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REPORT

on discharge in respect of the implementation of the budget of the European Union Agency for Fundamental Rights for the financial year 2011
(C7-0247/2012 – 2012/2185(DEC))

Committee on Budgetary Control

Rapporteur: Gerben-Jan Gerbrandy

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1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

**on discharge in respect of the implementation of the budget of the European Union Agency for Fundamental Rights for the financial year 2011
(C7-0247/2012 – 2012/2185(DEC))**

The European Parliament,

- having regard to the final annual accounts of the European Union Agency for Fundamental Rights for the financial year 2011,
 - having regard to the Court of Auditors' report on the annual accounts of the European Fundamental Rights Agency for the financial year 2011, together with the Agency's replies¹,
 - having regard to the Council's recommendation of 12 February 2013 (05753/2013 – C7-0041/2013),
 - having regard to Article 319 of the Treaty on the Functioning of the European Union,
 - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities², and in particular Article 185 thereof,
 - having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
 - having regard to Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights⁴, and in particular Article 21 thereof,
 - having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁵, and in particular Article 94 thereof,
 - having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A7-0102/2013),
1. Grants the Director of the European Union Agency for Fundamental Rights discharge in respect of the implementation of the Agency's budget for the financial year 2011;

¹ OJ C 388, 15.12.2012, p. 196.

² OJ L 248, 16.9.2002, p. 1.

³ OJ L 298, 26.10.2012, p. 1

⁴ OJ L 53, 22.2.2007, p. 1.

⁵ OJ L 357, 31.12.2002, p. 72.

2. Sets out its observations in the resolution below;
3. Instructs its President to forward this Decision and the resolution that forms an integral part of it to the Director of the European Union Agency for Fundamental Rights, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the closure of the accounts of the European Union Agency for Fundamental Rights for the financial year 2011

(C7-0247/2012 – 2012/2185(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Union Agency for Fundamental Rights for the financial year 2011,
 - having regard to the Court of Auditors' report on the annual accounts of the European Fundamental Rights Agency for the financial year 2011, together with the Agency's replies¹,
 - having regard to the Council's recommendation of 12 February 2013 (05753/2013 – C7-0041/2013),
 - having regard to Article 319 of the Treaty on the Functioning of the European Union,
 - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities², and in particular Article 185 thereof,
 - having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
 - having regard to Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights⁴, and in particular Article 21 thereof,
 - having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁵, and in particular Article 94 thereof,
 - having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A7-0102/2013),
1. Approves the closure of the accounts of the European Union Agency for Fundamental Rights for the financial year 2011;

¹ OJ C 388, 15.12.2012, p. 196.

² OJ L 248, 16.9.2002, p. 1.

³ OJ L 298, 26.10.2012, p. 1

⁴ OJ L 53, 22.2.2007, p. 1.

⁵ OJ L 357, 31.12.2002, p. 72.

2. Instructs its President to forward this Decision to the Director of the European Union Agency for Fundamental Rights, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

with observations forming an integral part of its Decision on discharge in respect of the implementation of the budget of the European Union Agency for Fundamental Rights for the financial year 2011

(C7-0247/2012 – 2012/2185(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Union Agency for Fundamental Rights for the financial year 2011,
- having regard to the Court of Auditors' report on the annual accounts of the European Fundamental Rights Agency for the financial year 2011, together with the Agency's replies¹,
- having regard to the Council's recommendation of 12 February 2013 (05753/2013 – C7-0041/2013),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities², and in particular Article 185 thereof,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights⁴, and in particular Article 21 thereof,
- having regard to Commission Regulation (EC, Euratom) No 2343/2002 of 19 November 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities⁵, and in particular Article 94 thereof,
- having regard to Rule 77 of, and Annex VI to, its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Civil Liberties, Justice and Home Affairs (A7-0102/2013),

¹ OJ C 388, 15.12.2012, p. 196.

² OJ L 248, 16.9.2002, p. 1.

³ OJ L 298, 26.10.2012, p. 1

⁴ OJ L 53, 22.2.2007, p. 1.

⁵ OJ L 357, 31.12.2002, p. 72.

- A. whereas the Court of Auditors stated that it has obtained reasonable assurances that the annual accounts of the European Union Agency for Fundamental Rights ('the Agency') for the financial year 2011 are reliable and that the underlying transactions are legal and regular,
- B. whereas the Agency's overall budget for the year 2011 was EUR 20 180 000, whereas the initial contribution of the Union to the Agency's budget for 2011 was EUR 19 978 200,

Budget and financial management

- 1. Welcomes the fact that the Agency's annual accounts present fairly, in all material respects, its financial position as of 31 December 2011 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;
- 2. Welcomes the fact that the transactions underlying the Agency's annual accounts for the financial year ended 31 December 2011 are legal and regular in all material respects;
- 3. Takes note that the Court of Auditors did not make any critical remarks in its report;
- 4. Acknowledges that in 2011, the Agency committed 100 % of the appropriations received; observes, however, that in terms of paid appropriations, the Agency's execution rate stands at 75% under Title II (Administrative expenditure) and at only 27% under Title III (Operational expenditure); calls on the Agency to implement specific measures to improve its budgeting process and execution rate of payment in the case of administrative and operational expenditure;

Human resources

- 5. Notes that in 2012, there were three cases dealt by the Court of Justice of the European Union regarding an allegation of psychological harassment, the rejection of an application for a post and the non-extension of a contract of an agent; notes that on 6 July 2011, the Ombudsman opened Case 0917/2011/ (PMC) EIS, which is based on allegations regarding the failure to investigate properly the complainant's allegations of psychological harassment and incorrect storage of documents;
- 6. Notes that in one of the cases referred to in paragraph 5, the European Union Civil Service Tribunal decided in favour of the applicant (Case F-58/10, judgment of 18 September 2012) and annulled the Agency's decision of 16 October 2009 not to bring disciplinary proceedings against two members of staff for alleged psychological harassment due to the lack of impartiality on the part of the investigator and his refusal to guarantee the anonymity of the witnesses and ordered it to pay damages to the applicant and the costs; notes that in case F-112/10, the Tribunal decided in favour of the Agency but the applicant brought an appeal before the General Court against the judgment; notes that judgement is pending in case F-38/12;
- 7. Urges the Agency, given the risks at stake, as far as its reputation is concerned, to inform the discharge authority in detail on the rules of procedure, legal framework and hearing modalities established for the launch and conduction of internal investigations and the

protection of witnesses' anonymity in the occurrence of such internal investigations;

8. Notes that in 2011, the European Anti-Fraud Office (OLAF) opened an investigation; requests that the Agency inform the discharge authority on the results of both the OLAF investigation and the Ombudsman case;
9. Acknowledges that every two years, the Agency launches an anonymous well-being survey among staff; notes in particular from the 2012 survey that concerns have been raised regarding the handling of in-house conflicts and the attention paid to the well-being of the staff; takes note that the Agency introduced an anti-harassment policy and a network of confidential counsellors in order to minimise situations of conflict in the workplace and to address them in a comprehensive manner; urges the Agency to act on the recommendations made by the Court of Auditors with regard to the problems detected and to take all the necessary steps to ensure that these problems do not reoccur under any circumstances;

Transparency

10. Notes that on 12 and 14 December 2012, the Agency presented the draft rules on whistle blowing to its Executive Board and to its Management Board; notes that the decision was taken to adopt those rules formally after consultation with the Commission services; notes that in the meantime, the Agency adopted the principles of the Commission guidelines; calls on the Agency to inform the discharge authority on the implementation of the rules;
11. Observes that some of the curriculum vitae (CV) and the declaration of interest of the Management Board members are available on the Agency's website; notes that as far as the Executive Director and the management team are concerned, only CVs are available; calls on the Agency to make the missing information publicly available and to inform the discharge authority of the progress made on this matter as soon as possible;

Internal audit

12. Notes from the Agency that it introduced a procurement procedure mitigating possible conflicts of interest and the internal audit services (IAS) audited the procedure and made nine recommendations, all of which have been introduced; notes that the IAS considered some of the actions introduced by the Agency to be good practices, in particular, the introduction of an IT application “tender contract maker”, developed by the Agency to generate standard documentation for the procurement process; notes that the budget module of the IT application “matrix” used for the Agency project management has been coupled with the accounting records retrieved from accrual-based accounting, allowing a daily online update of the budgetary implementation;

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13. Refers, in respect of the other observations accompanying its Decision on discharge, which are of a horizontal nature, to its resolution of ... 2013¹ on the performance,

¹ Texts adopted, P7_TA-PROV(2013)...

financial management and control of the agencies.

1.3.2013

OPINION OF THE COMMITTEE ON CIVIL LIBERTIES, JUSTICE AND HOME AFFAIRS

for the Committee on Budgetary Control

on discharge in respect of the implementation of the budget of the European Union Agency for Fundamental Rights for the financial year 2011
(C7-0247/2012 – 2012/2185(DEC))

Rapporteur: Georgios Papanikolaou

SUGGESTIONS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Budgetary Control, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

1. Welcomes the conclusions of the Court of Auditors that the annual accounts of the Agency present fairly, in all material respects, its financial position as of 31 December 2011 and the results of its operations and its cash flows for the year then ended, and that the transactions underlying the annual accounts of the Agency for the financial year 2011 are legal and regular in all material respects;
2. Takes note that the Agency's final budget amounted EUR 20 180 020 for the financial year 2011 with an Union contribution representing 99% of the budget; acknowledges that in 2011 the Agency committed 100 % of the appropriations received; observes however that in terms of paid appropriations the Agency's execution rate stands at 75% under Title 2 (Administrative expenditure) and at only 27% under Title 3 (Operational expenditure); takes note that in terms of paid appropriations this represents an increase from 62% to 75% compared to 2010; calls on the Agency to implement specific measures to improve its budgeting process and execution rate of payment in the case of administrative and operational expenditure;
3. Congratulates the Agency for the fact that the Court of Auditors did not make any critical remarks in its report;
4. Generally invites the Court of Auditors to further focus on auditing the sound financial management of the Agency, namely the economy, efficiency and effectiveness with which the Agency has used its appropriations in carrying out its responsibilities.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	21.2.2013
Result of final vote	+: 50 -: 0 0: 0
Members present for the final vote	Jan Philipp Albrecht, Rita Borsellino, Emine Bozkurt, Arkadiusz Tomasz Bratkowski, Philip Claeys, Carlos Coelho, Ioan Enciu, Frank Engel, Kinga Gál, Kinga Göncz, Nathalie Griesbeck, Sylvie Guillaume, Ágnes Hankiss, Anna Hedh, Sophia in 't Veld, Livia Járóka, Teresa Jiménez-Becerril Barrio, Timothy Kirkhope, Juan Fernando López Aguilar, Baroness Sarah Ludford, Monica Luisa Macovei, Véronique Mathieu Houillon, Anthea McIntyre, Nuno Melo, Louis Michel, Claude Moraes, Georgios Papanikolaou, Jacek Protasiewicz, Carmen Romero López, Judith Sargentini, Birgit Sippel, Renate Sommer, Nils Torvalds, Wim van de Camp, Axel Voss, Renate Weber, Josef Weidenholzer, Auke Zijlstra
Substitute(s) present for the final vote	Mariya Gabriel, Monika Hohlmeier, Marian-Jean Marinescu, Jan Mulder, Raül Romeva i Rueda, Salvador Sedó i Alabart, Janusz Wojciechowski
Substitute(s) under Rule 187(2) present for the final vote	Knut Fleckenstein, Karin Kadenbach, Ivailo Kalfin, Iosif Matula, Ivo Vajgl

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	19.3.2013
Result of final vote	+: 22 -: 3 0: 1
Members present for the final vote	Inés Ayala Sender, Zuzana Brzobohatá, Andrea Češková, Ryszard Czarnecki, Tamás Deutsch, Martin Ehrenhauser, Jens Geier, Gerben-Jan Gerbrandy, Ingeborg Gräßle, Cătălin Sorin Ivan, Bogusław Liberadzki, Jan Mulder, Eva Ortiz Vilella, Monika Panayotova, Aldo Patriciello, Crescenzo Rivellini, Paul Rübig, Petri Sarvamaa, Bogusław Sonik, Bart Staes, Georgios Stavrakakis, Michael Theurer
Substitute(s) present for the final vote	Chris Davies, Derk Jan Eppink, Edit Herczog, Monika Hohlmeier, Ivailo Kalfin, Agnès Le Brun, Véronique Mathieu Houillon, Derek Vaughan