Basic information

2007/2214(DEC) DEC - Discharge procedure	Procedure completed
2006 discharge: European Agency for the Management of Operational Coordination at the External Borders of the Member States of the European Union Frontex **Subject** 8.70.03.07 Previous discharges	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	MARTIN Hans-Peter (NI)	27/03/2007

Committee for opinion	Rapporteur for opinion	Appointed
LIBE Civil Liberties, Justice and Home Affairs	DÜHRKOP DÜHRKOP Bárbara (PSE)	05/11/2007

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2847	2008-02-12

European Commission

Commission DG	Commissioner
Justice and Consumers	FRATTINI Franco

Key events

Date	Event	Reference	Summary
30/03/2007	Non-legislative basic document published	SEC(2007)1055	Summary
25/10/2007	Committee referral announced in Parliament		
26/03/2008	Vote in committee		Summary
03/04/2008	Committee report tabled for plenary	A6-0126/2008	
22/04/2008	Decision by Parliament	T6-0158/2008	Summary
22/04/2008	Results of vote in Parliament		

22/04/2008	Debate in Parliament		
22/04/2008	End of procedure in Parliament		
31/03/2009	Final act published in Official Journal		

Technical information

Procedure reference	2007/2214(DEC)
Procedure type	DEC - Discharge procedure
Legal basis	Rules of Procedure EP 102
Stage reached in procedure	Procedure completed
Committee dossier	CONT/6/54051

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE398.293	13/02/2008	
Committee opinion	LIBE	PE400.473	28/02/2008	
Amendments tabled in committee		PE402.787	06/03/2008	
Committee report tabled for plenary, single reading		A6-0126/2008	03/04/2008	
Text adopted by Parliament, single reading		T6-0158/2008	22/04/2008	Summary

Council of the EU

Document type	Reference	Date	Summary
Supplementary non-legislative basic document	05843/2008	29/01/2008	Summary

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	SEC(2007)1055	30/03/2007	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofA	Court of Auditors: opinion, report	N6-0004/2008 OJ C 309 19.12.2007, p. 0001	15/11/2007	Summary

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act
Budget 2009/0229 OJ L 088 31.03.2009, p. 0226 Summary

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

2007/2214(DEC) - 22/04/2008 - Final act

PURPOSE: to grant discharge to the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union for the financial year 2006.

LEGISLATIVE ACT: Decision 2009/229/EC of the European Parliament on the discharge for the implementation of the budget of European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union for the financial year 2006.

CONTENT: with the present decision, the European Parliament grants discharge to the Executive Director of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union for the financial year 2006.

This decision is in line with the European Parliament's resolution adopted on 22 April 2008 and comprises a series of observations that form an integral part of the discharge decision (please refer to the summary of the opinion of 22/04/2008).

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

2007/2214(DEC) - 22/04/2008 - Text adopted by Parliament, single reading

The European Parliament adopted, by 588 votes in favour, 28 against and 63 abstentions, a Decision to 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. The decision to grant discharge also constitutes closure of the accounts of this EU agency.

At the same time, the Parliament adopted by 583 votes in favour, 34 against and 58 abstentions, a Resolution containing the comments which form part of the decision giving discharge. The report had been tabled for plenary by Hans-Peter **MARTIN** (NI, AT) on behalf of the Committee on Budgetary Control.

As is the case for all EU agencies, Parliament's Resolution is divided into two parts: part one contains general comments on EU agencies, while part two focuses on the specific case of the FRONTEX Agency.

1) General comments on the majority of EU agencies: the Parliament notes 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. It concludes 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, the Parliament is of the following opinion:

- **Fundamental considerations**: given the constantly increasing number of agencies, the Parliament requests 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. It also requests 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, the Parliament takes 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. It recalls 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 considers 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. The Parliament also insists 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 the Commission does not undertake this revision, the Parliament invites **the competent committee to revise, itself, the budget in question to a realistic level**. At the same time, the Parliament recalls that it expects 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, the Parliament insists 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, the Parliament recalls that it already invited the 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. It therefore asks 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**: the Parliament refers 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. It calls for rapid measures in these areas as well as improvements to the internal audit procedures of the agencies. The Parliament 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**: the Parliament recalls the Commission's draft Interinstitutional agreement on the operating framework for the European regulatory agencies (see ACI/2005/2035), which was intended to create a framework for the creation, structure, operation, evaluation and control of the European regulatory agencies, and awaits its adoption as soon as possible. It particularly welcomes 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: the Parliament notes 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, it notes 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, the Parliament also notes 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. The Parliament therefore calls on the Agency and the Commission to improve the planning of the budgetary and personnel needs of the Agency in the future.

The Parliament also recalls 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, the Parliament notes 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). It therefore calls on the Agency to improve its financial management, especially as regards the increase in its budget for the financial years 2007 and 2008.

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

2007/2214(DEC) - 30/03/2007 - Non-legislative basic document

PURPOSE: presentation of the final accounts of the European Agency for the Management of Operational Cooperation at the External Borders — Frontex for the 2006 financial year.

CONTENT: Frontex was created by Regulation (EC) No 2007/2004 of the Council of 26 October 2004. It became fully autonomous on 1 January 2006.

This document sets out a detailed account of the implementation of Frontex's budget for 2006. It indicates that the Agency's final budget amounted to 19.2 million EUR in 2006 - its first year of operation - 98.8% of which is derived from a Community subsidy and 1.2% from a subsidy from the United Kingdom.

In terms of personnel, the Agency, whose headquarters are in Warsaw (Poland) officially had 28 posts provided for in the establishment plan, of which there are 25 temporary agents and 47 further posts (seconded national experts, contract agents and employment agency staff) amounting to 72 effective posts assigned to operational, administrative and mixed tasks. Expenditures relating to personnel in 2006 amounted to 1.017 million EUR.

The Agency's work mainly involves Member States' activities in the field of management of external borders (support for operational cooperation, technical and operational assistance, risk analysis). Its main tasks are:

(1) coordinating operational cooperation between Member States in the field of management of external borders;

(2) assisting Member States on training of national border guards and establishing common training standards;

(3) carrying out risk analysis;

(4) following up on the development of research in control and surveillance;

(5) assisting Member States in circumstances requiring increased technical and operational assistance;

(6) providing Member States with the necessary support in organising joint return operations.

In 2006, the first year of the Agency's operation, activities focused on the following:

- **Operational cooperation:** 15 Frontex-coordinated joint operations implemented, seven pilot projects launched.
- **Training:** the Common Core Curriculum revised and developed; establishment of a network of partnership academies and training coordinators; training programme for 3rd countries and 'falsified documents' tool developed; training standards for joint return operations and tactical training for helicopter pilots developed, European Training Day co-organised.
- **Risk analysis:** five risk analysis reports issued; one public law enforcement bulletin published, the common integrated risk analysis model updated; Frontex Risk analysis network (MS' experts) established.
- **Research & development:** two reports published, four bulletins issued, one joint workshop with Joint Research Centre.
- **Assistance to the Member States:** coordination of two assistance operations.

- **Assistance to return operations**: three joint return operations.

The Agency's full accounts are available at the following address : http://www.frontex.europa.eu/finance/

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

2007/2214(DEC) - 15/11/2007

PURPOSE: presentation of the report by the Court of Auditors on the 2006 annual accounts of the European Agency for the Management of Operational Coordination at the External Borders of the Member States (FRONTEX).

CONTENT: the report indicates that the appropriations entered in the Agency's budget for the financial year in question are **EUR 17.095 million**, EUR 14.223 million was committed and EUR 2.942 million paid. Of this overall amount, EUR 11.932 million was carried over to 2007 and EUR 1.709 million was cancelled.

The Court notes that the annual accounts are reliable in all material respects and that the underlying transactions of the Agency's accounts, taken as a whole, are legal and regular.

Analysis of the accounts of the Court: for the financial year 2006 (FRONTEX's first year in operation), the Court indicates that the rate of commitment was 85%. The rate of carryover was more than 70% overall and nearly 85% for operating expenditure. Transfers of appropriations between chapters or titles during the year exceeded the total ceiling of 10% provided for in the Financial Regulation. Thus, the budgetary principles of **annuality** and **specification** were not strictly observed, according to the Court.

The Court also indicates that the legal commitments (of a total value of EUR 30 000) were entered into before budgetary commitments, in breach of the Agency's Financial Regulation.

Finally, the Court emphasises that the criteria and procedures used for recruiting staff were not in line with the general provisions for implementing the statute: breaches mainly concerned the minimum experience required for a given grade, the reduced role of the Selection Committee and the preselection process.

The Agency's replies: the Agency replies to all of the criticisms one by one and indicates that the high rate of carryover for 2007 is due to the inherent difficulties of the start-up period of the Agency and to the fact that important resources were only made available very late in the year (2006). Concerning transfers between budget chapters or titles, the Agency indicates that it has implemented a strict interpretation of the rules concerning transfers since April 2007.

Aware of the situation described by the Court in terms of budgetary commitments, the Agency had already taken corrective measures and launched multiple actions to remind its financial actors of the necessity to strictly respect the procedures; a register of exceptions was introduced and its content is presented to the Executive Director of FRONTEX on a monthly basis.

Lastly, the Agency indicates that due to a lack of resources during the start-up period, the difficulties of attracting potential staff and the necessity to make the Agency operational as quickly as possible, the Agency was not able to fully implement normal recruitment procedures in most cases in 2006. It states that, in 2007, the situation has gradually been standardised.

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

2007/2214(DEC) - 29/01/2008

Based on the observations contained in the revenue and expenditure account and the balance sheet of the European Agency for the Management of Operational Coordination at the External Borders of the Member States of the European Union (FRONTEX) for the financial year 2006, as well as on the Court of Auditor's report and the Agency's replies to the Court's observations, the Council recommends that the Parliament grant the Director of the Agency discharge in respect of the implementation of the budget for the financial year 2006.

In doing so, the Council confirms that the appropriations carried over from 2006 to 2007 amounted to EUR 11.9 million and that a total of EUR 1.7 million was cancelled.
Recalling that the Court of Auditors was able to obtain reasonable assurance that the Agency's annual accounts were, in all material aspects, reliable, the Council believes that there is a certain number of observations that must be taken into consideration when providing the discharge on the implementation of the 2006 budget, particularly regarding the following points:

- **carryovers and transfers:** aware of the inherent difficulties due to the fact that 2006 was the start-up period of the Agency, the Council, however, notes with concern the rate of carryovers, as well as the significant amount of transfers of appropriations between chapters or titles of the budget. It calls on the Agency to take appropriate measures to improve the planning and implementation of the budget in order to strictly conform to the budgetary principles of annuality and specification;
- **budgetary commitments:** the Council also calls upon the Agency to strictly respect the provisions of the Financial Regulation, by establishing budgetary commitments before legal commitments are made;
- **recruitment procedure**: the Council regrets the inadequacies noted by the Court in the recruitment criteria and procedures used by the Agency, which are not in line with the provisions of the statute, particularly concerning the minimum experience required for a given grade, the role of the Selection Committee and the documentation of the pre-selection process. It calls on the Agency to adapt its criteria and procedures and to make them conform to the existing rules in terms of staff recruitment.