2006 discharge: European Agency for the Management of Operational Coordination at the External Borders of the Member States of the European Union Frontex

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The Committee on Budgetary Control adopted the report by Hans-Peter **MARTIN** (NI, AT) recommending that the Parliament grant the executive Director of the European Agency for the Management of Operational Cooperation at the External Borders (FRONTEX) discharge in respect of the implementation of its budget for the financial year 2006.

First of all, the parliamentary committee recalls that the final annual accounts of the European GNSS Supervisory Authority are as annexed to the Court of Auditors report and approves the closure of the accounts of the Authority for the financial year 2006.

MEPs make a series of general comments on the EU agencies before focusing on the individual case of the FRONTEX Agency.

1. General comments on the majority of EU agencies: MEPs note that the budgets of the 24 agencies and other satellite bodies audited by the Court of Auditors totalled **more than EUR 1 billion** and that the number of agencies is constantly increasing. The number of agencies subject to the discharge procedure evolved from 8 in 2000 to 20 in 2006. They conclude therefore that the auditing/discharge process has become cumbersome and disproportionate compared to the relative size of the agencies and that, in the future, this type of procedure should be simplified and rationalised for decentralised agencies.

On the basis of the financial analysis, MEPs are of the following opinion:

- **Fundamental considerations**: given the constantly increasing number of agencies, MEPs request that, before the creation of a new agency, the Commission provide clear explanations regarding agency type, objectives of the agency, internal governance structure, products, services, clients and stakeholders of the agency, formal relationship with external actors, budget responsibility, financial planning, and personnel and staffing policy. They also request that each agency be governed by a yearly performance agreement which should contain the main objectives for the coming year and that the performance of the agencies be regularly audited by the Court of Auditors (and extend the financial analysis of expenditure to also cover administrative efficiency and effectiveness). More generally, MEPs take the view that, in the case of agencies which are continually overestimating their respective budget needs, technical abatement should be made on the basis of vacant posts in order to reduce the assigned revenue for the agencies and therefore also lower administrative costs of the EU. They recall that it is a serious problem that a number of agencies is criticised for not following rules on public procurement, the Financial Regulation, the Staff Regulations etc., and consider that the principal reason for this is that most regulations and the Financial Regulation are designed for bigger institutions rather than for small agencies. Therefore, it is necessary to seek a rapid solution in order to enhance the effectiveness of the legislation by grouping the administrative functions of various agencies together or by establishing implementing rules which are better adapted to the agencies. MEPs also insist that the Commission, when drafting the Preliminary Draft Budget, take into consideration the results of budget implementation by the individual agencies in former years and revise the budget requested by the particular agency accordingly. If this revision is

not undertaken is not undertaken by the Commission, MEPs invite the competent committee to revise, itself, the budget in question to a realistic level. At the same time, MEPs recall that they expect the Commission to present every five years a study on the added value of every existing agency and to not hesitate to close an agency if it is deemed useless by the analysis. Such an assessment is expected as soon as possible given that this type of assessment has yet to be presented. Furthermore, MEPs insist that recommendations of the Court of Auditors should be promptly implemented and the level of subsidies paid to the agencies should be aligned with their real cash requirements.

- **Presentation of reporting data**: noting that there is no standard approach among the agencies with regard to the presentation of information, MEPs recall that they already invitedthe directors of the agencies to accompany their annual activity report with a declaration of assurance concerning the legality and regularity of operations, similar to the declarations signed by the Directors General of the Commission. They therefore ask the Commission to amend its standing instructions to the agencies and to produce a harmonised model for presenting information, including: i) an annual report intended for a general readership on the body's operations, work and achievements; ii) financial statements and a report on implementation of the agency's budget; iii) an activity report of the Directors of the agency (as requested by the Parliament since 2005); iv) a declaration of assurance signed by the body's director.
- **General findings by the Court of Auditors**: MEPs refer to certain recurring findings by the Court, including the disbursement of subsidies paid by the Commission (not sufficiently justified estimates of the agencies' cash requirements), the non implementation of the ABAC accounting system by some agencies or the accrued charges for untaken leave which are accounted for by some agencies. They call for rapid measures in these areas as well as improvements to the internal audit procedures of the agencies. MEPs also calls on the agencies to consider an inter-agency disciplinary board, as some individual agencies have difficulty in setting up their own disciplinary boards due to their size.
- **Draft inter-institutional agreement**: MEPs recall the Commission's draft Interinstitutional agreement on the operating framework for the European regulatory agencies (see ACI/2005/2035), which intended to create a framework for the creation, structure, operation, evaluation and control of the European regulatory agencies and insist that it be completed as soon as possible. They particularly welcome the Commission's commitment to bring forward a Communication on the future of the regulatory agencies during the course of 2008.

2. Specific points concerning the FRONTEX Agency: MEPs note that the rate of commitment was 85%, the rate of carry-over was more than 70%, and transfers of appropriations between chapters or titles during the year exceeded the total ceiling of 10% provided for in the Financial Regulation. Therefore, the budgetary principle of specification was not strictly observed. Furthermore, they note that legal commitments were entered into before budgetary commitments. While the Agency explains that the high rate of carry-over to 2007 was due to difficulties inherent in the start-up period of the Agency, MEPs also note that the Agency was not able to fully implement normal procedures for most of the recruitment procedures launched during 2006 because of a lack of resources in the start-up period and difficulties in attracting potential staff. In addition, these same recruitment procedures were not fully in line with the general provisions of the Staff Regulations. MEPs therefore call on the Agency and the Commission to improve the planning of the budgetary and personnel needs of the Agency in the future.

MEPs also recall the Agency's cash problems due to the delayed granting of funds to the Agency during the financial year (the Agency's budget was twice amended by the budgetary authority, increasing it from EUR 12.3 million to EUR 19.2 million). This late availability of the additional funds granted to the Agency led to spending problems beyond the limits of the absorption capacity of the Agency. Furthermore, MEPs note with concern that the Agency was granted full financial autonomy only from 1 October 2006 (and that before that date all expenditure relating to administrative matters was authorised by the Commission in Brussels). They therefore call on the Agency to improve its financial management, especially as regards the increase in its budget for the financial years 2007 and 2008.