office has organised a series of staff-dedicated training sessions on ethics, with a specific emphasis on the prevention of conflicts of interest and with a special tailor-made module dedicated to managers; notes with satisfaction that relevant rules regarding conflicts of interest have also been transposed into the relevant standard operating procedures and policies; calls on the Office to continue to pay particular attention to the prevention of conflicts of interest and the proper implementation of rules and procedures regarding whistleblowing;
20. Notes with concern that, although the Office publishes the declarations of interest and CVs of its management board members on its website, it still does not publish the declarations of interests of senior management and calls on the Office to immediately take action in that regard;

#### **Prevention and management of conflicts of interest and transparency**

21. Is aware that, at the end of 2018, the Office did not have an internal audit capability and that no comprehensive Internal audit Service audit reports have been issued since January 2018; notes furthermore that the creation of *ex post* controls to verify the legality and regularity of transactions was in its infancy; welcomes the Office's reply that it has agreed and documented corrective measures on the internal control systems, including the creation of audit capability by the fourth quarter of 2019 and an *ex post* internal control capability by the third quarter of 2019; notes with satisfaction that the Office is building its *ex post* controls capability with the first *ex post* control officer recruited in the fourth quarter of 2019 and with additional officers to be recruited during the first half of 2020; acknowledges that the Office is in the process of building an internal audit capability and is currently in talks with another Union agency that has extensive experience in the area in order to identify the best model for the Office; calls on the Office to report back to the discharge authority on the measures taken in that respect;

#### **Internal controls**

22. Welcomes the fact that the Office, according to the Court's annual report on Union agencies for the financial year 2018, has taken concrete and positive steps aimed at improving organisational governance; notes that 48 out of the 61 measures in the action plan were completed, while 13 had an ongoing status at the time of the Court's audit;
23. Welcomes the adoption in September 2019 of the Office's new sensitive post policy providing the guidelines and criteria for the management team to implement risk assessments, identify and document the sensitive functions in the Office together with the agreed mitigating controls and, additionally, to assess the sensitive function and document mitigating controls by the first quarter of 2020;
24. Recalls the fact that, at the end of 2017, there was no internal legal service at the Office and that a multitude of law firms had been engaged under the control of the previous executive director; observes, however, that in 2018 the Office created a list of all contracts used for legal advice, and that in 2019, a new senior legal advisor started her duties at the Office and the new framework contract for legal advice to replace the previous contracts was signed, with several other legal advisors to be recruited in 2020; notes, however, that there was still no systematic internal review of legal documents in place while multiple inconsistencies were noted in the legal aspects of public procurement procedures in 2018; calls on the Office to ensure a strong legal service and effective management of legal procedures; notes with satisfaction the objective of the Office to build the governance and internal control framework with the creation of, inter alia, a legal and data protection sector and an internal control and risk

<sup>(4)</sup> Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ L 327, 5.12.2008, p. 9).

management sector to ensure in future a systematic review of legal documents, including for procurement; welcomes also the initiative of the Office to establish an internal audit capacity within the Office whilst arranging a joint audit capacity with the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice;

25. Regrets that there is still no policy regarding sensitive posts at the Office, which is not in line with the Office's internal control standards whereby sensitive functions are to be clearly defined, recorded and kept up to date; notes the Office's reply that a sensitive posts policy was being finalised and was expected to be approved by the third quarter of 2019 and to be implemented by the fourth quarter of 2019; calls on the Office to report to the discharge authority on developments on this matter;
26. Appreciates the progress made on the implementation of internal control systems, including controls on procurement and expenditure operations; supports the decision to reduce and rapidly end outsourcing legal counselling and the establishment of an internal legal service; supports the Court's observations on the need for introduction of further corrective actions;
27. Notes, following comments and observations from the discharge authority related to the fact that the Office is one of the few multi-location Union agencies and that the Office entered into lease contracts in several locations without having carried out an adequate local market analysis, that, as regards the office in Rome, a new tender will be shortly launched, preceded by a proper market analysis for renting an office in order to regularise the current situation; observes, moreover, in the case of the office in Athens, that the current rental contract ended in January 2020 and that a new procurement procedure is currently being prepared which includes a proper market analysis; notes, in addition, that the processing facility in Pagani (Lesvos) moved the operational working places located within the hotspots outside the centres; notes that, concerning Cyprus' office, in mid-2018 a new contract was signed with the owner of the building following a tender aimed at regularising the initial agreement and including the possibility to expand if further needs arise; welcomes the new procurement standard operating procedures adopted on 15 February 2019 providing guidance on sensitive aspects of the procurement and contract management procedure, including detailed provisions on market surveys; notes the effort of the Office to align its procurement procedures with the 'Methodology to be followed by the services of the Commission for prospecting and negotiating for buildings' and publish market prospect notices for all envisaged building contracts in order to increase transparency and competition;
28. Notes with concern that the lack of clear responsibilities and roles concerning the management of rented premises and related services and works may hamper an efficient mitigation of premises-related risks; calls on the Office to establish an effective policy for the management of rented premises and related services;

#### **Other Comments**

29. Welcomes the fact that, in light of comments from the discharge authority related to the appointment of the new ad interim executive director, who took office on 6 June 2018, transparency has been given utmost priority since this change in management as the founding principle of the governance action plan under the leadership of its new executive director, who is committed to continuing this approach in future;
30. Calls on the Office to focus on disseminating the results of its research to the public and to reach out to public via social media and other media outlets;
31. Notes that, in lights of comments and observations from the discharge authority related to the fact that the Office expanded its office space in Malta to an additional block of the building in which its premises are situated, the Office finalised a lease agreement in October 2018, the costs of which are fully covered by the Office's budget, with a view to occupying the full complex;
32. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 14 May 2020 <sup>(5)</sup> on the performance, financial management and control of the agencies.

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<sup>(5)</sup> Texts adopted, P9\_TA(2020)0121.