2016 discharge: European Border and Coast Guard Agency (Frontex)

2017/2164(DEC) - 19/09/2017 - Court of Auditors: opinion, report

PURPOSE: presentation of the EU Court of Auditors' report on the annual accounts of the European Border and Coast Guard Agency for the financial year 2016 (Frontex), together with the Agency's replies.

CONTENT: in accordance with the tasks conferred on the Court of Auditors by the Treaty on the Functioning of the European Union, the Court presents to the European Parliament and to the Council, in the context of the discharge procedure, a Statement of Assurance as to the reliability of the annual accounts of each institution, body or agency of the EU, and the legality and regularity of the transactions underlying them, on the basis of an independent external audit.

This audit focused on the annual accounts of the European Border and Coast Guard Agency (**Frontex**). The European Border and Coast Guard Agency, was created by Regulation (EU) 2016/1624 of the European Parliament and of the Council ('new founding Regulation') repealing Council Regulation (EC) No 2007/2004. It has been developed from the European Agency for the Management of Operational Cooperation at the External Borders of the Members States and maintained the short name 'Frontex' and the seat of its headquarter in Warsaw. The new founding Regulation **extends the mandate** of the Agency and entrusts it to ensure European integrated border management at the external borders with a view to managing the crossing of the external borders efficiently. This includes addressing migratory challenges and potential future threats at those borders, thereby contributing to addressing serious crime with a cross-border dimension, to ensure a high level of internal security within the Union in full respect for fundamental rights, while safeguarding the free movement of persons within it.

Statement of Assurance: pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union (TFEU), the Court has audited:

- the annual accounts of the Agency, which comprise the financial statements and the reports on the implementation of the budget for the financial year ended 31 December 2016;
- the legality and regularity of the transactions underlying those accounts.

Opinion on the reliability of the accounts: in the Court's opinion, the Agency's annual accounts present fairly, in all material respects, its financial position as at 31 December 2016 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer.

Opinion on the legality and regularity of the transactions underlying the accounts: the Court considers that the transactions underlying the annual accounts for the year ended 31 December 2016 are legal and regular in all material respects.

The report made a series of observations on the budgetary and financial management of the Agency, accompanied by the latter's response. The main observations may be summarised as follows:

The Court's observations:

- **budgetary management**: the Agency's previous founding Regulation which was in force until 5 October 2016 provided for the funding of joint return operations carried out with participating countries. National return operations only became eligible under the new founding Regulation.

However, in the period January to October 2016 the Agency funded national return operations for an amount of EUR 3.6 million. These payments are irregular. The Agency noted that the level of carry-overs for committed appropriations increased for administrative expenditure to EUR 6.4 million and for operational expenditure to EUR 67.3 million. The main reason is contracts and operations extending beyond the year-end. The Agency may consider introducing differentiated budget appropriations to better reflect inevitable delays between legal commitments, contract implementation and operations and the related payments. Under the Agency's extended mandate, high importance is attached to return operations and EUR 63 million had been assigned to that in its 2016 budget. However, EUR 23 million were repaid to the EU budget since fewer return operations were carried out than envisaged. The significant delay of the procurement procedure for a EUR 50 million framework contract to charter aircraft and related services for Frontex return operations contributed to this situation and continues to affect the number of return operations arranged by the Agency. While the launch of this procurement procedure was planned for March 2016, it had not been started by the year end;

- **staffing policy**: by the end of 2016 only 197 of 275 posts in the 2016 establishment plan were filled, mainly due to the fact that 50 new posts were only established in October 2016 and recruitment still has to be completed. The Agency traditionally experiences difficulties in finding staff with the required profile. Following the extension of its mandate, the Agency's staff will **more than double** from 365 in 2016 to 1 000 in 2020. This increase was not based on a thorough estimation of needs. The planned increase in staff will require additional office space. The Agency is analysing options to address the needs, together with the Commission and the host country.

The Agency's replies:

- **budgetary management**: the Agency stated that it drastically beefed up the number of joint return flights: 232 in 2016 compared to 66 in 2015 and 39 in 2014. In 2016 this represented 10 700 people returned to third countries, plus one thousand transported by the Agency from the Greek islands to Turkey after the EU/Turkey statement of March 2016. Despite of this unprecedented surge in return services provided by the Agency, only EUR 40 million could be used out of the EUR 63 million assigned to this activity in the 2016 budget. The remaining EUR 23 million could not be used mainly because the Framework Contract for chartering aircrafts and related services for return operations faced delays. Frontex noted that the use of differentiated appropriations implies a considerable change in budget management. Taking into consideration the changes and challenges the Agency is facing, the pros and cons will be carefully assessed in view of a sound internal control framework;
- **staffing policy**: the Agency stated that it is contact with the relevant services of the European Commission to find remedying measures and hopes that the interpretation of the Staff Regulations can offer some solution to the existing detrimental situation. The Agency had already addressed at the beginning of 2017 the budgetary authority and received the green light to expand in its current premises in order to accommodate the additional staff numbers. Furthermore, once the Headquarters Agreement will be in force, the Polish government committed to donate a plot of land to the Agency in order to enable it to construct a new building that will remain in the ownership of the Agency.

Lastly, the Court of Auditors' report also contained a **summary of the Agency's key figures in 2016**:

- **Budget**: EUR 251 million.
- **Staff**: 365 including officials, temporary and contract staff and seconded national experts.