2020 discharge: European Border and Coast Guard Agency (FRONTEX)

2021/2146(DEC) - 07/10/2022 - Committee report tabled for plenary, single reading

The Committee on Budgetary Control adopted a second report by Tomáš ZDECHOVSKÝ (EPP, CZ) in which it **refuses to grant discharge** to the Executive Director of the European Border and Coast Guard Agency discharge in respect of the implementation of the Agency's budget for the financial year 2020. A proposal to close the accounts of the Agency for the financial year 2020 must be submitted at a subsequent part-session.

In a motion for resolution, the committee noted the resignation of the executive director of the Agency and his former head of cabinet on 28 April 2022 following the release of the OLAF report and following numerous reports and journalistic investigations exposing problems particularly in the field of upholding human rights. Members regret the absence of disciplinary proceedings against them despite the recommendations of OLAF in this regard.

The management board of the Agency is called on to appoint an executive director as soon as possible.

Budgetary and financial management

Members recalled that the Court of Auditors observation on the carry-over of a provisional budgetary commitment of EUR 18 million for the preparation of field deployments in 2021 for which a legal commitment was lacking. Moreover, they reiterated their concern that the executive director of the Agency used, in violation of the Financial Regulation, a private plane on 4 March 2020, costing the Agency EUR 8 500.

Conditions formulated for the 2019 discharge

The Committee regretted that one of the conditions not yet met is the recruitment of 40 fundamental rights monitors (FRMs), as on 1 June 2022, 31 FRMs were in service, with three more to take office on 1 September 2022. It acknowledged the Agency's commitment to recruit the remaining FRMs as quickly as possible.

Furthermore, Members regretted that the Agency has not:

- evaluated its activities in Greece, even though reports by institutions of Member States, the Council of Europe and the United Nations show that the Agency was carrying out joint border surveillance operations in sections where simultaneously, fundamental rights violations were taking place;

- suspended its support-related activities in Hungary.

The European Anti-Fraud Office (OLAF) report

The findings of the investigation and by the magnitude of the **serious misconduct and other irregularities** identified by OLAF, as well as the level at which they have been committed are deeply worrying according to Members. Serious remedial action should be taken and the resolution of the problems discovered by OLAF will require strong engagement especially by the new expected executive director.

Failings

Members reiterated that OLAF's investigation was limited to misconduct and non-compliance with procedures by individuals and stressed that a deeper analysis is needed for the discharge authority to assess the exact nature of the failings identified in order to ensure there are no structural problems.

The Committee recognised that all the problems that the Agency is confronted with are **legacy issues** and that the current and future leadership of the Agency need to find a way to deal with those issues in order to help the Agency move forward.

Change in the Agency

Members welcomed the positive change in management style introduced by the acting executive director who committed to change the organisational culture of the Agency, promoting a team-based approach with consultative and inclusive leadership, where people are not afraid to speak up about possible wrongdoings, with the full support of the management board and the Fundamental Rights Officer.

Transparency

The Agency should ensure a more proactive approach to transparency, including by publishing documents that are needed to understand the respective roles and responsibilities of the actors involved in its operations. Members proposed developing a new code of conduct ensuring full transparency and good management.

As regards the shared responsibilities that the Agency and the Member States have in the fulfilment of fundamental rights obligations, the report urged the Agency and Member States to further develop structures of cooperation, information-sharing and exchange of best practices.

Data Protection

Members noted with deep concern the media reports from July 2022 indicating that the Agency pursued an expansion of intrusive data collection from migrants under the PeDRA programme. They expressed further concern over reports that the Data Protection Officer repeatedly warned that this data expansion cannot be achieved without breaching the Union law and recommended the consultation of the European Data Protection Supervisor (EDPS).

Harassment cases

Moreover, the Agency was reported to have been notified of **17 cases of alleged sexual harassment** in 2020. Two of these cases were opened as informal procedures and the other 15 cases were closed without further follow-up. Members expressed shock and deep concern about the case of **suicide** of a member of staff, related to alleged practices of sexual harassment. The executive director is called on to conduct a thorough investigation into the implementation of existing procedures against sexual harassment, to fully cooperate with all relevant authorities and to report back to the discharge authority about the findings and to present a detailed action plan with measures ensuring zero tolerance towards sexual harassment in both its administrative and operational activities.