Basic information

2021/2146(DEC) DEC - Discharge procedure	Procedure completed
2020 discharge: European Border and Coast Guard Agency (FRONTEX) See also 2022/2903(RSP) **Subject** 8.70.03.10 2020 discharge	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CONT Budgetary Control	ZDECHOVSKÝ Tomáš (EPP)	30/06/2022
	Shadow rapporteur CHINNICI Caterina (S&D) STRUGARIU Ramona (Renew) EICKHOUT Bas (Greens/EFA) CZARNECKI Ryszard (ECR) KUHS Joachim (ID) OMARJEE Younous (The Left)	

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs	STRUGARIU Ramona (Renew)	15/06/2022

European Commission

Commission DG	Commissioner
Budget	HAHN Johannes

Key events

Date	Event	Reference	Summary
30/06/2021	Non-legislative basic document published	COM(2021)0381	
14/09/2021	Committee referral announced in Parliament		
31/03/2022	Vote in committee		
07/04/2022	Committee report tabled for plenary	A9-0110/2022	
04/05/2022	Decision by Parliament	T9-0171/2022	Summary
04/05/2022	Debate in Parliament		
04/05/2022	Report referred back to committee		
06/10/2022	Vote in committee		
07/10/2022	Committee report tabled for plenary	A9-0235/2022	Summary
18/10/2022	Decision by Parliament	T9-0362/2022	Summary
18/10/2022	Results of vote in Parliament		
14/02/2023	Final act published in Official Journal		

Technical information

Procedure reference	2021/2146(DEC)
Procedure type	DEC - Discharge procedure
Amendments and repeals	See also 2022/2903(RSP)
Stage reached in procedure	Procedure completed
Committee dossier	CONT/9/09298 CONT/9/06703

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE698.988	18/01/2022	
Committee opinion	LIBE	PE702.934	17/02/2022	
Amendments tabled in committee		PE704.748	03/03/2022	
Committee report tabled for plenary, single reading		A9-0110/2022	07/04/2022	
Text adopted by Parliament, single reading		T9-0171/2022	04/05/2022	Summary
Committee draft report		PE734.316	11/08/2022	
Amendments tabled in committee		PE736.352	06/09/2022	
Committee opinion	LIBE	PE734.409	08/09/2022	
Committee report tabled for plenary, single reading		A9-0235/2022	07/10/2022	Summary
Text adopted by Parliament, single reading		T9-0362/2022	18/10/2022	Summary

Council of the EU

Document type	Reference	Date	Summary
Supplementary non-legislative basic document	06003/2022	16/02/2022	

European Commission

Document type	Reference	Date	Summary
Non-legislative basic document	COM(2021)0381	30/06/2021	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofA	Court of Auditors: opinion, report	N9-0044/2022 OJ C 439 29.10.2021, p. 0003	29/10/2021	
EU	For information	32022B1806 OJ L 258 05.10.2022, p. 0406	05/10/2022	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Meetings with interest representatives published in line with the Rules of Procedure

Rapporteurs, Shadow Rapporteurs and Committee Chairs

Transparency

Name	Role	Committee	Date	Interest representatives
STRUGARIU Ramona	Shadow rapporteur	CONT	23/02/2022	Frontex
STRUGARIU Ramona	Rapporteur for opinion	LIBE	29/11/2021	Frontex

Final act

Budget 2023/0325
OJ L 045 14.02.2023, p. 0013

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

2021/2146(DEC) - 04/05/2022 - Text adopted by Parliament, single reading

The European Parliament decided to **grant discharge** to the Executive Director of the European Border and Coast Guard Agency in regard to the implementation of the agency's budget for the 2020 financial year and to approve the closure of the accounts for the financial year in question.

Noting that the Court of Auditors has stated that it has obtained reasonable assurances that the agency's annual accounts for the financial year 2020 are reliable and that the underlying transactions are legal and regular, Parliament adopted by 492 votes to 145 with 8 abstentions, a resolution containing a series of recommendations, which form an integral part of the decision on discharge and which add to the general recommendations set out in the resolution on performance, financial management and control of EU agencies.

Agency's financial statements

The Agency's final budget for the financial year 2020 was EUR 364 432 655, representing an increase of 10.40 % compared to 2019.

Budget and financial management

The budget-monitoring efforts during the financial year 2020 resulted in a budget implementation rate of 78.42 %, representing a decrease of 21.42 % compared to 2019. EUR 360 million of EUR 364 million of the budget were committed. EUR 95 million has been returned to the EU general budget. Payment appropriations execution rate however was very low at 43.84 %, representing a decrease of 25.30 % compared to 2019.

Parliament noted that the pandemic has affected the Agency's operations and budget implementation in 2020, with the Agency reducing its initial budget by EUR 95 000 000, through two amending budgets. A provisional budgetary commitment of EUR 18 100 000 for the preparation of field deployments in 2021 was carried forward without the Agency having entered into legal commitments within the time limit. Moreover, the Union funding to the Agency increased by EUR 10 million by means of Amending budget No 1/2020. Parliament deplored that that amount was not visible in the budgetary accounts of the Agency which reduces transparency as it makes it harder to see how much Union funding was available to the Agency in 2020 and how that amount changed over time.

Other observations

Parliament also made a series of observations concerning performance, fundamental rights, staff policy, internal controls and Covid-19.

In particular, it noted that:

- the Agency implemented two rapid border interventions at the external land and maritime borders of Greece with Turkey that required deployment of technical equipment from the rapid reaction equipment and technical equipment pools, as well as human resources;

- the Agency's surveillance aircraft services performed a total of 1 068 missions in 2020 out of which 1030 were surveillance flights and 38 related to fishery control;

- the Agency's assets in maritime operations have helped to rescue more than 3 408 migrants during patrolling activities, which also resulted in the detection of 790 facilitators, four traffickers of human beings and a wide variety of other types of cross-border crimes, such as smuggling of illegal goods and substances (1 463 litres of alcohol, 4 013 pieces of ammunition, approximately 361 kilogrammes of cocaine, more than 144 tonnes of hashish and marijuana, and 40 kilogrammes of heroin);

- the return operations, despite being impacted by the restrictions of the Covid-19 pandemic, continued with 21 Member States taking part as either organisers or participants in return operations by charter flights coordinated and co-financed by the Agency, with overall 7 952 persons handed over, reaching 28 third countries of return, significant lower numbers than in 2019. Voluntary returns made up for 18 % of all supported flights and 26 Member States carried out returns by scheduled flights with the Agency's support, returning 3 981 third country nationals to 83 countries of return, with among the returnees 2 173 (55 %) unescorted and 1 532 (38%) returning in a voluntary manner;

- the Agency is still unable to recruit at least 40 fundamental rights monitors (FRMs) which was a condition set out in the 2019 discharge;

- on 31 December 2020, the establishment plan was 63.01 % implemented, with 662 temporary agents appointed out of 1 050 temporary agents authorised under the Union budget (compared to 484 authorised posts in 2019). Gender balance is lacking at senior management level and on the management board;

- further efforts should be made to ensure full functionality of the Agency especially in the context of the current situation in Ukraine;

- the Agency's training plan was significantly affected the pandemic, with travel restrictions imposed by Member States and the Schengen Associated Countries leading to the unavailability of both trainers and training locations, as well as restricted possibility to travel to the training sites.

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

2021/2146(DEC) - 18/10/2022 - Text adopted by Parliament, single reading

The European Parliament decided by 345 votes to 284, with 8 abstentions, to **refuse to grant discharge** to the Executive Director of the European Border and Coast Guard Agency in respect of the implementation of the Agency's budget for the financial year 2020.

A proposal to close the accounts of the European Border and Coast Guard Agency for the financial year 2020 will be submitted at a later part-session.

Parliament adopted a resolution with 467 votes to 136, with 15 abstentions, containing a series of recommendations which form an integral part of the decision on the discharge for the implementation of the Agency's budget.

In its resolution, Parliament noted the resignation of the Agency's Executive Director and his former head of cabinet on 28 April 2022 following the publication of the OLAF report and numerous reports and journalistic investigations exposing problems, particularly in the field of human rights. Members regretted the absence of disciplinary proceedings against them despite OLAF's recommendations in this respect.

While welcoming the Management Board's appointment of an interim Executive Director as of 1 July 2022, Parliament called on the Agency's Management Board to appoint an Executive Director as soon as possible and, before proceeding further with this recruitment procedure, to commit itself to increasing transparency and accountability to Parliament.

Budgetary and financial management

Parliament 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, it 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.

Recruitment of fundamental rights monitors

Parliament 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, Parliament 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: Parliament stressed that the Agency's continued support in Hungary may constitute an involvement of the Agency in the violation of the principle of non-refoulement, and recommended that the Agency suspend its support activities in Hungary and put in place additional safeguards should the Agency nevertheless continue to carry out operations, particularly in the context of the general rule of law situation 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

Parliament 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 resolution highlighted 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. Parliament stressed that the scope of both the Commission and the Agency’s management board should be to address all challenges, in order for a new and fresh start to be made and prevent that the Agency continues to fall short in respecting fundamental rights.

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

Parliament 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. It 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**.

Parliament called on the Agency to make sure that all signals concerning **professional misconduct** are taken seriously and properly followed-up and that all staff, including management, should have compulsory training on **social harassment**.

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.