



EUROPEAN  
COURT  
OF AUDITORS

# **Report on the annual accounts of the European Union Agency for Law Enforcement Cooperation (Europol) for the financial year 2019,**

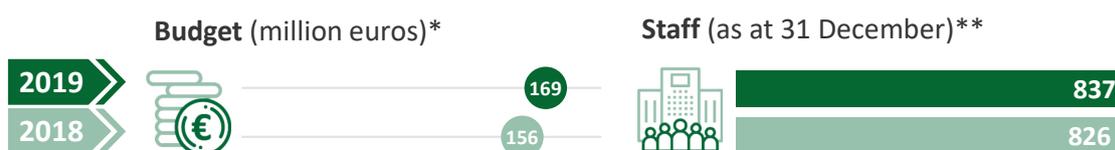
together with the Agency's reply

# Introduction

**01** The European Union Agency for Law Enforcement Cooperation (“the Agency”, or “Europol”), which is located in The Hague, was established by Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016<sup>1</sup> replacing and repealing Council Decision (2009/371/JHA)<sup>2</sup>. The objective of the Agency is to support and strengthen action by the Member States' police authorities and other law enforcement services and their mutual cooperation in preventing and combating serious crime affecting two or more Member States, terrorism, and forms of crime which affect a common interest covered by Union policy.

**02** *Graph 1* presents key figures for the Agency<sup>3</sup>.

## Graph 1: Key figures for the Agency



\* Budget figures are based on the total payment appropriations available during the financial year.

\*\* “Staff” includes EU officials, EU temporary agents, EU contract staff and seconded national experts, but excludes interim workers and consultants.

*Source:* Consolidated annual accounts of the European Union for the financial year 2018 and Provisional consolidated annual accounts of the European Union Financial year 2019; Staff figures provided by the Agency.

## Information in support of the statement of assurance

**03** The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Agency’s supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of information provided by the Agency’s management.

<sup>1</sup> OJ L 135, 24.5.2016, p. 53.

<sup>2</sup> OJ L 121, 15.5.2009, p. 37.

<sup>3</sup> More information on the Agency’s competences and activities is available on its website: [www.europol.europa.eu](http://www.europol.europa.eu).

## The Court's statement of assurance provided to the European Parliament and the Council – Independent auditor's report

### Opinion

**04** We have audited:

- (a) the accounts of the Agency which comprise the financial statements<sup>4</sup> and the reports on the implementation of the budget<sup>5</sup> for the financial year ended 31 December 2019 and
- (b) the legality and regularity of the transactions underlying those accounts

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

### Reliability of the accounts

#### Opinion on the reliability of the accounts

**05** In our opinion, the accounts of the Agency for the year ended 31 December 2019 present fairly, in all material respects, the financial position of the Agency at 31 December 2019, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

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<sup>4</sup> 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.

<sup>5</sup> The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

## Legality and regularity of the transactions underlying the accounts

### Revenue

#### Opinion on the legality and regularity of revenue underlying the accounts

**06** In our opinion, revenue underlying the accounts for the year ended 31 December 2019 is legal and regular in all material respects.

### Payments

#### Opinion on the legality and regularity of payments underlying the accounts

**07** In our opinion, payments underlying the accounts for the year ended 31 December 2019 are legal and regular in all material respects.

## Basis for opinions

**08** We conducted our audit in accordance with the IFAC International Standards on Auditing (ISAs) and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions (ISSAIs). Our responsibilities under those standards are further described in the 'Auditor's responsibilities' section of our report. We are independent, in accordance with the Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants (IESBA Code) and with the ethical requirements that are relevant to our audit, and we have fulfilled our other ethical responsibilities in accordance with these requirements and the IESBA Code. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

## Responsibilities of management and those charged with governance

**09** In accordance with Articles 310 to 325 of the TFEU and the Agency's Financial Regulation, management is responsible for preparing and presenting the Agency's accounts on the basis of internationally accepted accounting standards for the public sector, and for the legality and regularity of the transactions underlying them. This includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of financial statements that

are free from material misstatement, whether due to fraud or error. The Agency's management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements comply with the official requirements which govern those statements. The Agency's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the Agency's accounts.

**10** In preparing the accounts, the Agency's management is responsible for assessing the Agency's ability to continue as a going concern. It must disclose, as applicable, any matters affecting the Agency's status as a going concern, and use the going concern basis of accounting, unless management either intends to liquidate the entity or to cease operations, or has no realistic alternative but to do so.

**11** Those charged with governance are responsible for overseeing the Agency's financial reporting process.

### **The auditor's responsibilities for the audit of the accounts and underlying transactions**

**12** Our objectives are to obtain reasonable assurance about whether the accounts of the Agency are free from material misstatement and the transactions underlying them are legal and regular, and to provide, on the basis of our audit, the European Parliament and the Council or the other respective discharge authorities with statements of assurance as to the reliability of the Agency's accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

**13** For revenue, we verify subsidies received from the Commission or cooperating countries and assess the Agency's procedures for collecting fees and other income, if any.

**14** For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments (including those made for the purchase of assets) other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Agency accepts the justification by clearing the advance payment, whether in the same year or later.

**15** In accordance with the ISAs and ISSAIs, we exercise our professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement or non-compliance resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the overriding of internal controls.
- Obtain an understanding of internal controls relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the internal controls.
- Evaluate the appropriateness of the accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Agency's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the accounts or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause an entity to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the accounts, including the disclosures, and whether the accounts represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the Agency to express an opinion on the accounts and transactions underlying them. We are responsible for the direction, supervision and performance of the audit. We remain solely responsible for our audit opinion.
- Considered the audit work of the independent external auditor performed on the Agency's accounts as stipulated in Article 70(6) of the EU Financial Regulation, where applicable.

We communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that we identify during our audit. From the matters on which we communicated with the Agency, we determine those matters that were of most significance in the audit of the accounts of the current period and are therefore the key audit matters. We describe these matters in our auditor's report unless law or regulation precludes public disclosure about the matter or when, in extremely rare circumstances, we determine that a matter should not be communicated in our report because the adverse consequences of doing so would reasonably be expected to outweigh the public interest benefits of such communication.

**16** The observations which follow do not call the Court's opinion into question.

### Observations on the legality and regularity of transactions

**17** As reported in the Annual Report for the 2018 financial year (see the follow-up table), the Agency prolonged the duration of one framework contract, for the provision of business travel services, by signing an amendment to it after it had expired in 2018. This was irregular. The Agency also signed a further amendment to that same contract on 29 March 2019, with effect from 1 April 2019 to 31 March 2020. The 2019 payments associated with these amendments, which amount to 32 531,50 euros, are therefore irregular. This demonstrates weaknesses in contract management and ex ante controls, which should be improved accordingly.

### Observations on budgetary management

**18** The Financial Regulation states that EU bodies must make payments within prescribed terms. In 2019, the Agency frequently failed to do so. We found that it had paid late in 20 % of cases. We observed similar or even higher levels of delays in 2018 and 2017. This recurrent weakness exposes the Agency to reputational risk.

### Observations on sound financial management

**19** For the procurement of furniture, accessories and related services with a maximum value of 2,04 million euros, the Agency had concluded a framework contract with a single operator resulting based on an open tendering procedure. Only one tender was received. However, the terms used in the documents to the call for tender were not specific enough; this undermined the competitive nature of the tendering

procedure. Also, no minimum threshold had been set for the technical award criterion which was most relevant to quality (e.g.: quality of the proposed new standard furniture). The Agency should ensure that tender specifications are sufficiently well thought out to allow fair and effective competition.

Moreover, the Agency did not sufficiently check the accuracy of underlying prices and the calculation of discounts applied for the non-standard items before submitting the order form to the contractor. The Agency should integrate such checks in its ex-ante controls, before signing the order forms.

### Follow-up of previous years' observations

**20** An overview of the action taken in response to the Court's observations from previous years is provided in the **Annex**.

This Report was adopted by Chamber IV, headed by Mr Alex Brenninkmeijer, Member of the Court of Auditors, in Luxembourg on 22 September 2020.

*For the Court of Auditors*



Klaus-Heiner Lehne

*President*

## Annex - Follow-up of previous years' observations

Year	Court's observations	Action taken to respond to Court's observations (Completed / Ongoing / Outstanding / N/A)
<b>2017</b>	The Agency publishes vacancy notices on its own website and on social media, but not on the website of the European Personnel Selection Office (EPSO).	<b>Completed</b>
<b>2018</b>	The Agency irregularly prolonged the duration of a framework contract for the provision of business travel services after its expiry and introduced new price aspects. The contract management and ex ante controls should be strengthened.	<b>Outstanding</b>

## The Agency's reply

**17.** Europol acknowledges the ECA's comment concerning the immaterial payment amount of 32 531,50 euros in 2019 for the audited travel service contract. As outlined already in Europol's reply to the 2018 ECA annual report, the framework contract extension was launched well in advance of its initial expiry at the end of March 2018. Europol is of the opinion that it exerted due diligence and that the delay for the extension of the contract was caused by the fact that Europol applied the principle of sound financial management. Although, a new framework contract for business travel services entered in force in April 2019, Europol decided to extend the old contract for business continuity reasons. Europol ascertains that the prolongation in 2019 was the result of a conscious business decision and does not constitute a weakness in ex-ante control. An internal audit will commence at Europol in Q4 2020, with a view to obtaining additional assurance on Europol's contract management approach.

**18.** In 2019, Europol was faced with an understaffing situation, which affected so-called infrastructure areas, in particular financial administration. Europol is conscious of the risk profile regarding payments delays and carefully monitors the payment amounts on a monthly basis, taking mitigation actions to adhere to the principle of sound financial management, in particular by prioritising high-value payments and exploiting process improvements. Against this due diligence exerted by Europol, in 2019 an overall immaterial interest amount of 1 624,53 euros was paid. The overall value of invoices paid late accounted for 6,6 million euros (rounded), representing 4,6% of the payments made across the fund sources.

**19.** Europol holds the view that the tender complied with the applicable requirements set out in Annex I of the Financial Regulation. The tender documentation included the subject matter of the procurement and the applicable exclusion, selection and award criteria, thus allowing for competitiveness. The formula chosen to calculate the final score reflected the best price-quality ratio concept. On the way forward, in the interest of competitiveness, the Agency will refine the minimum threshold points for the most relevant criteria where required. Concerning the discount given by the contractor in the specific order form audited, the contractor had finally offered a higher discount than the standard rate included in the contract. Europol thus applied sound financial management in line with the provisions of the contract, and will nonetheless review its ex-ante checks, as part of regular continuous improvement efforts.

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