2017 discharge: European Border and Coast Guard Agency (Frontex)

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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 2017 (Frontex), together with the Agency's replies.

CONTENT: the Court of Auditors carried out the audit on the annual accounts of the European Border and Coast Guard Agency (Frontex).

In brief, the Agency's main task is 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 and reliability of the accounts

The Court considered that:

- the Agency's annual accounts present fairly, in all material respects, its financial position as at 31 December 2017 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;

- the transactions underlying the annual accounts for the year ended 31 December 2017 are legal and regular in all material respects.

It was noted that the Agency's grant expenditure increased considerably from EUR 123 million (2016) to EUR 167 million (2017). Unlike previous years, in 2017 the Agency did not carry out any ex post verifications on grant expenditure reimbursements. It considered that their ex ante verifications performed before reimbursement had improved and, once the ex ante coverage reached a certain level, could now provide the necessary assurance. However, the Court has consistently reported since 2014 that proof of expenditure claimed by cooperating countries is often insufficient which was also confirmed by this year's audit results.

In response to the migration crisis faced by the Union, the mandate of the Agency was considerably extended in 2016. The Agency's budget increased by 75 % in 2016 and its 2017 budget was again 21 % higher than that of the previous year. Staff increased by 18 % in 2016 and by another 43 % as compared to the previous year. Systems and procedures are still in the process of being adapted to cope with the new mandate and circumstances.

The report also makes 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

Procurement

Following an open call for tender, the Agency received four tenders for ferry services to transport migrants within Greece. Three tenders passed the selection criteria while one was excluded. The only contract award criterion was price. In April 2017 the Agency signed a EUR 2 million framework contract for a period of three years with the ferry company offering the lowest price. However, the contractors transport capacity was seasonally limited and they struggled to perform the contract, leading the Agency to cancel the contract by the end of 2017. In order to ensure service continuity, the Agency signed a new framework contract for the remaining period. The Agency did not negotiate the conditions for this replacement contract. The direct award of the replacement contract was irregular.

Budgetary management

The Agency again cancelled a high level of committed appropriations carried over from the previous year for reimbursements of expenditure to countries cooperating in joint operations with EUR 7.7 million (2016: EUR 5.6 million. This demonstrates that cooperating countries considerably over-estimated again the expenditure to be reimbursed by the Agency.

Financial management and performance

Agencies should introduce a single solution for the electronic exchange and storage of information with third parties participating in public procurement procedures (e-procurement). As the same requirement exists for all EU Institutions, the Commission is developing a comprehensive IT solution covering all phases of public procurement procedures. The Commission launched tools for electronic invoicing (e-invoicing), for the electronic publication of documents related to contract notices (e-tendering) and for the electronic submission of tenders (e-submission). According to the Commission, by the end of 2017 the Agency had introduced e-invoicing and e-tendering for certain procedures, but not e-submission.

The Agency's replies

Procurement

Frontex considered that the continuation of the services needed to be secured, until a new contractor was be selected. Taking into account the market limitations for the required services in the region (very few economic operators), the most appropriate option identified was to use a 'bridging contract' with the company which was second best in the initial tender procedure for the selection of ferry operators. Hence this was not a continuation of already closed tendering procedure. Frontex took into consideration that the company had previous experience in providing ferry services for Frontex with very positive feedback; the ferry proposed met all minimal technical requirements. The contractor was willing to provide the services under the same conditions which were required and offered during the initial tender procedure.

Budgetary management

The Agency stated that in order to minimalise a risk of high cancellations, in Q4 of 2016 Frontex addressed beneficiaries with a request to submit their requests for final payment for deployments completed in the 2nd half of 2016 and to provide Frontex with precise estimations of costs to be borne in case of ongoing (Dec. 2016) or planned deployment (Jan. 2017) within 2016 operational activities. The main aim of these requests was to identify any overestimations. Despite certain positive outcomes of this action the level of carry-over appropriations remained relatively high.

Financial management and performance

Frontex is in a process of setting-up of e-Submission tools.

Lastly, the Court of Auditors' report also contained a summary of the Agency's key figures in 2017:

Budget

EUR 281 million.

Staff

526 including officials, temporary and contract staff and seconded national experts.