



EUROPEAN
COURT
OF AUDITORS

**Report on the annual accounts of the
European Union Agency for the
Operational Management of Large-Scale
IT Systems in the Area of Freedom,
Security and Justice (eu-LISA)
for the financial year 2019,**

together with the Agency's reply

Introduction

01 The European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA, or “the Agency”), which is located in Tallinn, Strasbourg and St. Johann im Pongau, was established by Regulation (EU) No 1077/2011 of the European Parliament and of the Council¹. Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 repeals Regulation (EU) No 1077/2011 and strengthens the mandate of eu-LISA². The core mission of this Agency is to fulfil the operational management tasks for the Second Generation Schengen Information System (SIS II), the Visa Information System (VIS) and the European System for the comparison of fingerprints (Eurodac). The new mandate of the agency has been extended to the development and operational management of two new IT-systems. The Entry/Exit System (EES) is a system to register entry and exit data of non-EU nationals, and the European Travel Information and Authorisation System (ETIAS) keeps track of visitors from countries who do not need a visa to enter the Schengen Zone.

02 *Graph 1* presents key figures for the Agency³.

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.

¹ OJ L 286, 1.11.2011, p. 1.

² OJ L 295, 21.11.2018, p. 99.

³ More information on the Agency’s competences and activities is available on its website: <https://www.eulisa.europa.eu/>.

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.

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 statements⁴ and the reports on the implementation of the budget⁵ 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

⁴ 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.

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

officer. These are based on internationally accepted accounting standards for the public sector.

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, the Agency's 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 One of the payments we audited was for the provision of "corrective maintenance in working order of the Schengen Information System" under a framework contract. Our audit work showed that the payment of 284 000 euros referred to a time period not covered by the duration of the framework contract, and as a result, it was not in compliance with the contractual provisions.

18 Our audit of recruitment procedures showed that the assessment of the applications against the eligibility criteria was not always rigorous enough. Weaknesses in the assessment of eligibility criteria led in one case to the unequal treatment of candidates.

Observations on budgetary management

19 In 2019, the Agency managed a budget of 288 million euros in commitment appropriations and 138 million euros in payment appropriations. The budget implementation rate was less than planned due in part to delays in the adoption or entry into force of the necessary legal acts. Consequently, the Agency returned 66 million euros in payment appropriations to the Commission, including 23 million not requested when the budget was established. It also carried forward 159 million euros of commitment appropriations to preserve them for use in the following financial year.

These events call into question the assumptions underpinning the financial planning contained in the Legislative Financial Statements prepared by the Commission and the absorption capacity of the Agency. The incorporation of significant amount of resources in the budget, for the implementation of legislation not yet adopted, presents a serious risk to the efficient use of appropriations, in particular to those appropriations not requested by the Agency itself. It is also a risk to the effectiveness of EU policy implementation, in view of the eventual pressure to recover from the delays incurred.

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)
2013/2015	Schengen Associated Countries contribute to the financing of the Agency's operational expenditure, but not staff and administrative expenditure.	Completed
2017	EU-LISA currently manages three separate, non-integrated large-scale IT systems (SIS II, VIS and Eurodac) all dealing with data in the Union's policy area of freedom, security and justice. Such an approach may prevent the Agency from achieving economies of scale and synergies between the different systems.	Ongoing (Not under the control of the Agency)
2017	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).	Completed
2017	E-procurement: by the end of 2017 the Agency had introduced e-invoicing and e-tendering for certain procedures, but not e-submission.	Completed
2017	For the development and implementation of IT projects the Agency applies an outsourcing model where some 90 % of the related work is carried out by contractors, creating a considerable risks of over-reliance and dependency on contractors.	N/A

Year	Court's observations	Action taken to respond to Court's observations (Completed / Ongoing / Outstanding / N/A)
2017	The framework contracts (FWCs) signed with the respective consortia for the operation of the main IT systems create a risk of overpayment. The Agency may consider using IFPUG, a standard methodology using function points for the determination of price for development activities.	Completed
2018	The selection committee deviated from the published vacancy notice and applied a higher minimum score for applicants to be placed on the reserve list. The Agency should make sure that the published selection criteria are respected.	Completed
2018	The agency awarded a contract for an amount exceeding the tenderer's offer, which is not in line with the public procurement rules.	N/A
2018	The Agency extended the duration of a direct contract, which increased also the contract value with 73 %. Payments executed beyond the 4-year initial period are irregular. The Agency should make sure it complies with public procurement rules.	Completed
2018	The agency increased the prices of a framework contracts without amending it and extended one specific contract after the expiry of the framework contract.	Ongoing

Year	Court's observations	Action taken to respond to Court's observations (Completed / Ongoing / Outstanding / N/A)
2018	The evaluation formula stipulated in the tender specifications for the MWS contract was different from the one communicated in the question and answers document for bidders. The Agency should strengthen procurement-related internal controls.	Ongoing
2018	Budget implementation was less than planned. The Agency, together with the Commission, should improve alignment of budgetary planning with the timing of the related legal acts.	Outstanding

The Agency's reply

17. The Agency acknowledges the observation. The finding concerns the extension of the Schengen Information System corrective maintenance for unavoidable operational reasons, which was already included in previous report on Agency's accounts for the year 2018 and no corrective action could be taken.

18. The Agency acknowledges the observation, which refers to a recruitment carried out in 2018 but whose effects produced in 2019. The Agency commits to ensure that all applicants are equally treated. In order to mitigate the risks of human errors, in December 2018 the Agency put in place an e-recruitment tool and has been using it since then, where automated checks are embedded.

19. The Agency does not disagree with this observation. However, the Establishing Regulation obliges the Agency to adjust its budget to the level of subsidy approved in the EU general budget. The inscription of resources in the Agency's budget for legislation not yet adopted by the co-legislators introduces significant risks to sound financial management. Such risks have been systematically reported to the Management Board.

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