2020 Audit of EU agencies in brief

Introducing the European Court of Auditors’ 2020 annual report on EU agencies


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ECA team
Executive summary

I The European Court of Auditors (ECA) is the external auditor of the EU’s finances. In this capacity, we act as the independent guardian of the financial interests of the citizens of the Union, helping to improve the EU’s financial management.

II This document summarises our audit results for the financial year 2020 for the 41 EU agencies and other Union bodies (agencies) under our mandate. A comprehensive overview on the agencies set up by the European Union and the detailed results of our annual agency audits can be found in our Annual Report on EU agencies for the financial year 2020.

III Overall, our audit of the agencies for the financial year ended 31 December 2020 confirmed the positive results reported in previous years. Through the statements of assurance issued for each agency, we provided:

- unqualified (clean) audit opinions on the reliability of all agencies’ accounts;
- unqualified (clean) audit opinions on the legality and regularity of the revenue underlying the accounts for all agencies;
- unqualified (clean) audit opinions on the legality and regularity of the payments underlying the agencies’ accounts for all agencies, except for ACER, eu-LISA and ENISA, for which we issued qualified opinions.

IV Nevertheless, for most agencies we addressed areas for improvement through our emphasis of matter and other matter paragraphs and through the observations not calling the audit opinions into question. We also proposed the following actions to be taken to address these areas for improvement:

- The agencies’ implementation of the budget should be subject to effective and efficient internal controls. These should include robust ex-ante controls aimed at

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2 More information on our work can be found in our activity reports, our annual reports on the implementation of the EU budget, our special reports, our landscape reviews and our opinions on new or updated EU laws or other decisions with financial management implications (www.eca.europa.eu).
3 ELA and the EPPO were not audited in 2020 because they did not reach their financial autonomy.
preventing errors and irregularities before operations are authorised. Furthermore, to achieve the best possible value for money under the European Commission’s framework contracts without pricelist for acquiring software licences and IT services, the agencies should systematically carry out market research before signing any order forms. This market research should include a detailed assessment of the products and services needed, an analysis of the solutions available on the market, and a price estimate for the items in question.

- The replacement of an Executive Director is liable to entail changes in the management of delegations of the agency. Therefore, the agencies should adopt internal rules that provide a sound contribution to the management control systems, to transparency and accountability.

- Nearly all of the observations on procurement procedures concerned irregular payments. The agencies concerned should further improve their public procurement procedures, ensuring full compliance with the applicable rules.

- To resolve excessive levels of carry-overs, the agencies concerned should further improve its budget planning and its implementation cycles.

- The existence of different methods in the agreements for calculating contributions from associated countries entail a risk of erroneous implementation of those contribution agreements. The agencies concerned are invited to consult the European Commission to assess whether they need to align with the Commission contributions agreements and methods of calculation for the contributions of associated countries.
What we audited

01 The EU agencies are distinct legal entities set up by an act of secondary legislation to carry out specific technical, scientific or managerial tasks that help the EU institutions to design and implement policies. They are located in different Member States and can have significant influence in areas of vital importance to European citizens’ daily lives, such as health, safety, security, freedom and justice. References to specific agencies in this summary are made by using abbreviations of their full names, which are provided in the list of acronyms at the end of the document.

02 There are three types of EU agencies: decentralised agencies, European Commission executive agencies and other bodies. The differences between them are described below.

03 The number of agencies has increased over the years. By the end of 2020, their number had reached 43, as shown in Figure 1. This figure includes also the newest agency HaDEA (European Health and Digital Executive Agency) that was established on 1 April 2021. At the same time, the Chafea ceased to exist, and INEA and EASME were renamed to CINEA (European Climate, Infrastructure and Environment Executive Agency) and EISME (European Innovation Council and SME Executive Agency), respectively.

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Figure 1 – Timeline and overview of the increasing number of agencies

* Some of the agencies operated before as intergovernmental organisations under a different status.

Note: The years mentioned in the figure refer to the year that the founding act of the agency came into force.

Source: ECA.
All European Commission executive agencies are located in Brussels. Decentralised agencies and other bodies are located across the EU in different Member States as shown in Figure 2. Their locations are decided by the Council or jointly by the Council and the European Parliament.

Figure 2 – Agencies’ location across the Member States

Source: ECA.

Decentralised agencies address specific policy needs

The 33 decentralised agencies play an important role in preparing and implementing EU policies, especially for technical, scientific, operational or regulatory tasks. Their role is to address specific policy needs and to reinforce European
cooperation by pooling technical and specialist expertise from the EU and national
governments. They are set up to operate for an indefinite period by a Regulation of the
Council or of the European Parliament and the Council.

**European Commission executive agencies implement EU programmes**

06 The six European Commission executive agencies\(^6\) carry out executive and
operational tasks relating to EU programmes. They are set up to operate for a fixed
period of time.

**Other bodies have specific mandates**

07 The four other bodies are the Innovation and Technology (EIT), the European
Public Prosecutor’s Office (EPPO), the Euratom Supply Agency (ESA) and the Single
Resolution Board (SRB). The EIT in Budapest is an independent, decentralised EU body,
which pools scientific, business and education resources to boost the Union's
innovation capacity by providing grant funding. It was set up for an indefinite period.
The EPPO is an independent Union body competent to fight crimes against the Union
budget. The EPPO launched its operations on 1 June 2021. The ESA in Luxembourg was
created for an indefinite period to guarantee the regular and equitable supply of
nuclear fuels to EU users in line with the Euratom Treaty. The SRB in Brussels is the key
authority of the Single Resolution Mechanism in the European Banking Union. Its
mission is to ensure the orderly resolution of failing or likely to fail (FOLF) banks, with
as little impact as possible on the real economy and public finances of EU Member
States and others.

**Agencies are financed from various sources and under different MFF headings**

08 In 2020, the total budget of all agencies (excluding the SRB) was €3.7 billion. This
is equivalent to 2.2 % of the EU’s general budget for 2020 (2019: 2.2 %), as shown in
Figure 3.

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\(^6\) Chafea ceased to exist on 1 April 2021, EACEA, EASME (EISMEA as of 1 April 2021), ERCEA,
INEA (CINEA as of 1 April 2021), HaDEA (as of 1 April 2021) and REA.
09 The 2020 budget of the SRB was €8.1 billion (2019: €7.9 billion). This consists of contributions from credit institutions and certain investment firms to set up the Single Resolution Fund and to finance the SRB’s administrative expenditure.

10 The budgets of the decentralised agencies and the other bodies cover their staff, administrative and operational expenditure. The executive agencies implement programmes financed from the European Commission’s budget, and their own budgets (in 2020, around €273 million in total) only cover their own staff and administrative expenditure. The amount (commitment appropriations) implemented by the six executive agencies on behalf of the European Commission in 2020 amounted to around €14.9 billion (2019: €13.9 billion).

Figure 3 – Agencies’ financing sources for 2020

Source: Draft general budget of the European Union for the financial year 2020; Final annual accounts of the European Union 2020 and Annual Activity Reports of the executive agencies for 2020, compiled by ECA.

11 Most agencies, including all executive agencies, are financed almost entirely by the EU general budget. The others are fully or partially financed by fees and charges from industries and by direct contributions from countries participating in their activities. Figure 4 shows a breakdown of the agencies’ budgets by source of revenue.
The amended budget of GSA for the year 2020 was adopted for an amount of €35.4 million. With regards to operational activities that are financed through assigned revenue, the amended budget of GSA included a token entry and an estimation for 2020 of €728.6 million in commitment appropriations and €1 328.7 million in payment appropriations. The actual implemented expenditure from assigned revenue in 2020 amounted to €402.1 million in commitments and €753 million in payments.

Note: Other miscellaneous revenue or budgetary reserves are not included.

Source: Agencies’ final annual accounts 2020, compiled by ECA.
12 Figure 5 presents the agencies’ 2020 budgets. They are broken down by type of expenditure (Title I – staff costs, Title II – administrative expenditure, and Title III – operational expenditure, together with any other titles used), not by activity.

Figure 5 – Agencies’ 2020 expenditure per budget Title

*The amended budget of GSA for the year 2020 was adopted for an amount of €35.4 million. With regards to operational activities that are financed through assigned revenue, the amended budget of GSA included a token entry and an estimation for 2020 of €728.6 million in commitment appropriations and €1 328.7 million in payment appropriations. The actual implemented expenditure from assigned revenue in 2020 amounted to €402.1 million in commitments and €753 million in payments.

Note: The figure for SRB comprises two parts: Part I with €118 million for the administration of the Board and Part II with €8 016 million for the Fund.

Source: Budget: Agencies’ final annual accounts 2020, compiled by ECA.
Figure 6 shows how many staff members the agencies employed at the end of 2020. In total, the agencies employed 12,881 staff (2019: around 11,900), which is about 18% of the total number of staff members employed by the EU institutions and agencies.

Figure 6 – Numbers of staff per agency at the end of 2020

Source: Compiled by ECA.

7 The “staff” figures include actual number of posts occupied by permanent officials, temporary and contract staff members and seconded national experts on 31 December 2020.

8 The figures used are based on the full-time equivalent (FTE) of permanent officials, temporary and contract staff members, and seconded national experts.
Most agencies do not implement big operational spending programmes, but rather deal with technical, scientific or regulatory tasks. As a result, most agencies’ budgets consist mainly of staff and administrative expenditure (see Figure 5). Overall, agencies’ staff and administrative expenditure represent around 10.9% of total EU staff and administrative expenditure (see Figure 7).

Figure 7 – Staff and administrative expenditure* of EU institutions and bodies in 2020 (in million euros)

<table>
<thead>
<tr>
<th>Institution</th>
<th>Amount (million euros)</th>
</tr>
</thead>
<tbody>
<tr>
<td>European Data Protection Supervisor</td>
<td>9.4</td>
</tr>
<tr>
<td>European Ombudsman</td>
<td>10.1</td>
</tr>
<tr>
<td>European Committee of the Regions</td>
<td>76.2</td>
</tr>
<tr>
<td>European Economic and Social Committee</td>
<td>101.8</td>
</tr>
<tr>
<td>Court of Auditors</td>
<td>137.3</td>
</tr>
<tr>
<td>External Action Service</td>
<td>185.6</td>
</tr>
<tr>
<td>Court of Justice</td>
<td>341.4</td>
</tr>
<tr>
<td>Council</td>
<td>366.6</td>
</tr>
<tr>
<td>European Parliament</td>
<td>1 121.0</td>
</tr>
<tr>
<td>Agencies</td>
<td>1 331.2</td>
</tr>
<tr>
<td>Commission</td>
<td>8 485.0</td>
</tr>
</tbody>
</table>

* Staff expenditure includes staff working both on operational and administrative activities. The pension contributions are not included in the agencies figures (except for self and partially self-financed).

Source: European Union’s general budget for financial year 2020; Final annual accounts of the European Commission for financial year 2020 and Final annual accounts of the agencies 2020, compiled by ECA.
The €2.4 billion in contributions from the EU general budget are financed under different MFF headings as illustrated in Figure 8.

Figure 8 – Agencies’ financing from the EU general budgets’ MFF heading

Source: Agencies’ final annual accounts 2020, compiled by ECA.
Budgetary and discharge arrangements are similar for all agencies, except for EUIPO, CPVO and SRB

For most decentralised agencies and other bodies and for all European Commission executive agencies, the European Parliament and the Council are responsible for the annual budgetary and discharge procedures. The timeline of the discharge procedure is shown in Figure 9.

Figure 9 – Discharge procedure for most agencies

Source: ECA.

However, the two fully self-financed decentralised agencies (CPVO and EUIPO) are subject to budgetary and discharge procedures respectively by their Administrative Council or Budget Committee, but not by the European Parliament and the Council. Similarly, the SRB’s annual budgetary and discharge procedure is the sole responsibility of its Board.

The EU Agencies Network facilitates inter-agency cooperation and communication with stakeholders

An EU Agencies Network (EUAN) was set up by the agencies as an inter-agency cooperation platform to enhance the agencies’ visibility, to identify and promote possible efficiency gains, and to add value. It recognises the need of the agencies to communicate in a more coordinated way with their stakeholders and the general public on issues of shared concerns, and provides a first entry point for gathering and
disseminating information among all agencies. EUAN operates on the basis of priorities agreed by the agencies in a five-year strategy agenda, as well as yearly work programmes specifying its activities and its objectives. In 2020, EUAN endorsed its second multiannual strategy (2021-2027)\(^9\) incorporating the political and strategic direction of the new European Commission around two strategic pillars:

- EUAN as a role model for administrative excellence;
- EUAN as a well-established institutional partner.

EUAN is chaired by a different agency every year on a rotational basis, with plenary meetings coordinated by the Shared Support Office taking place twice per year. There are ten thematic sub-networks (see Figure 10) within EUAN which have a thematic focus. They can also interact with other EU institutions, whom themselves can be members of the sub-networks. The ECA, actively participates in some of these plenary and sub-network meetings by sharing good practices and providing information on audit processes and results.

**Figure 10 – EUAN’s Shared Support Office and Sub-networks**

Source: EUAN.

At the centre of EUAN’s work and the core of both multi-annual strategies is the aspect of sharing services, knowledge, and expertise. Some examples of cooperation include the sharing of services in the areas of disaster recovery, accounting, joint procurements (see Box 1), COVID-19-related matters (see Box 2) and data protection.

**Box 1**

**Example of cooperation in a way of joint procurement procedures**

Joint procurements are one of the incentives for a cooperation promoted by the EUAN. As we reported already in our 2018 annual report, decentralised agencies and other bodies, together with the EU joint undertakings (EU bodies), have also explored the possibility of increased administrative efficiency and economies of scale through the use of joint procurement procedures. The number of joint calls for tenders launched by EU bodies increased from 1 to 17 between 2014 and 2020, and by the end of 2020, 64 EU bodies had participated in one or more joint procurements (see Figure 11). Joint procurement procedures may achieve efficiency gains and economies of scale.

**Figure 11 – Number of joint calls**

Source: EUAN.
Box 2

Sharing information on response measures during COVID-19

Following the COVID-19 outbreak, EUAN’s Shared Support Office played an active role in coordinating response measures. In April 2020, EUAN set up an “advisory group on new ways of working” – an informal working group to serve as an information exchange platform between agencies’ resource managers. The working group has held 27 meetings since it was set up. It has contributed to aligning agencies’ procedures on policies concerning generalised teleworking measures, joint procurement for personal protective equipment, and policies on returning to the office. It has also served as a channel for coordinating COVID-19 related topics the agencies wanted to bring to the attention of the European Commission.

EUAN’s actions were recognised by the EU Ombudsman who nominated it, amongst others, for its award for Good Administration 2021 in Coordinating the response of EU agencies to the COVID-19 crisis.10

Source: EUAN and EU Ombudsman.

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Our audit

Our mandate

21 As required by Article 287 of the Treaty on the Functioning of the European Union (TFEU), we have audited:\n\n- the accounts of all 41 agencies, which comprise the financial statements\(^{12}\) and the reports on the implementation of the budget\(^{13}\) for the financial year ended 31 December 2020, and\n- the legality and regularity of the transactions underlying those accounts.

22 On the basis of the results of our audit, we provide the European Parliament and the Council, or the other discharge authorities (see paragraph 17) with one statement of assurance per agency as to the reliability of the agencies’ accounts and the legality and regularity of the underlying transactions. We complement the statements of assurance with significant audit observations, where this is appropriate.

We report suspected fraud to the relevant EU bodies OLAF and EPPO

23 We cooperate with the European Anti-Fraud Office (OLAF) in matters related to fraud and other illegal activity affecting the EU’s financial interests. At the request of OLAF, we share audit information about EU agencies that could be useful for OLAF’s investigations. We also consult OLAF about any suspicion that we identify in the course of our audit work, even though our audits are not designed to specifically search for fraud. For the financial year 2020, such cooperation was also extended to the newly operational European Public Prosecutor’s Office (EPPO), responsible for investigating, prosecuting and bringing to judgment crimes against the financial interests of the EU.

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\(^{11}\) ELA and the EPPO were not audited in 2020 because they did not reach their financial autonomy.

\(^{12}\) The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

\(^{13}\) The reports on implementation of the budget are reports which aggregate all budgetary operations and explanatory notes.
We reported to EPPO suspicion concerning one EU agency and informed OLAF about it. Overall, since the financial year 2001, we have referred other eight agencies to OLAF before the establishment of EPPO because we suspected one or more cases of fraud in our sampled transactions.

**Digitalisation of audit procedures at the ECA**

24 The ECA identified the annual audit of the EU agencies as an opportunity to test the potential of automated audit procedures. The audit of the agencies consists of around 200 audit procedures covering areas such as payments, salaries, procurements, budget, recruitments and the annual accounts. In 2019, we launched a pilot project on how to automate procedures for the audit of the legality and regularity of commitments, payments and salaries, as well as the audit of the accounts. The project concerned the EU’s six executive agencies. Unlike most decentralised agencies14, executive agencies share similar administrative procedures and similar IT systems (i.e. the budgetary system, the accounting system and the human resources management system).

25 In 2020, we continued our pilot project and refined the audit procedures we had developed previously on the executive agencies, making them more precise in order to reduce the number of exceptions to be verified by the auditors. We also implemented five new automated procedures in the area of the audit of the accounts. As expected, this test did not reveal any material errors. However, we identified some time savings as shown in Figure 12. These results confirm that there is a potential for substantial savings once more procedures are automated and used for more audit tasks. This is going to be continued and observed in the years to come.

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14 See paragraphs 2.26 and 2.27 of the Annual report on EU agencies for the financial year 2017.
Figure 12 – Automation of tests for the audit of the accounts

**Key benefits** for the solutions designed or developed are:

1. Increasing the level of assurance of the audit through full population testing
2. Gaining capacity for the Auditors for more added value tasks
3. Increasing the processing speed by 98%
4. Average handling time per agency: ~ 1 hour, Handling time for the 6 agencies: ~ 6 hours

~ 60 seconds, ~ 90 seconds

*Source: ECA.*
What we found

Results from the annual agency audits for the financial year 2020 are positive overall

Overall, our audit of the annual accounts of the agencies for the financial year ended 31 December 2020 and of the revenue underlying them confirmed the positive results reported in previous years; however, some improvements are needed in the area of payments underlying the accounts.

Figure 13 – 2018 – 2020 annual audit opinions on agencies’ accounts, revenue and payments

Source: ECA.

‘Clean’ opinions on the reliability of all agencies’ accounts

For the financial year 2020, the ECA issues unqualified (“clean”) audit opinions on the accounts of all agencies (see Figure 13).

‘Emphasis of matter’ paragraphs are important for understanding the accounts of EMA and SRB

‘Emphasis of matter’ paragraphs draw readers’ attention to a matter of such importance that it is fundamental to users’ understanding of the accounts. In the financial year 2020, we have used ‘emphasis of matter’ paragraphs in our reports on two agencies: the EMA and the SRB.
For the EMA, the previously London-based agency which moved to Amsterdam, we draw attention to an issue with the lease agreement for its previous premises in London. The agreement lasts until 2039, with no provision for early termination. In July 2019, the EMA reached an agreement with its landlord and has managed to sublease its former office premises with effect from July 2019, under conditions that are consistent with the terms of the head lease. The sublease term lasts until the expiry of the EMA’s lease. Since the EMA remains a party to the rental contract, it could be held liable for the entire amount remaining payable under that contract if the subtenant fails to meet its obligations. As of 31 December 2020, the total estimated outstanding rent, associated service charges and landlord insurance to be paid by EMA up to the end of the lease term is €377 million.

Concerning the accounts of the SRB, we point out that administrative appeals or judicial proceedings related to contributions between some credit institutions and national resolution authorities and the Board, as well as other legal actions brought against the SRB before the General Court and the Court of Justice of the European Union, were not subject to our audit. Their possible impact on the Board’s financial statements for the financial year ended 31 December 2020 (in particular on contingent liabilities, provisions and liabilities) is subject to a separate specific annual audit carried out by the ECA, as stipulated under Article 92(4) of the SRM Regulation.

Furthermore, we draw attention to notes of the financial statements of the SRB final accounts, which describe the possible impact on the portfolio of investments in light of the current COVID-19 crisis.

‘Other matter’ paragraph addresses an issue of specific importance for Chafea

Chafea was closed on 1 April 2021, and its tasks have been redistributed to other agencies. However, given that these agencies are other EU consolidated entities, this has no impact on the amounts of assets and liabilities in Chafea’s 2020 annual accounts.

‘Clean’ opinions on the legality and regularity of the revenue underlying all agencies’ accounts

The ECA issues unqualified (“clean”) audit opinions on the legality and regularity of the revenue underlying all agencies’ accounts.
‘Emphasis of matter’ paragraph helps to better understand the revenue of SRB

34 We also used an ‘emphasis of matter’ paragraph in our report on the SRB, in connection with the issue described in paragraph 30 above.

‘Other matter’ paragraphs address an issue of specific importance for ESMA and SRB

35 Concerning ESMA, fees charged to credit rating agencies are based on their revenue as legal entities, but not as a group or group of related entities. This creates a quasi-legitimate opportunity to reduce or avoid fees by transferring revenues from credit rating agencies under EU jurisdiction to their related entities outside the EU. The likely financial effect of this loophole in the regulations is unknown. ESMA is aware of this risk and on 29 January 2021 published a consultation paper 15. Following this paper, it submitted on 21 June 2021 a technical advice to the European Commission on amending the Regulation to mitigate the risk.

36 Furthermore, for the ESMA, fees to trade repositories (TRs) are calculated based on each individual trade repository’s applicable turnover. Although, the Regulation on fees does not provide for a comprehensive and consistent control framework to ensure the reliability of the information, all of the TRs were able to produce independent auditors’ opinions stating that their 2019 financial statements (used for the fee calculations) gave a true and fair view. However, the information they submitted on the number of trades reported to the TRs during 2019 and the number of recorded outstanding trades on 31 December 2019 were only subject to limited review by independent auditors. In March 2021, ESMA published a consultation paper 16, which proposes a simplification of the method used to determine the turnover of TRs for the purposes of calculating annual supervisory fees by including only revenues and excluding activity figures.

37 Without prejudice to our formal audit opinion, we emphasised that the SRB’s fund contributions are calculated on the basis of information provided by credit institutions to the SRB. Our audit of the SRB’s revenue was based on this information,


but we did not verify its reliability. The SRM Regulation does not establish a comprehensive and consistent control framework to ensure the reliability of the information. However, the SRB performs consistency and analytical checks of the information as well as some ex post checks at the level of the credit institutions. Furthermore, the SRB cannot release details on the risk-adjusted contribution calculations for each credit institution as they are interlinked and include confidential information about other credit institutions. This affects the transparency of these calculations.

‘Clean’ opinions on the legality and regularity of the payments underlying the agencies’ accounts, except for ACER, eu-LISA and ENISA

38 For 38 agencies, we issued unqualified (“clean”) audit opinions on the legality and regularity of the payments underlying the annual accounts for the financial year ended 31 December 2020. In our opinion, payments were legal and regular in all material respects for these agencies (see Figure 13).

39 For the ACER, we issued a qualified opinion in relation to our findings reported in the financial year 2019. The ECA concluded that several specific contracts under a framework contract for IT services were irregular, because no competitive procurement procedure had been carried out. Payments made irregularly in the financial year 2020 amounted to €752 654 (3.7 % of the total payment appropriations available in 2020).

40 For the eu-LISA, we issue a qualified opinion based on two irregular procurement procedures. In one case, eu-LISA signed a specific contract for software different from the software offered by the contractor in its tender for the associated framework contract and no modification of the framework contract has taken place. Acquiring a different product which is not included in the price offer, at a different price than the product originally offered is a deviation from the framework contract. In another one, eu-LISA signed an order form for maintenance services covering the period of four years. This contravened the provisions of the framework contract, which allowed services to be invoiced in advance for one year. The total amount of payments considered not to be compliant with the provisions of the framework contract was €10 405 075 and represents 4.1 % of all payment appropriations available in the financial year 2020.
41 For **ENISA**, the qualified opinion concerns lack of delegation for a staff member. There was a time gap between the end of a temporary delegation granted by the previous Executive Director to a staff member and the start of a new delegation granted by the new Executive Director taking office. During this period, that staff member authorised budgetary commitments amounting to €529 120 and payments amounting to €914 100 without a valid delegation (3.5 % of the total payment appropriations available in 2020).

‘Other matter’ paragraphs on issues of specific importance for ACER, ENISA and EASO

42 The ECA draws attention to the fact that the **ACER** and **ENISA** did not adopt internal rules to address the continuity of delegations in cases where delegating or delegated authorising officers leave their posts. This constitutes an important internal control weakness (see paragraphs 48 onwards for further information).

43 For the **EASO**, we note that a case pending before the General Court has a bearing on aspects of our audit opinion. In 2020, EASO launched an open procedure for the provision of temporary agency workers to support its headquarters and its operations in Malta. The total estimated amount was €27.7 million over 48 months. In October 2020, judicial proceedings against EASO were brought before the General Court by the unsuccessful tenderer challenging the outcome of the procurement procedure.

44 Similarly to the ECA’s 2019 report on the **EIGE** accounts, we note that a case pending before the Court of Justice of the European Union has a bearing on aspects of our audit opinion. The case concerns several questions asked by the Lithuanian Supreme Court concerning the application of Directive 2008/104/EC of the European Parliament and of the Council on temporary agency work to EU agencies. Since the Court of Justice’s ruling with regard to these questions may have an impact on the ECA’s position concerning the EIGE’s use of interim workers, the ECA has refrained from making any observations, including follow-ups of observations from previous years, until the Court of Justice has issued a final rulings in this case.

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17 **Case No T-621/20 (EMCS v EASO).**

18 **Case No C-948/19 (Manpower Lit).**

Our observations address areas for improvement in 23 agencies

In addition to the opinions and accompanying ‘emphasis of matter’ and ‘other matter’ paragraphs, we also made 54 observations (for the financial year 2019 we made 82 observations) concerning 23 agencies to address areas where further improvements are needed. Most of these observations concern shortcomings in internal controls, public procurement procedures and in budgetary management. Public procurement procedures weaknesses remain the main source of irregular payments.

Figure 14 and Figure 15 show the number of different types of observations raised across 41 agencies throughout the report including the opinions and accompanying ‘emphasis of matter’ and ‘other matter’ paragraphs.

Figure 14 – Number of observations per agency

Source: ECA.
Figure 15 – Number of observations per type of frequent weaknesses

Internal controls are the most error prone area

For 13 agencies (ACER, CEPOL, EASME, EASO, EBA, EIOPA, EMSA, ESMA, ENISA, ETF, Eurofound, Frontex and the SRB) we report internal controls weaknesses related to the lack of ex-ante/ex-post controls (see Box 3), the inadequate management of budgetary/legal commitments, or the lack of reporting in the register of exceptions. 

Figure 15 shows the most common types of internal control weaknesses identified.
Box 3

Example of lack of ex-ante internal controls

During our audit, we noted lack of internal controls in the implementation of the framework contract signed by the European Commission in 2018 on behalf of more than 60 EU bodies. Its purpose was the acquisition of software licences and IT services. The contractor, acting as an intermediary, is entitled to add a percentage mark-up to its suppliers’ prices. In relation to purchases under this framework contract, we observed that for example EASME did not perform any internal controls to ascertain whether the contractor had used the correct prices and charged the correct mark-ups.

Observations on delegation of budget implementation powers

48 In the course of our audit, we also found weaknesses regarding the continuity of delegations in cases where delegating or delegated authorising officers leave their posts and, in particular, when a new Executive Director (i.e. the agency’s authorising officer) takes office.

49 The role of authorising officer is different in agencies and institutions. Institutions themselves perform the role of authorising officer; they delegate the associated responsibilities to members of their staff. Directors-General and Secretaries-General of institutions are all authorising officers by delegation. In agencies, though, the role of authorising officer is attributed to the Executive Director, who implements the budget under their own responsibility. The responsibility for implementing the budget lying with the Executive Director is a key differentiating characteristic of agencies.

50 The question of the continuity of delegations after the replacement or departure of the authorising officer is not explicitly answered by the agencies’ Financial Regulations nor by the general Financial Regulation. To address this, institutions usually adopt internal rules for implementing their budgets, including provisions that cover the conditions for granting and receiving delegations or sub-delegations, the scope of the powers delegated, and the continuity of delegations when an authorising officer is replaced or leaves the institution.

51 For two agencies (ACER and ENISA) we have raised “other matters” paragraphs in our audit opinions due to the absence of internal rules or decisions addressing the continuity of delegations in cases where new Executive Directors take office. This has resulted in a number of budgetary commitments, legal commitments and payment
operations having been approved, based on delegations issued by the previous Executive Director that were not confirmed by the new Executive Director in office. In our opinion, this constituted an important internal control weakness.

52 In the case of ENISA we have issued a qualified opinion on the legality and regularity of the payments underlying the accounts, because a member of the staff authorised budgetary commitments and payment operations over a period of six weeks without having any delegation at all (see paragraph 41).

53 In previous years, we have seen other agencies manage the transition of their Executive Directors adequately. In 2019, new Executive Directors were installed at EASO and EMSA. They immediately issued decisions confirming the delegations issued by their predecessors. In another example, one that can be considered to be a good practice, the management board of EMA adopted in 2019 a charter of tasks and responsibilities of the Executive Director as authorising officer, containing provisions addressing the termination of duties of the Executive Director as authorising officer. This is akin to the practice of European institutions complementing the general provisions of the EU Financial Regulation. For example, the European Commission has adopted internal rules for the implementation of its section of the general budget addressing the continuity of delegations.

Public procurement weaknesses remain the main source of irregular payments

54 The objective of public procurement rules is to ensure fair competition between tenderers and to procure goods and services at the best price, respecting the principles of transparency, proportionality, equal treatment and non-discrimination. Our audit included framework, specific and direct contracts from all agencies. In ten agencies (Cedefop, CEPOL, EASO, EBA, EIOPA, EMA, ERCEA, ESMA, eu-LISA and the Eurojust), the contracts audited were affected by public procurement shortcomings of different kinds, mostly concerning lack of competition (see Box 4), weaknesses in the evaluation process of the tenderers and contract implementation issues. Figure 15 shows also

20 Article 13.3 of European Commission Decision of 3.8.2018 - C(2018)5120 - on the Internal Rules on the implementation of the general budget of the European Union (European Commission section).- “Unless specifically amended or revoked by a new delegating authorising officer, the subdelegation of powers granted by his predecessor shall remain valid.”
some further statistics per type of the most common observations identified for procurement procedures.

**Box 4**

**Example of non-compliance with the provisions of the framework contract**

Eu-LISA signed a specific contract for software different from the software offered by the contractor in its tender for the associated framework contract. Acquiring a different product, which is not included in the price offer to the tender procedure is indeed an option in Article 172(3)(a) of EU Financial Regulation, but under the condition to also change the framework contract accordingly. This condition had not been respected by eu-LISA. Therefore, the purchase of the software not included in the initial price offer is a deviation from the framework contract. Both the specific contract and the payment of €10 399 834 are non-compliant with the provisions of the framework contract.

Moreover, for ACER, EASO, EUIPO, EIGE and the Eurofound we also reported irregular payments made in the financial year 2020 stemming from irregular procurement procedures reported in previous years.

**Budgetary management weaknesses on the increase**

Under the EU Financial Regulation, budget appropriations granted for a given financial year can be carried over to the next financial year under certain conditions. While the EU Financial Regulation does not set ceilings for such carry-overs and the multi-annual nature of operations can explain them to a considerable extent, excessive levels can indicate delays in the implementation of work programmes or procurement plans. The levels of carry-overs were partially affected by COVID-19 pandemic. Alternatively, they could indicate a structural issue, weak budgetary planning and possibly a contravention of the budgetary principle of annuality. For five agencies (ACER, ESA, eu-LISA, FRA and the Frontex) we report such weaknesses.

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21 Conditions for carry-overs are explained in Articles 12 and 13 of the EU Financial Regulation.
Figure 16 gives an overview of the level of carry-overs of committed appropriations per agency and per budget Title. It is shown as a percentage of committed appropriations \(^{22}\) carried over compared to the total appropriations \(^{23}\) of a budget Title.

**Figure 16 – Level of carry-overs per budget Title**

Source: Budget: Agencies’ final annual accounts 2020, compiled by ECA.

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\(^{22}\) Committed appropriations cover the total cost of legal obligations entered into in the current financial year, for implementing operations over one or more financial years.

\(^{23}\) Total appropriations entered into the agency’s budget for a given financial year.
For eight agencies (Cedefop, EBA, EIGE, EIOPA, EMSA, ESMA, Europol, and the Frontex), we also observed various other weaknesses. These weaknesses concerned issues ranging from the management of fees to late payments, the disclosure of contributions received, and the calculation of contributions by non-EU Member States to the agencies’ budgets (see Box 5). Figure 15 shows the most common types of weaknesses in budgetary management.

Box 5

Example of a weakness in contributions from the EFTA countries that are not EU members

The method for calculating contributions set out in the Statement on Cedefop-EFTA cooperation was not applied correctly in the financial year 2020. The auditors identified three calculation errors and as an overall impact, Norway’s and Iceland’s contributions to the Cedefop 2020 budget were €20 272 higher than they should have been, and the EU’s contribution was €20 272 lower than it should have been.

Variety of observations raised concerning human resources management

During our annual audit of the agencies for the financial year 2020, we noted an increase in weaknesses concerning human resources management. We audited recruitment procedures in 22 agencies. For six of them (ACER, EASO, EFSA, EMA, EMSA and Frontex) we identified different types of shortcomings: insufficient steps to verify entitlements to allowances for staff taking up duties as a temporary agent (EMSA), vacant managerial post for excessive period (EASO, EFSA), a failure to apply effective internal controls during the recruitment procedures (ACER), weaknesses in appointment of selection panels for recruitment procedures (EMA), weaknesses in management of grades of new staff members (Frontex).

Agencies adapted well to the COVID-19 unprecedented situation

We complemented our financial audit work with a review of how EU agencies have managed and organised their response to the COVID-19 crisis. This review included the areas set out in Figure 17. We also present some examples of the impact COVID-19 has had on the agencies’ budget implementation and work programmes for the financial year 2020.
An organisation’s main guidance document in a crisis situation is its business continuity and disaster recovery plan (BCP). This document guides work procedures and organisation during the crisis. It may cover the entire organisation, or be specific to individual business units (see Box 6). The plan is based on risk assessments and scenario planning, and forms a critical part of the organisation’s internal control framework.
Box 6

Example of the content of a business continuity and disaster recovery plan

1. **Basic key business continuity information:**
   - emergency contacts,
   - emergency evacuation procedures,
   - communication channels (list of e-mail recipients, telephone cascade, websites),
   - assembly points etc.

2. **Business continuity principles:**
   - definitions,
   - summary of critical and essential functions and procedures,
   - legal basis,
   - scope and scenarios,
   - training and awareness-raising,
   - testing and drills.

3. **Reaction and response:**
   - definition of roles and responsibilities of crisis management teams,
   - business continuity teams and recovery teams.

4. **Recovery and de-escalation:**
   - definitions,
   - recovery checklists,
   - de-escalation procedures and actors.

*Source: EIOPA BCP.*

62. The BCP is not a static document. For example, ISO standard no 27001, requires organisations to verify the established and implemented information security continuity controls at regular intervals in order to ensure that they are valid and effective during adverse situations. Our review showed that at the outbreak of the COVID-19 pandemic, 37 out of 41 agencies (90%) had a formally approved and up to date BCP in place (see *Figure 18*).

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24 ISO/IEC 27001 is an international standard on how to manage information security. It details requirements for establishing, implementing, maintaining and continually improving information security management systems.
At the outbreak of the COVID-19 pandemic, 37 of the 41 agencies had a formally approved and up to date business continuity and disaster recovery plan in place. Four agencies, EASO, EBA, EIGE and GSA, did not.

Source: ECA 2020 financial audit.

Following the first indications of the spread of the virus in late 2019 and early 2020, agencies began activating BCPs and crisis mitigation measures to protect staff, information and physical assets (see Box 7). Some agencies also redirected resources to deal with the impact of the pandemic (see Box 8). Our review showed that 34 out of 37 (92%) agencies that had formally approved and up-to-date BCP had activated their BCP as a direct consequence of the pandemic. The three agencies that did not activate their plans, BEREC, CDT and EFCA, stated it was not necessary to do so, because their initial response measures (for example, extending teleworking to all staff) did not require it.
### Timeline of EUIPO’s activation of the BCP

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>25.2.2020</td>
<td>Due to the <strong>increased concern of the coronavirus pandemic</strong>, the HR department informed staff about the situation, and the <strong>preventive measures</strong> that should be taken.</td>
</tr>
<tr>
<td>12.3.2020</td>
<td><strong>First communication</strong> by the Executive Director to the staff, outlining the <strong>possible scenarios</strong>, including the possibility of <strong>activating the BCP</strong>.</td>
</tr>
<tr>
<td>14.3.2020</td>
<td>Spanish national authorities declared a state of emergency, effectively <strong>preventing staff from entering EUIPO’s premises</strong> from Monday 16 March.</td>
</tr>
<tr>
<td></td>
<td>Information is <strong>published on the EUIPO intranet</strong> with information about how to organise meetings using videoconferencing tools etc.</td>
</tr>
<tr>
<td>15.3.2020</td>
<td><strong>EUIPO activates its BCP, and orders staff to work from home</strong>. Staff members are notified of the situation by e-mail and SMS. The BCP coordination service contacts BCP members and the critical staff required to ensure the continuity of EUIPO’s services.</td>
</tr>
<tr>
<td>16.3.2020</td>
<td><strong>BCP scenario 6 (unavailability of access to EUIPO premises)</strong> is put into action. EUIPO ICT staff monitor business activities to ensure the availability of VPN sessions. Daily meetings organised by EUIPO management begin.</td>
</tr>
</tbody>
</table>

**Source:** ECA survey replies and supporting information on the activation provided by EUIPO.
Special case – ECDC’s reaction to the COVID-19 pandemic

The European Centre for Disease Prevention and Control (ECDC), established by Regulation (EC) No 851/2004 of the European Parliament and of the Council, has a budget of € 82 million and 271 staff members. Its main task is to collect and disseminate data on the prevention and control of human diseases and to provide scientific opinions on this subject. The Centre is also required to coordinate the European network of bodies operating in this field. The COVID-19 pandemic outbreak in 2020 is the most serious public health event that ECDC has had to respond to since it became operational in 2005.

In response to the COVID-19 outbreak, the ECDC activated its public health event operations plan on 9 January 2020. This document guided the organisation through the emergency situation, and allowed it to redirect the resources needed to tackle the pandemic. Teams responsible for public health emergencies within the ECDC produced the following main outputs on COVID-19 in this period: data and surveillance updates, including rapid risk assessments; scientific guidance to support public-health decision-making; information on disease and response measures to health care practitioners and the general public; and responses to ad hoc requests from European institutions and agencies. In parallel with the activation of the public health emergency plan, the ECDC implemented actions under its BCP covering its regular day-to-day operations from 16 March 2020.

Source: ECA’s review of survey replies, external evaluation of ECDC’s response to COVID-19, supplemented by interviews with ECDC staff members and verification of information obtained.

The response activities from February to mid-March 2020 included the designation of specific teams tasked with leading the organisation and management of the COVID-19 response (see Box 9). Typically, these comprised senior representatives from departments across the organisation. Coordination meetings were initially held daily, even on weekends, and later, two to three times a week or as necessary. The response teams have remained active throughout the period covered by this review.

Source: ECA’s review of survey replies, external evaluation of ECDC’s response to COVID-19, supplemented by interviews with ECDC staff members and verification of information obtained.

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26 Directors, heads of administration/resources, ICT, infrastructure and logistics, communications, security officers.
Example of an internal task force set up to monitor and tackle COVID-19 impact

The Executive Director of **EMA** decided on 16 March 2020 to implement further precautionary measures to reduce the risk of spreading COVID-19. This decision empowered a task force to outline the procedures for monitoring and tackling COVID-19, keeping staff informed, and enacting pandemic mitigation strategies. The mandate of the task force was to ensure that EMA was prepared for any possible scenario. The decision also defined the organisation of the task force in four separate work streams: (1) therapeutic response, (2) supply chain, (3) business continuity and impact, (4) human resources.

*Source:* ECA review survey replies and related supporting evidence.

By 16 March 2020, all agencies had moved to extended teleworking arrangements, and instructed all staff whose presence at the office was not indispensable to work from home. The fact that some remote working possibilities were already in place before the outbreak was helpful in this respect. This meant that the task at hand was more a question of scaling up existing ICT systems than of conducting a massive rollout in March 2020 (see **Box 10**). Our analysis also showed that none of the agencies reported serious problems with respect to capacity (bandwidth), connectivity or data security. Eight agencies (ACER, BEREC, CPVO, ECDC, ECHA, EFSA, EIOPA, and SRB) performed stress tests of their ICT systems before launch, which gave further assurance on the functioning of ICT systems before the move to comprehensive teleworking.

**Box 10**

**Examples of the scaling-up of ICT and teleworking arrangements**

**ENISA:** a teleworking scheme had been in place since August 2018. On 11 March 2020, ENISA’s management issued an administrative notice authorising teleworking for all staff, including interims. It only took one day for ENISA to ensure that operational teleworking for all staff was in place.

**EMSA:** teleworking for all staff started on 16 March 2020 and was immediately operational. According to the agency, by 3 June 2020, EMSA staff had carried out 68 000 one-to-one Skype meetings, organised 3 444 Skype conferences, 2 203 one-to-one Teams meetings and 287 group Teams meetings.
**EUIPO**: from the moment the decision was taken, implementation was immediate (see also *Box 7*). The full move of staff to a remote working environment was implemented over a weekend.

**ECHA**: the agency closed its premises on 17 March 2020 and moved to teleworking as a rule, with exceptions granted for staff working in essential functions. No phase-in time was required to ensure remote access to the systems for all staff.

**EUROPOL**: over a weekend, around 400 laptops were distributed to staff to ensure business continuity.

**CEDEFOP**: teleworking arrangements had already been in place since October 2017. Staff had been equipped with laptops, and had online collaborative working tools and paperless procedures at their disposal. This allowed staff to continue working after 17 March 2020, when all operations began to be carried out remotely.

*Source: ECA survey results, interviews with agency staff members and verification of information obtained.*

66 As the pandemic progressed, agencies progressively amended and updated their plans, or developed specific contingency plans in order to better address the particular impacts that the pandemic had had on their individual organisations and operations. By 31 December 2020, 16 agencies had reviewed, or were planning to review, their existing BCPs based on the experiences they had gained so far. For example, CEPOL added a pandemic scenario to its plan. EASA, as an aviation sector regulator, was particularly affected by the pandemic situation. It decided to refocus its BCP and response on the specific COVID-19 health and safety aspects, not only those concerning EASA staff members, but also those relating to aviation personnel, passengers and other stakeholders in the aviation sector in general. Five agencies, EBA, ECDC, EIOPA, EUROPOL and EUIPO, have commissioned external evaluations of the management and organisation of their responses.

67 All agencies had included de-escalation measures in their business continuity measures: for example, the gradual return of staff to the office. Most agencies used a gradual approach, typically in the form of a plan consisting of four phases (see *Box 11* for an example), allowing for a controlled escalation or de-escalation depending on the development of the pandemic. The implementation of the escalation/de-escalation measures aimed to follow recommendations and instructions from national and [27](#) ACER, BEREC, CDT, CEPOL, CPVO, EACEA, EASA, EASME, EBA, ECDC, EFCA, EIOPA, EMSA, ETF, EUROPOL, SRB.
regional health authorities, and risk assessments and guidance from the European Commission, the ECDC and the WHO. In practice, implementation varied from agency to agency, however, depending mostly on the different national/regional measures taken by the relevant authorities.

**Box 11**

**Example of the stages in a return to office plan**

On 13 May 2020, **EASA** adopted a strategy for a gradual return to the office, and set out an action plan which was communicated to staff. The return was organised in four phases:

- **PHASE 0**: Teleworking as a rule
- **PHASE 1**: Cautious first lifting of confinement
- **PHASE 2**: Progressive de-confinement
- **PHASE 3**: A "new normal" general de-confinement

*Source: ECA survey replies, information supplied by the agency.*

68 The main objective behind the decision to move to comprehensive teleworking was to protect staff. The priority given to staff well-being was visible in numerous internal documents we consulted, which were confirmed in the interviews with agencies’ management. The impact of the pandemic on work and staff, including the organisation of the return to the office, was also widely discussed in the EUAN advisory group on new ways of working (see **Box 2**). The information EUAN shared with us showed that most agency staff members had generally coped well with the difficult situation caused by the pandemic. Time-management statistics produced by the agencies showed that staff worked more hours\(^{28}\) than before to cope with the new tasks expected of them. Feedback from agencies indicated that staff were engaged and performing at least at the same level as before. According to observations made by agencies specialised in working conditions, such as EUROFOUND and EU-OSHA, peaks of productivity (and staff engagement) are normal in times of crisis, but are not sustainable over time. EUAN network members estimated that the percentage of staff that had indicated some sort of difficulties ranged from 10 % to 20 %.

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\(^{28}\) 36 network members participated but consolidated data is currently not available. The conclusion is based on the minutes from the EUAN meetings.
Key governance processes and day-to-day operations continued without serious disruptions, with some exceptions

69 Each agency has a management board, which constitutes the highest level of the agency’s governance. The board’s main role is to provide strategic orientation to the agency and to oversee its activities. Following the cancellation of physical board meetings in the second half of March 2020, meetings were replaced by written procedures, or moved to a virtual mode. In this new environment, the boards were able to meet as required in agencies’ founding regulations, and adopt legally required decisions on time. Voting procedures continued by means of specific electronic voting tools, such as EU Survey, also for restricted or confidential decisions. Examples of statutory decisions taken by agencies during the pandemic include the adoption of budgets, amendments, transfers, programming documents, annual activity reports, and opinions on final accounts. During the pandemic, boards have appointed high-ranking new members of staff, such as Executive Directors, in EMA, EBA, EASME and GSA. The boards have thus been able to exercise their governance role effectively during the pandemic.

70 Our review showed that agencies were able to ensure the continued operation of their key corporate functions (administration, ICT, HR, etc.) during the pandemic, thanks to the switch to virtual decision-making and teleworking arrangements.

71 Despite the pandemic, agencies were able to acquire goods and services on time and to the required quantity and quality. We found very few cases where calls for tender had been unsuccessful, where not enough offers had been received from tenderers, or where certain services had been suspended or cancelled. Requests by tenderers for extensions to deadlines were accommodated without substantial delays. Agencies had established electronic submission procedures in place (e-Submission) for open tenders, which allowed them to continue in a virtual environment. The work of evaluation committees was carried out online; the evaluation boards signed decisions electronically or, in exceptional cases, confirmed outcomes by e-mail. Another example was the application of a temporary rule, following guidance from the

29 The name of the board varies between agencies: for example, some agencies have a board of supervisors, some have an administrative board, and some a governing board. Executive agencies, on the other hand, are led by steering committees.

30 Agencies still using a paper-based system for the submission of lower-value tenders exceptionally accepted offers by e-mail instead of on paper until normal procedures are resumed.
European Commission, which allowed electronic signatures on contracts instead of blue ink signatures, until more normal working conditions resume (see Box 12).

Box 12

Example of measures undertaken by an agency in the management of procurement procedures as response to the COVID-19 pandemic

EUROPOL implemented a series of measures to maintain efficiency in managing procurement procedures and related activities:

- assessing essential activities to be maintained by the organisation when the pandemic broke out;
- producing letters notifying selected contractors of the force majeure nature of the pandemic, and the impact on on-going specific contracts and purchase orders;
- placing urgent orders to cover exceptional needs required by the pandemic (e.g. hardware, software, and facilities products);
- providing strategic and legal advice on procurement and contracts at short notice (particularly related to concerns such as protection of medical data during the crisis, refusal to accept force majeure declarations, e-signature design, procurement and roll-out);
- amending various contracts in order to adjust the risks linked to the pandemic (e.g. changes in contract scope, delivery methods, offsite remote working for consultants).

With respect to procurements and contracts during the pandemic, we found that agencies had sought guidance from their partner DG and/or DG BUDG, on a case-by-case basis, before proceeding. We did not detect an excessive use of direct awards without competition due to the pandemic as compared to the previous years. In one case, we noted that EASO had used the derogation for reasons of extreme urgency under 11.1(c) of Annex 1 of the Financial Regulation to cover a significant disruption to the supply of personal protection equipment under an existing contract. This did not affect the legality and regularity of the procurement. Overall, we concluded that procurement rules were on the whole respected, with a few specific exceptions (see Box 13).
Box 13
Examples of non-compliance with procurement rules directly linked to the COVID-19 pandemic

**EIOPA:** in May 2020, EIOPA signed a contract for the provision of in-person training courses. At that time, the pandemic was unfolding, and the limitations on events requiring presence in person were already known. EIOPA signed an amendment to the contract in August 2020 including new contract items: the provision of virtual training courses. These virtual courses were set at fixed prices which were higher than the price of on-site training courses agreed in the initial contract. These changes constitute new contract conditions. If they had been part of the initial procurement procedure, they could potentially have attracted additional bidders without any geographical limitation imposed by the training in person and at a more competitive cost. The contract amendment does not comply with the Directive 2014/24/EU and is therefore irregular.

**CEPOL:** the agency paid a cancellation fee for a hotel booking for a training event in Budapest scheduled in September 2020. The training event was cancelled due to COVID-19 restrictions. If it had invoked the "force majeure" clause in the framework contract instead, CEPOL could have cancelled the reservation without cost. In this instance, CEPOL did not effectively protect the EU’s financial interests.

*Source: ECA 2020 financial audit.*

73 We noted a number of disruptions to recruitment and selection procedures due to the lockdown measures and travel restrictions introduced in March 2020 (see Box 14 for examples). From mid-April 2020, most agencies were able to restart and continue recruiting when online procedures had been deployed to ensure that selection and induction procedures could proceed remotely. While remote solutions have allowed critical recruitment procedures to continue, there have been some issues. Several agencies described the process as cumbersome and time-consuming, stating that these procedures had initially been affected by technical problems, such as connection issues, or the sudden unavailability of candidates, and the challenge of holding induction procedures in a virtual environment. Another challenge with remote tests was the difficulty for candidates to demonstrate certain proficiencies online.

74 The fact that recruitment slowed down in early 2020 created a risk of HR bottlenecks in the future, as a growing number of future staff members will need adequate (virtual) induction procedures, creation of personal files, training courses,

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and appraisals. The pressure will be particularly high on the agencies that are recruiting in large numbers, such as Frontex (see Box 14); it will be less of an issue for smaller agencies.

**Box 14**  
**Impact of the pandemic on recruitment**

**Frontex:** the general slowdown in recruitment caused by the pandemic delayed the recruitment of the 40 fundamental rights monitors required by Regulation (EU) 2019/1896 to be appointed by 31 December 2020. At the time of our audit, no monitors had been appointed. This situation poses a serious risk to the operations and reputation of the agency.

**EASO:** on 28 February 2020, the Executive Director cancelled all planned recruitment interviews. All of the 161 candidates invited for interviews and tests in Malta were informed of this. The cancellation created a delay of one month to all recruitments, and a challenging inflow of newcomers at a later stage.

*Source:* Replies to ECA survey.

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75 Risks relating to selection procedures have been mitigated. Applications have been submitted electronically to functional mailboxes created for that purpose, and interviews have been organised remotely (online using Teams, Outlook or Skype). Written tests have been done online, either one-to-one between the candidate and an HR representative from the agency, or supervised by an external service provider. Evaluation board members were able to meet virtually and to authorise documents and decisions using electronic signatures, or by e-mail.

76 An additional challenge linked to the pandemic related to the requirement for candidates to undergo pre-recruitment medical examinations. In some countries, access to medical services was interrupted due to strict lock-downs. In other cases, agencies relied on the European Commission’s medical service in Brussels, which closed for a period, thus affecting those agencies relying on it for pre-recruitment medical checks. Following instructions from the European Commission, agencies agreed to postpone these tests by offering conditional contracts, giving recruits additional time to undergo the tests. Our review shows that 15 agencies (37 %) used

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this option in order to continue recruiting staff\textsuperscript{33}. Failure to undergo the tests within the stipulated deadline, usually before the end of the probationary period, would render contracts void.

**Agencies have continued delivering on their mandates despite the COVID-19 pandemic, albeit at a slower pace**

77 Although it is difficult to completely isolate the effect of the pandemic, we can conclude that the pandemic has affected all of the agencies’ core business areas to a varying degree.

78 As a general remark, the pandemic has accelerated the shift in working methods; this has led to budget savings in several areas. All agencies’ budgets for missions and travel-related costs have not been fully used. The reduction was close to 90\% in some agencies. Savings also came from delays or cancellations to recruitment procedures, pre-recruitment medical check-ups, in-person meetings, and training courses being held online. Similarly, there was also a much-reduced need for canteen, cleaning, on-site utilities such as water and electricity, and security services.

79 Agencies reviewed their budgets and targets, made reprioritisations, and reassigned funds to other areas in order to avoid excessive cancellations at year-end, although some weaknesses were found (see paragraph 56 and 57). However, the slowdown, and shift in working methods away from missions and physical meetings etc., can still be noted in a number of reductions to agencies’ agreed budgets for 2020, and subsequent returns of appropriations to the European Commission. Another indicator is the general increase we have seen in the amounts of appropriations carried forward from the 2020 to the 2021 financial year compared to the previous year.

80 We noted that some fee-receiving agencies (ECHA, EASA and ERA) have seen increased volatility in the fees invoiced and collected, affecting their budgetary planning and financial stability in general. For example significant drops in fee income in 2020 were reported by ECHA (€7.0 million less fee income under the REACH Regulation than initially budgeted) and EASA (€3.2 million less fee income compared to 2019).

81 With respect to work programmes and activities, the pandemic has triggered significant reprioritisations of resources and planned activities towards COVID-19-

\begin{itemize}
\item ACER, BEREC, CPVO, EBA, ECHA, EASO, EIOPA, ERCEA, ESMA, EUIPO, EUROJUST, FRONTEX, GSA, INEA, SRB.
\end{itemize}
related activities. The most notable examples can be found in the policy area Health (ECDC, EMA). For the ECDC, according to an external evaluation\footnote{Strategic and performance analysis of ECDC response to COVID-19, McKinsey, November 2020.} (see also \textit{Box 8}), the pandemic is the most serious public health emergency the agency has had to respond to since it was established in 2004. In 2020, the EU’s COVID-19 response has become the ECDC’s predominant activity, consuming a majority of the agency’s time and resources\footnote{According to its 2020 Annual Activity Report, the Centre had to cancel or postpone 35 \% of the outputs initially planned for 2020 and redirect resources towards COVID-19 related actions.}. EMA experienced a major transformation of the entire landscape in which it operates. Specifically, the pandemic has affected the whole European Medicines Regulatory Network (ERMN)\footnote{The EMRN is a network of national competent authorities in the EU Member States and European Economic Area (EEA) working together with the EMA and the European Commission.} requiring EMA to enhance coordination of the EU regulatory network and to speed up Committees procedures for COVID-19 related products. In November 2020, the European Commission also put forward a proposal for a new regulation that will complement and strengthen the current core tasks of the agency, and broaden the agency’s mandate to further facilitate a coordinated EU-level response to health crises\footnote{EMA Final programming document 2021-2023 (EMA/53919/2021).}.

\textbf{82} Agencies implementing EU policies in other areas were also affected. For example, Frontex was unable to implement planned return activities due to worldwide travel restrictions and saw a 52.5 \% reduction to the initially voted budget for returns in 2020. Eurofound’s planned fieldwork for the 7th European Working Conditions survey was significantly changed, disrupting the potential for a trend analysis of working conditions over more than 20 years. And EASA, EMSA and ERA saw sudden reprioritisations, since they were required to provide new guidelines to ensure that the transport and mobility sectors adhere to European safety and health measures and protocols as a direct consequence of the pandemic.

\textbf{83} We therefore saw that agencies took relevant actions and rapidly adapted their work to the pandemic. This was achieved through accelerated digitalisation measures, collaborated better, and improved the way they exchanged information to remain operational (see \textit{Box 15}).
Box 15

**Good practice examples to be continued**

We wish to highlight a number of good practices that EU agencies should continue as the situation progressively returns to normal.

- Continue incorporating lessons learned from the pandemic so far into business continuity reviews and procedures.
- Continue the digitalisation process that has been accelerated by the pandemic; for example, by introducing fully digital workflows and technical solutions for working spaces.
- Continue developing online staff well-being measures and professional development tools introduced during the pandemic.
- Continue adapting staff appraisal procedures and staff performance indicators to a virtual/hybrid working environment.
- Continue adapting programming and targets to reflect EU agencies’ operations and service delivery under (post-) COVID-19 conditions.
List of acronyms used for the EU agencies and other Union bodies

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full name</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACER</td>
<td>European Union Agency for the Cooperation of Energy Regulators</td>
</tr>
<tr>
<td>The BEREC Office</td>
<td>Agency for Support for Body of European Regulators for Electronic Communications</td>
</tr>
<tr>
<td>CdT</td>
<td>Translation Centre for the Bodies of the European Union</td>
</tr>
<tr>
<td>Cedefop</td>
<td>European Centre for the Development of Vocational Training</td>
</tr>
<tr>
<td>CEPOL</td>
<td>European Union Agency for Law Enforcement Training</td>
</tr>
<tr>
<td>Chafea</td>
<td>Consumers, Health, Agriculture and Food Executive Agency</td>
</tr>
<tr>
<td>CPVO</td>
<td>Community Plant Variety Office</td>
</tr>
<tr>
<td>EACEA</td>
<td>Education, Audiovisual and Culture Executive Agency</td>
</tr>
<tr>
<td>EASA</td>
<td>European Union Aviation Safety Agency</td>
</tr>
<tr>
<td>EASME</td>
<td>Executive Agency for Small and Medium-sized Enterprises</td>
</tr>
<tr>
<td>EMCDDA</td>
<td>European Monitoring Centre for Drugs and Drug Addiction</td>
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<tr>
<td>EMSA</td>
<td>European Maritime Safety Agency</td>
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<tr>
<td>ENISA</td>
<td>The European Union Agency for Cybersecurity</td>
</tr>
<tr>
<td>EPPO</td>
<td>European Public Prosecutor’s Office</td>
</tr>
<tr>
<td>ERA</td>
<td>European Union Agency for Railways</td>
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<td>ERCEA</td>
<td>European Research Council Executive Agency</td>
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<td>ESA</td>
<td>EURATOM Supply Agency</td>
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<td>ESMA</td>
<td>European Securities and Markets Authority</td>
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<tr>
<td>ETF</td>
<td>European Training Foundation</td>
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<td>EUPO</td>
<td>European Union Intellectual Property Office</td>
</tr>
<tr>
<td>Acronym</td>
<td>Full name</td>
</tr>
<tr>
<td>---------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>EASO</td>
<td>European Asylum Support Office</td>
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<tr>
<td>EBA</td>
<td>European Banking Authority</td>
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<tr>
<td>ECDC</td>
<td>European Centre for Disease Prevention and Control</td>
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<td>ECHA</td>
<td>European Chemicals Agency</td>
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<td>EEA</td>
<td>European Environment Agency</td>
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<td>EFCA</td>
<td>European Fisheries Control Agency</td>
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<td>EFSA</td>
<td>European Food Safety Authority</td>
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<tr>
<td>EIGE</td>
<td>European Institute for Gender Equality</td>
</tr>
<tr>
<td>EIOPA</td>
<td>European Insurance and Occupational Pensions Authority</td>
</tr>
<tr>
<td>EIT</td>
<td>European Institute of Innovation and Technology</td>
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<tr>
<td>ELA</td>
<td>European Labour Authority</td>
</tr>
<tr>
<td>EMA</td>
<td>European Medicines Agency</td>
</tr>
</tbody>
</table>
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**Alex Brenninkmeijer (ECA member)**

Di Hai (Attaché in the Cabinet)

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