

# 2022

## Annual report on EU agencies for the financial year 2022



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OF AUDITORS

EN

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# Contents

<b>List of EU agencies and other Union bodies covered by this report</b>	<b>7</b>
<b>Chapter 1 The EU agencies and the Court's audit</b>	<b>10</b>
<b>Introduction</b>	<b>11</b>
<b>The EU Agencies</b>	<b>13</b>
<b>Different types of agencies help the EU design and implement EU policies</b>	<b>13</b>
Decentralised agencies address specific policy needs	13
Commission executive agencies implement EU programmes	13
Other bodies have specific mandates	14
Recent changes	14
<b>Agencies are financed from various sources and under different MFF headings</b>	<b>16</b>
<b>Budgetary and discharge arrangements are similar for all agencies except for EUIPO, CPVO and SRB</b>	<b>23</b>
<b>The EU Agencies Network facilitates inter-agency cooperation and communication with stakeholders</b>	<b>24</b>
<b>Our audit</b>	<b>25</b>
<b>We issue a statement of assurance for each agency</b>	<b>25</b>
<b>Our audit approach is based on an assessment of key risks</b>	<b>26</b>
<b>We use the work of other auditors</b>	<b>28</b>
<b>We use digital audit procedures</b>	<b>28</b>
<b>We report suspected fraud to the relevant EU bodies OLAF and EPPO</b>	<b>28</b>
<b>Chapter 2 Overview of audit results</b>	<b>29</b>
<b>Introduction</b>	<b>30</b>
<b>Results from the annual agency audits for the 2022 financial year are less positive overall</b>	<b>31</b>

<b>‘Clean’ opinions on the reliability of all agencies’ accounts</b>	<b>31</b>
‘Emphasis of matter’ paragraphs are important for understanding the accounts of CINEA, the EMA, EPPO, ERA, ESMA, the EUAA, Eurojust, EUSPA, eu-LISA, Frontex and the SRB	31
<b>‘Clean’ opinions on the legality and regularity of the revenue underlying all agencies’ accounts</b>	<b>33</b>
‘Emphasis of matter’ paragraph facilitates understanding of the revenue of the SRB	33
‘Other matter’ paragraph addresses an issue of specific importance for the SRB’s revenue	33
<b>‘Clean’ opinions on the legality and regularity of the payments underlying the accounts of 39 agencies</b>	<b>33</b>
‘Emphasis of matter’ paragraph facilitates understanding of ESMA’s payments	34
<b>Our observations address areas for improvement in 36 agencies</b>	<b>34</b>
Public procurement weaknesses are increasing and remain the largest source of irregular payments	36
Some management and control systems are affected by weaknesses	39
In 2022, weaknesses regarding HR issues affected mostly allowances to seconded national experts	40
Weaknesses in budgetary management resulted in high carryovers or late payments	40
Agencies are following up on previous years’ audit observations	42
<b>The agencies’ response to the climate and energy crises and their reporting on their climate and energy performance</b>	<b>44</b>
<b>Nearly two in three EU agencies have made plans to improve energy efficiency and climate neutrality of their operations</b>	<b>45</b>
<b>Most agencies have some form of reporting on their climate and energy performance</b>	<b>50</b>
<b>Other agency-related reports issued by the ECA</b>	<b>55</b>
<b>The EU agencies network’s reply</b>	<b>59</b>
<b>Chapter 3 Statements of Assurance and other agency-specific audit results</b>	<b>61</b>
<b>3.1. Information in support of the statements of assurance</b>	<b>62</b>
<b>Agencies funded under MFF heading 1 – Single Market, Innovation and Digital</b>	<b>65</b>



<b>3.2. European Union Agency for the Cooperation of Energy Regulators (ACER)</b>	<b>66</b>
<b>3.3. Agency for Support for Body of European Regulators for Electronic Communications (BEREC Office)</b>	<b>73</b>
<b>3.4. European Union Aviation Safety Agency (EASA)</b>	<b>79</b>
<b>3.5. European Banking Authority (EBA)</b>	<b>85</b>
<b>3.6. European Chemicals Agency (ECHA)</b>	<b>92</b>
<b>3.7. European Insurance and Occupational Pensions Authority (EIOPA)</b>	<b>96</b>
<b>3.8. European Institute of Innovation and Technology (EIT)</b>	<b>104</b>
<b>3.9. European Maritime Safety Agency (EMSA)</b>	<b>110</b>
<b>3.10. European Union Agency for Cybersecurity (ENISA)</b>	<b>115</b>
<b>3.11. European Union Agency for Railways (ERA)</b>	<b>121</b>
<b>3.12. European Securities and Markets Authority (ESMA)</b>	<b>128</b>
<b>3.13. European Union Agency for the Space Programme (EUSPA)</b>	<b>136</b>
<b>Agencies funded under MFF heading 2 – Cohesion, Resilience and Value</b>	<b>142</b>
<b>3.14. European Centre for the Development of Vocational Training (Cedefop)</b>	<b>143</b>
<b>3.15. European Centre for Disease Prevention and Control (ECDC)</b>	<b>150</b>
<b>3.16. European Food Safety Authority (EFSA)</b>	<b>155</b>
<b>3.17. European Institute for Gender Equality (EIGE)</b>	<b>160</b>
<b>3.18. European Labour Authority (ELA)</b>	<b>166</b>
<b>3.19. European Medicines Agency (EMA)</b>	<b>174</b>
<b>3.20. European Public Prosecutor's Office (EPPO)</b>	<b>183</b>
<b>3.21. European Training Foundation (ETF)</b>	<b>188</b>
<b>3.22. European Agency for Safety and Health at Work (EU-OSHA)</b>	<b>194</b>
<b>3.23. European Foundation for the Improvement of Living and Working Conditions (Eurofound)</b>	<b>199</b>
<b>3.24. European Union Agency for Criminal Justice Cooperation (Eurojust)</b>	<b>205</b>
<b>3.25. European Union Agency for Fundamental Rights (FRA)</b>	<b>211</b>

<b>Agencies funded under MFF heading 3 – Natural Resources and Environment</b>	<b>216</b>
3.26. European Environment Agency (EEA)	217
3.27. European Fisheries Control Agency (EFCA)	223
<b>Agencies funded under MFF heading 4 – Migration and Border Management</b>	<b>228</b>
3.28. European Union Agency for Asylum (EUAA)	229
3.29. European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)	237
3.30. European Border and Coast Guard Agency (Frontex)	249
<b>Agencies funded under MFF heading 5 – Security and Defence</b>	<b>265</b>
3.31. European Union Agency for Law Enforcement Training (CEPOL)	266
3.32. European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)	273
3.33. European Union Agency for Law Enforcement Cooperation (Europol)	279
<b>Agencies funded under MFF heading 7 – European Public Administration</b>	<b>285</b>
3.34. Euratom Supply Agency (ESA)	286
<b>Self-financed Agencies</b>	<b>290</b>
3.35. Translation Centre for the Bodies of the European Union (CdT)	291
3.36. Community Plant Variety Office (CPVO)	297
3.37. European Union Intellectual Property Office (EUIPO)	303
3.38. Single Resolution Board (SRB)	310
<b>Commission Executive Agencies</b>	<b>319</b>
3.39. European Climate Infrastructure and Environment Executive Agency (CINEA)	320
3.40. European Education and Culture Executive Agency (EACEA)	325

<b>3.41. European Innovation Council and SMEs Executive Agency (EISMEA)</b>	<b>330</b>
<b>3.42. European Research Council Executive Agency (ERCEA)</b>	<b>337</b>
<b>3.43. European Health and Digital Executive Agency (HaDEA)</b>	<b>342</b>
<b>3.44. European Research Executive Agency (REA)</b>	<b>347</b>

## List of EU agencies and other Union bodies covered by this report

Acronym	Full name
ACER	European Union Agency for the Cooperation of Energy Regulators
BEREC Office	Agency for Support for Body of European Regulators for Electronic Communications
CdT	Translation Centre for the Bodies of the European Union
Cedefop	European Centre for the Development of Vocational Training
CEPOL	European Union Agency for Law Enforcement Training
CINEA	European Climate Infrastructure and Environment Executive Agency
CPVO	Community Plant Variety Office
EACEA	European Education and Culture Executive Agency
EASA	European Union Aviation Safety Agency
EBA	European Banking Authority
ECDC	European Centre for Disease Prevention and Control
ECHA	European Chemicals Agency
EEA	European Environment Agency
EFCA	European Fisheries Control Agency
EFSA	European Food Safety Authority
EIGE	European Institute for Gender Equality
EIOPA	European Insurance and Occupational Pensions Authority
EISMEA	European Innovation Council and SMEs Executive Agency
EIT	European Institute of Innovation and Technology
ELA	European Labour Authority

Acronym	Full name
<b>EMA</b>	European Medicines Agency
<b>EMCDDA</b>	European Monitoring Centre for Drugs and Drug Addiction
<b>EMSA</b>	European Maritime Safety Agency
<b>ENISA</b>	European Union Agency for Cybersecurity
<b>EPPO</b>	European Public Prosecutor's Office
<b>ERA</b>	European Union Agency for Railways
<b>ERCEA</b>	European Research Council Executive Agency
<b>ESA</b>	Euratom Supply Agency
<b>ESMA</b>	European Securities and Markets Authority
<b>ETF</b>	European Training Foundation
<b>EUAA</b>	European Union Agency for Asylum
<b>EUIPO</b>	European Union Intellectual Property Office
<b>eu-LISA</b>	European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice
<b>EU-OSHA</b>	European Agency for Safety and Health at Work
<b>Eurofound</b>	European Foundation for the Improvement of Living and Working Conditions
<b>Eurojust</b>	European Union Agency for Criminal Justice Cooperation
<b>Europol</b>	European Union Agency for Law Enforcement Cooperation
<b>EUSPA</b>	European Union Agency for the Space Programme
<b>FRA</b>	European Union Agency for Fundamental Rights
<b>Frontex</b>	European Border and Coast Guard Agency
<b>HaDEA</b>	European Health and Digital Executive Agency
<b>REA</b>	European Research Executive Agency

Acronym	Full name
SRB	Single Resolution Board



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## Chapter 1

### The EU agencies and the Court's audit

# Introduction

**1.1.** The European Court of Auditors (ECA) is the external auditor of the EU's finances<sup>1</sup> and it helps to improve the EU's financial management. More information on our work can be found in our activity reports, our reviews and our opinions on new or updated EU laws or other decisions with implications for financial management<sup>2</sup>.

**1.2.** Within this mandate, we carry out an annual examination of the accounts, and the underlying revenue and payments, for EU institutions, agencies and other EU bodies. Our mandate does not cover the three agencies working in the field of defence (the European Defence Agency, the European Institute for Security Studies and the European Union Satellite Centre), which are financed through member states' contributions and are audited by other independent external auditors<sup>3</sup>.

**1.3.** This report presents the results of our annual audit of the EU agencies and other EU bodies (collectively referred to as 'the agencies') for the 2022 financial year. In this report, for simplification, we refer to the agencies using their acronyms instead of their full names. A list of all agencies and their acronyms is provided at the beginning of this report. The report is structured as follows:

- **Chapter 1** describes the agencies and the nature of our audits.
- **Chapter 2** presents the overall results of our annual audit and makes reference to other agency-related audit results and opinions.
- **Chapter 3** contains the *statement of assurance* for each of the 43 agencies, together with our opinions and observations on the reliability of the agencies' accounts and on the legality and regularity of the underlying revenue and payments, together with matters and observations not calling these opinions into question.

**1.4.** Overall, our audit of the agencies for the financial year ended 31 December 2022 produced less positive results than in previous years. Through the *statements of assurance* issued for each agency, we provided:

- unqualified (clean) audit opinions on the reliability of all 43 agencies' accounts;

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<sup>1</sup> Article 285 to 287 of the [Treaty on the functioning of the European Union](#).

<sup>2</sup> Available on our website: [www.eca.europa.eu](http://www.eca.europa.eu).

<sup>3</sup> [Review 01/2014](#): "Gaps, overlaps and challenge: a landscape review of EU accountability and public audit arrangements", paragraph 84.



- o unqualified (clean) audit opinions on the legality and regularity of the revenue underlying all 43 agencies' accounts;
- o unqualified (clean) audit opinions on the legality and regularity of the payments underlying 39 agencies' accounts, except for CdT, CEPOL, ECDC, and eu-LISA, for which we issued qualified opinions.

**1.5.** For most agencies, we draw attention to areas for improvement in 'emphasis of matter' and 'other matter' paragraphs, and in observations not calling the audit opinions into question.

# The EU Agencies

## Different types of agencies help the EU design and implement EU policies

**1.6.** The EU agencies are distinct legal entities set up by acts 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 have significant influence in areas of vital importance to European citizens' daily lives, such as health, safety, security, freedom and justice.

**1.7.** There are three types of EU agencies: decentralised agencies, the Commission executive agencies and other bodies. The differences between them are described below (see paragraphs [1.8-1.10](#)).

### Decentralised agencies address specific policy needs

**1.8.** The **33 decentralised agencies**<sup>4</sup> play an important role in preparing and implementing EU policies, especially for technical, scientific, operational and regulatory tasks. Their role is to address specific policy needs and to reinforce European cooperation by pooling 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.

### Commission executive agencies implement EU programmes

**1.9.** The **six Commission executive agencies**<sup>5</sup> carry out executive and operational tasks relating to EU programmes, such as supporting stakeholders in delivering the [European Green Deal](#) (CINEA) and managing certain Horizon Europe projects (REA). They are set up to operate for a fixed period of time (currently until 31 December 2028).

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<sup>4</sup> ACER, BEREC Office, Cedefop, the CdT, CEPOL, the CPVO, EASA, the EBA, the ECDC, ECHA, the EEA, EFCA, EFSA, EIGE, EIOPA, ELA, the EMA, the EMCDDA, EMSA, ENISA, ERA, ESMA, the ETF, the EUAA, EUIPO, eu-LISA, EU-OSHA, EUSPA, Eurofound, Eurojust, Europol, FRA, Frontex.

<sup>5</sup> CINEA, EACEA, EISMEA, ERCEA, HaDEA, and REA.

## Other bodies have specific mandates

**1.10.** The **four other bodies** are the EIT, the EPPO, the ESA and the SRB. The EIT is an independent decentralised EU body which pools scientific, business and education resources to boost the EU's innovation capacity by providing grant funding. The EPPO is an independent EU body which investigates and prosecutes crimes against the EU budget. The ESA is tasked with guaranteeing the regular and equitable supply of nuclear fuels to EU users in line with the Euratom Treaty. The SRB is the central authority of the Single Resolution Mechanism in the European Banking Union. Its mission is to ensure the orderly resolution of banks which are failing or likely to fail, with as little impact as possible on the real economy and public finances of EU member states. In addition to this report, we also report on the SRB's contingent liabilities<sup>6</sup>.

## Recent changes

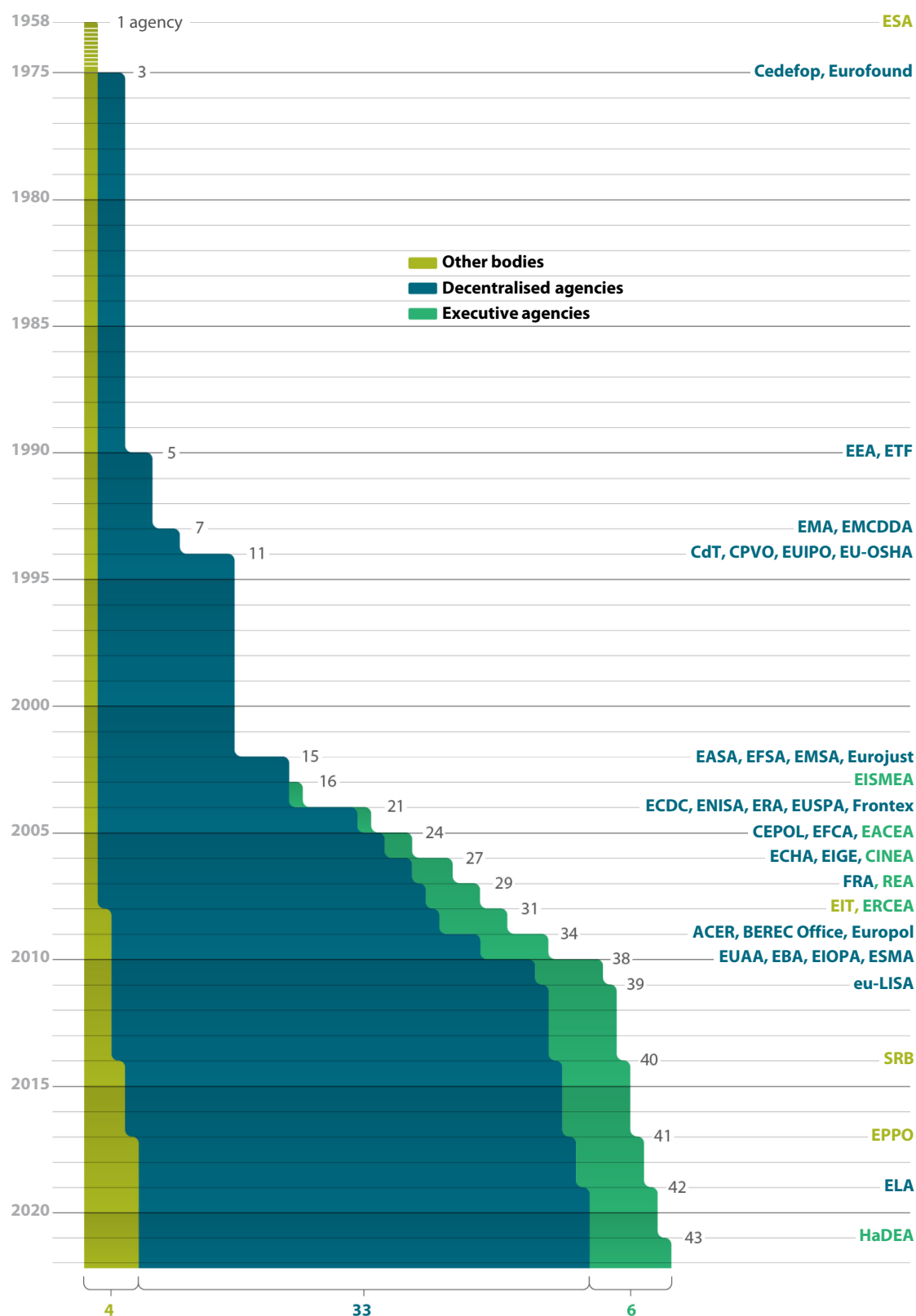
**1.11.** The number of agencies has increased over the years, but it decreased by one between 2021 and 2022, due to the winding down of the Consumers, Health, Agriculture and Food Executive Agency (Chafea). This report covers 43 agencies, as shown in [Figure 1.1](#). Five agencies had their mandates modified in 2022<sup>7</sup>. The European Asylum Support Office (EASO) became a fully-fledged agency and was renamed the European Union Asylum Agency (the EUAA).

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<sup>6</sup> See our [report](#) for the 2021 financial year.

<sup>7</sup> EMA, eu-LISA, EUROJUST, EUROPOL and FRA.

**Figure 1.1 – Timeline and overview of the evolution of agencies**

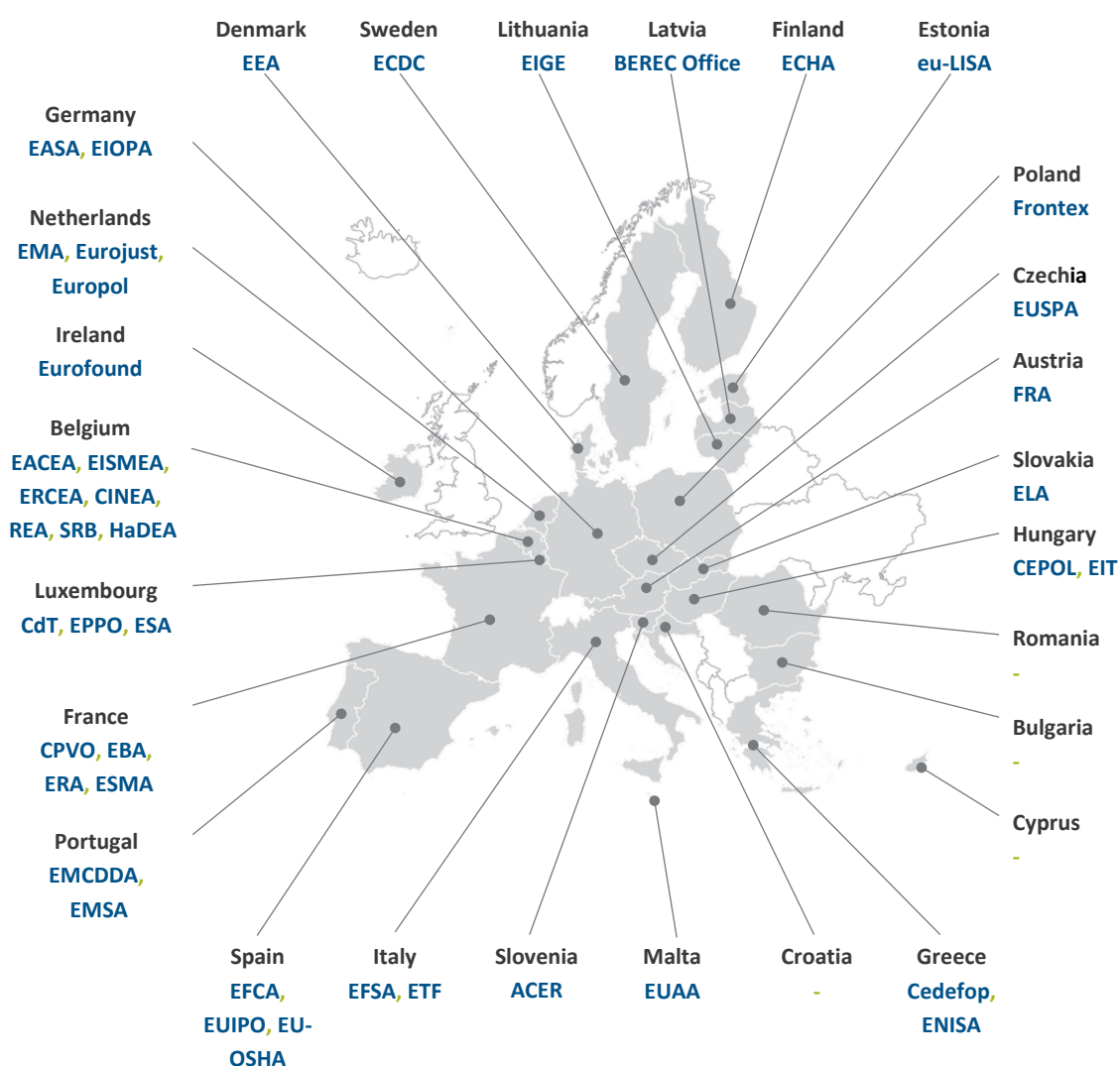


*Note:* The year mentioned in the figure refers to the year that the founding act of the agency (or its predecessor) came into force.

*Source:* ECA.

**1.12.** All 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 1.2](#). Their locations are decided by the Council or jointly by the Council and the European Parliament.

**Figure 1.2 – Agencies’ location across the member states**



*Note:* To go straight to our individual statement of assurance on an agency, click on its name in the diagram.

*Source:* ECA.

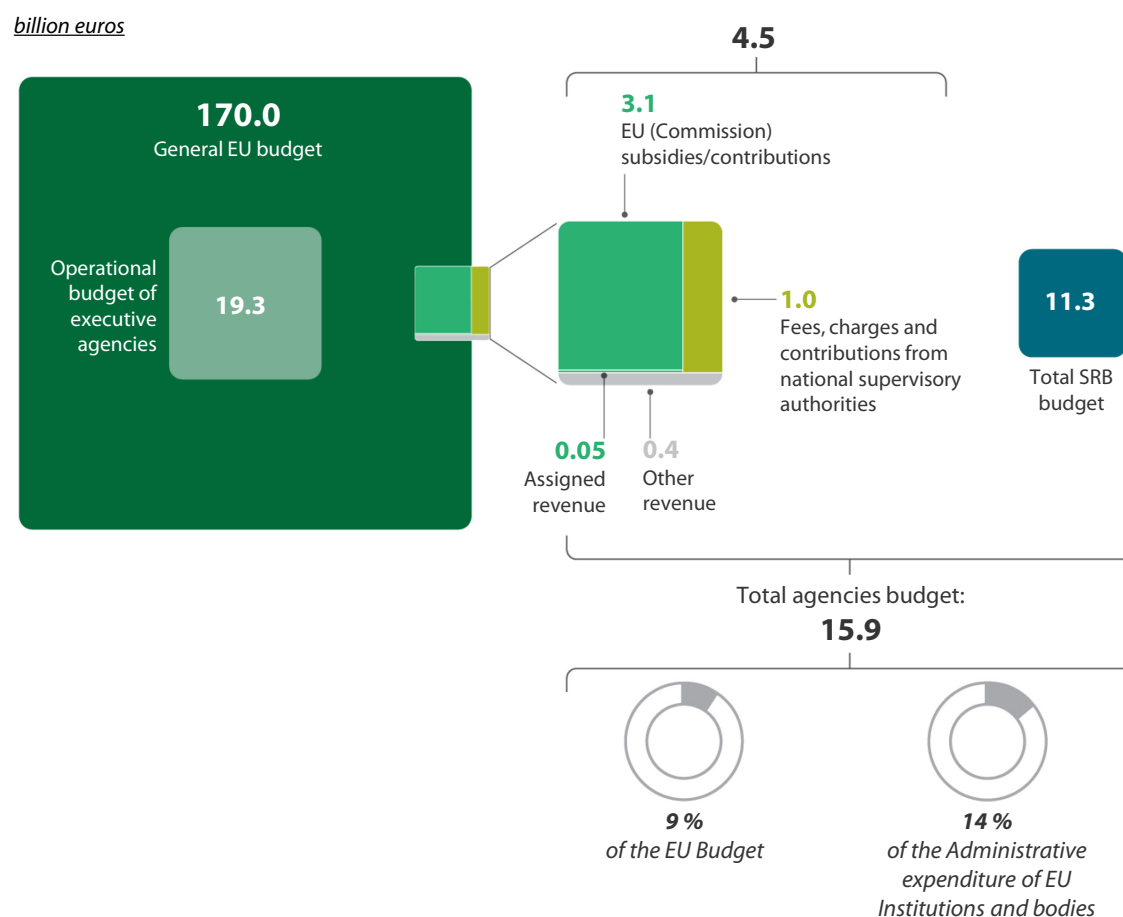
## Agencies are financed from various sources and under different MFF headings

**1.13.** In 2022, the total budget of all agencies (excluding the SRB) was €4.5 billion (2021: €4.1 billion). This is equivalent to 3 % of the EU’s general budget for 2022 (2021: 2.5 %), as shown in [Figure 1.3](#).

**1.14.** The 2022 budget of the SRB was €11.3 billion (2021: €9.7 billion). This consists of contributions from banks to set up the Single Resolution Fund (€11.2 billion) and to finance the SRB's administrative expenditure (€122 million).

**1.15.** 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 Commission's budget. Their own budgets, which in 2022 amounted to €345 million (2021: €326 million), only cover their own staff and administrative expenditure. The amount of the general EU budget managed by the executive agencies in 2022 to implement programmes on behalf of the Commission was €19.3 billion (2021: €13.1 billion). This increase is linked to the progress in rolling out EU programmes under the 2021-2027 Multiannual Financial Framework.

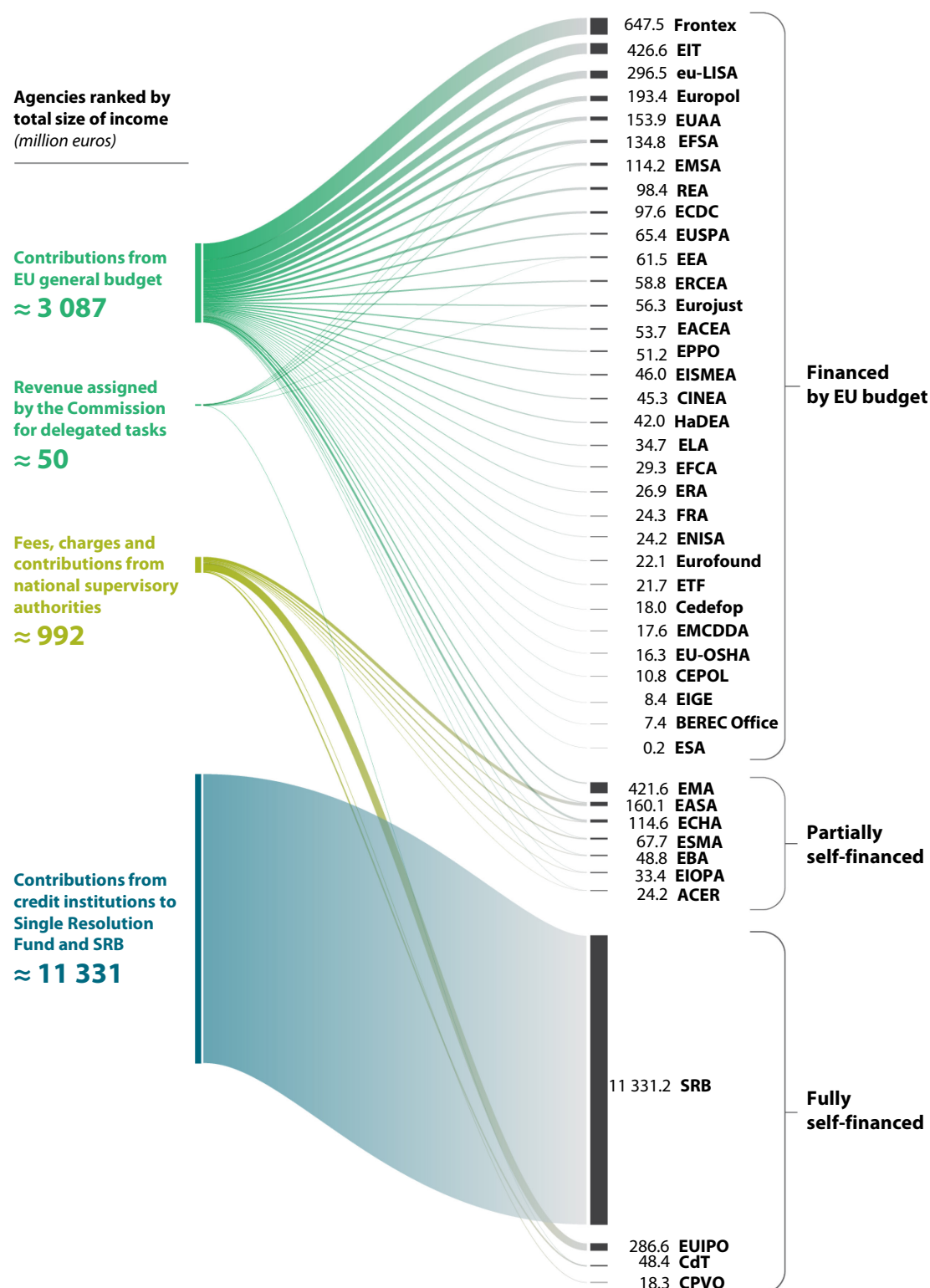
**Figure 1.3 – Agencies' financing sources for 2022**



*Source:* General budget of the European Union for the 2022 financial year; Final annual accounts of the European Union 2022 and Annual Activity Reports of the executive agencies for 2022, compiled by the ECA.

**1.16.** 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 1.4](#) shows a breakdown of the agencies' budgets by source of revenue.

Figure 1.4 – Agencies' 2022 budgets by source of revenue



\* The accounts of EUSPA for 2022 present a final budget of €65 million, while actual revenue amounted to €1.2 billion. This difference is explained by operational activities that are financed through assigned revenue; these are included in the approved budget as a token entry.

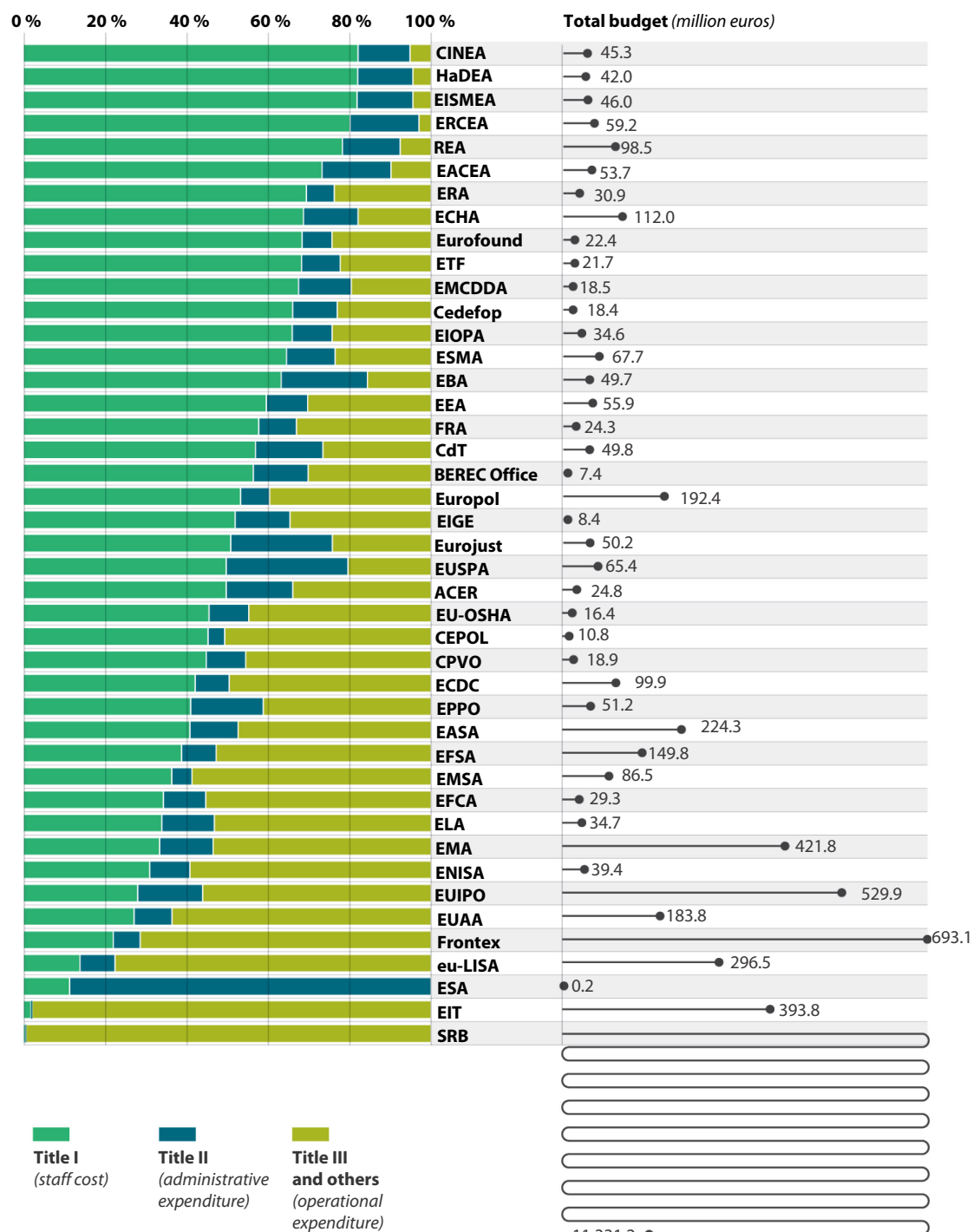
Note: Other miscellaneous revenue or budgetary reserves are not included.

Source: Agencies' final annual accounts 2022, compiled by the ECA.

**1.17.** *Figure 1.5* presents the agencies' 2022 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). Most agencies do not implement big operational spending programmes; instead, they deal with technical, scientific or regulatory tasks. As a result, most agencies' budgets consist mainly of staff and administrative expenditure. Overall, agencies' staff and administrative budgets represent around 14 % of total payment appropriations available for Multiannual Financial Framework (MFF) heading 7 – European public administration. This compares with 48 % for the Commission, 17 % for the Parliament, 8 % for the EEAS and 5 % for the Council and 8 % for the other EU institutions and bodies.



Figure 1.5 – Agencies' 2022 expenditure for each budget title



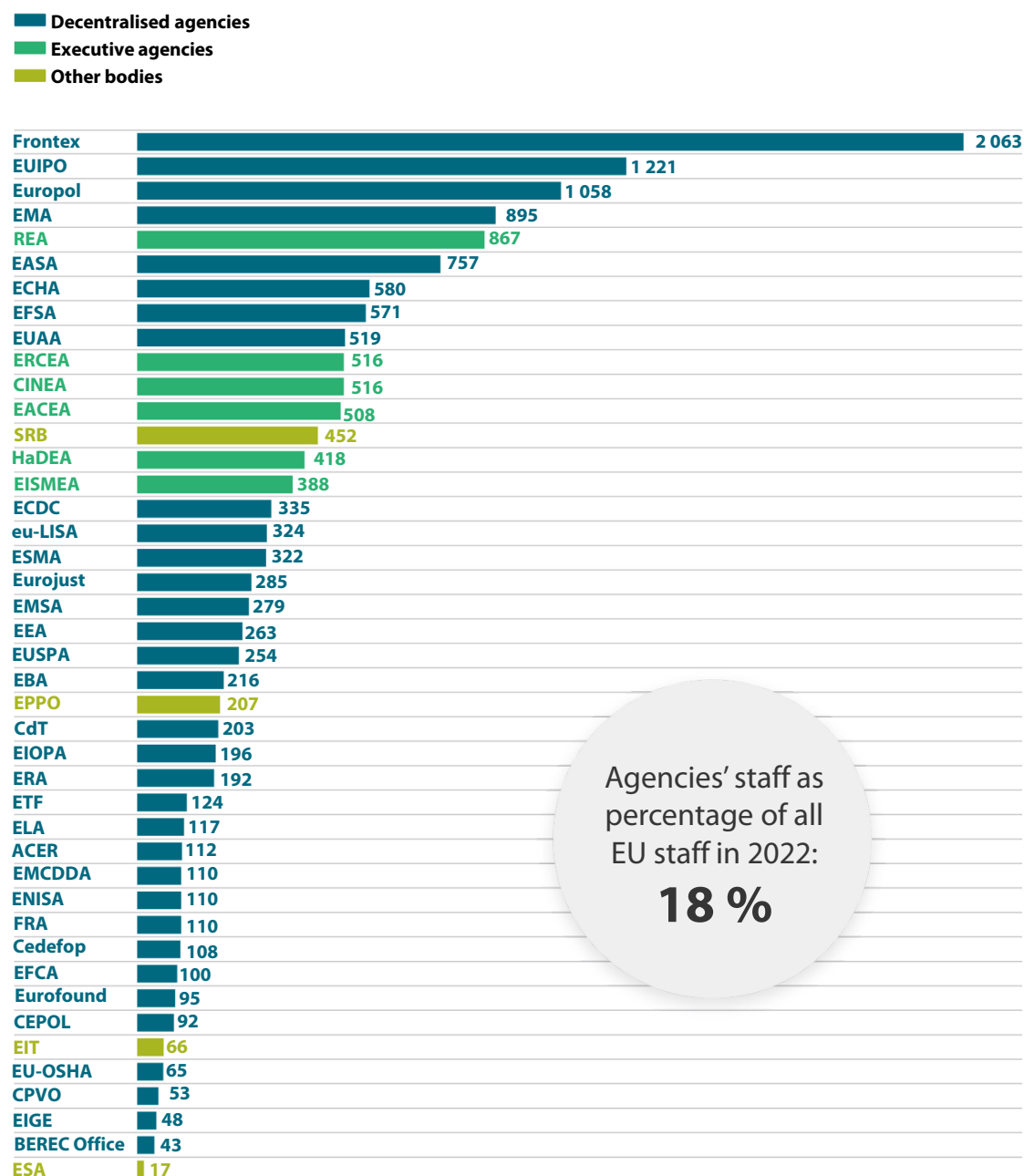
\* The accounts of EUSPA for 2022 show a final budget of €65.4 million, while actual revenue amounted to €1.2 billion. This difference is explained by operational activities that are financed through assigned revenue that is included in the approved budget as a token entry.

\*\* The figure for SRB comprises two parts: Part I with €122 million for the administration of the Board and Part II with €11.2 billion for the Fund. It does not include the Reserve.

Source: Agencies' final annual accounts 2022, compiled by the ECA.

**1.18.** *Figure 1.6* shows how many staff members the agencies employed on 31 December 2022. In total, the agencies employed 15 775 members of staff (2021: 14 431). This figure corresponds to the actual number of posts occupied by permanent officials, temporary and contract staff members and seconded national experts on that date. Most of the increase in the number of staff members employed since 2021 is attributable to the continuing build-up of the three agencies set up recently (HaDEA, ELA, EPPO) and to the growth of agencies which were assigned new tasks (EFCA, the EUAA and Frontex). Taking the establishment plans approved in the EU General Budget as a basis, about 18 % of all EU staff work for agencies. This compares with 49 % working for the Commission, 14 % for the Parliament, 6 % for the Council, 4 % for the Court of Justice, 4 % for the EEAS, 2 % for the ECA and 3 % for the other EU institutions.

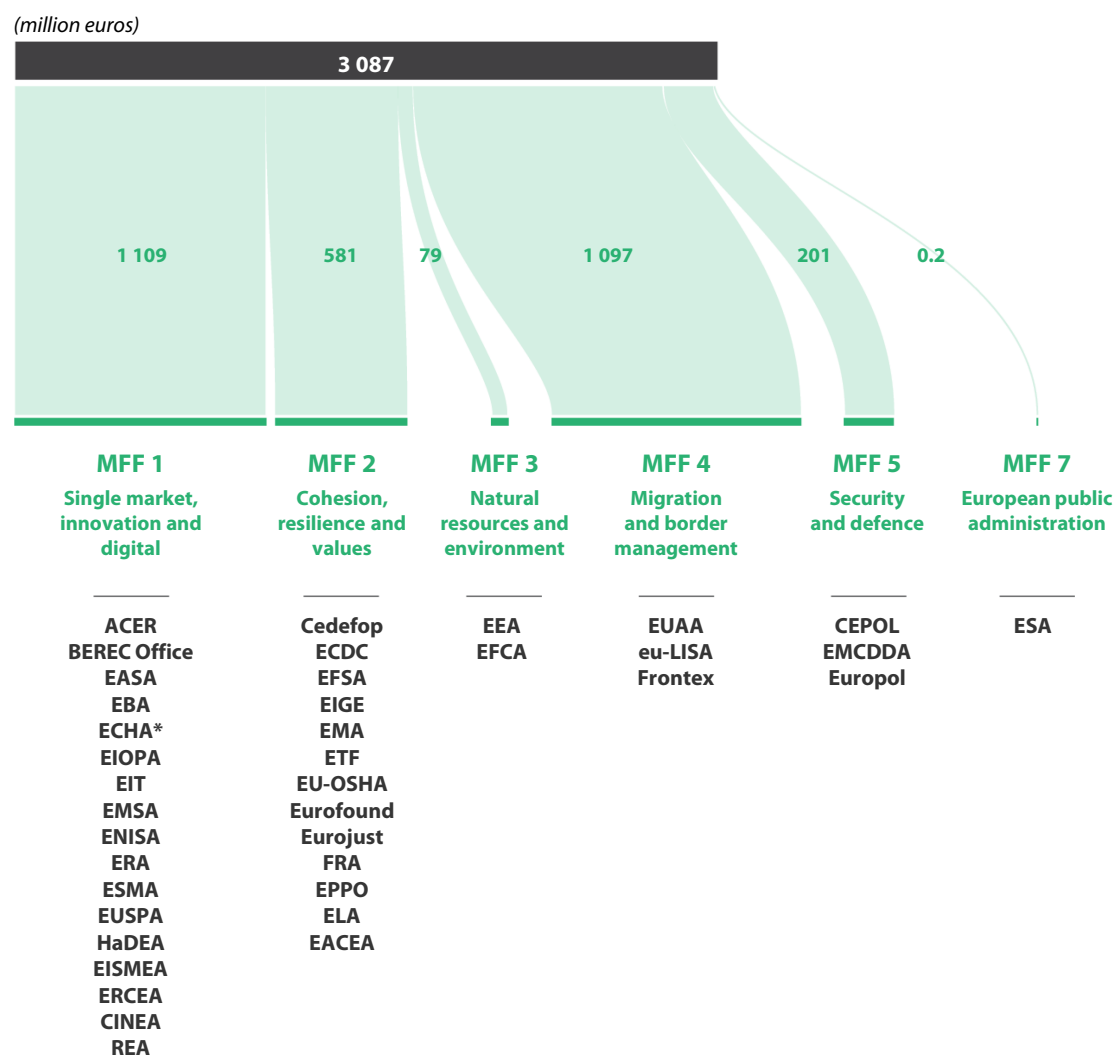
Figure 1.6 – Number of staff per agency at the end of 2022



Source: Compiled by the ECA.

**1.19.** The €3.1 billion in contributions from the EU general budget is financed under different MFF headings, as illustrated in [Figure 1.7](#).

**Figure 1.7 – Agencies financed under each EU general budget’s MFF heading**



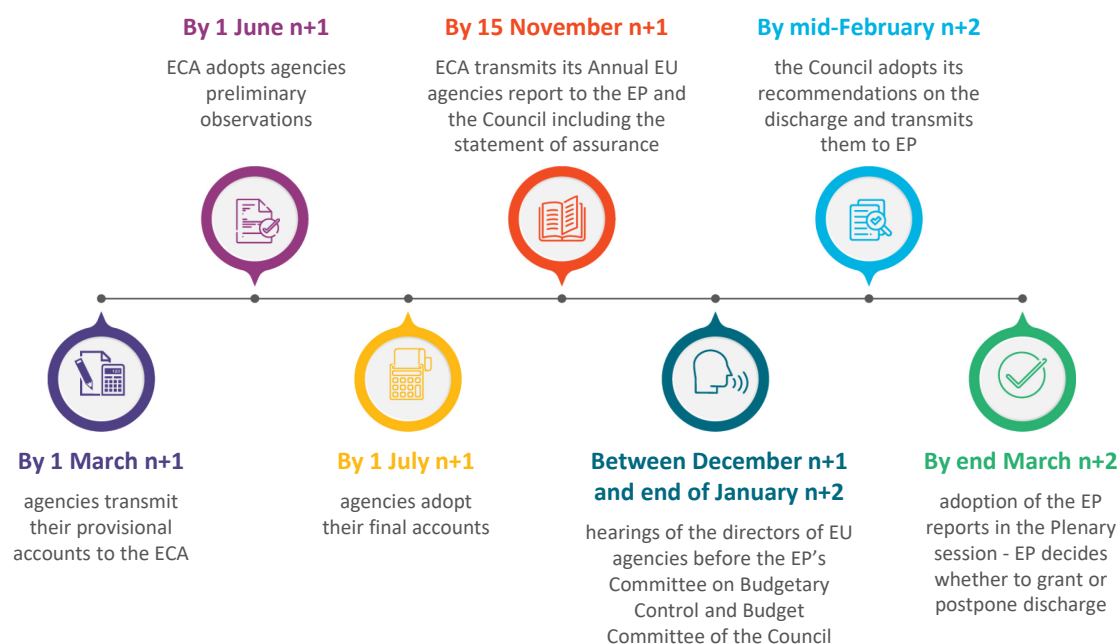
\* ECHA is mainly financed from MFF 1, but also, to a lesser degree, from MFF 3.

Source: Agencies' final annual accounts 2022, compiled by the ECA.

## Budgetary and discharge arrangements are similar for all agencies except for EUIPO, CPVO and SRB

**1.20.** For most decentralised agencies and other bodies and for all the 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 1.8](#).

**Figure 1.8 – Discharge procedure for most agencies**



Source: ECA.

**1.21.** However, two fully self-financed decentralised agencies (CPVO and EUIPO) are subject to budgetary and discharge procedures administered respectively by their Administrative Council or Budget Committee, but not by the European Parliament or the Council<sup>8</sup>. 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

**1.22.** An EU Agencies Network was set up by the agencies as an inter-agency cooperation platform to enhance the agencies' visibility, to identify and promote possible efficiency gains, as well as actions with clear EU added value. It enables the agencies to communicate in a more coordinated way with their stakeholders and the general public on issues of shared concern, and provides a central point for gathering and disseminating information among all agencies. It also helps the agencies to share services, knowledge, and expertise. In 2020, EUAN endorsed its second multiannual strategy (2021-2027)<sup>9</sup> incorporating the political and strategic direction of the Commission around two strategic pillars:

<sup>8</sup> Review 01/2014: "Gaps, overlaps and challenges: a landscape review of EU accountability and public audit arrangements", paragraph 84.

<sup>9</sup> 2021-2027 Strategy for the EU Agencies Network, Brussels, 9 November 2020.

- EU Agencies Network as a role model for administrative excellence;
- EU Agencies Network as a well-established institutional partner.

**1.23.** EU Agencies Network 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 1.9](#)) within EUAN. They can also interact with other EU institutions, who 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 1.9 – EU Agencies Network’s Shared Support Office and Sub-networks**



Source: EUAN.

# Our audit

## We issue a statement of assurance for each agency

**1.24.** As required by Article 287 of the Treaty on the Functioning of the European Union, we have audited:

- o the accounts of all 43 agencies, which comprise the financial statements (i.e. 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) and the reports on the implementation of the budget (which aggregate all budgetary operations and explanatory notes) for the financial year ended 31 December 2022, and
- o the legality and regularity of the transactions underlying those accounts.

**1.25.** On the basis of the results of our audit, we provide the European Parliament and the Council, or the other discharge authorities (see paragraph [1.21](#)), with one statement of assurance as to the reliability of each agency's accounts and the legality and regularity of the underlying transactions. We complement the statements of assurance with significant audit observations, where appropriate.

**1.26.** The ECA also carries out audits, publishes special reports and issues opinions on specific topics. Some of these concern the EU agencies. See [Figure 2.6](#) for a list of ECA special reports referring to agencies and issued between 1 January 2022 and 30 June 2023.

## Our audit approach is based on an assessment of key risks

**1.27.** Our audit is designed to address the identified key risks based on our audit results from previous years. For the 2022 financial year, the audit was carried out in response to our risk assessment, which is summarised in [Figure 1.10](#) below.

Figure 1.10 – Assessment of key risks

	<b>HIGH risk</b> <b>MEDIUM risk</b> <b>LOW risk</b>	
	<b>Reliability of agencies' accounts</b>	<p>The agencies' accounts are established by applying the accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector. In the past, we identified few material errors in the agencies' accounts.</p>
	<b>Legality and regularity of revenue</b>	<p>The overall risk to the legality and regularity of revenue is low. Some agencies are partly or fully self-financing. In these cases, specific regulations govern the charging and collection of service fees and other revenue contributions. The level of risk affecting the regularity of the revenue of these agencies is medium.</p>
	<b>Legality and regularity of payments (expenditure)</b> <i>Risk is medium overall, but varies</i>	<p><b>Title I - Staff expenditure</b>  Salaries are mainly administered by the Commission's PMO service, which the ECA audits regularly.</p> <p><b>Title II - Administrative expenditure</b>  Agencies are not always successful in achieving the satisfactory levels of transparency and value for money in tenders with complex procurement rules and procedures.</p>
	<b>Title III - Operational expenditure</b>	<p>The level of risk affecting operational expenditure varies by agency, running the entire range of risk levels from low to high. It depends on the specific type of operational expenditure that each agency incurs. In general the risks are similar to those affecting Title II, but with much higher amounts.</p>
	<b>Risk to sound financial management</b>	<p>Most of the problems we identified concerned public procurement procedures which did not ensure that the best possible value for money was achieved.</p>
	<b>Budget management</b>	<p>Previous audits showed high carry-overs of committed appropriations. These, however, were usually justified by the multiannual nature of operations or were caused by factors beyond agencies' control.</p>

Source: ECA.



## **We use the work of other auditors**

**1.28.** Where appropriate, we use the work of other auditors to support our work on the agencies. We do so in particular in our work on the reliability of the EU's accounts. The financial statements of all decentralised agencies and other bodies except the CPVO, EUIPO and ESA are audited by external audit firms. In accordance with auditing standards, we use the results of these audits after considering the independence and objectivity of the auditors, their professional competence, and after checking the scope and quality of their work. However, all audit opinions in this report are ours, and we take full responsibility for them.

## **We use digital audit procedures**

**1.29.** In our work we use digital audit procedures to carry out tests on salaries (for all agencies) as well as on payments, commitments and the accounts (for the executive agencies only). See paragraphs 1.36-1.41 of [our 2021 report](#) for more details on our approach to digitalisation of audit procedures. Currently, we are carrying out a project to explore the scope for extending the use of digital audit procedures to the area of procurement.

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

**1.30.** We cooperate with the European Anti-Fraud Office (OLAF) in matters related to suspected fraud and other illegal activity affecting the EU's financial interests, and with the EPPO in matters related to suspected crimes against the EU's financial interests. We notify OLAF or the EPPO about any suspicion that arises in the course of our audit work, even though our audits are not designed specifically to identify fraud.



EUROPEAN  
COURT  
OF AUDITORS

## Chapter 2

### Overview of audit results

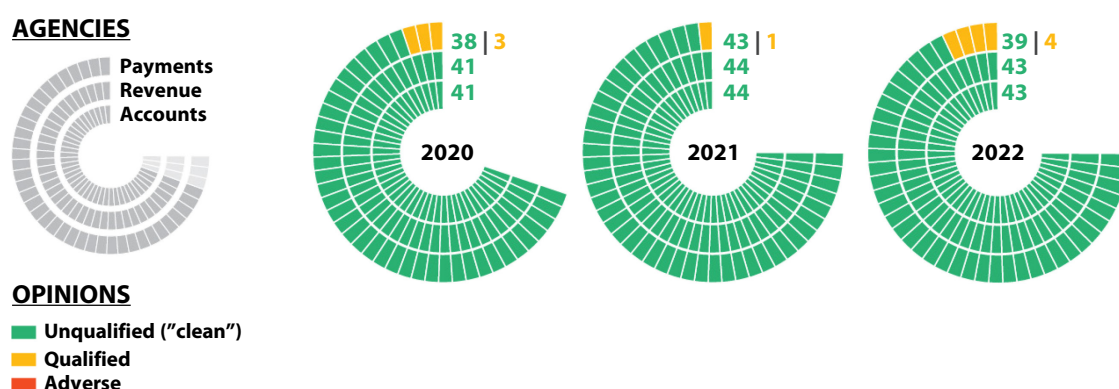
# Introduction

**2.1.** This Chapter presents an overview of the results from the ECA's annual audits of the agencies for the 2022 financial year, including work on a horizontal topic related to the agencies' response to the climate and energy crises and their reporting on their climate and energy performance, as well as other agency-related audit work carried out by the ECA during the same year. Based on our audit work, we suggest several actions to be taken by the agencies.

## Results from the annual agency audits for the 2022 financial year are less positive overall

**2.2.** Overall, our audit of the annual accounts of the agencies for the financial year ending on 31 December 2022 had less positive results than in previous years (see [Figure 2.1](#)).

**Figure 2.1 – 2020-2022 annual audit opinions on agencies' accounts, revenue and payments**



Source: ECA.

### 'Clean' opinions on the reliability of all agencies' accounts

**2.3.** For the 2022 financial year, the ECA issues unqualified ('clean') audit opinions on the accounts of all 43 agencies (see [Figure 2.1](#)).

**'Emphasis of matter' paragraphs are important for understanding the accounts of CINEA, the EMA, EPPO, ERA, ESMA, the EUAA, Eurojust, EUSPA, eu-LISA, Frontex and the SRB**

**2.4.** 'Emphasis of matter' paragraphs draw readers' attention to a matter presented or disclosed in the accounts which is of such importance that it is fundamental to their understanding of the accounts or the underlying revenue or payments. In the 2022 financial year, we have used 'emphasis of matter' paragraphs in our reports on eleven agencies: CINEA, the EMA, EPPO, ERA, ESMA, the EUAA, Eurojust, EUSPA, eu-LISA, Frontex and the SRB.

**2.5.** In the case of CINEA, ERA and Eurojust, their accounts include disclosures regarding the implementation of a new budgetary, accounting and financial system, SUMMA, as a pilot for the European Commission.

**2.6.** The EMA provides significant disclosures in connection with property-related obligations and with the uncertainties surrounding the financial performance of the subtenant's parent company because of the deterioration of its credit rating and the recent debt restructuring. The EMA could be held liable for the entire amount remaining payable under the contractual obligations of the head lease if the subtenant fails to meet its obligations. On 31 December 2022, the total estimated outstanding rent, associated services charges and landlord insurance to be paid by the EMA up to the end of the lease term was €366 million.

**2.7.** The EPPO's accounts include two disclosures, one regarding the comparative data for 2021 because of EPPO's autonomy from June 2021 and another regarding the transfer of intangible assets to EPPO from the Commission, free of charge (see paragraphs [3.20.5](#) and [3.20.6](#)).

**2.8.** The ESMA's accounts include a disclosure regarding the uncertainty related to the outcome of a lawsuit - UniSystems Luxembourg and Unisystems systimata pliroforikis v ESMA - Case T-750/22 (see paragraph [3.12.5](#)).

**2.9.** The accounts of two agencies (EUAA and EUSPA) include disclosures regarding the impact of the Russian war of aggression against Ukraine on their activities (see paragraphs [3.13.5](#) and [3.28.5](#)).

**2.10.** In the case of eu-LISA, the accounts include a disclosure describing the delays in the implementation of the Entry/Exit System and the related impact on eu-LISA operations.

**2.11.** Frontex's accounts include a disclosure regarding its inability to validate its accounting system for the second year in a row and another regarding the incorrect calculation of the contributions from Schengen associated countries (see paragraphs [3.30.5](#) and [3.30.6](#)).

**2.12.** The SRB's disclosure on appeals and legal cases describes administrative appeals and judicial proceedings related to the ex-ante contributions between some credit institutions and national resolution authorities and the SRB as well as other legal proceedings brought against the SRB before the General Court and the Court of Justice (see paragraph [3.38.6](#)).

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

**2.13.** For the 2022 financial year, the ECA issues unqualified (‘clean’) audit opinions on the legality and regularity of the revenue underlying all agencies’ accounts (see [Figure 2.1](#)).

### **‘Emphasis of matter’ paragraph facilitates understanding of the revenue of the SRB**

**2.14.** We also used an ‘emphasis of matter’ paragraph in our report on the SRB, in connection with the issues described in paragraph [2.12](#) above, namely the fact that a part of the SRB’s revenue in relation to the ex-ante contributions to the SRF is under legal dispute (see paragraph [3.38.8](#)).

### **‘Other matter’ paragraph addresses an issue of specific importance for the SRB’s revenue**

**2.15.** The SRM Regulation does not establish a comprehensive and consistent control framework to ensure the reliability of the information provided by the banks to the SRB for the calculation of the ex-ante contributions to the SRF. However, the SRB performs consistency and analytical checks of the information, as well as some ex-post checks at the level of the banks. Furthermore, the SRB cannot release details on the risk-adjusted contribution calculations for each bank as they are interlinked and include confidential information about other banks. This may affect the transparency of these calculations.

**2.16.** We noted that for the calculation of the 2022 contributions, the SRB has organised a consultation phase for the institutions in question. In this consultation, the SRB communicated data that allowed banks to simulate the calculation of the 2022 ex-ante contributions and covered the impact of adjustments in the data initially submitted by the credit institutions (see paragraph [3.38.9](#)).

## **‘Clean’ opinions on the legality and regularity of the payments underlying the accounts of 39 agencies**

**2.17.** For the 2022 financial year, we issued unqualified (‘clean’) audit opinions on the legality and regularity of the payments underlying the annual accounts for 39 agencies (see [Figure 2.1](#)).

**2.18.** In the case of four agencies (CdT, CEPOL, ECDC and eu-LISA) we issued qualified opinions. For each of these agencies, the amount of affected expenditure exceeded the

materiality threshold set for this audit (see paragraphs [3.15.6-3.15.7](#), [3.29.7-3.29.15](#), [3.31.6-3.31.9](#), and [3.35.7-3.35.11](#).)

### **‘Emphasis of matter’ paragraph facilitates understanding of ESMA’s payments**

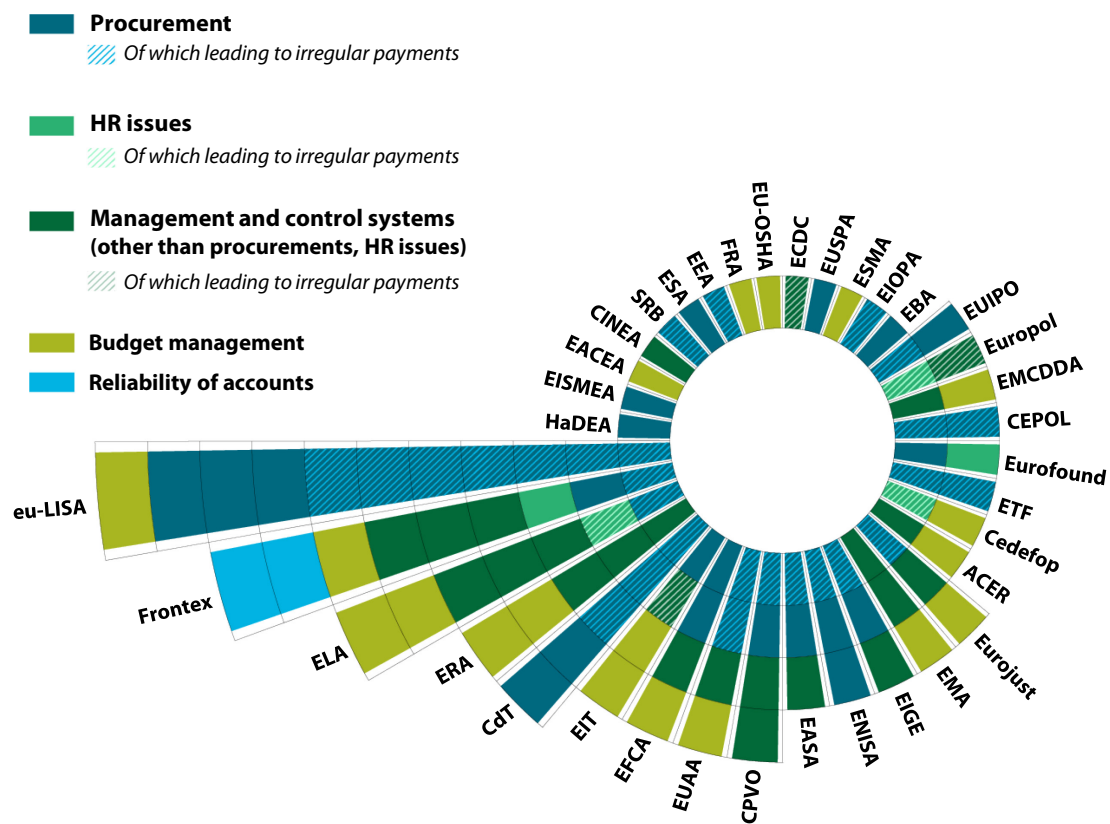
**2.19.** The emphasis of matter on the reliability of the ESMA’s accounts described in paragraph [2.8](#) regarding a lawsuit, applies in full for the legality and regularity of ESMA’s payments (see [3.12.8](#)).

### **Our observations address areas for improvement in 36 agencies**

**2.20.** In total, we made 98 observations concerning 36 agencies to address areas where further improvements are needed. These numbers include the observations which served as the basis for qualified opinions, as well as the observation covered by the ‘other matter’ paragraphs. Most of the observations concern shortcomings in public procurement procedures, management and control systems, budgetary management, reliability of accounts and human resources (HR) issues. Weaknesses in public procurement procedures remain the main source of irregular payments.

**2.21.** [Figure 2.2](#) and [Figure 2.3](#) show the number of different types of observations raised across 36 agencies throughout the report.

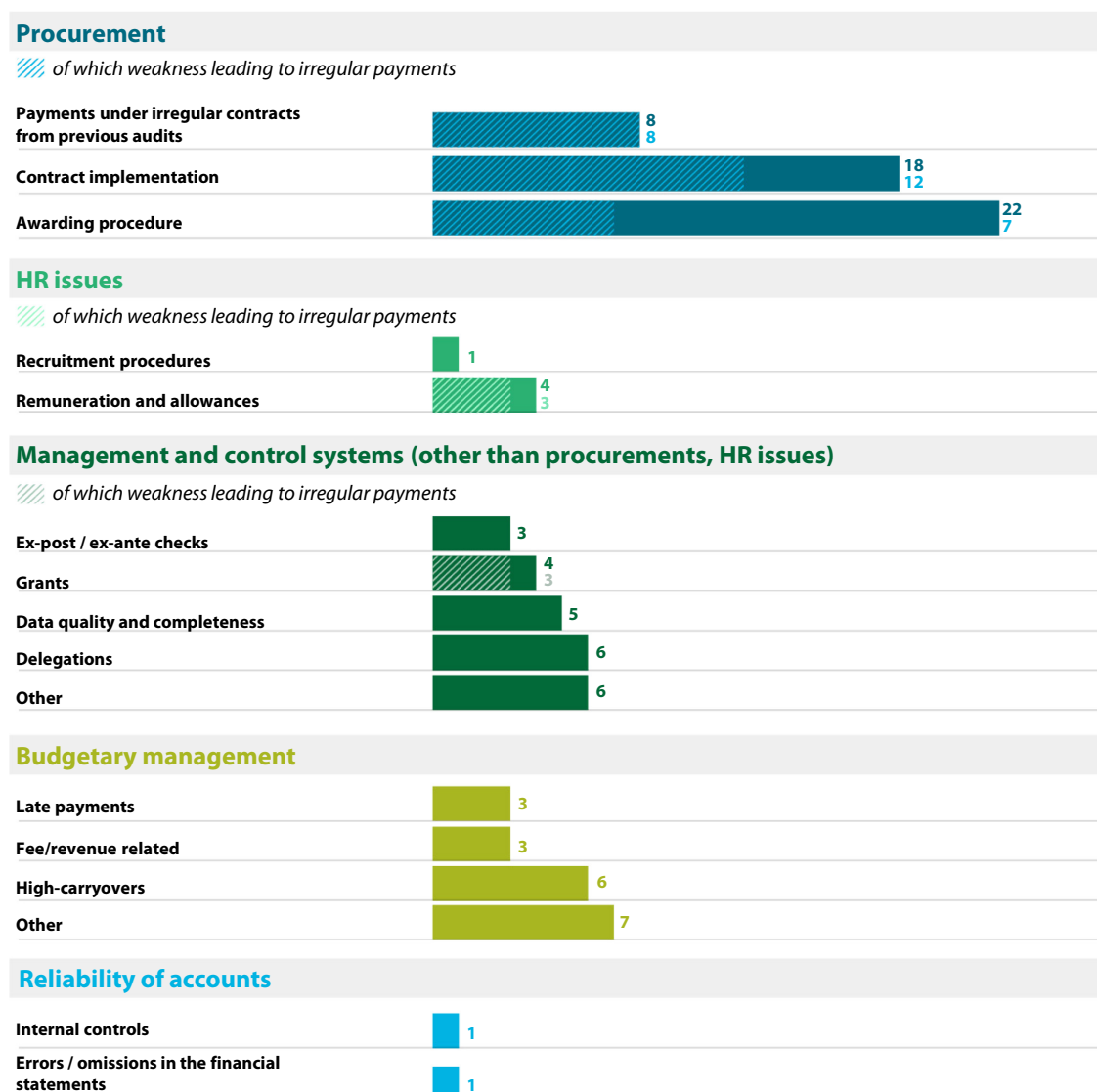
Figure 2.2 – Number of observations concerning each agency



Source: ECA.



Figure 2.3 – Number of observations by type of frequent weaknesses



Source: ECA.

## Public procurement weaknesses are increasing and remain the largest source of irregular payments

**2.22.** The objective of public procurement rules is to enable procuring entities to obtain the goods and services they need at best price, while ensuring fair competition between tenderers and compliance with the principles of transparency, proportionality, equal treatment and non-discrimination. We audited procurement in all the 43 agencies. For 24 agencies (CdT, CEPOL, CPVO, EASA, EBA, EEA, EFCA, EIGE, EIOPA, EISMEA, EIT, ELA, ENISA, ESA, ETF, EUAA, EUIPO, eu-LISA, Eurofound, Eurojust, EUSPA, Frontex, HADEA and SRB), we reported contracts affected by various public procurement shortcomings (see [Figure 2.3](#)). [Box 2.1](#) presents examples of typical irregularities in the implementation of procurement contracts.

## Box 2.1

### Examples of irregular awarding and implementation of contracts

**EUIPO** awarded a contract of €5 million for travel agency services after a negotiated procedure without prior publication of a contract notice for reasons of extreme urgency brought about by unforeseeable events. The contract became necessary after the previous contractors informed EUIPO of their decision not to renew the existing contract. We consider that the use of such procedure was not justified under point 11.1(c) of Annex I to the Financial Regulation because the contractor's decision not to renew a contract in line with the contract provisions defined by EUIPO cannot be considered as an unforeseeable event not attributable to the contractor authority. We also consider that the length of time between the date EUIPO received the information of the intention not to renew the contract and the award of the new contract was sufficient to conduct an accelerated open procedure, EUIPO did not make any payments under this contract in 2022 (see paragraph [3.37.8](#)).

**Frontex** signed a service contract for psychological screening for new European Border and Coast Guard officers, with an initial value of €79 000. This contract was intended to be a "bridging solution" between the framework contract for psychological services that had ended in 2021 and a new one, for which an open tender procedure was being prepared. Due to delays in the new procedure, Frontex amended the contract four times, increasing its value to €502 900, or 536 % more than the initial value. This exceeded the 50 % margin for increasing contract value, which Article 172(3)(a)(iii) of the Financial Regulation allows in such a situation (see paragraph [3.30.11](#)).

**2.23.** We note an increase in the number of procurement observations we raised over the last three financial years (from 18 in 2020 and 34 in 2021 to 48 in 2022), as well as in the number of agencies concerned (from 14 in 2020 and 22 in 2021 to 24 in 2022). As shown in [Figure 2.4](#), since the 2020 financial year, we have raised new procurement-related observations every year for four agencies (CEPOL, EBA, EIOPA, and eu-LISA).

**Figure 2.4 – Our observations on public procurement weaknesses and irregularities have become more frequent over the last three years**

	2020	2021	2022	Total number of procurement-related observations	
CdT		△ € €	△ € € → €	5	△ €
CEPOL	€	△ € €	△ €	5	Observation of the year affecting payments
eu-LISA	△ €	△ €	△ € € → €	5	€
EBA	△ € €	€	€	4	Observation of the year not affecting payments
EIGE	→ €	€	△ € €	4	
EUAA	→ €	→ €	△ € → €	4	→ €
CPVO		△ €	€ → €	3	Observations from previous years affecting payments
EIOPA	△ €	△ €	△ €	3	
EMA	△ € €	€		3	
ENISA		€	△ € €	3	
EU IPO	→ €	→ €	€ → €	3	
Eurofound	→ €	→ €	€	3	
Eurojust	△ €	→ €	→ €	3	
Frontex		€	△ € €	3	
ESMA	€	€		2	
ACER	→ €	→ €		2	
EEA		€	→ €	2	
EISMEA		€	€	2	
ELA		€	△ €	2	
EASA			△ € €	2	
ETF			△ €	1	
BEREC Office		€		1	
Cedefop	€			1	
EFCA			€	1	
EIT			€	1	
EMSA		€		1	
ERCEA	△ €			1	
ESA			€	1	
EU-OSHA		€		1	
EUSPA			€	1	
HaDEA			€	1	
SRB			△ €	1	
TOTAL number of agencies for which we raised a procurement-related observation in a given year	14	22	24		

Source: ECA.

### Action to be taken 1

The agencies concerned by public procurement errors should further improve their public procurement procedures, ensuring full compliance with the applicable rules, so that they achieve the best possible value for money.

In particular, when implementing framework contracts, agencies should only use specific contracts to procure goods or services covered by the associated framework contract. Agencies should also ensure that they comply with the conditions for modifying existing contracts set out in the Financial Regulation.

## Some management and control systems are affected by weaknesses

**2.24.** Agencies have their own legal personality and are governed by European law (see paragraph 1.6). Management and control systems are crucial to ensure the proper functioning of EU agencies and are a requirement of the Financial Regulation in support of the principle of sound financial management.

**2.25.** For 16 agencies (ACER, CINEA, CPVO, EASA, ECDC, EFCA, EIGE, EIT, ELA, EMA, EMCDDA, ERA, EUAA, Eurojust, Europol and Frontex) we report weaknesses in management and control systems other than those concerning procurements and HR issues. For these 16 agencies, our observations concern deficiencies in data quality and completeness, expenditure implemented without the proper delegation of power of an authorising officer, absence of adequate ex-post/ex-ante checks, and weaknesses in the management of grants and commitments. [Figure 2.3](#) shows the most common types of internal control weaknesses we identified. [Box 2.2](#) provides examples of such weaknesses in relation to grants.

## Box 2.2

### Examples of weaknesses in management and control systems regarding grants leading to irregular payments

**ECDC** provided grants to public health authorities in member states in order to improve national capacities and laboratory infrastructure required for identifying and monitoring new variants of the SARS-CoV-2 virus (see paragraph [3.15.7](#)).

**Europol** provided grants to a national police force in a member state for various police training activities, including the acquisition of five boats for police training and patrol operations (see paragraph [3.33.9](#)).

In both cases, the agencies included in their payments to the grant beneficiaries a reimbursement of the VAT associated with the claimed costs. This contravenes Article 186(4) of the Financial Regulation, because the beneficiaries were public authorities engaged in activities of a public authority and therefore they were not entitled to VAT reimbursement. The total irregular amount paid by the two agencies was €5.3 million.

## Action to be taken 2

When managing grants, agencies should ensure compliance with the applicable rules, in particular regarding the reimbursement of VAT to beneficiaries which are public authorities.

## In 2022, weaknesses regarding HR issues affected mostly allowances to seconded national experts

**2.26.** For five agencies (Cedefop, ELA, Eurofound, Europol and Frontex) we report weaknesses related to allowances to seconded national experts, traineeship grants and recruitment procedures. [Figure 2.3](#) shows the number of observations for these types of weaknesses.

## Weaknesses in budgetary management resulted in high carryovers or late payments

**2.27.** For 16 agencies (ACER, Cedefop, EFCA, EIT, ELA, EMA, EMCDDA, ERA, ESMA, EU-OSHA, Eurojust, EUAA, eu-LISA, FRA, Frontex and EACEA), we report weaknesses related to various aspects of budgetary management, for example excessive carry-overs of appropriations, late payments or fee/revenue related issues. [Figure 2.3](#) shows the most

common types of weaknesses concerning budgetary management. [Box 2.3](#) provides examples of such weaknesses in relation to revenue.

### Box 2.3

#### Examples of budgetary management observations related to non-EU country contributions

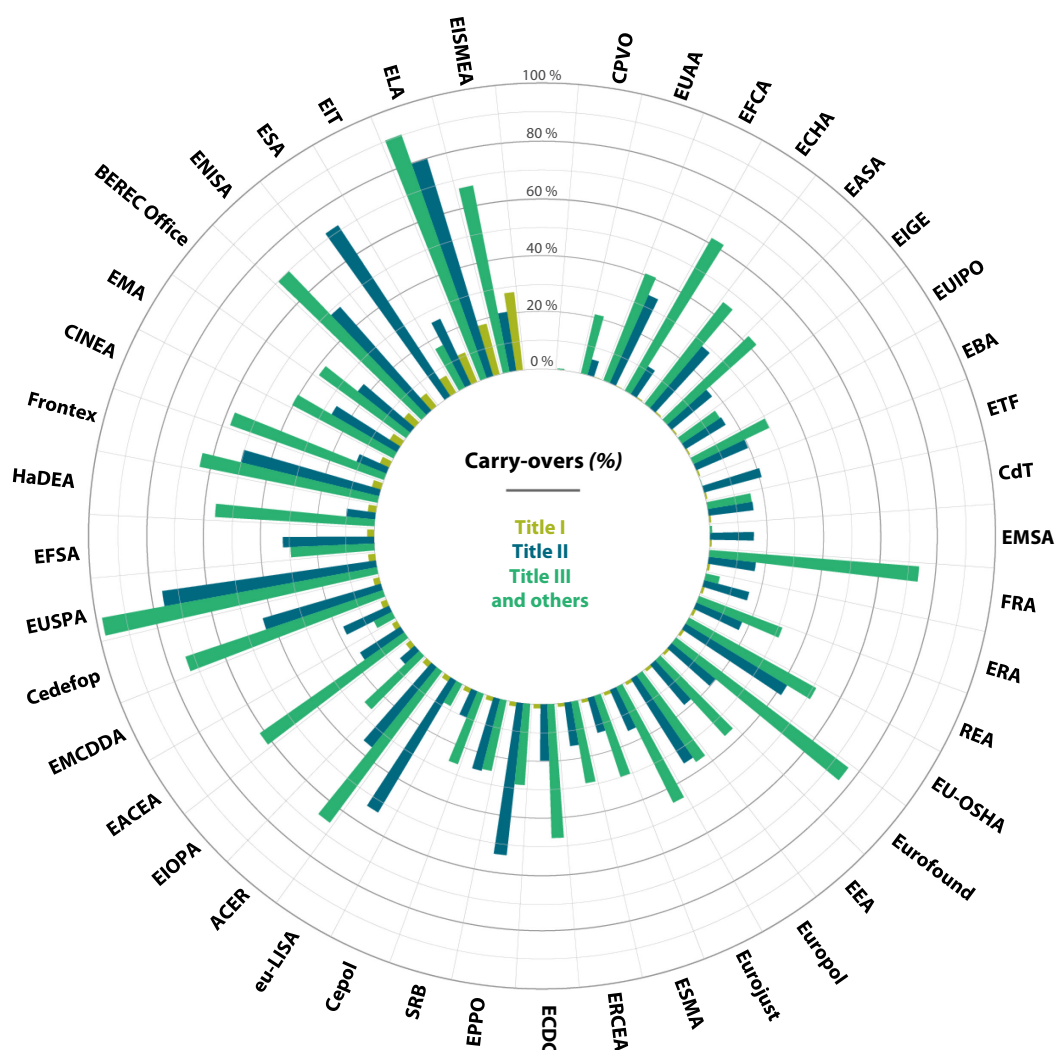
The EUAA and Frontex both collect part of their revenue from Schengen associated countries (Iceland and Lichtenstein, Norway and Switzerland). The amount of these contributions should reflect the relative size of the economies of these countries, as compared to the EU economies. Due to unclear legal basis and established practice, the way these contributions are calculated causes them to be around 7 % lower than they should be (see paragraphs [3.28.12](#), [3.30.6](#) and [3.30.12](#)).

### Action to be taken 3

The EUAA and Frontex should work with the Commission to clarify the legal basis, if necessary by re-negotiating agreements with Schengen associated countries, so that their contributions to EUAA's and Frontex's budgets correctly reflect the size of these countries' economies compared to the size of the EU economy.

**2.28.** Under articles 12 and 13 of the Financial Regulation, budget appropriations granted for a given financial year can be carried over to the next financial year under certain conditions. [Figure 2.5](#) shows the level of carry-overs, per budget title, for each agency. The Financial Regulation does not set ceilings for such carry-overs and the multi-annual nature of operations can explain a number of them. Excessive levels of carry-overs can, however, indicate delays in the implementation of work programmes or procurement plans. Alternatively, they could indicate a structural issue, weak budgetary planning, or possibly a contravention of the budgetary principle of annuality. We consider carry-over levels to be potentially excessive, if they exceed 10 % for staff costs (Title I), 20 % for administrative expenditure (Title II) and 30 % for operational costs (Title III and others), in particular if such carry-overs become recurrent and structural. We report such weaknesses concerning six agencies (ACER, EACEA, EFCA, ELA, eu-LISA and FRA).

Figure 2.5 – Level of carry-overs affecting each budget title



Source: Agencies' 2022 final annual accounts, compiled by ECA.

#### Action to be taken 4

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

#### Agencies are following up on previous years' audit observations

**2.29.** We provide information on the status of follow-up actions taken by the agencies in response to observations from previous years. For the 121 observations that had not been addressed at the end of 2021, corrective action had been completed in 67 cases. For 23 agencies (ACER, the CdT, Cedefop, CEPOL, the CPVO, EACEA, EASA, EIOPA, EISMEA, the EIT, ELA, ENISA, EPPO, ERA, ESMA, the ETF, the EUAA, EUIPO, eu-LISA, Eurojust, FRA, Frontex and

the SRB) we report a total of 54 observations from previous years that remain open at the end of 2022.

**2.30.** *Box 2.4* explains the different statuses of follow-up used in this report and gives examples of typical situations to which they apply.

#### **Box 2.4**

##### **Explanations of status of follow-up used in this report**

**Closed:** There is evidence that the agency or another entity concerned implemented corrective action to address the observation, or the observation is no longer applicable, for example because the contract which gave rise to the observation in question has expired or because, due to a change of circumstances, the cost of addressing the issue outweighs the benefits.

**Open:** No corrective action has been taken to address the observation, or there is some evidence of corrective action having been taken, but the process is not yet fully implemented or complete.



## The agencies' response to the climate and energy crises and their reporting on their climate and energy performance

**2.31.** We complemented our recurrent audit work on the reliability of the agencies' accounts and the legality and regularity of their revenue and payments with an analysis of how agencies responded to the climate and energy crises and how they reported on their climate and energy performance. Energy and climate are two closely related topics, because climate change is caused by greenhouse gas emissions, which are largely due to the human consumption of fossil fuels. Climate change cannot be minimised without a radical increase in energy efficiency and replacement of fossil fuels with renewable sources of energy.

**2.32.** In our review of the EU agencies, we checked whether they undertook or planned measures to improve their energy efficiency and to reduce their carbon footprint (see paragraphs [2.34-2.40](#)). We also checked whether they implemented sustainability reporting or issued environmental statements, and whether they introduced the EU [Eco-Management and Audit Scheme](#) (see paragraphs [2.41-2.46](#)).

**2.33.** [Box 2.5](#) provides information on the EU-level framework for the response to the climate and energy crises.

## Box 2.5

### EU response to the climate and energy crises

In response to the acute **energy crisis** in the wake of the Russian war against Ukraine, in May 2022, the EU launched the [REPowerEU](#) plan to save energy, increase its production from renewables and diversify energy supply. The Commission proposed measures to reduce energy consumption in its ‘[Save Energy](#)’ and ‘[Save gas for a safe winter](#)’ communications of May and July 2022. One of the main EU targets for the winter of 2022-2023 was to reduce gas consumption by 15 %. Between August 2022 and March 2023, the EU exceeded this target, achieving an 18 % reduction.

**Climate action** is high on the EU’s political agenda. The [European Green Deal](#), launched in December 2019, included a commitment for the EU to reach climate neutrality by 2050, a goal now enshrined in the [European Climate Law](#). In addition, the EU is working on legislation to implement the [Fit for 55](#) package to reduce greenhouse gas emissions by at least 55 % by 2030 (compared to the 1990 baseline).

## Nearly two in three EU agencies have made plans to improve energy efficiency and climate neutrality of their operations

**2.34.** As shown in [Table 2.1](#), 27 of the 43 EU agencies (63 %) have established corporate plans to respond to the climate or energy crises by improving energy efficiency and climate neutrality of their operations. This is important because EU agencies play significant roles in various policy areas and, in a certain way, represent the EU in their host member states. Therefore, they can lead by example and become role models for national administrations and businesses in their sector. In addition, taken together, they employ 15 775 staff and manage an annual budget of €35.1 billion (made up of €19.3 billion of the operational budget of the executive agencies and €15.8 billion euro of the remaining budget of the executive agencies and the whole budget of the EU decentralised agencies and other bodies).

**Table 2.1 – Nearly two in three EU agencies have corporate plans to improve energy efficiency and climate neutrality of their operations**

Agencies with a plan to respond to the climate or energy crises									
Decentralised agencies and other bodies, grouped by size					Executive agencies				
small (less than 200 staff)		medium (between 201 and 400 staff)	large (more than 400 staff)						
ACER	✓	ELA		CdT	✓	EASA		CINEA	✓
BEREC Office		EMCDDA	✓	EBA	✓	ECHA	✓	EACEA	✓
Cedefop	✓	ENISA		ECDC		EFSA	✓	EISMEA	✓
CEPOL		ERA	✓	EEA	✓	EMA	✓	ERCEA	✓
CPVO	✓	ESA		EMSA	✓	EUAA		HADEA	✓
EFCA		ETF	✓	EPPO		EUIPO	✓	REA	✓
EIGE		EU-OSHA	✓	ESMA	✓	Europol	✓		
EIOPA	✓	Eurofound	✓	eu-LISA	✓	Frontex			
EIT	✓	FRA		Eurojust		SRB			
				EUSPA					
10 of 18			6 of 10		5 of 9		6 of 6		

Source: ECA, based on the information and the evidence obtained from the agencies.

**2.35.** We note that all the six executive agencies have introduced such plans, while 16 of the 37 decentralised agencies and other bodies (43 %) have not done so. This difference can be explained by the executive agencies' direct link to the Commission, which is closer than that of the decentralised agencies. This means they are more closely aligned with the Commission's guidelines and the action the Commission takes (such as the '[Greening the Commission](#)' plan). We also note that the proportion of decentralised agencies and other bodies that have established such plans is roughly the same for small, medium and large agencies, despite the fact that bigger agencies, generally, have more administrative capacity for developing and implementing such plans.

**2.36.** For 22 of the 27 agencies with such plans (81 %), (see [Table 2.2](#)), these plans included quantified targets for reducing the agencies' carbon footprint, including targets for corporate greenhouse gas emissions, the consumption of electricity, gas and/or heating.

**Table 2.2 – Most agencies with plans to respond to the climate and energy crises have quantified corporate targets**

<b>Agencies with quantified targets for greenhouse gas emissions, electricity, gas, heating</b>				
Decentralised agencies and other bodies, grouped by size				Executive agencies
small (less than 200 staff)		medium (between 201 and 400 staff)	large (more than 400 staff)	
ACER	ELA	CdT	EASA	CINEA ✓
BEREC Office	EMCDDA ✓	EBA ✓	ECHA ✓	EACEA ✓
Cedefop ✓	ENISA	ECDC	EFSA	EISMEA ✓
CEPOL	ERA	EEA ✓	EMA ✓	ERCEA ✓
CPVO ✓	ESA	EMSA ✓	EUAA	HADEA ✓
EFCA	ETF ✓	EPPO	EUIPO ✓	REA ✓
EIGE	EU-OSHA	ESMA ✓	Europol ✓	
EIOPA ✓	Eurofound ✓	eu-LISA ✓	Frontex	
EIT ✓	FRA	Eurojust	SRB	
		EUSPA		
7 of 18		5 of 10	4 of 9	6 of 6

Source: ECA, based on the information and the evidence obtained from the agencies.

### Action to be taken 5

All EU agencies should prepare up-to-date corporate plans to improve their climate neutrality and energy efficiency. In order to increase transparency and accountability, such plans should have clearly defined, quantified baselines and targets, for example for reducing carbon footprint and energy consumption.

**2.37.** During 2022, agencies faced rapidly rising cost of energy and the need to reduce the consumption of gas and electricity in order to keep the associated expenditure within the budgetary limits, but also in order to contribute to the collective EU effort to reduce the risk of energy shortages during the winter. [Box 2.6](#) provides examples of concrete energy saving steps taken by some agencies in 2022, as a response to the acute energy crises arising in the wake of the Russian war of aggression against Ukraine.

## Box 2.6

### Examples of measures taken by EU agencies to reduce energy consumption during the 2022-2023 winter

**The six executive agencies** (EACEA, EISMEA, ERCEA, HADEA, REA and, partly, CINEA) all have their premisses in the two 'Covent Garden' buildings in Brussels, managed by the Commission's Office for Infrastructure and Logistics in Brussels. For the period between August 2022 and March 2023, the Commission set out to reduce the energy consumption (including electricity and gas) in its Brussels offices (including the two 'Covent Garden' buildings) by at least 15 %, compared to the average consumption during the same period in the previous five years. The savings were to be achieved through a combination of measures, such as lowering office temperatures and installing LED lights. Overall, the Commission exceeded its target by achieving a 17 % reduction in energy consumption. For their part, the executive agencies achieved a 26.6 % reduction in their 'Covent Garden' offices.

The EBA undertook to reduce energy consumption by 10 % in 2022 (compared to 2019). In order to achieve this target, the EBA introduced measures such as: shifting heating schedules and decreasing setpoint temperatures on thermostats, switching energy supply fully to renewable energy sources, daily monitoring of meters to evaluate the action taken and an energy saving awareness campaign for staff. The energy reduction achieved by the end of 2022 (compared to 2019) was 16.4 %.

**2.38.** The energy-saving steps described above often complemented earlier, plans prepared as the agencies' contribution to climate action. [Box 2.7](#) provides examples of measures agencies took as part of such plans. Because of the close link between energy and climate, these plans often included similar measures as those presented in [Box 2.6](#), and often had to do with improving energy efficiency and reducing energy consumption, but their purpose was often wider – reducing the corporate carbon footprint – and their timescale was longer than the 2022-2023 winter.

## Box 2.7

### Examples of measures taken by the agencies to contribute to climate action by reducing their carbon footprint

**ACER** issued a [Greening Action Plan 2021-2022](#), aimed at reducing its carbon footprint through action in six thematic headings, inspired by the Commission's [feasibility study on its achieving climate neutrality by 2030](#). ACER's plan was structured in a few main areas, such as: designing sustainable buildings and working space, optimising energy consumption and systems, and reducing greenhouse gas emissions from commuting and purchases. It included measures such as installation of sensors to steer the turning on and off of lights and similar automation solutions aimed at energy savings. We note that ACER's Greening Action Plan, although comprehensive, did not include quantified targets.

**The EMA** aligned its long-term climate objectives with the [European Climate Law](#)'s target of a 55 % net reduction of greenhouse gas emissions by 2030 (compared to 1990 levels) and achieving climate neutrality by 2050. For energy and water consumption, the EMA translated these objectives into a 15 % reduction per square metre of office space to be achieved between 2012 and 2021. This target took into account the EMA's growth in that period, and the fact that it had moved into a bigger but also more energy-efficient building, following its relocation from London to Amsterdam. The target was exceeded both for energy and water: the EMA achieved a 45 % reduction in energy consumption and 63 % in water use per square metre. This was possible because the EMA's new building has an energy rating of A++. The total reduction in consumption between 2012 and 2021 calculated for the whole building (and not per square metre) was smaller: 9 % for energy and 39 % for water.

As part of its environmental management strategy, **the CPVO** set a number of quantified targets, including a 10 % annual reduction of electricity and heat consumption between 2019 and 2021, to be achieved by measures such as installing light sensors and optimising existing LED lighting systems and electrical equipment. In addition, similar annual reduction targets were set for paper consumption (10 %) and waste generation (5 %).

**2.39.** A specific subset of initiatives taken by many agencies to reduce their carbon footprint relates to their staff's business travel. Typical measures include:

- Considering online participation in various events (meetings, conferences, workshops, training) to be the default option. On-site participation is only allowed where physical presence is essential.
- Where travel is unavoidable, limiting the number of travelling participants to the minimum, for example by only sending speakers to attend a conference in person and enabling additional staff to join the event online.
- Taking greenhouse gas emissions into account when selecting travel options, giving preference to those with lower carbon footprint, for example favouring train journeys over flights, and direct over indirect connections.

**2.40.** As explained in paragraphs [1.8](#) - [1.10](#), EU agencies play an important role in implementing EU policies. Therefore, in addition to the various measures aimed at improving their own climate and energy performance, in their respective domains of competence, they can also contribute to the climate and energy crisis response of the EU as a whole, as illustrated by the examples in [Box 2.8](#).

### Box 2.8

#### Examples of EU agencies' contribution to the EU-level response to the climate and energy crises

**EMSA** has been actively involved in several initiatives related to the [European Green Deal](#), mainly by providing support and data to the Commission and member states. EMSA contributed to the preparation of different components of the [Fit for 55](#) package, in particular the [FuelEU Maritime](#) initiative and the [legislative proposal](#) aiming at the extension of the EU's Emission Trading Scheme to maritime transport.

**ERA** has driven several initiatives, taken at EU level, aimed at boosting rail traffic (both passenger and freight), including measures to better manage and coordinate international rail traffic or the development of new technologies, such as train automation. These initiatives contribute to the [European Green Deal](#), which calls for a 90 % reduction in greenhouse gas emissions from transport by 2050, to be achieved, in part, by doubling high speed rail traffic by 2030 (and tripling it by 2050) and by increasing freight traffic by at least 50 % by 2030 (and doubling it by 2050).

**ESMA** assists the Commission in monitoring the implementation of the [market correction mechanism](#), introduced in the wake of the Russian war against Ukraine in order to protect EU citizens and economy against high gas prices. ESMA has published a [report](#) assessing the effects of market correction mechanism on gas derivative markets and has set up the process for continuous monitoring of relevant indicators.

## Most agencies have some form of reporting on their climate and energy performance

**2.41.** Climate and energy are two topics which are closely related to the broader concept of sustainability, which covers environmental, social and economic aspects of human activities. Under the [Non-Financial Reporting Directive](#), the EU requires large companies to publish information on environmental and social and governance issues. From the 2024 financial year onwards, these reporting requirements will be strengthened under the new [Corporate Sustainability Reporting Directive](#), leading to a more regulated form of sustainability reporting (see [Box 2.9](#)). This contrasts with the fact that there is currently no requirement for public administrations, including EU institutions and bodies, to issue sustainability reports.

## Box 2.9

### Sustainability reporting and the main reporting frameworks

**Sustainability reporting** is the practice of measuring, disclosing and being accountable to internal and external stakeholders for organisational performance towards the goal of sustainable development. It involves reporting on how an organisation considers sustainability issues in its operations, and on its environmental, social and economic impacts. Sustainability reporting is both a management and an accountability tool.

Two important sustainability reporting frameworks are:

- **Global Reporting Initiative (GRI) standards** are a set of guidelines for sustainability reporting that provide a framework for organizations to disclose their economic, environmental, social and governance performance. The GRI standards help organizations understand and communicate their sustainability impact to a wide range of stakeholders.
- **European Sustainability Reporting Standards** outline requirements for detailed corporate reporting on a broad range of environmental, social, and governance issues for companies falling under the scope of the **Corporate Sustainability Reporting Directive**.

**2.42.** Although EU institutions and bodies are under no obligation to issue sustainability reports, they can do so on a voluntary basis. When we examined the sustainability reporting of EU agencies in a **2019 review**, we found that the only agency to issue a sustainability report was EUIPO, which followed the GRI standards. In 2022, we found that this had not changed: EUIPO was still alone among EU agencies in publishing a sustainability report. However, its report, which used to be a separate document, is now part of its **consolidated annual activity report** (see page 50). We also found that three other agencies (Cedefop, EIT and Eurofound) planned to start issuing a sustainability report by 2024. In addition, the EU Agencies Network set up a working group to promote the introduction of sustainability reporting and the sharing of good practices in this area.

**2.43.** Even if the implementation of full sustainability reporting remains very limited among EU agencies, many of them have some form of environmental reporting, such as carbon footprint reporting or environmental reporting integrated in the agencies' annual activity reports. Notably, 19 of the 43 EU agencies (44 %) issue an annual environmental statement (see **Table 2.3**), a document detailing key environmental data such as the agency's environmental policy and governance arrangements, as well as environmental impacts and objectives.



**Table 2.3 – Nearly half of the EU agencies issue an environmental statement**

<b>Agencies with an environmental statement</b>				
Decentralised agencies and other bodies, grouped by size				Executive agencies
small (less than 200 staff)		medium (between 201 and 400 staff)	large (more than 400 staff)	
ACER	ELA	CdT	EASA	CINEA ✓
BEREC Office	EMCDDA ✓	EBA ✓	ECHA ✓	EACEA ✓
Cedefop	ENISA	ECDC	EFSA ✓	EISMEA ✓
CEPOL	ERA	EEA ✓	EMA	ERCEA ✓
CPVO	ESA	EMSA ✓	EUAA	HADEA ✓
EFCA	ETF ✓	EPPO	EUIPO ✓	REA ✓
EIGE	EU-OSHA	ESMA ✓	Europol ✓	
EIOPA ✓	Eurofound ✓	eu-LISA ✓	Frontex	
EIT	FRA	Eurojust	SRB	
		EUSPA		
4 of 18		5 of 10	4 of 9	6 of 6

Source: ECA, based on the information and evidence obtained from the agencies.

**2.44.** All the executive agencies are covered by the Commission's environmental statement. In addition, nine of the 19 medium-sized and large decentralised agencies and other bodies (47 %) issue an environmental statement. However, 14 of the 18 small EU agencies (78 %), do not produce such a statement, which may be explained by their smaller administrative capacity to carry out such reporting activities.

**2.45.** Producing environmental statements is closely correlated with the adoption of the EU [Eco-Management and Audit Scheme \(EMAS\)](#), a management instrument developed by the European Commission for organisations to evaluate, report, and improve their environmental performance. This is because publication of key environmental data, for example in the form of an environmental statement, is one of the basic requirements of EMAS (see [Box 2.10](#)).

### Box 2.10

#### Basic requirements of EMAS

- Compliance with all environmental legislation, checked by a verifier and a public authority.
- Continuous improvement of environmental performance.
- Verification of performance by a specifically trained verifier.
- Publication of key environmental data in an annual report.

**2.46.** Overall, 17 of the 43 EU agencies (40 %) have already implemented EMAS (see [Table 2.4](#)). As with environmental statements (see [Table 2.3](#) and paragraph 2.44), all executive agencies have been included in the Commission's EMAS registration and the proportion of medium-sized and large decentralised agencies having implemented EMAS (eight of 19 or 42 %) is significantly higher than that of small agencies (three of 18 or 17 %). This difference may be explained by the lower capacity of smaller entities to deal with EMAS requirements.

**Table 2.4 – Two in five EU agencies have implemented EMAS**

Agencies that have implemented EMAS				
Decentralised agencies and other bodies, grouped by size				Executive agencies
small (less than 200 staff)	medium (between 201 and 400 staff)	large (more than 400 staff)		
ACER	CdT	EASA	CINEA	✓
BEREC Office	EBA ✓	ECHA ✓	EACEA	✓
Cedefop	ECDC	EFSA ✓	EISMEA	✓
CEPOL	EEA ✓	EMA	ERCEA	✓
CPVO	EMSA ✓	EUAA	HADEA	✓
EFCA	EPPO	EUIPO ✓	REA	✓
EIGE	ESMA ✓	Europol ✓		
EIOPA ✓	eu-LISA	Frontex		
EIT	Eurojust	SRB		
	EUSPA			
3 of 18	4 of 10	4 of 9	6 of 6	

Source: ECA, based on the information and the evidence obtained from the agencies.

**Action to be taken 6**

All EU agencies should report on their climate, energy and environmental performance, for example by issuing sustainability reports or environmental statements.



In addition, they should implement EMAS.

The European Union Agencies Network should play an important role in promoting the implementation of EMAS and sustainability or environmental reporting, by issuing guidance and facilitating the sharing of experience and good practices.

## Other agency-related reports issued by the ECA

**2.47.** Apart from audit reports specifically covering the agencies, in the course of 2022 and the first half of 2023, the ECA also issued a number of special reports on EU policy implementation which referred to a number of agencies. [Figure 2.6](#) contains a list of those special reports.

**Figure 2.6 – ECA special reports referring to agencies issued in 2022 and the first half of 2023**

	MFF 1	MFF 2	MFF 3	MFF 4	MFF 5	Self-financed
<b>Chamber I</b> <b>Sustainable use of natural resources</b> 	<b>EEA</b>					
	Special report 9/2022: <b>Climate spending in the 2014-2020 EU budget: Not as high as reported</b>					
	<b>EMA, ECDC</b>					
	Special report 19/2022: <b>EU COVID-19 vaccine procurement: Sufficient doses secured after initial challenges, but performance of the process not sufficiently assessed</b>					
	<b>EFCA</b>					
	Special report 20/2022: <b>EU action to combat illegal fishing: Control systems in place but weakened by uneven checks and sanctions by Member States</b>					
<b>Chamber II</b> <b>Investment for cohesion, growth and inclusion</b> 	<b>BEREC Office, ENISA</b>					
	Special report 03/2022: <b>5G roll-out in the EU: delays in deployment of networks with security issues remaining unresolved</b>					
	<b>EUROFOUND</b>					
	Special report 28/2022: <b>Support to mitigate Unemployment Risks in an Emergency (SURE): SURE financing contributed to preserving jobs during the COVID-19 crisis, but its full impact is not known</b>					
	<b>EPPO</b>					
	Special report 06/2023: <b>Conflict of interest in EU cohesion and agricultural spending: Framework in place but gaps in transparency and detection measures</b>					
	<b>EEA</b>					
	Special report 18/2023: <b>EU climate and energy targets: 2020 targets achieved, but little indication that actions to reach the 2030 targets will be sufficient</b>					
	<b>CINEA</b>					
	Special report 08/2023: <b>Intermodal freight transport: EU still far from getting freight off the road</b>					

## Chamber III

### External action, security and justice



**ENISA**

Special report 05/2022:  
**Cybersecurity of EU institutions, bodies and agencies: Level of preparedness overall not commensurate with the threats**

**ECDC EUSPA**

Special report 13/2022:  
**Free movement in the EU during the COVID-19 pandemic: Limited scrutiny of internal border controls, and uncoordinated actions by Member States**

**ECDC, EMA EASA**

Special report 01/2023:  
**Tools facilitating travel within the EU during the COVID-19 pandemic: Relevant initiatives with impact ranging from success to limited use**

## Chamber IV

### Regulation of markets and competitive economy



**ESMA, EIOPA, EBA**

Special report 04/2022:  
**Investment funds EU actions have not yet created a true single market benefiting investors**

**EUIPO**

Special report 06/2022:  
**EU intellectual property rights: Protection not fully waterproof**

**EISMEA**

Special report 07/2022:  
**SME internationalisation instruments: A large number of support actions but not fully coherent or coordinated**

**REA**

Special report 15/2022:  
**Measures to widen participation in Horizon 2020 were well designed but sustainable change will mostly depend on efforts by national authorities**

**ECDC**

Special report 26/2022:  
**European statistics – Potential to further improve quality**

**ACER**

Special report 03/2023:  
**Internal electricity market integration: Complex legal architecture, delays, weaknesses in governance and incomplete market surveillance hamper full achievement of the ambitious objective**

**EBA**

Special report 12/2023:  
**EU supervision of banks' credit risk: The ECB stepped up its efforts but more is needed to increase assurance that credit risk is properly managed and covered**

MFF 1
  MFF 2
  MFF 3
  MFF 4
  MFF 5
  Self-financed

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## Chamber V

**Financing and  
administering the  
Union**



### REA

Special report 11/2022:

**Protecting the EU budget:  
Better use of blacklisting  
needed**

### EISMEA

Special report 17/2022:

**External consultants at the  
European Commission: Scope  
for reform**

Source: ECA.

## The EU agencies network's reply

**1.21.** EUIPO: EUIPO would like to highlight the decision of the legislators which was confirmed during the last legislative reform. According to Article 176(2) of the Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (EUTMR), *'the Budget Committee shall give a discharge to the Executive Director in respect of the implementation of the budget'*. Such discharge is strongly based on the reports issued by the ECA.

SRB: The SRB would like to point out that it is also a fully-self financed agency. The budget and the establishment plan of the SRB are approved by its Plenary Session on a proposal by its Chair in accordance with Article 61 of Regulation (EU) No 806/2014.

**2.18.** CdT: The Centre refers to its replies to paragraphs 3.35.7-3.35.9.

**2.20, 2.23, 2.25, 2.26, 2.29** EUAN: The EUAN acknowledges the Court's preliminary observations, particularly in the areas of public procurement management, recruitment procedures, and budgetary management. The EUAN members are committed to continuously improve their policies and procedures. The Network wishes to mention that the preliminary observations of the individual cases differ from Agency to Agency and therefore the Network would like to make reference to the Agencies' individual response to their statements of assurance.

**2.22.** CdT: The Centre refers to its replies to paragraphs 3.35.12 and 3.35.13.

**Box 2.2.** Europol: Europol refers to its reply to paragraph 3.33.9.

ECDC: Based on ECDC's analysis, VAT is an eligible expense, because the beneficiaries were not acting as public authorities when they undertook the eligible activities under the grant. ECDC refers to its detailed reply under paragraph 3.15.7.

**2.26.** Europol: Europol refers to its reply to paragraph 3.33.8.

Cedefop: Cedefop refers to its reply to paragraph 3.14.8.

**2.27.** ERA: ERA refers to its reply to paragraphs 3.11.12 and 3.11.13.

**2.28.** EUAN: The use of carry-overs is defined in the Financial Regulation. In certain cases, they are partially or fully justified by the multiannual nature of the Agencies' operational programmes. As was pointed out by the ECA, there are no predefined ceilings in the Financial Regulation which would determine what is considered to be "excessive level" of carry-overs. For those limited instances of Agencies with recurrent high carry-overs, the Network highlights that the implementation rate, is generally high.



**Table 2.1.** ECDC: ECDC aims to be EMAS registered in 2023 and is planning a project for CO<sub>2</sub> offsetting (to commence in Q1 2024) that will include measures on calculating the CO<sub>2</sub> impact and how to minimize it. Specific targets will be part of the EMAS implementation, commencing in 2024.

**Table 2.2.** ECDC: ECDC is in the final stages of being EMAS certified and will develop a corporate target as part of its EMAS implementation, commencing in 2024.

**2.46.** EUAN: In the EUAN's 2023 Work Programme, the Network set the objective to deepen its expertise in the area of sustainability and greening.

The activities identified in the short and medium term include efforts to establish a common line on sustainability reporting and supporting initiatives towards introducing sustainability and greening policies in the Agencies and Joint Undertakings.

In line with the actions proposed by the ECA, the Network is actively working on supporting its members on their journey of becoming EMAS certified, by developing Agency specific guidelines and documents and sharing good practices.



EUROPEAN  
COURT  
OF AUDITORS

## Chapter 3

### **Statements of Assurance and other agency-specific audit results**

## 3.1. Information in support of the statements of assurance

### Basis for opinions

**3.1.1.** We conducted our audit in accordance with the International Federation of Accountants (IFAC) International Standards on Auditing (ISAs) and Code 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 this report. We have met independence requirements and fulfilled our ethical obligations under the International Ethics Standards Board for Accountants Code of Ethics for Professional Accountants. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### Audit approach

**3.1.2.** The ECA’s audit approach comprises analytical audit procedures, direct tests of transactions, and an assessment of key components of an agency’s supervisory and control systems. This is supplemented by evidence resulting from the work of other auditors, and by an analysis of information provided by the auditees' management

### Responsibilities of management and those charged with governance

**3.1.3.** In accordance with Articles 310 to 325 TFEU and the agencies’ Financial Regulations, the management of each agency is responsible for preparing and presenting the agencies’ accounts on the basis of internationally accepted accounting standards for the public sector, and for the legality and regularity of the underlying transactions. 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 management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements satisfy the official requirements which govern those statements. The management of each agency bears ultimate responsibility for the legality and regularity of the transactions underlying each agency’s accounts.

**3.1.4.** In preparing the accounts, 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 the management intends either to liquidate the entity or to cease operations, or has no realistic alternative but to do so.

**3.1.5.** Those charged with governance are responsible for overseeing the agencies' financial reporting process.

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

**3.1.6.** We have two objectives. One is to obtain reasonable assurance about whether the accounts of the agencies are free from material misstatement, and whether the transactions underlying them are legal and regular. The second is to provide the European Parliament and the Council or the other respective discharge authorities with statements of assurance, on the basis of our audit work, as to the reliability of the agencies' 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 all instances of material misstatement or non-compliance which may exist. These can arise from fraud or error and are considered material if, individually or taken together, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

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

**3.1.8.** For expenditure, we examine payment transactions once the expenditure has been incurred, recorded and accepted. This examination covers all categories of payments at the point they are made, except advances. We examine advance payments when the recipient of funds provides justification for their proper use, and when an agency accepts the justification by clearing the advance payment, in the same year or later.

**3.1.9.** In accordance with the ISAs and ISSAIs, we exercise our professional judgement and maintain professional scepticism throughout the audit. We also take the following steps.

- o We 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 these are due to fraud or error. We 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 failing to detect a material misstatement or non-compliance resulting from fraud is higher than the risk of failing to detect one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the overriding of internal controls.

- We 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 those internal controls.
- We evaluate the appropriateness of the accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- We draw conclusions on the appropriateness of management's use of the going-concern basis of accounting and, based on the audit evidence obtained, on whether a material uncertainty exists related to events or conditions that may cast significant doubt on an agency's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention to the related disclosures in the accounts in our auditor's report or, if these disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditors' report. However, future events may force an entity to cease to continue as a going concern.
- We evaluate the overall presentation, structure and content of the accounts, including the disclosures, and assess whether the accounts fairly represent the underlying transactions and events.
- We obtain sufficient appropriate audit evidence on the financial information of the agencies to express an opinion on the accounts and transactions underlying them. We are responsible for directing, supervising and performing the audit. We remain solely responsible for our audit opinion.
- We consider the audit work of independent external auditors performed on the agencies' accounts, as stipulated in Article 70(6) of the Financial Regulation, where applicable.

**3.1.10.** We communicate with the management on matters such as the planned scope and timing of the audit and significant audit findings, including any significant weaknesses in internal controls that we identify during our audit. From our communications with the agencies, we determine those matters that were most significant in the audit of the accounts of the current period. We designate those matters as key audit matters. We describe these matters in our auditor's report, unless we are prohibited by legislation from doing so, 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 a communication.



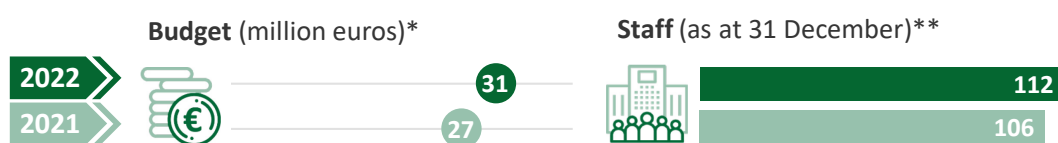
## **Agencies funded under MFF heading 1 – Single Market, Innovation and Digital**

## 3.2. European Union Agency for the Cooperation of Energy Regulators (ACER)

### Introduction

**3.2.1.** The European Union Agency for the Cooperation of Energy Regulators (“ACER”), which is located in Ljubljana, was established by [Regulation \(EC\) No 713/2009](#), repealed and replaced by [Regulation \(EU\) 2019/942](#). ACER fosters the integration and completion of the internal energy market for electricity and natural gas. It promotes a monitored and transparent energy market, with the aim of achieving fair prices for consumers. [Figure 3.2.1](#) presents key figures for ACER<sup>10</sup>.

**Figure 3.2.1 – Key figures for ACER**



\* 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: Annual accounts of ACER for the 2021 and 2022 financial years; staff figures provided by ACER.

### Information in support of the statement of assurance

**3.2.2.** Our audit approach, the basis for our opinion, the responsibilities of ACER’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>10</sup> More information on ACER’s role and activities is available on its website: [www.acer.europa.eu](http://www.acer.europa.eu).

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

### Opinion

#### 3.2.3. We have audited:

- (a) the accounts of the European Union Agency for the Cooperation of Energy Regulators ("ACER"), which comprise the financial statements<sup>11</sup> and the reports on the implementation of ACER's budget<sup>12</sup> for the financial year ended 31 December 2022, 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

**3.2.4.** In our opinion, ACER's accounts for the year ended 31 December 2022 present fairly, in all material respects, ACER's financial position at 31 December 2022, 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>11</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>12</sup> The reports on the 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

**3.2.5.** In our opinion, the revenue underlying the accounts of ACER for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.2.6.** In our opinion, the payments underlying the accounts of ACER for the year ended 31 December 2022 are legal and regular in all material respects.

**3.2.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on management and control systems

**3.2.8.** In December 2022, a payment order of €714 720.28 was authorised by an authorising officer by delegation whose powers of authorisation were limited to €500 000. This indicates a weakness in ACER's internal controls with regard to the delegation of powers for authorising payments.

## Observations on budgetary management

**3.2.9.** We found that ACER had carried over €7.2 million (29.4 %) of 2022 commitment appropriations to 2023. This included €5.5 million (or 66.2 %) of appropriations under Title III, related to operational expenditure, mainly ACER's core activities under the [Regulation on Wholesale Energy Market Integrity and Transparency](#) (66.4 % in 2021). We have also reported on this issue in paragraph 139 of our [special report 03/2023](#) on internal electricity market

European Union Agency for the Cooperation of Energy Regulators (ACER)

integration. Recurrent high rates of carry-overs contradict the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

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

**3.2.10.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [\*Annex\*](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2019	ACER signed a framework contract in cascade, in two lots, for a maximum amount of €25 million in the field of IT systems and consultancy. However, 61.3 % of the payments made in 2019 under lot 1 of the contract were not covered by the contract price list. ACER concluded direct contracts for the items concerned without a competitive procedure. The associated specific contracts are therefore irregular.	There were no irregular payments for out-of-pricelist items in 2022, but the framework contract concerned is still in force	Open
2	2019	We found evidence suggesting that ACER had been using interim workers to make up for a lack of directly employed staff members. All but one of the interim workers working at ACER were performing long-term tasks. ACER should assign permanent and ongoing tasks to directly employed members of staff, not interim workers.	The situation has not changed so far. ACER plans to address the issue in the years to come, once the number of staff in its establishment plan has been increased.	Open

## European Union Agency for the Cooperation of Energy Regulators (ACER)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
3	2021	Between 2019 and 2021, ACER assessed three cases of a potential conflict of interest in relation to a senior member of staff taking up paid outside activity or a new job elsewhere. In the one case we reviewed, ACER did not consult the Joint Committee and issued its decision after the deadline. The decision included restrictions designed to mitigate the risk of conflict of interest. ACER asked the person concerned to honour the restrictions set out in the initial decision, but this request lacked any legal basis.	A decision adapting the relevant rules has been adopted at the time when we concluded our audit.	Closed
4	2019, 2021	We found that ACER had carried over €6.6 million (29.9 %) of 2021 commitment appropriations to 2022. Of that amount, €4 million, or 54 % of operational expenditure, was related to core operational activities under the <a href="#">Regulation</a> on Wholesale Energy Market Integrity and Transparency. High rates of carry-overs contradict the budgetary principle of annuality and suggest structural issues in the implementation of the budget.	The situation persisted in 2022 (see paragraph 3.2.11).	Open

## ACER's reply

**3.2.8.** ACER takes note of the ECA's observation. The sampled payment was a combination of charges against three budget lines, with each individual amount being below the delegated limit. Given that the individual charges were below the authorising limit, the payment was approved. The Agency will take steps to ensure that limits are enforced per payment order.

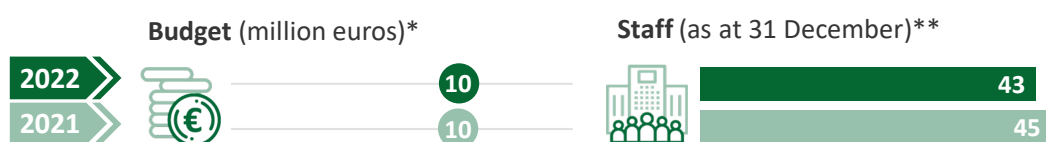
**3.2.9.** The Agency takes note of the ECA's observation. The carry-overs from Title 2 include €0.52 million related to expenditure from open contracts for legal counsel for the Agency to defend its position against the appeals lodged in response to the Agency's decisions, mainly in the area of Electricity. The length of the appeals is difficult to anticipate and, in most of the cases, does not correspond with the annuality of the budget. Carry-overs from Title 3 include €4.6 million corresponding to contractual obligations the Agency has for its main operational project, REMIT. The investments made in this multiannual project, that is since 2021 funded by fees collected from the Registered Reporting Mechanisms, do not coincide with the annuality of the budget and need to follow the development plan in place. The Agency monitors the implementation of the budget on a monthly basis, to reinforce the annuality of payments where appropriate and possible.

## 3.3. Agency for Support for Body of European Regulators for Electronic Communications (BEREC Office)

### Introduction

**3.3.1.** The Agency for Support for the Body of European Regulators for Electronic Communications (“the BEREC Office”), which is located in Riga, was established by [Regulation \(EC\) No 1211/2009](#), repealed and replaced by [Regulation \(EU\) No 2018/1971](#). The BEREC Office’s provides professional and administrative support services to the Body of European Regulators for Electronic Communications (BEREC). Under the guidance of the Board of Regulators, it collects and analyses information on electronic communications and disseminates best practices such as common approaches, methodologies and guidelines on the implementation of the EU regulatory framework among national regulatory authorities. [Figure 3.3.1](#) presents key figures for the BEREC Office<sup>13</sup>.”

**Figure 3.3.1 – Key figures for the BEREC Office**



\* 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: Annual accounts of the BEREC Office for the 2021 and 2022 financial years; staff figures provided by the BEREC Office.

### Information in support of the statement of assurance

**3.3.2.** Our audit approach, the basis for our opinion, the responsibilities of the BEREC Office’s management and of those charged with governance, and the auditor’s responsibilities

<sup>13</sup> More information on the BEREC Office’s role and activities is available on its website: [www.berec.europa.eu](http://www.berec.europa.eu).

Agency for Support for Body of European Regulators for Electronic Communications (BEREC Office)

for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

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

### Opinion

#### 3.3.3. We have audited:

- (a) the accounts of the Agency for Support for Body of European Regulators for Electronic Communications ("the BEREC Office"), which comprise the financial statements<sup>14</sup> and the reports on the implementation of the BEREC Office's budget<sup>15</sup> for the financial year ended 31 December 2022, 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

**3.3.4.** In our opinion, the BEREC Office's accounts for the year ended 31 December 2022 present fairly, in all material respects, the BEREC Office's financial position as at 31 December 2022, 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.

<sup>14</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>15</sup> The reports on the 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**

**3.3.5.** In our opinion, the revenue underlying the accounts of the BEREC Office for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

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

**3.3.6.** In our opinion, the payments underlying the accounts of the BEREC Office for the year ended 31 December 2022 are legal and regular in all material respects.

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

**3.3.7.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).



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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2019	The BEREC Office finished a procurement procedure and signed a contract before evaluating all the offers it had received. It misplaced one offer and did not evaluate it. The evaluation report for this procedure did not explain how the BEREC Office had concluded whether the offers were compliant with the eligibility criteria. The procurement procedure was carried out by only one person. That person had declared a potential conflict of interest, but they performed the whole procedure singlehandedly anyway. For these reasons, we consider the contract to be irregular.	Further to our observation, in 2022, the BEREC Office unilaterally terminated the contract and replaced it with a contract awarded on the basis of a new procurement.	Closed
2	2021	In our <a href="#">2019 report</a> , we concluded that a procurement procedure for legal services was irregular. As a result, all subsequent payments made based on this framework contract are irregular. In 2021, the associated payments amounted to €4 444.	Further to our observation, in 2022, the BEREC Office unilaterally terminated the contract and replaced it with a contract awarded on the basis of a new procurement.	Closed

## Agency for Support for Body of European Regulators for Electronic Communications (BEREC Office)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
3	2021	In a recruitment procedure there were weaknesses that undermined the principles of transparency and equal treatment during the screening/shortlisting stage.	The BEREC Office revised its recruitment procedures to address the identified weaknesses.	Closed
4	2021	The lack of ex ante checks on prices was noted as a weakness in the BEREC Office's internal control system. In a procurement procedure for IT services, the BEREC Office requested an offer from a contractor without specifying in advance which services were required. In addition, the BEREC Office did not perform checks to make sure that the prices applicable to specific contracts corresponded to the prices and discounts set out in the underlying framework contract	The BEREC Office has enhanced its ex-ante checks to address the identified weaknesses.	Closed

Agency for Support for Body of European Regulators for Electronic Communications (BEREC Office)

## The BEREC Office's reply

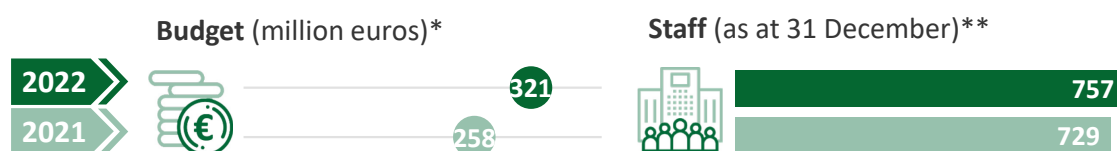
The Agency has taken note of the ECA's report.

## 3.4. European Union Aviation Safety Agency (EASA)

### Introduction

**3.4.1.** The European Union Aviation Safety Agency (“EASA”), which is located in Cologne, was established by [Regulation \(EU\) 2018/1139](#). EASA superseded the European Aviation Safety Agency (also “EASA”) established in 2002. EASA has specific regulatory and executive tasks in the field of aviation safety, in particular related to the design, production, maintenance and operation of aeronautical products. [Figure 3.4.1](#) presents key figures for EASA<sup>16</sup>.

**Figure 3.4.1 – Key figures for EASA**



\* 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: Annual accounts of EASA for the 2021 and 2022 financial years; staff figures provided by EASA.

### Information in support of the statement of assurance

**3.4.2.** Our audit approach, the basis for our opinion, the responsibilities of EASA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>16</sup> More information on EASA’s role and activities is available on its website: [www.easa.europa.eu](http://www.easa.europa.eu).

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

### Opinion

#### 3.4.3. We have audited:

- (a) the accounts of the European Union Aviation Safety Agency ("EASA"), which comprise the financial statements<sup>17</sup> and the reports on the implementation of EASA's budget<sup>18</sup> for the financial year ended 31 December 2022, 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

**3.4.4.** In our opinion, EASA's accounts for the year ended 31 December 2022 present fairly, in all material respects, EASA's financial position as at 31 December 2022, 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.

<sup>17</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>18</sup> The reports on the 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

**3.4.5.** In our opinion, the revenue underlying the accounts of EASA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.4.6.** In our opinion, the payments underlying the accounts of EASA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.4.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.4.8.** In July 2019, EASA signed framework contracts with three providers for the development, rollout and maintenance of an incident reporting system. The contracts were signed for four years.

In May 2022, because the €5 million earmarked for these contracts was nearly exhausted, EASA launched a negotiated procedure, without previous publication of a contract notice, for the continued development of the system. The negotiated procedure was carried out with a single provider – one of the three providers contracted in 2019 – and led to a contract to the value of €1.9 million being signed in June 2022. EASA justified the use of this procedure by extreme urgency. This is allowed by point 11.1(c) of Annex I to the Financial Regulation, provided that the urgency results from unforeseeable events, is not attributable to the contracting authority, and cannot be addressed by following the ordinary procedure.

EASA did not demonstrate that these three conditions had been satisfied. We consider that the urgency was not the result of an unforeseeable event, since the budget for the new

## European Union Aviation Safety Agency (EASA)

contract had already been approved in early December 2021. This left enough time (nearly seven months before the contract was signed) to use an open procedure.

Based on the above, we conclude that the legal basis for the negotiated procedure launched in May 2022 was incorrect and therefore the procedure was irregular, as are all the associated payments, which in 2022 amounted to €261 385.

### Observations on management and control systems

**3.4.9.** EASA launched a tendering procedure for events management services. The value of the tender was €2.5 million. EASA noted that there was a significant price difference between the financial offers received from the tenderers and requested clarifications from one of them. As a result of the clarifications, EASA amended the price of the tender. However, as per Article 151 of the Financial Regulation, corrections of this kind are only allowed to correct obvious clerical errors. They cannot be used to amend the substantive terms of the tender. Also, bidders need to give their prior written consent to any changes in the tender terms. In this case, the bidder did not provide an explicit written consent.

After the bidder complained that EASA had corrected the price, EASA performed a second evaluation and excluded the bidder on the grounds that it “did not meet the requirements set in the tender specifications”. However, EASA did not specify which requirements had not been met, which means that the bidder’s exclusion was not properly justified.

**3.4.10.** EASA collects fees and charges for the provision of certification services, but does not document the checks it performs to ensure that this revenue is correctly collected. This goes against Articles 74(5) and 75 of the Financial Regulation.

### Follow-up of previous years’ observations

**3.4.11.** An overview of the action taken in response to the ECA’s observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2016	EASA has accumulated a €52 million surplus from industry-financed activities over the years, for which there is no provision in EASA's Founding <a href="#">Regulation</a> .	This is not within EASA's control, because this requires a change to the EASA's Founding Regulation.	Open
2	2021	Between 2019 and 2021, EASA assessed two cases of a potential conflict of interest in relation to a senior member of staff taking up a new job elsewhere. In contravention of Article 16 of the <a href="#">Staff Regulations</a> , which requires a list of the cases assessed, in the context of the risk of advocacy and lobbying, to be published, EASA did not do so in the one case we reviewed. In the same case, in contravention of another provision of Article 16 of the <a href="#">Staff Regulations</a> , EASA did not consult the Joint Committee.	EASA has revised its procedures to address the weaknesses identified but at the time when we concluded our audit it had not yet formally established a Joint Committee.	Open



## EASA's reply

**3.4.8.** Without challenging ECA's observation, EASA Management Board requested to extend the scope of the development of the reporting system to address a strong need of the EU aviation industry. The reporting system being developed is a crucial safety element of the EU Aviation industry, any disruption of this system could lead to an immediate safety risk with potential catastrophic consequences. As there was a circumstantial monopoly, no other economic operator could have continued the development without creating disruption and an immediate safety risk. To avoid this risk, an open procedure was not possible, and the call was addressed only to the contractor who was developing the system at that moment. EASA takes note of the Court's reasoning regarding the justification of an exceptional negotiated procedure and will consider it carefully when choosing the legal basis in the future.

**3.4.9.** We take note of the comments from the Court about the correction of the price in the first award decision and about the exclusion of the tenderer in the second award decision. EASA will take the necessary actions to guarantee that in future procurement procedures any correction in price or exclusion of the tenderers are better justified. Without disputing the ECA observation, EASA would like to note that the tenderer did not contest the final decision.

**3.4.10.** As outlined by the ECA, the ex-ante checks have been performed but have not been documented. EASA takes note of the ECA's observation and will take the necessary actions to guarantee that checks are properly documented.

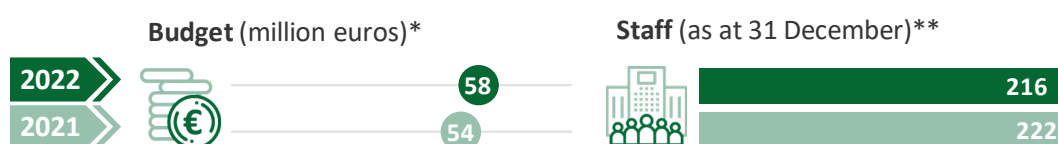
## 3.5. European Banking Authority (EBA)

### Introduction

**3.5.1.** The European Banking Authority (“the EBA”), which is located in Paris, was established by [Regulation \(EU\) No 1093/2010](#). The EBA contributes to establishing high-quality common regulatory and supervisory practices in the banking sector, monitors the application of EU banking law by national authorities, and takes decisions in emergency situations.

[Figure 3.5.1](#) presents key figures for the EBA<sup>19</sup>.

**Figure 3.5.1 – Key figures for the EBA**



\* 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: Annual accounts of the EBA for the 2021 and 2022 financial years; staff figures provided by the EBA.

### Information in support of the statement of assurance

**3.5.2.** Our audit approach, the basis for our opinion, the responsibilities of the EBA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>19</sup> More information on the EBA’s role and activities is available on its website: [www.eba.europa.eu](http://www.eba.europa.eu).

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

### Opinion

#### 3.5.3. We have audited:

- (a) the accounts of the European Banking Authority ("the EBA"), which comprise the financial statements<sup>20</sup> and the reports on the implementation of the EBA's budget<sup>21</sup> for the financial year ended 31 December 2022, 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

**3.5.4.** In our opinion, the EBA's accounts for the year ended 31 December 2022 present fairly, in all material respects, the EBA's financial position as at 31 December 2022, 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.

<sup>20</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>21</sup> The reports on the 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**

**3.5.5.** In our opinion, the revenue underlying the accounts of the EBA for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

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

**3.5.6.** In our opinion, the payments underlying the accounts of the EBA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.5.7.** The observations which follow do not call the ECA's opinion into question.

## **Observations on management and control systems**

**3.5.8.** The EBA sought to procure services in two open tenders, one for market research for financial services and another for consultation on data protection. In one tender there was an overlap between award and selection criteria. This goes against Article 167 of the Financial Regulation, which stipulates that there must be a complete separation between the selection and the award criteria. Selection criteria are used to evaluate the capacity of the tenderers and award criteria are used to evaluate the price and quality of the offers.

In both cases, the EBA overestimated the maximum value of the contracts because of shortcomings in the research on market prices it had carried out before launching the tenders.

## Follow-up of previous years' observations

**3.5.9.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	The EBA entered into two separate negotiated procedures without the prior publication of the contract notice. In both cases, the EBA failed to follow all the necessary procedural steps required by Point 16 of Annex I of the Financial Regulation, such as sending an invitation to tender and drawing up tender specifications.	The EBA now uses the DG BUDG templates, bringing its procedures into line with our observation.	Closed
2	2021	In one recruitment procedure, we found no evidence that the EBA had established the minimum number of points that the candidates had to gain in order to be shortlisted before examining their applications. In another procedure, the selection board had been established by a series of e-mails rather than by a single nomination decision. Following the audit, the EBA provided documentation to show that it had changed its processes.	Following our audit, the EBA modified its procedures in line with our observation.	Closed

## European Banking Authority (EBA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
3	2021	Under the Rules of Procedure of the Board of Supervisors, members of the Board who have a conflict of interest may not take part in the Board's discussions or vote on the matter in question. However, the member may remain present in the meeting if nobody objects. This creates a risk to the Board's independence, at least in appearance.	In 2022, the Board of Supervisors adopted an amendment to its Rules of Procedure, as well as those of the Management Board and the mandates of the Standing Committees on Resolution and on anti-money laundering and countering terrorist financing, obliging members who have declared a conflict of interest to be absent from both the vote and the discussion itself, without exception.	Closed

European Banking Authority (EBA)

## EBA's reply

**3.5.8.** The EBA is fully aware of the requirements of Article 167. In the cited tender, the EBA evaluated different documentation at the selection and the award stages of the procedure. In future, the EBA will ensure that the criteria are drafted in such a way as to eliminate any potential ambiguity between them.

The EBA systematically conducts extensive market research, using the template prepared by the EU Agencies Network working group on market research. In these cases, volumes and rates were estimated by EBA and external experts. Since receiving the Court's remarks, the EBA has begun taking the further step of sending questionnaires to market participants.

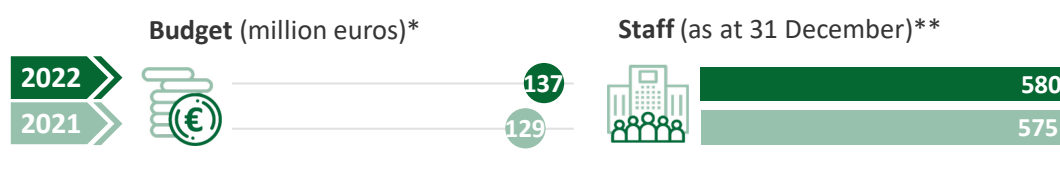


## 3.6. European Chemicals Agency (ECHA)

### Introduction

**3.6.1.** The European Chemicals Agency (“ECHA”), which is located in Helsinki, was established by [Regulation \(EC\) No 1907/2006](#). ECHA’s main task is to implement the EU’s chemicals legislation to protect EU citizens’ health and the environment. It also contributes to a well-functioning internal market, and to the innovation and the competitiveness of Europe’s chemicals industry. [Figure 3.6.1](#) presents key figures for ECHA<sup>22</sup>.

**Figure 3.6.1 – Key figures for ECHA**



\* 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: Annual accounts of ECHA for the 2021 and 2022 financial years; staff figures provided by ECHA.

### Information in support of the statement of assurance

**3.6.2.** Our audit approach, the basis for our opinion, the responsibilities of ECHA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>22</sup> More information on ECHA’s role and activities is available on its website: [www.echa.europa.eu](http://www.echa.europa.eu).

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

### Opinion

#### 3.6.3. We have audited:

(a) the accounts of the European Chemicals Agency ("ECHA"), which comprise the financial statements<sup>23</sup> and the reports on the implementation of ECHA's budget<sup>24</sup> for the financial year ended 31 December 2022, 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

**3.6.4.** In our opinion, ECHA's accounts for the year ended 31 December 2022 present fairly, in all material respects, ECHA's financial position as at 31 December 2022, 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>23</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>24</sup> The reports on the 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**

**3.6.5.** In our opinion, the revenue underlying the accounts of ECHA for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

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

**3.6.6.** In our opinion, the payments underlying the accounts of ECHA for the year ended 31 December 2022 are legal and regular in all material respects.

European Chemicals Agency (ECHA)

## **ECHA's reply**

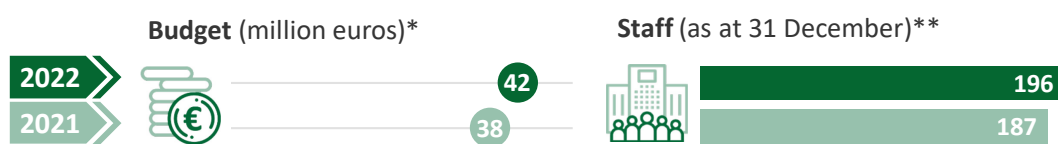
The Agency has taken note of the Court's report.

## 3.7. European Insurance and Occupational Pensions Authority (EIOPA)

### Introduction

**3.7.1.** The European Insurance and Occupational Pensions Authority (“EIOPA”), which is located in Frankfurt, was established by [Regulation \(EU\) No 1094/2010](#). EIOPA promotes a sound regulatory framework and consistent supervisory practices in order to protect the rights of policyholders, pension scheme members and beneficiaries and to contribute to public confidence in the European Union’s insurance and occupational pensions sectors. [Figure 3.7.1](#) presents key figures for EIOPA<sup>25</sup>.

**Figure 3.7.1 – Key figures for EIOPA**



\* 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: Annual accounts of EIOPA for the 2021 and 2022 financial years; staff figures provided by EIOPA.

### Information in support of the statement of assurance

**3.7.2.** Our audit approach, the basis for our opinion, the responsibilities of EIOPA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>25</sup> More information on EIOPA’s role and activities is available on its website: [www.eiopa.europa.eu](http://www.eiopa.europa.eu).

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

### Opinion

#### 3.7.3. We have audited:

- (a) the accounts of the European Insurance and Occupational Pensions Authority ("EIOPA"), which comprise the financial statements<sup>26</sup> and the reports on the implementation of EIOPA's budget<sup>27</sup> for the financial year ended 31 December 2022, 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

**3.7.4.** In our opinion, EIOPA's accounts for the year ended 31 December 2022 present fairly, in all material respects, EIOPA's financial position as at 31 December 2022, 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>26</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>27</sup> The reports on the 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

**3.7.5.** In our opinion, the revenue underlying the accounts of EIOPA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.7.6.** In our opinion, the payments underlying the accounts of EIOPA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.7.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.7.8.** In 2017, EIOPA procured telecommunication services for mobile phone communication in an open procedure, for a period of four years. In July 2021, EIOPA launched an open procedure to procure these services again. The only tenderer was the company with which EIOPA had concluded the previous contract. The award decision was taken in December 2021. The contract itself was finally signed in April 2022, as an amendment to the previous contract reflecting the conditions of the new procurement. Contrary to Point 1.1. of Annex I of the Financial Regulation, the contract was for an indefinite period, with the possibility for EIOPA to end it after the fourth year.

To ensure continuity of business, EIOPA did not terminate the old subscription after four years, and documented this deviation in an exception note. Between December 2021 and April 2022, the old subscription was used without any legal basis. The related payments, which all occurred in 2022 and which amounted to €25 607, are irregular.

## Follow-up of previous years' observations

**3.7.9.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).



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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	EIOPA's rental contract for its premises stipulates that EIOPA's landlord must give consent in advance before changes can be made to the property and before additional equipment can be installed. It also stipulates that the associated works can only be carried out by contractors nominated by the landlord. As a result of these contractual constraints, EIOPA awarded refurbishment works directly to the contractors designated by the landlord, without an appropriate procurement procedure. This contravenes Articles 164, 167 and 170 of the Financial Regulation. There were no payments under this contract in the financial year 2021.	Since we made this observation, no further contracts have been issued under the relevant clause of EIOPA's rental agreement. EIOPA intends to use the appropriate procurement procedure for any future construction works, and will negotiate with the landlord to grant the successful tenderer permission to carry out the relevant works.	Open
2	2021	We found weaknesses in EIOPA's management and control systems relating to conflicts of interest.  (a) Under the Rules of Procedure of the Board of Supervisors, members of the Board who have a conflict of interest may not take part in the Board's discussions or vote on the matter in question. But the member may remain present in the meeting if nobody objects. This	(a) and (b) In July 2022, EIOPA's Board of Supervisors revised its Rules of Procedure in line with our observation on the presence of members of the Board with conflicts of interest during discussions and voting.	Closed

## European Insurance and Occupational Pensions Authority (EIOPA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
		<p>creates a risk to the Board's independence, at least in appearance.</p> <p>(b) In July 2020, EIOPA's Management Board adopted a policy on independence and decision-making for avoiding conflicts of interest for members of the Board of Supervisors, observers, panel members and other people who play a role at EIOPA but are not directly employed by it. However, responsibility for adopting practical arrangements for managing conflicts of interest lies with the Board of Supervisors, and not with the Management Board.</p> <p>(c) The Management Board appoints two assessors to draw up the chairperson's and the executive director's annual performance reports. The assessors maintain this role even in cases where conflicts of interest might exist. This may adversely affect the independence of the appraiser and re-appraiser, contrary to the requirement of Article 42(1) of the EIOPA <a href="#">Regulation</a>.</p>	<p>(c) In December 2022, EIOPA's Management Board approved a revised decision regarding the appraisal of the chairperson and the executive director. Under this new decision, if an actual or potential conflict of interest occurs, the reporting officer must immediately inform the Vice-Chairperson.</p>	

## European Insurance and Occupational Pensions Authority (EIOPA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
3		Between 2019 and 2021, EIOPA assessed one case of a potential conflict of interest in relation to a senior member of staff taking up a new job elsewhere. In contravention of Article 16 of the <a href="#">Staff Regulations</a> , EIOPA did not consult the Joint Committee as per Article 2 of Annex II to the <a href="#">Staff Regulations</a> .	In December 2022, EIOPA's Management Board adopted a revision of EIOPA's ethics rules for staff members. This revised version includes the possibility of having various Joint Committees under Article 9 of the <a href="#">Staff Regulations</a> .	Closed

## EIOPA's reply

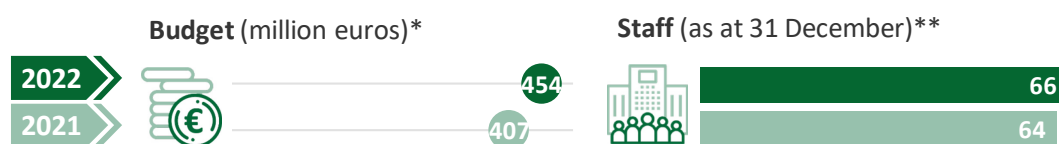
**3.7.8.** While EIOPA launched on time a new open procedure for mobile telecommunication services, delays occurred due to the clarification of technical (data protection) aspects. As a consequence, the Authority was unable to finalise the new public procurement procedure before the expiration of the previous contractual period. For operational business continuity reasons, the previous contractual terms were extended beyond the 48-month period (for 4 months in total) and transparently reported by EIOPA in its register of exceptions. The event occurred at a time where the Covid-19 outbreak was heavily hitting Europe, creating new challenges for all parties to adapt their workflows to a new reality. This was the main reason why the contractor was not able to react faster and have the contract in place as anticipated, despite the efforts made by EIOPA.

## 3.8. European Institute of Innovation and Technology (EIT)

### Introduction

**3.8.1.** The European Institute of Innovation and Technology (“the EIT”), which is located in Budapest, was established by [Regulation \(EC\) No 294/2008](#), repealed and replaced by [Regulation \(EU\) 2021/819](#). The EIT contributes to sustainable economic growth and job creation by reinforcing Europe’s innovation capacity. To do this, it awards grants to “Knowledge and Innovation Communities”, which link the higher education, research and business sectors to develop innovative products and services, start new companies and train a new generation of entrepreneurs. In 2022, Knowledge and Innovation Communities grants amounted to €372 million (2021: €319 million), representing 98 % of the EIT’s total expenditure (2021: 98 %). [Figure 3.8.1](#) presents key figures for the EIT<sup>28</sup>.

**Figure 3.8.1 – Key figures for the EIT**



\* 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: Annual accounts of the EIT for the 2021 and 2022 financial years; staff figures provided by the EIT.

### Information in support of the statement of assurance

**3.8.2.** Our audit approach, the basis for our opinion, the responsibilities of the EIT’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>28</sup> More information on the EIT’s role and activities is available on its website: <https://eit.europa.eu/>.

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

### Opinion

#### 3.8.3. We have audited:

(a) the accounts of the European Institute of Innovation and Technology (“the EIT”), which comprise the financial statements<sup>29</sup> and the reports on the implementation of the EIT’s budget<sup>30</sup> for the financial year ended 31 December 2022, 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

**3.8.4.** In our opinion, the EIT’s accounts for the year ended 31 December 2022 present fairly, in all material respects, the EIT’s financial position as at 31 December 2022, 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.

<sup>29</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>30</sup> The reports on the 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**

**3.8.5.** In our opinion, the revenue underlying the accounts of the EIT for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

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

**3.8.6.** In our opinion, the payments underlying the accounts of the EIT for the year ended 31 December 2022 are legal and regular in all material respects.

**3.8.7.** The observations which follow do not call the ECA's opinion into question.

## **Observations on legality and regularity of transactions**

**3.8.8.** The legality and regularity of the EIT's grants, which constitute 98 % of EIT's budget, was verified ex-post by an independent external auditor. For the 2021 grants, the EIT established an error rate of 1.73 %. However, unlike in previous years this error rate was not disclosed in the EIT's 2022 annual activity report due to the late conclusion of the annual exercise for its calculation.

## **Observations on management and control systems**

**3.8.9.** For a software renewal order, the EIT did not carry out an ex-ante verification to confirm whether the contractor had charged the correct price and uplift fee, as set out in the applicable framework contract. This is contrary to the provisions of Article 30 of the EIT Financial Regulation on ex ante controls and creates a risk that the EIT will pay incorrect amounts for the services obtained.

## Observations on budgetary management

**3.8.10.** Twice in 2022, the EIT paid interest on late payments in relation to grants. In one case, for a payment of €39.5 million, delayed by three days, the interest amounted to €11 368 and in the other, for a payment of €3.2 million, delayed by 67 days, the interest amounted to €20 702. In both cases, the EIT did not adequately monitor the regulatory deadlines, which demonstrates a weakness in the EIT's payment workflow.

**3.8.11.** For three audited administrative payments (amounting to €337 116), the EIT authorised the budgetary commitments only after the related legal commitments were signed. This goes against Article 73 (2) of the Framework Financial Regulation. We had a similar observation in our [2021 report](#) (see paragraph 3.8.9).

## Follow-up of previous years' observations

**3.8.12.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).



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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2016 / 2019	The increase in the EIT's budget and the growing number of Knowledge and Innovation Communities to oversee have not been accompanied by a respective increase in the number of posts.	This is not within the EIT's control. The EIT's mandate, budget (€3 billion) and tasks have grown further under Horizon Europe, while requests by the EIT for additional staff resources have been declined by the EU budgetary authorities. The EIT requested 10 posts for 2024 to increase its current staffing level, which is fixed at 72 posts in the establishment plan.	Open
2	2021	For two audited payments, the EIT had authorised budgetary commitments only after the contracts were signed. This goes against Article 73(2) of the Framework Financial Regulation.	In 2022, we found three instances of the same issue in the administrative expenditure.	Open

## The EIT's reply

**3.8.9.** EIT takes note that from a risk-management perspective EIT could apply additional measures and as prescribed by ECA, in order for EIT to assess any price-related risk, it will require a breakdown from the contractor when requesting an offer, which would clearly indicate the price and the markup.

**3.8.10.** While the EIT accepts the observation, it is important to note that a combination of payment-specific circumstances, aggravated by the lack of integrated grant management, the circumstances led to a delay of 67 days in releasing the amount of €3.2 million from the Horizon 2020 Guarantee Fund. As of 2023, the EIT has reviewed its grant management processes, trained relevant staff and is using the Commission's grant management IT system (eGrants), thereby significantly reducing the likelihood of the occurrence of a similar error in the future.

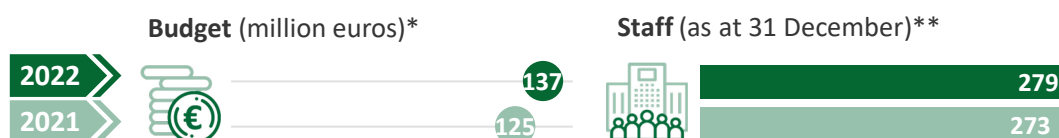
**3.8.11.** The EIT has taken note of the ECA recommendation and will take additional measures to ensure full compliance with Article 73(2) of the Framework Financial Regulations, i.e. dedicated staff information sessions, update of the procedures in place and strengthening of related internal controls.

## 3.9. European Maritime Safety Agency (EMSA)

### Introduction

**3.9.1.** The European Maritime Safety Agency (“EMSA”), which is located in Lisbon, was established by [Regulation \(EC\) No 1406/2002](#). EMSA works to ensure a high level of maritime safety and to prevent pollution by ships. It also provides the Commission and the member states with technical assistance, and monitors and evaluates the implementation of EU legislation. [Figure 3.9.1](#) presents key figures for EMSA<sup>31</sup>.

**Figure 3.9.1 – Key figures for EMSA**



\* 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: Annual accounts of EMSA for the 2021 and 2022 financial years; staff figures provided by EMSA.

### Information in support of the statement of assurance

**3.9.2.** Our audit approach, the basis for our opinion, the responsibilities of EMSA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>31</sup> More information on EMSA’s role and activities is available on its website: [www.emsa.europa.eu](http://www.emsa.europa.eu).

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

### Opinion

#### 3.9.3. We have audited:

(a) the accounts of the European Maritime Safety Agency ("EMSA"), which comprise the financial statements<sup>32</sup> and the reports on the implementation of EMSA's budget<sup>33</sup> for the financial year ended 31 December 2022, 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

**3.9.4.** In our opinion, EMSA's accounts for the year ended 31 December 2022 present fairly, in all material respects, EMSA's financial position as at 31 December 2022, 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.

<sup>32</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>33</sup> The reports on the 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

**3.9.5.** In our opinion, the revenue underlying the accounts of EMSA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.9.6.** In our opinion, the payments underlying the accounts of EMSA for the year ended 31 December 2022 are legal and regular in all material respects.

## Follow-up of previous years' observations

**3.9.7.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	<p>In 2021, EMSA amended 14 specific contracts (under several framework contracts) for the provision of services on the basis of Article 172(3)(d) of the Financial Regulation.</p> <p>The 14 amendments in question increased the initial value of the contracts by more than 10 % and therefore were not in line with Article 172 (3)(d) of the Financial Regulation.</p> <p>However, the resulting payments were not affected.</p>	EMSA has implemented corrective action by amending tender specifications and contract templates for subsequent procurements from September 2022.	Closed

European Maritime Safety Agency (EMSA)

## EMSA's reply

**3.9.4.** The Agency has taken note of the ECA's report.

## 3.10. European Union Agency for Cybersecurity (ENISA)

### Introduction

**3.10.1.** The European Union Agency for Cybersecurity (“ENISA”), which is located in Athens, was established by [Regulation \(EU\) 2019/881](#). ENISA superseded the European Union Agency for Network and Information Security (also “ENISA”), established in 2013, and is the successor to the European Network and Information Security Agency, established in 2004. ENISA's main mission is to achieve a high common level of cybersecurity across the EU, including actively supporting member states and EU bodies in improving cybersecurity and by serving as a reference point for advice and expertise for all relevant EU stakeholders.

[Figure 3.10.1](#) presents key figures for ENISA<sup>34</sup>.

**Figure 3.10.1 – Key figures for ENISA**



\* 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: Annual accounts of ENISA for the 2021 and 2022 financial years; staff figures provided by ENISA.

The increase in ENISA’s budget is mainly explained by additional tasks related to the pilot implementation of the Cybersecurity Support Action programme.

### Information in support of the statement of assurance

**3.10.2.** Our audit approach, the basis for our opinion, the responsibilities of ENISA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>34</sup> More information on ENISA’s role and activities is available on its website: [www.enisa.europa.eu](http://www.enisa.europa.eu).



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

### Opinion

#### 3.10.3. We have audited:

- (a) the accounts of the European Union Agency for Cybersecurity ("ENISA"), which comprise the financial statements<sup>35</sup> and the reports on the implementation of ENISA's budget<sup>36</sup> for the financial year ended 31 December 2022, 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

**3.10.4.** In our opinion, ENISA's accounts for the year ended 31 December 2022 present fairly, in all material respects, ENISA's financial position as at 31 December 2022, 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.

<sup>35</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>36</sup> The reports on the 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**

**3.10.5.** In our opinion, the revenue underlying the accounts of ENISA for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

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

**3.10.6.** In our opinion, the payments underlying the accounts of ENISA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.10.7.** The observations which follow do not call the ECA's opinion into question.

## **Observations on the legality and regularity of transactions**

**3.10.8.** During 2022, ENISA offered its managers a professional appraisal performed by an external provider, designated by ENISA. In three cases, ENISA paid the provider directly for these services; in the remaining 23 cases, it reimbursed its managers, who had paid the provider themselves. The total amount paid by ENISA for the 26 appraisals was €120 276. Considering that ENISA selected the provider without launching an open procurement procedure, we conclude that these payments were irregular.

## **Observations on management and control systems**

**3.10.9.** ENISA has no pre-determined model assessment (i.e., guidelines) to help the evaluation committee to assess the tenders. This entails the risk that the tenders may not be evaluated consistently by each member of the evaluation committee.

## European Union Agency for Cybersecurity (ENISA)

**3.10.10.** We found two cases where ENISA had awarded low-value contracts (below €15 000) without issuing an evaluation report and an award decision duly approved and signed by the authorising officer. This contravenes points 30.3 and 30.4 of Annex I to the Financial Regulation. We made a similar observation in paragraph 3.10.9 of our [2021 report](#).

**Follow-up of previous years' observations**

**3.10.11.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	Absence of evaluation report and award decision for low-value contracts.	Award decisions for low-value contracts are now included in paperless workflows. However, we still found similar cases in 2022 (see paragraph 3.10.14)	Open
2	2021	Design deficiencies in the cost-benefit analysis model for justifying outsourced services	ENISA has revised its procedures to address the identified weakness.	Closed
3	2021	Overlap between selection and award criteria in procurement procedures	ENISA has revised its procedures to address the identified weakness.	Closed
4	2021	Lack of consultation with a Joint Committee to assess potential conflict of interest	ENISA has revised its procedures to address the identified weakness. No cases of potential conflict have arisen in 2022	Closed

## ENISA's reply

**3.10.8.** ENISA agrees and welcomes this audit observation and has already taken the necessary steps to address this concern.

**3.10.9.** ENISA agrees and welcomes this audit observation and has already taken the necessary steps to address this concern.

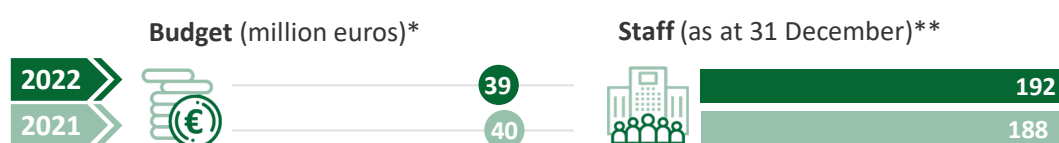
**3.10.10.** ENISA agrees and welcomes this audit observation and has already taken the necessary steps to address this concern.

## 3.11. European Union Agency for Railways (ERA)

### Introduction

**3.11.1.** The European Union Agency for Railways (“ERA”), which is located in Lille and Valenciennes, was established by [Regulation \(EU\) 2016/796](#). ERA superseded the European Railway Agency (also “ERA”), established in 2004. ERA’s task is to enhance the interoperability and safety of European railway systems. ERA is also the EU authority responsible for issuing authorisations, certificates and approvals in this field. [Figure 3.11.1](#) presents key figures for ERA<sup>37</sup>.

**Figure 3.11.1 – Key figures for ERA**



\* 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: Annual accounts of ERA for the 2021 and 2022 financial years; staff figures provided by ERA.

### Information in support of the statement of assurance

**3.11.2.** Our audit approach, the basis for our opinion, the responsibilities of ERA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>37</sup> More information on ERA’s role and activities is available on its website: [www.era.europa.eu](http://www.era.europa.eu).

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

### Opinion

#### 3.11.3. We have audited:

- (a) the accounts of the European Union Agency for Railways (ERA), which comprise the financial statements<sup>38</sup> and the reports on the implementation of ERA's budget<sup>39</sup> for the financial year ended 31 December 2022, 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

**3.11.4.** In our opinion, ERA's accounts for the year ended 31 December 2022 present fairly, in all material respects, ERA's financial position as at 31 December 2022, 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.

<sup>38</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>39</sup> The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

## Emphasis of matter

**3.11.5.** We draw attention to Note 3.5.4.1 to the annual accounts for 2022, which describes the implementation of a new budgetary, accounting and financial system, SUMMA as a pilot for the development of the system for the European Commission. Our opinion is not qualified in respect of this matter.

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.11.6.** In our opinion, the revenue underlying the accounts of ERA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.11.7.** In our opinion, the payments underlying the accounts of ERA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.11.8.** The observations which follow do not call the ECA's opinion into question.

## Observations on management and control systems

**3.11.9.** The Commission has decided to replace its central budgetary and accounting system, ABAC, by 1 January 2025, with a new system, named SUMMA. In December 2018, DG BUDG asked ERA, alongside two other agencies (CINEA and Eurojust), to participate in the development of SUMMA as a pilot. From the 2022 financial year, ERA started to use SUMMA to manage its budget.



## European Union Agency for Railways (ERA)

ERA did not put in place a risk management and control strategy for implementing SUMMA system. This contravenes Article 36(4)(a) of the Financial Regulation. In addition, ERA did not update its financial circuits and the ex-ante and ex-post checks strategy to align them to the changes introduced by the SUMMA implementation.

ERA's SUMMA user management system is managed by DG BUDG, which is in charge of granting and removing rights of SUMMA users based on the information provided by ERA. This process is not yet formally structured, and ERA does not specifically check the rights that have been attributed to a user. This constitutes a risk that the user roles in SUMMA may not be correctly assigned and updated, in line with the provision of Article 36 (3) (a) of the Financial Regulation. SUMMA also does not yet feature an adequate user profile for auditors.

**3.11.10.** ERA does not have a policy for classifying and protecting sensitive information, which is a weakness in the implementation of the internal control framework.

**3.11.11.** We noted that, as a general practice for procurement procedures, the members of the evaluation committee either copied an image of their signature into the documents or provided their approval by means of an e-mail instead of signing it by hand or, alternatively, by qualified electronic signature. This practice of not using valid signatures on official documents constitutes a weakness in ERA's management and control systems.

## Observations on budgetary management

**3.11.12.** When issuing certificates, approvals and authorisations, ERA takes an average of 106 days to issue invoices (or 'debit notes') for the associated fees and charges. This issue, which ERA attributes to the implementation of SUMMA and delays in receiving statements of cost from the National Safety Authorities, contravenes Article 98(2) of the Financial Regulation, which requires the authorising officer to "send the debit note immediately after establishing the amount receivable" as well as Article 5(1) of Regulation 2018/764 on ERA's fees and charges, which sets a 30-day deadline for issuing the invoice. Such delays in issuing invoices can create delays in revenue collection and additional difficulties in ERA's budget management.

**3.11.13.** According to its data, in 2022, ERA did not comply with the time limits stipulated in Article 116 of the Financial Regulation for 179 out of the total of 920 payments (19.5 %). In 112 of all cases (12.2 %), payments were late by more than 30 days. This weakness, which ERA attributes to the implementation of SUMMA, exposes ERA to financial and reputational risk, and goes against the principle of economy.

## Follow-up of previous years' observations

**3.11.14.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2018	In 2019, ERA will start collecting fees and charges for certification tasks. The new <a href="#">Regulation</a> on fees and charges required that the specific needs of small and medium-sized enterprises (SME) must be taken into account. ERA should introduce effective controls to check the SME status of applicants.	ERA plans to update the One Stop Shop application system in 2023.	Open

## ERA's reply

**3.11.9.** The Agency has managed the SUMMA migration through a standalone project in the Agency's portfolio, with assigned project ownership and management responsibilities. Any issues were dealt with pro-actively and mitigated through gate reviews and structured escalation to the Executive Director and further on to the European Commission - DG BUDG.

ERA started in the second half of 2022 to update its financial circuits and the ex-ante and ex-post checks strategy to align them to the changes introduced by the SUMMA implementation, based on the learning curve accumulated. These documents are due to be finalised and approved in 2023.

In the absence of a standard access rights report provided by the new financial tool, ERA has implemented mitigating measures to collect all the forms, to check them against a structured table with the allocation of financial actors' roles before communicating this to DG BUDG. Any detected inconsistencies were raised to DG BUDG for correction.

**3.11.10.** In the context of its commitment to a risk-based approach when protecting its information assets, the Agency has already finalised the inventory of information assets and the rules related to information classification and handling. The policy was prepared in May 2023 and endorsed by the Agency's Management Team in June 2023.

**3.11.11.** The Agency has already in 2022 enforced an Executive Director decision, which stipulates the use of either hand signature or credential-based electronic signature. At the beginning of 2023, a fully-fledged Qualified Electronic Signature was implemented for staff members with decision rights.

**3.11.12.** One of the main underlying factors of the indicated delays is related to the Agency's obligation to wait for the statement of costs from the involved National Safety Authorities (NSAs) before being able to issue its invoices to the applicants, which cover the amount of ERA costs together with the amounts related to the NSAs costs.

While the Agency currently has no legal lever to impose deadlines to the NSAs on this matter, this aspect could be further clarified with an amendment of Regulation 2018/764.

**3.11.13.** The Agency has already put in place a set of measures to improve the competencies and speed in the use of SUMMA for the financial actors involved, accompanied by a clear documentation of the related financial workflows. In parallel, any improvement required in the SUMMA system to avoid delays are timely escalated to DG BUDG and followed up until resolution.

## 3.12. European Securities and Markets Authority (ESMA)

### Introduction

**3.12.1.** The European Securities and Markets Authority (“ESMA”), which is located in Paris, was established by [Regulation \(EU\) No 1095/2010](#). ESMA’s mission is to enhance investor protection and promote stability and order in financial markets. ESMA pursues its mission and objectives through four activities: assessing risks to investors, markets and financial stability; completing a single rulebook for EU financial markets; promoting supervisory convergence; and directly supervising specific financial entities. [Figure 3.12.1](#) presents key figures for ESMA<sup>40</sup>.

**Figure 3.12.1 – Key figures for ESMA**



\* 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: Annual accounts of ESMA for the 2021 and 2022 financial years; staff figures provided by ESMA.

### Information in support of the statement of assurance

**3.12.2.** Our audit approach, the basis for our opinion, the responsibilities of ESMA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>40</sup> More information on ESMA’s role and activities is available on its website: [www.esma.europa.eu](http://www.esma.europa.eu).

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

### Opinion

#### 3.12.3. We have audited:

- (a) the accounts of the European Securities and Markets Authority ("ESMA"), which comprise the financial statements<sup>41</sup> and the reports on the implementation of ESMA's budget<sup>42</sup> for the financial year ended 31 December 2022, 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

**3.12.4.** In our opinion, ESMA's accounts for the year ended 31 December 2022 present fairly, in all material respects, ESMA's financial position as at 31 December 2022, 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.

<sup>41</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>42</sup> The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

## Emphasis of matter

**3.12.5.** We draw attention to Note IV.1 to the annual accounts for 2022, which describes the uncertainty related to the outcome of lawsuit T-750/22, “UniSystems Luxembourg and Unisystems systimata plioforikis vs ESMA”. Our opinion is not qualified in respect of this matter.

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.12.6.** In our opinion, the revenue underlying the accounts of ESMA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.12.7.** In our opinion, the payments underlying the accounts of ESMA for the year ended 31 December 2022 are legal and regular in all material respects.

## Emphasis of matter

**3.12.8.** We note that the emphasis of matter paragraph for reliability of the accounts described in paragraph [3.12.5](#) also applies in full for the legality and regularity of payments.

**3.12.9.** The observations which follow do not call the ECA’s opinion into question.

## Observations on budgetary management

**3.12.10.** In 2022, ESMA made eight commitments under a framework contract dating back to 2015, after the ceiling of the framework contract had already been reached. The total amount of commitments exceeding the limit in the framework contract was €217 106. ESMA staff responsible for the *ex-ante* checks did not have full access to the relevant information; so this issue was not detected until our audit.

## Follow-up of previous years' observations

**3.12.11.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).



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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2018	The surpluses and deficits from the fees charged to credit rating agencies and trade repositories can lead to an annual cross-financing of activities. ESMA should find a means of avoiding such cross-financing.	In 2022 ESMA submitted to the Commission its proposals for streamlining and harmonising its fee management system on which the Commission had not acted so far. In the meantime, ESMA has improved its cost allocation model thereby reducing the risk of cross financing of activities.	Closed
2	2020	Information from trade repositories for fee calculation were only subject to limited reviews by independent auditors. A consultation paper, which proposes a simplification of the method used to determine their turnover was published. The revision of the delegated acts on fees for credit rating agencies and trade repositories depends on the Commission. ESMA have reiterated that the revision is necessary.	This issue is not within ESMA's control. In 2022, ESMA submitted to the Commission its proposals for streamlining and harmonising its fee management system. However, the Commission has not yet taken any action in this respect.	Open

## European Securities and Markets Authority (ESMA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
3	2020	The Credit Rating Agencies <a href="#">Regulation</a> provides scope for circumventing the fee-charging mechanism. Credit rating agencies were able to avoid fees by transferring revenue into non-EU jurisdictions. The <a href="#">Regulation</a> is subject to the Commission's right to initiate the legislative changes. ESMA published a consultation paper and submitted a technical advice to the Commission on amending the <a href="#">Regulation</a> .	This issue is not within ESMA's control. In 2022, ESMA submitted to the Commission its proposals for streamlining and harmonising its fee management system. However, the Commission has not yet taken any action in this respect.	Open
4	2021	In a procurement of services with an estimated value of €45 000, we found that ESMA had launched a negotiated procedure without advertising it and without registering an exception.	In order to prevent similar situations in the future, ESMA modified the template for internal workflow that is used for approval of authorisation to launch a procurement procedure.	Closed

## European Securities and Markets Authority (ESMA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
5	2021	We found weaknesses in ESMA's management and control systems relating to conflicts of interest: (a) Under the Rules of Procedure of the Board of Supervisors, members of the Board who have a conflict of interest may not take part in the discussions or vote on the matter in question. But the member may remain present in the meeting unless the majority of members vote to exclude them, (b) ESMA's rules on the appraisal of the chairperson and the executive director do not explicitly state that a member of the Board of Supervisors whose National Competent Authority is or is likely to be subject to procedures under Articles 16 - 19 of <a href="#">Regulation</a> (EU) No 1095/2010 (such as a breach of EU law) cannot be an appraiser or appeal appraiser of the chairperson or the executive director.	ESMA revised its conflict of interest policy for its governing bodies. For appraisals of senior managers, ESMA changed its procedures and now requires explicit written confirmation on the absence of conflicts of interest for appraisers and their alternates.	Closed

## ESMA's reply

**3.12.10.** ESMA acknowledges the observation. The Agency has already reinforced its internal control system by putting in place the following actions:

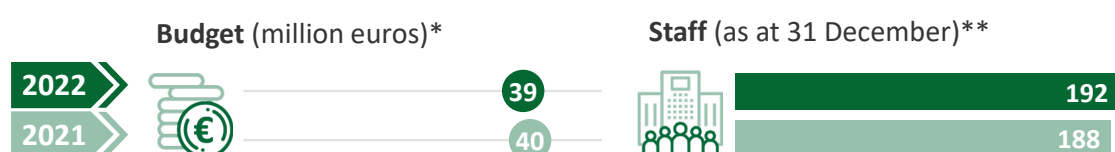
- detailed work instructions for enhancing in the financial circuit the ex-ante control on the verification of the budget ceiling in all framework contracts
- introduction of the ABAC Legal Commitment Kernel tool for the monitoring of the budget consumption of all framework contracts.

## 3.13. European Union Agency for the Space Programme (EUSPA)

### Introduction

**3.13.1.** The European Union Agency for the Space Programme (“EUSPA”), which is located in Prague, was established by [Regulation \(EU\) 2021/696](#). EUSPA superseded the European Global Navigation Satellite System Agency (“GSA”), established in 2010, and is the successor to the European Global Navigation Satellite System Supervisory Authority, established in 2004, which had taken over all tasks previously assigned to the GALILEO Joint Undertaking. EUSPA manages the EU’s space programme and provides space-related services. [Figure 3.13.1](#) presents key figures for EUSPA<sup>43</sup>.

**Figure 3.13.1 – Key figures for EUSPA**



\* 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: Annual accounts of EUSPA for the 2021 and 2022 financial years; staff figures provided by EUSPA.

### Information in support of the statement of assurance

**3.13.2.** Our audit approach, the basis for our opinion, the responsibilities of EUSPA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>43</sup> More information on EUSPA’s role and activities is available on its website: [www.euspa.europa.eu](http://www.euspa.europa.eu).

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

### Opinion

#### 3.13.3. We have audited:

- (a) the accounts of the European Union Agency for the Space Programme ("EUSPA"), which comprise the financial statements<sup>44</sup> and the reports on the implementation of EUSPA's budget<sup>45</sup> for the financial year ended 31 December 2022, 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

**3.13.4.** In our opinion, EUSPA's accounts for the year ended 31 December 2022 present fairly, in all material respects, EUSPA's financial position as at 31 December 2022, 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.

<sup>44</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>45</sup> The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

## Emphasis of matter

**3.13.5.** We draw attention to point 3 of the “Operational highlights” of the accounts: “Disclosures relating to the war in Ukraine”, which describes the impact of the Russian war of aggression against Ukraine in EUSPA’s operations.

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.13.6.** In our opinion, the revenue underlying the accounts of EUSPA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.13.7.** In our opinion, the payments underlying the accounts of EUSPA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.13.8.** The observations which follow do not call the ECA’s opinion into question.

## Observations on management and control systems

**3.13.9.** In September 2021, EUSPA launched a negotiated procedure without prior publication of a contract notice with a national public entity for the provision of various services in relation to search and rescue activities. The tenderer had already been providing similar services to EUSPA since 2016. EUSPA intended to conclude a new framework contract with an expiry date set on 31 December 2032 and a maximum budget of €120 million. The final framework contract was signed on 1 December 2022, including the involvement of several subcontractors. We noted that there were some discrepancies between the tender

## European Union Agency for the Space Programme (EUSPA)

specification requirements and the evaluation committee's assessment. For example, the requirement to declare absence of conflict of interest for the contractors in the evaluation phase was either waived or not properly analysed. Another example is that the offer received, instead of using 2021 as reference year for setting the prices, as per the technical specifications, used 2022 as the reference year.

### Follow-up of previous years' observations

**3.13.10.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).



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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	We found a number of procedural deficiencies in two recruitment procedures, undermining the principles of transparency and equal treatment in the area of the information provided in the vacancy notices, such as the insufficiently detailed instructions issued by the selection board and the lack of the scoring system.	Templates and instructions provided to the selection board members have been modified, and more guidance is being provided to selection board members when setting the criteria for a vacancy notice.	Closed
2	2021	EUSPA approved with restrictions, a senior member of the staff taking a new job elsewhere, but without providing justification for these restrictions.	No similar cases were observed in 2022. EUSPA has revised its procedures to address the identified shortcoming.	Closed

## EUSPA's reply

**3.13.9.** The Agency takes note of ECA's observation. EUSPA considers that the discrepancies were justified by the status of the main contractor which is a national public entity and by the checks performed by the latter.

As regards the reference year used for setting the price in the offer, the Agency accepted the deviation in the reference economic conditions set out in the technical specifications (2021) because of the length of the procedure, leading to the conclusion of the contract end of 2022.



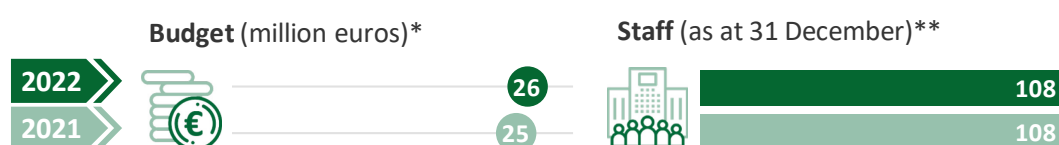
## **Agencies funded under MFF heading 2 – Cohesion, Resilience and Value**

## 3.14. European Centre for the Development of Vocational Training (Cedefop)

### Introduction

**3.14.1.** The European Centre for the Development of Vocational Training (“Cedefop”), which is located in Thessaloniki, was established by Council [Regulation \(EEC\) No 337/75](#), repealed and replaced by [Regulation \(EU\) 2019/128](#). Cedefop fosters the development of vocational training at EU level by compiling and disseminating documentation on vocational training systems. [Figure 3.14.1](#) presents key figures for Cedefop<sup>46</sup>.

**Figure 3.14.1 – Key figures for Cedefop**



\* 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: Annual accounts of Cedefop for the 2021 and 2022 financial years; staff figures provided by Cedefop.

### Information in support of the statement of assurance

**3.14.2.** Our audit approach, the basis for our opinion, the responsibilities of Cedefop’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>46</sup> More information on Cedefop’s role and activities is available on its website: [www.cedefop.europa.eu](http://www.cedefop.europa.eu).

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

### Opinion

#### 3.14.3. We have audited:

- (a) the accounts of the European Centre for the Development of Vocational Training ("Cedefop"), which comprise the financial statements<sup>47</sup> and the reports on the implementation of Cedefop's budget<sup>48</sup> for the financial year ended 31 December 2022, 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

**3.14.4.** In our opinion, Cedefop's accounts for the year ended 31 December 2022 present fairly, in all material respects, Cedefop's financial position as at 31 December 2022, 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.

<sup>47</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>48</sup> The reports on the 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

**3.14.5.** In our opinion, the revenue underlying the accounts of Cedefop for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.14.6.** In our opinion, the payments underlying the accounts of Cedefop for the year ended 31 December 2022 are legal and regular in all material respects.

**3.14.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.14.8.** Between 2017 and 2022, Cedefop paid monthly and daily subsistence allowances to two Greek nationals employed as seconded national experts (SNEs). As Cedefop is located in Greece, the two SNEs were not entitled to these allowances according to the Cedefop's internal rules. When Cedefop identified the issue in 2022, it registered the two cases in the registry of exceptions along with its decision not to claim back the payments made to the two SNEs in the past. In addition, Cedefop introduced a three-month phasing-out period for the SNE still in place at that time. The total associated payments to the two SNEs during the 2017-2022 period, amounting to €222 647, are irregular. The irregular payments for 2022 totaled €36 608.

## Observations on budgetary management

**3.14.9.** Cedefop did not correctly apply the contribution calculation method set out in the Statement on Cedefop/EFTA cooperation in relation to Amendment no. 1 to its budget. As a result, Norway and Iceland's contributions to the 2022 Cedefop budget were higher than they should have been, while the EU's contribution was lower than it should have been. This derogates from Article 3 (2) of Protocol 32 of the Agreement on the European Economic Area concluded between the EU and the EFTA countries.

We note that that an amendment of Protocol 31 on Cooperation in Specific Fields Outside the Four Freedoms, was signed and entered into force as of 1 January 2023. Therefore, as of 2023, Cedefop will receive Norway's and Iceland's contributions to its budget through the EU budget. Consequently, the issue of adjustments of EFTA countries' contributions because of amendments to Cedefop's budget will no longer arise.

## Follow-up of previous years' observations

**3.14.10.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	<p>Weaknesses in Cedefop's recruitment procedures:</p> <p>(a) Lack of clear and detailed guidelines for scoring the pre-selection criteria that could benefit or disadvantage candidates and</p> <p>(b) Remote written tests that took place over several days without mitigating the associated risks.</p>	<p>(a) Human Resources has revamped its role as advisor to the selection boards, improving the guidance provided and its timing. A new tool and methodology have also been developed and applied in the pre-selection phase of the recruitment procedures.</p> <p>(b) All written tests related to a selection procedure take place in parallel.</p>	Closed



## European Centre for the Development of Vocational Training (Cedefop)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
2	2021	<p>Weaknesses in payment management with regards to ex-ante controls:</p> <p>(a) Payment of an invoice without checking the underlying prices and the correct application of the agreed uplift fee,</p> <p>(b) Payment without the receipt of specific declarations required under the contract and</p> <p>(c) delay in grant final payment due to lack of contingency plan for staff absences.</p>	Cedefop adapted its internal procedures to address the weaknesses identified by issuing instructions to the staff and revising their internal checklists.	Closed
3	2021	<p>Weaknesses in transition to ABAC:</p> <p>(a) The final dates of implementation for carried-over budgetary commitments, were not recorded correctly and</p> <p>(b) wrong calculation of late interest due to wrong set of payment deadline.</p>	<p>(a) Similar occurrences were also observed in the carried-forward budgetary commitments from 2022 to 2023. Cedefop corrected where necessary the final date of implementation.</p> <p>(b) Cedefop addressed the issue and there were no occurrences of similar nature in 2022.</p>	Open for (a), Closed for (b)

## Cedefop's reply

**3.14.8.** Cedefop acknowledges that the two Greek Seconded National Experts (SNEs) were not entitled to allowances. It would like however to stress that: a) Cedefop identified and documented this issue in the registry of non-compliance and exceptions in 2022, at its own initiative and well before the audit took place; and b) Cedefop rectified the situation based on the legal analysis and advice sought by its external lawyer. Cedefop intends to amend its rules to make it possible for any SNE that has to change their place of living and relocate to Thessaloniki to be eligible to receive allowances. This would also ensure equal treatment of SNEs independently of their nationality.

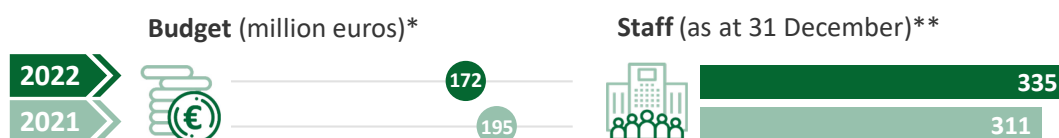
**3.14.9.** Cedefop accepts the finding.

## 3.15. European Centre for Disease Prevention and Control (ECDC)

### Introduction

**3.15.1.** The European Centre for Disease Prevention and Control (“the ECDC”), which is located in Stockholm, was established by [Regulation \(EC\) No 851/2004](#). The ECDC collects and disseminates data on the prevention and control of human diseases and provides scientific opinions on this subject. ECDC also coordinates the European network of bodies operating in this field. [Figure 3.15.1](#) presents key figures for the ECDC<sup>49</sup>.

**Figure 3.15.1 – Key figures for the ECDC**



\* 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: Annual accounts of the ECDC for the 2021 and 2022 financial years; staff figures provided by the ECDC.

### Information in support of the statement of assurance

**3.15.2.** Our audit approach, the basis for our opinion, the responsibilities of the ECDC’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>49</sup> More information on the ECDC’s role and activities is available on its website: [www.ecdc.europa.eu](http://www.ecdc.europa.eu).

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

### Opinion

#### 3.15.3. We have audited:

- (a) the accounts of the European Centre for Disease Prevention and Control ("the ECDC"), which comprise the financial statements<sup>50</sup> and the reports on the implementation of the ECDC's budget<sup>51</sup> for the financial year ended 31 December 2022, 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

**3.15.4.** In our opinion, the ECDC's accounts for the year ended 31 December 2022 present fairly, in all material respects, the ECDC's financial position as at 31 December 2022, 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.

<sup>50</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>51</sup> The reports on the 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**

**3.15.5.** In our opinion, the revenue underlying the accounts of the ECDC for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

#### **Qualified opinion on the legality and regularity of payments underlying the accounts**

**3.15.6.** In our opinion, except for the effects of the matter explained in the ‘Basis for qualified opinion on the legality and regularity of payments underlying the accounts’ paragraph, the payments underlying the accounts of the ECDC for the year ended 31 December 2022 are legal and regular in all material respects.

#### **Basis for qualified opinion on the legality and regularity of payments underlying the accounts**

**3.15.7.** In 2022, the ECDC continued to manage the Health Emergency Preparedness and Response Authority (HERA) incubator grants to 24 national health authorities in the EU/European Economic Area countries. The purpose of these grants was to improve national capacities and laboratory infrastructure, required for identifying and monitoring new variants of the SARS-CoV-2 virus. The total allocation in 2021 amounted to €77 million, of which €60 million had been implemented by the end of 2022.

The beneficiaries were public health authorities, governed by public law, and engaged in activities as public authorities. As established in EU case-law, to determine whether a body governed by public law is engaging in an activity as a public authority, such body has to operate under a special legal regime. This means that the pursuit of such activities involves the use of public powers. In this case, the final decision on which activities would be pursued as part of the member states’ response to the public health crisis was designed and implemented by these authorities, exercising public powers which, as such, cannot be delegated to private actors. Therefore, the beneficiaries were engaging in

## European Centre for Disease Prevention and Control (ECDC)

activities as public authorities and consequently VAT is not an eligible cost under Article 186(4)(c) of the Financial Regulation.

We audited four grant agreements with a total value of €7.9 million. We detected that three of those included VAT to the value of €0.6 million (8.1 %) among the eligible costs.

The estimated total amount of non-compliant expenditure is based on the rate and amount of VAT found in our sample described above. Applied to the total incurred expenditure of €60 million based on the information provided by the ECDC, this represents 2.8 % of the total payment appropriations available in 2022. This exceeds the materiality threshold set for this audit.

## The ECDC's reply

**3.15.7.** Based on ECDC's analysis, VAT is an eligible expense, because the beneficiaries were not acting as public authorities when they undertook the eligible activities under the grant.

For VAT not to be eligible, the activities must be carried out by that body acting as a public authority. *Acting as a public authority* has been defined by the Court of Justice of the European Union as acting in an area where government authorities do not act under the same legal conditions as private actors, and where such action is in accordance with a special legal regime, in the exercise of public powers. It is the way or manner in which the activities are carried out that determines whether such an activity is engaged in as a public authority, not the subject-matter or purpose of said activity.

In the present case, ECDC defined the eligible activities in the grant documents: purchasing of laboratory infrastructure/equipment/reagents/supplies for WGS and RT-PCR, organisational alignment to make use of the purchases, data management and sharing processes, training on use of the equipment, personnel and consultancy.

Surveys undertaken by ECDC and past WGS procurements confirm that the grant activities are undertaken by public and private actors under the same legal conditions. Furthermore, the grants offered the possibility for beneficiaries to include private parties as affiliated entities which some of the beneficiaries did.

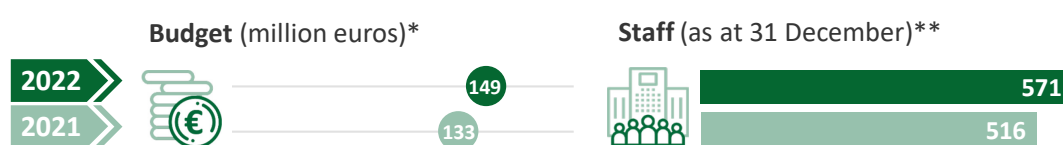
The grant activities did not involve the determination of national public health strategies. The activities under the grant were undertaken in the implementation of national public health strategy. Public and private actors are involved in the implementation of national public health strategy subject to the same legal conditions.

## 3.16. European Food Safety Authority (EFSA)

### Introduction

**3.16.1.** The European Food Safety Authority (“EFSA”), which is located in Parma, was established by [Regulation \(EC\) No 178/2002](#). EFSA supplies the scientific information needed for drafting EU legislation on food and food safety, collects and analyses data to identify and monitor risks, and provides independent information on these risks. [Figure 3.16.1](#) presents key figures for EFSA<sup>52</sup>.

**Figure 3.16.1 – Key figures for EFSA**



\* 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: Annual accounts of EFSA for the 2021 and 2022 financial years; staff figures provided by EFSA.

### Information in support of the statement of assurance

**3.16.2.** Our audit approach, the basis for our opinion, the responsibilities of EFSA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>52</sup> More information on EFSA’s role and activities is available on its website: [www.efsa.europa.eu](http://www.efsa.europa.eu).



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

### Opinion

#### 3.16.3. We have audited:

(a) the accounts of the European Food Safety Authority ("EFSA"), which comprise the financial statements<sup>53</sup> and the reports on the implementation of EFSA's budget<sup>54</sup> for the financial year ended 31 December 2022, 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

**3.16.4.** In our opinion, EFSA's accounts for the year ended 31 December 2022 present fairly, in all material respects, EFSA's financial position as at 31 December 2022, 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.

<sup>53</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>54</sup> The reports on the 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

**3.16.5.** In our opinion, the revenue underlying the accounts of EFSA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.16.6.** In our opinion, the payments underlying the accounts of EFSA for the year ended 31 December 2022 are legal and regular in all material respects.

## Follow-up of previous years' observations

**3.16.7.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2017	There is a need to strengthen the accounting officer's independence by making him directly responsible (administratively) to EFSA's Director.	Recently, EFSA made the accounting officer functionally responsible to the Management Board. It does not intend to make further changes, such as introducing a direct administrative reporting link to EFSA's Director, considering that the formal requirements set by the Financial Regulation to ensure the independence of the accounting officer are already in place.	Closed

European Food Safety Authority (EFSA)

## EFSA's reply

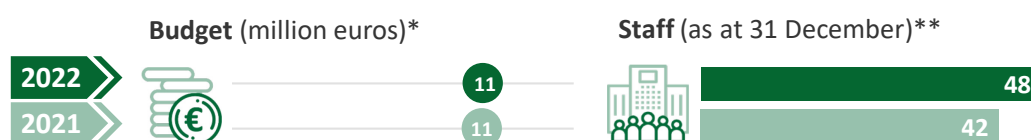
**3.16.4 & 3.16.5** The Authority acknowledges receipt of the clean audit report of the Court of Auditors and EFSA welcomes the unqualified audit opinions on the reliability of the accounts and the legality and regularity of the transactions underlying the accounts.

## 3.17. European Institute for Gender Equality (EIGE)

### Introduction

**3.17.1.** The European Institute for Gender Equality (“EIGE”), which is located in Vilnius, was established by [Regulation \(EC\) No 1922/2006](#). EIGE collects, analyses and disseminates information on gender equality, and develops, evaluates and disseminates methodological tools to support the incorporation of gender equality into all EU policies. [Figure 3.17.1](#) presents key figures for EIGE<sup>55</sup>.

**Figure 3.17.1 – Key figures for EIGE**



\* 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: Annual accounts of EIGE for the 2021 and 2022 financial years; staff figures provided by EIGE.

### Information in support of the statement of assurance

**3.17.2.** Our audit approach, the basis for our opinion, the responsibilities of EIGE’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>55</sup> More information on EIGE’s role and activities is available on its website: [www.eige.europa.eu](http://www.eige.europa.eu).

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

### Opinion

#### 3.17.3. We have audited:

(a) the accounts of the European Institute for Gender Equality (EIGE), which comprise the financial statements<sup>56</sup> and the reports on the implementation of EIGE's budget<sup>57</sup> for the financial year ended 31 December 2022, 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

**3.17.4.** In our opinion, EIGE's accounts for the year ended 31 December 2022 present fairly, in all material respects, EIGE's financial position as at 31 December 2022, 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.

<sup>56</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>57</sup> The reports on the 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

**3.17.5.** In our opinion, the revenue underlying the accounts of EIGE for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.17.6.** In our opinion, the payments underlying the accounts of EIGE for the year ended 31 December 2022 are legal and regular in all material respects.

**3.17.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.17.8.** In two audited payments we found that a cost category ("unforeseen expenditure") not included in the framework contract of €3.7 million had been included in the specific contracts (order forms) and invoices. The total amount paid under this contract in 2022 was €511 296. Of this, €25 571.18 was paid for "unforeseen expenditure" and was therefore irregular.

**3.17.9.** In one audited procurement procedure (negotiated procedure with at least 3 candidates, with a value below €60 000), we established that an offer, sent by the bidder to the functional mailbox of the procurement team, had been lost either by human error or because of an IT malfunction, and had therefore not been taken into account in the remainder of the procedure. Because of this, we conclude that the entire procedure and the resulting contract, as well as any associated payments, are irregular. We note that in 2022, EIGE had not yet made any payments under this contract.

## Observations on management and control systems

**3.17.10.** For a framework contract for event organisation services, EIGE had not disclosed the related earmarked budget appropriations of €3.7 million (around a third of its budget) in the single programming documents for 2021-2023. This undermined budgetary transparency towards EIGE's management board and other stakeholders.

## Follow-up of previous years' observations

**3.17.11.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).



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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	EIGE used a call for expression of interest of external experts to cover areas of expertise (translation) that were not included in the call for expression of interest.	EIGE no longer procures translation services from external experts in fields other than translation.	Closed
2	2021	In a recruitment procedure there were weaknesses that undermined the principles of transparency and equal treatment.	EIGE revised the selection procedure for statutory staff, in order to address the identified weaknesses.	Closed
3	2021	EIGE did not follow the part of its established procedures for selection of seconded national experts.	EIGE adopted a new procedure for the selection of seconded national experts and national experts in professional training (Director's Decision No 267 of 19 October 2022), in which the workflows and procedures for selecting SNEs were clarified and simplified.	Closed
4	2021	In a procurement procedure, all four members of the evaluation committee appointed to evaluate the tenders against the award criteria belonged to the same unit of EIGE.	EIGE clarified the procedures of the evaluation committees in the procurement guidelines and templates. EIGE provided also training on the work of Evaluation Committees to project managers as part of the annual procurement training.	Closed

## EIGE's reply

**3.17.8.** EIGE takes note of the Court's observation. EIGE has introduced a formal amendment to the framework contract. The amendment defines the percentage of the budget and the purpose of usage of unforeseen expenditure.

**3.17.9.** The event was very unfortunate, and the internal control deficiency was promptly registered, assessed and addressed. EIGE took appropriate mitigating measures to prevent similar occurrences in the future.

**3.17.10.** EIGE takes note of the Court's observation and will present the operational framework contracts in the SPD.

## 3.18. European Labour Authority (ELA)

### Introduction

**3.18.1.** The European Labour Authority (“ELA”), which is located in Bratislava, was established by [Regulation \(EU\) 2019/1149](#). ELA ensures that EU rules on labour mobility and social security coordination are enforced fairly, simply, and effectively, making it easier for citizens and businesses to reap the benefits of the internal market. [Figure 3.18.1](#) presents key figures for ELA<sup>58</sup>.

**Figure 3.18.1 – Key figures for ELA**



- \* 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: Annual accounts of ELA for the 2021 and 2022 financial years; staff figures provided by ELA.

ELA gained financial autonomy in May 2021 and the start-up period will last until 2024. Its staff and budget will increase progressively during this period.

### Information in support of the statement of assurance

**3.18.2.** Our audit approach, the basis for our opinion, the responsibilities of ELA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>58</sup> More information on ELA’s role and activities is available on its website: [www.ela.europa.eu](http://www.ela.europa.eu).

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

### Opinion

#### 3.18.3. We have audited:

- (a) the accounts of the European Labour Authority ("ELA"), which comprise the financial statements<sup>59</sup> and the reports on the implementation of ELA's budget<sup>60</sup> for the financial year ended 31 December 2022, 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

**3.18.4.** In our opinion, ELA's accounts for the year ended 31 December 2022 present fairly, in all material respects, ELA's financial position as at 31 December 2022, 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.

<sup>59</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>60</sup> The reports on the 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

**3.18.5.** In our opinion, the revenue underlying the accounts of ELA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.18.6.** In our opinion, the payments underlying the accounts of ELA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.18.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.18.8.** ELA's internal rules require seconded national experts (SNEs) and national liaison officers (NLOs) to reside in Bratislava. SNEs and NLOs receive daily and monthly allowances to cover living expenses in Bratislava. To receive them, they must make a formal declaration that they actually live there, and commit to providing proof of residence on request.

ELA was unable to produce any proof, in response to a request we made, that a certain NLO lived in Bratislava. We therefore conclude that the daily and monthly allowances received by this NLO – which, by the end of 2022, amounted to €83 734, of which €50 700 was paid in 2022 – are irregular.

ELA's ex-ante checks on these declarations are weak: they are based solely on the declarations of the SNEs and NLOs, and not on documentary evidence. There are no ex-post checks. This creates the risk that the amounts ELA pays for these allowances may not be correct. This is a systematic weakness in ELA's management and control systems.

## European Labour Authority (ELA)

**3.18.9.** In a procurement procedure to support ELA's activities in the field of designing, organising and implementing training events, the tender specifications established a maximum contract value at €6 million over four years. ELA awarded the contract to a tenderer whose financial offer was €12.9 million. This contravenes point 12.3 (a) of Annex I to the Financial Regulation, which stipulates that tenders are to be considered unacceptable "when the price of the tender exceeds contracting authority's maximum budget as determined and documented prior to the launch of the procurement procedure".

Based on the above, we conclude that this procurement and the contract award are irregular. No payments associated with this contract were made in 2022.

## Observations on management and control systems

**3.18.10.** We found that ELA had not fully established and formalised its ex-ante checks, and had not set up ex-post checks, in the area of contract implementation. In particular, ELA had authorised payments for translation, event organisation, training and communication without fully verifying key parameters determining the prices to be paid (such as quantity of services provided, compliance with minimum quality requirements, and unit prices applied).

**3.18.11.** At the end of 2022, the proportion of temporary workers (SNEs and interims) at ELA was 58 %. High reliance on temporary workers leads to a regular high staff turnover, entailing the risk of losing expertise (specialised knowledge, contact networks built with stakeholders), which could negatively affect ELA's operational capabilities. A high staff turnover may also impact business continuity.

**3.18.12.** ELA hired an interim agent and a trainee for five months (November 2022 to March 2023) and granted them ABAC access rights allowing them to enter data and initiate operations to support the annual budget closure procedure. The use of interim workers to perform ELA's core financial activities associated with budget implementation contravenes Article 41(1) of ELA's financial rules, which states that only staff members can be delegated the power of budget implementation.

## Observations on budgetary management

**3.18.13.** ELA's budget for 2022 was adopted by the ELA's management board on 17 December 2021, but it was not published in the Official Journal of the European Union (OJEU). This contravenes Article 31 of ELA's financial rules and the principle of transparency it establishes.

## European Labour Authority (ELA)

**3.18.14.** We found that ELA had carried over €21.8 million (65 %) of available 2022 commitment appropriations to 2023. This included €3.4 million (or 79.6 %) of appropriations under Title II, related to administrative expenditure (63.2 % in 2021) and 16.4 million (or 90.6 %) of appropriations under Title III operational expenditure (37.7 % in 2021). Recurrent high rates of carry-overs contradict the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

**Follow-up of previous years' observations**

**3.18.15.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	Absence of complete and updated inventory. Assets with a total value of €73 118 recorded in ABAC Assets and in the inventory record but not labelled nor placed in their assigned locations.	ELA finalised and updated the inventory during 2022.	Closed
2	2021	Lack of formalised ex-ante and ex-post controls based on direct evidence for EURES training activities (contract amount €299 437 and framework contract of €12 million).	ELA has now formalised most ex-ante checks but the situation persisted in 2022 for ex-post checks.	Open
3	2021	ELA has not yet adopted a business continuity plan.	The business continuity plan is under development, and will be finalised during 2023.	Open



## European Labour Authority (ELA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
4	2021	ELA had not yet adopted an appropriate risk management and control strategy nor the charter of the authorising officer or the charter of the authorising officers by sub-delegation or the charter of the accountant.	ELA developed a risk management and control strategy during 2022 and adopted the charters for the authorising officer, authorising officers by delegation and the accountant.	Closed

## ELA's reply

**3.18.8.** ELA acknowledges the observation. In relation to the one case of the audited samples and its complexity, ELA will carefully analyse, evaluate and assess the specific situation and offer corrective action, if needed. From 2023, ELA has strengthened the management and control of the SNE file, especially for ex-ante checks, where all SNEs are asked for proof of residence. ELA will introduce ex-post controls for 2023.

**3.18.9.** ELA acknowledges ECAs observation and already implemented new tender specifications in its recently published open call (ELA/2023/OP/0016: Services - 263146-2023 - TED Tenders Electronic Daily (europa.eu)).

**3.18.10.** ELA acknowledges ECA's observation. ELA is developing, implementing and continuously fine-tuning its internal processes to strengthen the operational and financial ex-ante controls from end 2022 as well as provides trainings to staff. ELA will develop its ex-post methodology in 2023 and introduce ex-post controls via sampling/direct evidence for 2023.

**3.18.11.** ELA is concerned about the high proportion of SNE posts. ELA calls for the conversion of 15 SNEs posts into temporary agents posts (TAs), without the need to increase the budget envisaged in the multiannual financial statement, in order to assure ELAs operational stability, knowledge retention and the effective implementation of ELA's objectives.

**3.18.12.** ELA acknowledges the observation. However, in case of lack of statutory staff and of abnormal workload, ELA must ensure business continuity by exceptionally granting data entry agent and financial initiating agent roles to interim agent/trainee for a limited period, after receiving necessary training and having a supervising verifying agent for all financial transactions.

**3.18.13.** ELA acknowledges the observation. The Budget 2022 was published in the OJEU on 31 May 2023 (2023/C 191/01).

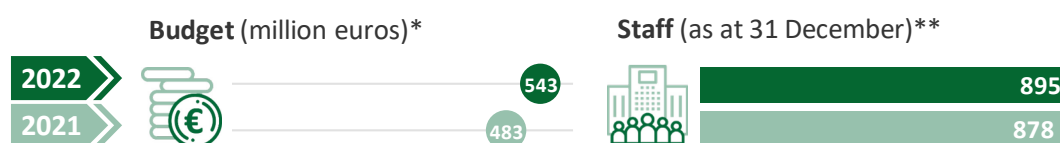
**3.18.14.** ELA acknowledges the observation. At the end of June 2023, more than 80 % of the carried over amounts on administrative budget (Title I and II) are already contracted. On Title III, a significant part of the carry overs come from the high uncertainty related to the EURES portal. Budget planning should be more effective following the adoption of the EURES portal strategy 2023-2030.

## 3.19. European Medicines Agency (EMA)

### Introduction

**3.19.1.** The European Medicines Agency (“the EMA”), which is located in Amsterdam, was established by [Regulation \(EC\) No 726/2004](#). The EMA superseded the European Agency for the Evaluation of Medicinal Products, established in 1993. The EMA operates through a pan-EU network and coordinates scientific resources made available by national authorities to ensure the evaluation, supervision and safety monitoring of medicinal products for human and veterinary use in the EU. [Figure 3.19.1](#) presents key figures for the EMA<sup>61</sup>.

**Figure 3.19.1 – Key figures for the EMA**



\* 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: Annual accounts of the EMA for the 2021 and 2022 financial years; staff figures provided by the EMA.

### Information in support of the statement of assurance

**3.19.2.** Our audit approach, the basis for our opinion, the responsibilities of the EMA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>61</sup> More information on the EMA’s role and activities is available on its website: [www.ema.europa.eu](http://www.ema.europa.eu).

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

### Opinion

#### 3.19.3. We have audited:

(a) the accounts of the European Medicines Agency ("the EMA"), which comprise the financial statements<sup>62</sup> and the reports on the implementation of the EMA's budget<sup>63</sup> for the financial year ended 31 December 2022, 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

**3.19.4.** In our opinion, the EMA's accounts for the year ended 31 December 2022 present fairly, in all material respects, the EMA's financial position at 31 December 2022, 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.

<sup>62</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>63</sup> The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

## Emphasis of matter

**3.19.5.** We draw attention to note 3.1.3, note 4.8.1 and note 4.8.2 to the EMA's accounts, which provide significant disclosures in connection with property-related obligations. The lease on the EMA's former premises in London runs until 2039 and does not contain a break clause, but the premises can be sublet or assigned subject to the landlord's consent. In July 2019, the EMA reached an agreement with its landlord, and sublet its former premises to a subtenant with effect from July 2019, under conditions that are consistent with the terms of the head lease. The term of the sublease lasts until the EMA's lease expires in June 2039. Since the EMA remains a party to the head lease, it could be held liable for the entire amount remaining payable under the contractual obligations of the head lease, if the subtenant fails to meet its obligations. On 31 December 2022, the total estimated outstanding rent, associated services charges and landlord insurance to be paid by the EMA up to the end of the lease term was €366 million.

We note that the EMA and its management board have emphasized the need to resolve this matter at the political level with the European Commission and the European Parliament.

We also draw attention to another element highlighted in note 3.1.3 to the EMA's accounts, namely the uncertainties surrounding the financial performance of the subtenant's ultimate parent company as a result of the deterioration of its credit rating and the recent debt restructuring. On the date that the final accounts were issued, the subtenant had met all contractual obligations and there were no outstanding receivables as at 31 December 2022. Our opinion is not qualified in these matters.

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.19.6.** In our opinion, the revenue underlying the accounts of the EMA for the year ended 31 December 2022 is legal and regular in all material respects.

## Payments

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

**3.19.7.** In our opinion, the payments underlying the accounts of the EMA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.19.8.** The observations which follow do not call the ECA's opinion into question.

## Observations on management and control systems

**3.19.9.** The EMA contributes towards certain types of staff childcare costs, such as pre- and after-school care in the Netherlands. For school meals, we found that EMA was not able to provide full evidence of the checks done to ensure that the costs of school meals were excluded, therefore putting into question whether such checks were systematically carried out.

**3.19.10.** As result of its relocation in 2019, the Agency leased a building in Amsterdam, which was fully fitted and furnished using the Dutch government's €15 million incentive scheme, including the donation of furniture and catering equipment. We found that the EMA had not assigned clear identification (such as labels with bar codes) to some of these assets, mainly furniture. We also noted that four inventory counts the EMA had carried since relocation repeatedly showed discrepancies (which, with time, decreased from €534 331 to €15 000) between the list of assets donated by the Dutch government, the EMA's asset register and the assets found on the premises. The absence of a complete and updated inventory list, specifying the location of tangible assets, goes against Article 87 of the Financial Regulation, and adversely affects the EMA's ability to ensure the safeguarding of its assets.

## Observations on budgetary management

**3.19.11.** For one audited payment of €2 million, the EMA authorised the related budgetary commitment only after the legal commitment was accepted. This goes against Article 73(2) of the EMA Financial Regulation.

## Follow-up of previous years' observations

**3.19.12.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2016/2017/2018	The EMA has been tasked by Parliament and Council with the implementation of the <a href="#">Regulation</a> on Clinical Trials (536/2014), requiring the development and implementation of a major pan-EU IT system. In the absence of the necessary own internal resources, the EMA used consultants to an extent that it became critically dependent on external expertise. There was no adequate control over project development and implementation and project delays and costs escalated.	The Clinical Trials Information System was launched on 31 January 2022, delivering the functionalities required and was further stabilised in preparation for its compulsory use as from 31 January 2023. For the management of its Network Portfolio of IT systems and services, the EMA has put in place a bespoke Agile governance model.	Closed



## European Medicines Agency (EMA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
2	2019	The EMA signed a framework contract with three companies for the supply of temporary workers. The price element of the tender specifications had to include an all-inclusive hourly rate conversion factor applied to the gross hourly remuneration of the temporary workers in specific staff categories. However, the EMA did not provide us with any breakdown of the estimated gross staff cost for the interim workers in each requested staff category. As a result, the EMA was not in a position to evaluate whether the service provider's mark-up or gross profit was reasonable in relation to similar contracts.	In the recently concluded new tender for the supply of temporary workers, the Agency has enhanced the design of the costing sheets and the technical specifications providing a more comprehensive representation of the constituent elements of the price paid to temporary workers' agencies.	Closed
3	2019	The EMA granted an additional travel allowance to its staff for their move from London to Amsterdam premises. The amount was calculated based on the cost of a business-class ticket instead of the economy-class fare. We conclude that the EMA gave little consideration to the principle of economy in calculating the amount of the additional travel allowance.	The exceptional travel social measure ended with applications received by 30 June 2022. There have been no further applications for payments accepted after that date.	Closed

## European Medicines Agency (EMA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
4	2021	<p>Some deficiencies were found in two recruitment procedures mainly related to:</p> <ul style="list-style-type: none"> <li>a- The vacancy notices did not clearly link the selection criteria with the phase of the procedure.</li> <li>b- The evaluation report did not describe how the conflict of interest were handled when appearing.</li> <li>c- The selection committee had opted not to evaluate all the published selection criteria.</li> </ul>	<p>The Agency has developed internal Hiring Manager Guidelines addressing the weaknesses identified. In addition, <a href="#">Career at EMA</a> is a document published on the EMA website, which is publicly available to candidates.</p> <p>A new evaluation report template has been designed, documenting conflicts of interests (if any) and how they have been addressed.</p>	Closed
5	2021	<p>Due to the overestimation of the contract value in a procurement procedure, the EMA set the financial and economic capacity requirement at a level exceeding the limits set in the Financial Regulation.</p>	<p>The Agency updated its internal guidelines for the evaluation of the financial capacity of the tenderers, outlining more clearly the aspects to be taken into consideration with respect to the establishment of an adequate turnover threshold.</p>	Closed

## EMA's reply

**3.19.4.** The European Medicines Agency (“the Agency” or “EMA”) welcomes the positive opinion of the Court on the reliability of the 2022 accounts.

**3.19.5.** The issue of London premises arose due to United Kingdom (UK) unilateral decision to leave the European Union. The topic was initially included in the EU negotiation position but was subsequently dropped. As a result, following the EU institutional approach, the Agency has sought for an alternative solution and has sublet the premises in line with the limits set by the EU budgetary authority. The Agency and its Management Board are concerned that the Agency, instead of focusing its full effort on its mission of protecting and promoting public health, now must also manage commercial property in a third country, diverting its human and financial resources from its public health responsibilities for the EU citizens. This focus of the Agency on this matter and consequently that of the EU institutions will have to be maintained for another 16 years, till 2039. Despite negotiated guarantee measures, the subletting solution is not without risks, magnified by the COVID 19 crisis. It is therefore necessary to manage this topic at the right political level and find a long-term resolution for the Agency.

The Agency is closely monitoring the evolution of this file and may adapt its judgements in the future consistently with this evolution.

At the time the final accounts were issued the subtenant had met all contractual obligations up to 30 September 2023.

**3.19.6.** The Agency welcomes the positive opinion of the Court on the legality and regularity of the revenue underlying the accounts.

**3.19.7.** The Agency welcomes the positive opinion of the Court on the legality and regularity of the payments underlying the accounts.

**3.19.9.** Meals costs are excluded from school fees. Invoices, proof of payments and itemisation of additional charges are checked for each claim to ensure that only eligible costs are included in the calculation. The Agency takes notes of the Court’s observation and will file the evidence that school meal costs are excluded from the calculation of the contribution.

**3.19.10.** The Agency’s inventory has been set up in January 2020 based on an asset value list provided by parties external to EMA. The accuracy of such list has been continuously fine-tuned via cyclical physical checks on the items delivered and installed in the premises. With a view to continuously improving its processes, the Agency will release an updated internal guidance for the management of its assets inventory, adopt a risk-based approach to the labelling of furniture and release a rolling physical checks plan to continuously confirm the accuracy of its inventory.

**3.19.11.** The Agency is putting measures in place to avoid such cases reoccurring.

## 3.20. European Public Prosecutor's Office (EPPO)

### Introduction

**3.20.1.** The European Public Prosecutor's Office ("EPPO"), which is located in Luxembourg, was established by [Regulation \(EU\) 2017/1939](#) to investigate and prosecute offences affecting the EU's financial interests. Currently, 22 EU member states are part of EPPO. [Figure 3.20.1](#) presents key figures for EPPO<sup>64</sup>.

**Figure 3.20.1 – Key figures for EPPO**



- \* 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: Annual accounts of EPPO for the 2021 and 2022 financial years; staff figures provided by EPPO.

EPPO gained financial autonomy in June 2021. The increase of staff and budget results from growth during EPPO's start-up period and from the comparison of a full year in 2022 with a seven-month period in 2021.

### Information in support of the statement of assurance

**3.20.2.** Our audit approach, the basis for our opinion, the responsibilities of EPPO's management and of those charged with governance, and the auditor's responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>64</sup> More information on EPPO's role and activities is available on its website: [www.eppo.europa.eu](http://www.eppo.europa.eu).

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

### Opinion

#### 3.20.3. We have audited:

- (a) the accounts of the European Public Prosecutor's Office ("EPPO"), which comprise the financial statements<sup>65</sup> and the reports on the implementation of EPPO's budget<sup>66</sup> for the financial year ended 31 December 2022, 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

**3.20.4.** In our opinion, EPPO's accounts for the year ended 31 December 2022 present fairly, in all material respects, EPPO's financial position as at 31 December 2022, 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.

<sup>65</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>66</sup> The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

## Emphasis of matter

**3.20.5.** We draw the attention to the Background Information Note of EPPO's accounts stating that the comparative data for 2021 relates to the period from 24 June 2021 to 31 December 2021. This matter does not affect our audit opinion.

**3.20.6.** We draw attention to Note 2.1 to EPPO's accounts, which discloses the transfer of intangible assets to EPPO from the Commission, free of charge. This matter does not affect our audit opinion.

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.20.7.** In our opinion, the revenue underlying the accounts of EPPO for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.20.8.** In our opinion, the payments underlying the accounts of EPPO for the year ended 31 December 2022 are legal and regular in all material respects.

## Follow-up of previous years' observations

**3.20.9.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and /or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	In 2021, 21 % of EPPO's payments were made late. In addition, EPPO relied on interim staff for processing payments.	The proportion of late payments decreased to 5 % in 2022. EPPO continued to use interim staff for processing payments.	Open
2	2021	EPPO has not yet signed a lease agreement for its premises with the host member state, as mentioned in Article 3.2 of the Headquarters Agreement.	The lease agreement was signed in July 2022.	Closed
3	2021	EPPO has not yet established comprehensive internal procedures regarding its organisational structure and the ex-ante controls associated with the operational and financial aspects of its operations.	An internal procedure was established in June 2022 to address the issue.	Closed
4	2021	EPPO has not yet adopted a comprehensive business continuity plan.	A business continuity plan has still not been adopted.	Open
5	2021	In one recruitment procedure, we found no evidence that EPPO had established a minimum number of points that the candidates had to gain in order to be shortlisted before it examined their applications.	In 2022, EPPO implemented, as current practice, the establishment of a minimum number of points in recruitment procedures.	Closed

European Public Prosecutor's Office (EPPO)

## EPPO's reply

The EPPO has taken note of the ECA's report.



## 3.21. European Training Foundation (ETF)

### Introduction

**3.21.1.** The European Training Foundation (“the ETF”), which is located in Turin, was established by Council [Regulation \(EEC\) No 1360/90](#), repealed and replaced by [Regulation \(EC\) No 1339/2008](#). The ETF helps the EU’s neighbouring countries to reform their education and training systems. To do this, it assists the Commission in the implementation of various vocational training programmes. [Figure 3.21.1](#) presents key figures for the ETF<sup>67</sup>.

**Figure 3.21.1 – Key figures for the ETF**



\* 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: Annual accounts of the ETF for the 2021 and 2022 financial years; staff figures provided by the ETF.

### Information in support of the statement of assurance

**3.21.2.** Our audit approach, the basis for our opinion, the responsibilities of the ETF’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>67</sup> More information on the ETF’s role and activities is available on its website: [www.etf.europa.eu](http://www.etf.europa.eu).

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

### Opinion

#### 3.21.3. We have audited:

- (a) the accounts of the European Training Foundation ("the ETF"), which comprise the financial statements<sup>68</sup> and the reports on the implementation of ETF's budget<sup>69</sup> for the financial year ended 31 December 2022, 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

**3.21.4.** In our opinion, the ETF's accounts for the year ended 31 December 2022 present fairly, in all material respects, the ETF's financial position as at 31 December 2022, 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>68</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>69</sup> The reports on the 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**

**3.21.5.** In our opinion, the revenue underlying the accounts of the ETF for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

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

**3.21.6.** In our opinion, the payments underlying the accounts of the ETF for the year ended 31 December 2022 are legal and regular in all material respects.

**3.21.7.** The observations which follow do not call the ECA's opinion into question.

## **Observations on the legality and regularity of transactions**

**3.21.8.** We audited the award of a framework contract for the provision of content support services, for an amount of €1 million, following an open procedure launched in 2021.

To demonstrate their economic and financial capacity, tenderers were required to provide closed and signed accounts showing a turnover of at least €250 000 for the last two financial years (i.e. 2019 and 2020).

We noted that the winning tenderer's turnover for 2019 had not reached the required threshold. However, the ETF had decided not to reject the tenderer on the basis of the higher turnover shown in the 2021 provisional accounts.

The ETF diverted from the technical specifications by accepting provisional accounts for 2021 as a replacement for final accounts for 2019 as proof of the tenderer's economic and financial capacity. We therefore conclude that the evaluation procedure and the resulting contract, are irregular and so are all the related payments, which – in 2022 – amounted to €100 100.

## European Training Foundation (ETF)

**3.21.9.** In another open procurement procedure for in-country support services for an amount of €4 million, the tenderers' financial and economic capacities was to be assessed by two criteria: (1) stable financial position, demonstrated by a set of parameters, including positive net profit; and (2) a yearly turnover of at least €1 million in the last two financial years.

The ETF awarded the contract to a consortium of five non-commercial entities even though none of the members of the consortium had reported any profits in the last two years. In addition, the ETF decided to disregard the turnover requirement – which the winning tenderer did not meet – as non-applicable to non-commercial entities.

We conclude that the ETF applied the selection criteria incorrectly and that the economic and financial capacity of the winning tenderer has not been demonstrated. The evaluation procedure, and the resulting contract, are therefore irregular, as are all the related payments, which – in 2022 – amounted to €70 500.

### Follow-up of previous years' observations

**3.21.10.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2018	In a public procurement procedure for temporary agency services, ETF applied award criteria that consisted of mostly non-competitive price elements. The ETF should use award criteria that focus on competitive price elements.	The contract concerned expired in March 2023.	Open

## The ETF's reply

**3.21.8.** The ETF acknowledges the Court's observation, noting that the purpose of the evaluation made was to assess the overall financial solvency of the tenderer proposed for award. As no potential risks emerged, it was decided to award the contract to the tenderer having the best quality price offer. Following the Court's observation, the ETF will be simplifying its methodology, which will continue to assess the financial reliability of contractors, however making it more tailored to the current financial situation (post pandemic and war).

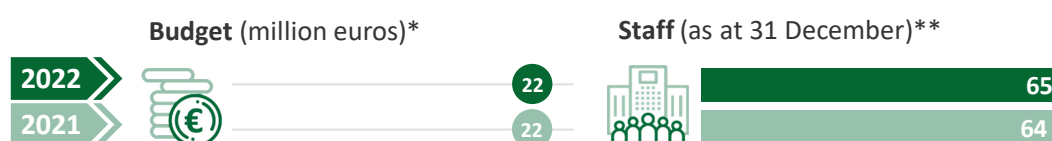
**3.21.9.** The ETF acknowledges the Court's observation. However, the ETF would like to note that its mandate implies operating with the ETF partner countries. This implies that the procurement procedure in question, which was linked to an extra subsidy project, was targeting human capital development in Central Asia and potentially involved the participation of local non-commercial providers in the development and aid sector. Following the Court's observation, the ETF will pursue discussions with the relevant Commission services on possible alternative methods to implement the activities in its partner countries. In parallel, the ETF will be simplifying its methodology on financial assessment to target, where applicable, the non-EU market.

## 3.22. European Agency for Safety and Health at Work (EU-OSHA)

### Introduction

**3.22.1.** The European Agency for Safety and Health at Work (“EU-OSHA”), which is located in Bilbao, was established by Council [Regulation \(EC\) No 2062/94](#), repealed and replaced by [Regulation \(EU\) 2019/126](#). EU-OSHA’s tasks include collecting and disseminating information on national and EU priorities in the field of health and safety at work, and supporting national and EU organisations involved in making and implementing policies in that field. [Figure 3.22.1](#) presents key figures for EU-OSHA<sup>70</sup>.

**Figure 3.22.1 – Key figures for EU-OSHA**



\* 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: Annual accounts of EU-OSHA for the 2021 and 2022 financial years; staff figures provided by EU-OSHA.

### Information in support of the statement of assurance

**3.22.2.** Our audit approach, the basis for our opinion, the responsibilities of EU-OSHA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>70</sup> More information on EU-OSHA’s role and activities is available on its website: [www.osha.europa.eu](http://www.osha.europa.eu).

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

### Opinion

#### 3.22.3. We have audited:

(a) the accounts of the European Agency for Safety and Health at Work (EU-OSHA), which comprise the financial statements<sup>71</sup> and the reports on the implementation of EU-OSHA's budget<sup>72</sup> for the financial year ended 31 December 2022, 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

**3.22.4.** In our opinion, EU-OSHA's accounts for the year ended 31 December 2022 present fairly, in all material respects, EU-OSHA's financial position as at 31 December 2022, 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.

<sup>71</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>72</sup> The reports on the 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

**3.22.5.** In our opinion, the revenue underlying the accounts of EU-OSHA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.22.6.** In our opinion, the payments underlying the accounts of EU-OSHA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.22.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on budgetary management

**3.22.8.** EU-OSHA carried over, from 2022 to 2023, eight provisional commitments amounting to €533 676. Such carry-overs are allowed under Article 12(6) of the EU-OSHA Financial Regulation, where a legal commitment (such as a signed contract) exists at the end of the year. However, by 31 December 2022, EU-OSHA had not signed any contracts corresponding to €109 256 of these provisional commitments. Therefore, the amount of €109 256 should have been de-committed instead of being carried over to 2023.

## Follow-up of previous years' observations

**3.22.9.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	In one open procurement procedure, the members of the evaluation committee signed the declaration of absence of conflicts of interest only after the contract was awarded.	For procedures where a procurement committee is to be appointed, EU-OSHA now uses e-procurement tools which ensure that declarations of absence of conflicts of interest are signed in good time.	Closed

European Agency for Safety and Health at Work (EU-OSHA)

## EU-OSHA's reply

The Agency has taken note of the ECA's report.

## 3.23. European Foundation for the Improvement of Living and Working Conditions (Eurofound)

### Introduction

**3.23.1.** The European Foundation for the Improvement of Living and Working Conditions (“Eurofound”), which is located in Dublin, was established by Council Regulation (EEC) No 1365/75, repealed and replaced by Regulation (EU) 2019/127. Eurofound’s task is to contribute to the planning and establishment of better living and working conditions in the EU by increasing and disseminating knowledge which is relevant to this subject. *Figure 3.23.1* presents key figures for Eurofound<sup>73</sup>.

**Figure 3.23.1 –Key figures for Eurofound**



\* 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: Annual accounts of Eurofound for the 2021 and 2022 financial years; staff figures provided by Eurofound.

### Information in support of the statement of assurance

**3.23.2.** Our audit approach, the basis for our opinion, the responsibilities of Eurofound’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>73</sup> More information on Eurofound’s role and activities is available on its website: [www.eurofound.europa.eu](http://www.eurofound.europa.eu).

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

### Opinion

#### 3.23.3. We have audited:

- (a) the accounts of the European Foundation for the Improvement of Living and Working Conditions ("Eurofound"), which comprise the financial statements<sup>74</sup> and the reports on the implementation of Eurofound's budget<sup>75</sup> for the financial year ended 31 December 2022, 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

**3.23.4.** In our opinion, Eurofound's accounts for the year ended 31 December 2022 present fairly, in all material respects, Eurofound's financial position as at 31 December 2022, 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.

<sup>74</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>75</sup> The reports on the 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

**3.23.5.** In our opinion, the revenue underlying the accounts of Eurofound for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.23.6.** In our opinion, the payments underlying the accounts of Eurofound for the year ended 31 December 2022 are legal and regular in all material respects.

**3.23.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on management and control systems

**3.23.8.** In one procurement procedure for networking services, Eurofound used the professional and language skills of the team members as an award criterion. These skills are part of the selection criteria (i.e. the technical capacity of the tenderer). The lack of a clear distinction between selection criteria, which concern the evaluation of tenderers, and award criteria, which concern the evaluation of the tenders themselves, contravenes Article 167 of the Financial Regulation.

**3.23.9.** We found weaknesses related to Eurofound's traineeship programme. First, the rules governing the traineeship scheme were published on Eurofound's website, but they had not been formally adopted. Second, contrary to these rules, in 2022 Eurofound had failed to update trainees' remuneration in line with the changes to the reference remuneration rates paid by the Commission and the Ireland correction coefficient. As a result, in 2022, Eurofound paid the 16 affected trainees a total of €3 330 less than it should have. This constitutes an internal control weakness and exposes Eurofound to reputational, financial and legal risks.

European Foundation for the Improvement of Living and Working Conditions (Eurofound)

## Follow-up of previous years' observations

**3.23.10.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2019	The procurement for the supply of electricity was irregular. As a result, all subsequent payments associated with this contract are irregular.	The underlying contract expired in June 2021.	Closed



## Eurofound's reply

**3.23.8.** It is accepted that the distinction between selection and award criteria in the mentioned tender could have presented more clearly.

However, the outcome of the procedure was not affected in any way.

To underline the distinction more clearly in the future, the tender templates have been modified accordingly.

**3.23.9.** The omission of a signature on the published rules was an administrative oversight of otherwise transparently communicated rules.

The trainee grant was not thought to be updated automatically since the salary and coefficient changes always take effect retroactively. This could cause difficulties if money needs to be claimed back from trainees who already finished the traineeship in the meantime.

Consequently, the 2023 rules set an absolute amount for the grant rather than linking it to the Commission trainees.

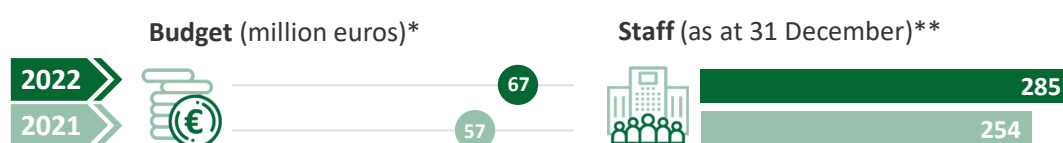
Adjustments were paid to the trainees from October 2022 on.

## 3.24. European Union Agency for Criminal Justice Cooperation (Eurojust)

### Introduction

**3.24.1.** The European Union Agency for Criminal Justice Cooperation (“Eurojust”), which is located in The Hague, was established by [Regulation \(EU\) 2018/1727](#). It superseded a body, also called “Eurojust”, which was established in 2002. Eurojust’s mission is to support the fight against serious organised crime by improving the coordination of cross-border investigations and prosecutions. Eurojust also has the power to collect, preserve and share evidence on war crimes. [Figure 3.24.1](#) presents key figures for Eurojust<sup>76</sup>.

**Figure 3.24.1 – Key figures for Eurojust**



\* 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: Annual accounts of Eurojust for the 2021 and 2022 financial years; staff figures provided by Eurojust.

### Information in support of the statement of assurance

**3.24.2.** Our audit approach, the basis for our opinion, the responsibilities of Eurojust’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>76</sup> More information on Eurojust’s role and activities is available on its website: [www.eurojust.europa.eu](http://www.eurojust.europa.eu).

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

### Opinion

#### 3.24.3. We have audited:

- (a) the accounts of the European Union Agency for Criminal Justice Cooperation ("Eurojust"), which comprise the financial statements<sup>77</sup> and the reports on the implementation of Eurojust's budget<sup>78</sup> for the financial year ended 31 December 2022, 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

**3.24.4.** In our opinion, Eurojust's accounts for the year ended 31 December 2022 present fairly, in all material respects, Eurojust's financial position as at 31 December 2022, 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.

<sup>77</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>78</sup> The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

## Emphasis of matter

**3.24.5.** We draw attention to Note 6.10 to the annual accounts for 2022, which describes the implementation of a new budgetary, accounting and financial system, SUMMA as a pilot for the development of the system for the European Commission. Our opinion is not qualified in respect of this matter.

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.24.6.** In our opinion, the revenue underlying the accounts of Eurojust for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.24.7.** In our opinion, the payments underlying the accounts of Eurojust for the year ended 31 December 2022 are legal and regular in all material respects.

**3.24.8.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.24.9.** In our [2020 report on EU agencies](#) (paragraph 3.27.9), we concluded that a framework contract for vehicle leasing with a single economic operator was not appropriate for the nature of the services required. The specific contract awarded as the outcome of the procedure, as well as all the related payments, was therefore irregular. In 2022 Eurojust paid €59 281 under this contract.

## Observations on management and control systems

**3.24.10.** The Commission has decided to replace its central budgetary and accounting system, ABAC, by 1 January 2025, with a new system, named SUMMA. In December 2018, DG BUDG asked Eurojust, alongside two other agencies (CINEA and ERA), to participate in the development of SUMMA as a pilot. From the 2022 financial year, Eurojust has been using SUMMA to manage its budget.

Eurojust did not update its risk management and control strategy to cover risks linked to the implementation of the SUMMA system, which contravenes Article 36(4)(a) of the Financial Regulation. In addition, Eurojust did not update its financial circuits and the ex-ante and ex-post checks strategy to align them to the changes introduced by the SUMMA implementation.

Eurojust's SUMMA user management system is managed by DG BUDG, which is in charge of granting and removing rights of SUMMA users based on the information provided by Eurojust. This process is not yet formally structured, and Eurojust does not specifically check the rights that have been attributed to a user. This constitutes a risk that the user roles in SUMMA may not be correctly assigned and updated, in line with the provisions of Article 36 (3) (a) of the Financial Regulation. SUMMA also does not yet feature an adequate user profile for auditors.

## Observations on budgetary management

**3.24.11.** According to its data, in 2022 Eurojust did not comply with the time limits for payments stipulated in Article 116 of the Financial Regulation for 1222 out of the total of 2308 payments (52.9 %). In 720 of all cases (31.5 %), payments were late by more than 30 days. This weakness, which Eurojust attributes to the implementation of SUMMA, exposes Eurojust to financial and reputational risk, and goes against the principle of economy.

## Follow-up of previous years' observations

**3.24.12.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2020	In our <a href="#">2020 report</a> , we concluded that a procurement procedure for leasing of vehicles was irregular. As a result, all subsequent payments made based on this framework contract are irregular.	Eurojust has not issued any subsequent specific contracts under this framework contract. The contract is due to expire in 2024.	Open

## Eurojust's reply

**3.24.10.** The agency did not register SUMMA as a risk for 2022 as it did not intend for the system to go live. This has been correctly rectified for 2023. As SUMMA is still in a Pilot phase, the agency did not update its financial circuits and the ex-ante and ex-post checks strategy.

When introducing SUMMA Eurojust requested access rights based on the ones introduced in ABAC. The user rights were replicated and no other changes were introduced.

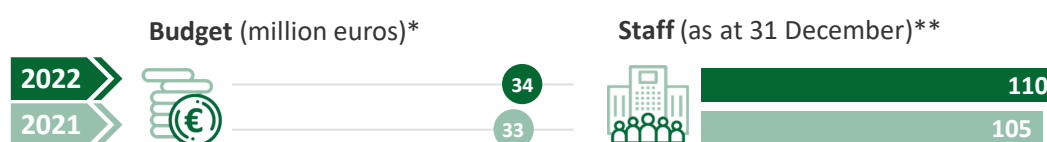
**3.24.11.** The general reason for the increase of late payments in 2022 is that this was a particularly difficult year for the budgetary management in Eurojust. A new budgetary and financial system, SUMMA, was rolled out. The system has been in a pilot phase and there were delays and technical difficulties in processing the transactions. This impacted the training of EJ staff and created some challenges on the budgetary management. Despite the increased amount of late payments Eurojust did not pay any late interest.

## 3.25. European Union Agency for Fundamental Rights (FRA)

### Introduction

**3.25.1.** The European Union Agency for Fundamental Rights (“the FRA”), which is located in Vienna, was established by Council [Regulation \(EC\) No 168/2007](#). The FRA provides assistance and expertise in implementing EU law related to fundamental rights to EU and member state authorities. [Figure 3.25.1](#) presents key figures for the FRA<sup>79</sup>.”

**Figure 3.25.1 – Key figures for the FRA**



\* 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: Annual accounts of the FRA for the 2021 and 2022 financial years; staff figures provided by the FRA.

### Information in support of the statement of assurance

**3.25.2.** Our audit approach, the basis for our opinion, the responsibilities of the FRA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>79</sup> More information on the FRA’s role and activities is available on its website: [www.fra.europa.eu](http://www.fra.europa.eu).



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

### Opinion

#### 3.25.3. We have audited:

(a) the accounts of the European Union Agency for Fundamental Rights ("the FRA"), which comprise the financial statements<sup>80</sup> and the reports on the implementation of the FRA's budget<sup>81</sup> for the financial year ended 31 December 2022, 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

**3.25.4.** In our opinion, the FRA's accounts for the year ended 31 December 2022 present fairly, in all material respects, the FRA's financial position as at 31 December 2022, 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.

<sup>80</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>81</sup> The reports on the 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

**3.25.5.** In our opinion, the revenue underlying the accounts of the FRA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.25.6.** In our opinion, the payments underlying the accounts of the FRA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.25.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on budgetary management

**3.25.8.** We found that the FRA had carried over €6.4 million (26 %) of available 2022 commitment appropriations to 2023. This included €5.9 million (or 74 %) of appropriations under Title III, related to operational expenditure (74 % in 2021). Recurrent high rates of carry-overs contradict the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

## Follow-up of previous years' observations

**3.25.9.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2018 / 2021	Recurrent high rates of carry-overs related to operational activities (Title III)	High levels of carry-overs in Title III still occur (see paragraph 3.25.9)	Open

## The FRA's reply

**3.25.8.** The specific frame in which the Agency works, makes it difficult to commit Operational expenditure (T3) much earlier in the year. Some efforts have been deployed, such a closer monitoring and an early estimation of the carry overs for next year (C8), both thanks to an enhancement to the used IT tool (MATRIX). Other initiatives will be assessed in the coming future. Nevertheless, the Agency has a very good budget implementation: outturn higher than 99 % in the last ten years (i.e., less than 1 % of cancelled appropriations).



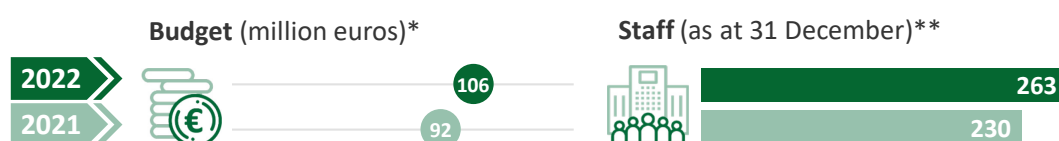
## **Agencies funded under MFF heading 3 – Natural Resources and Environment**

## 3.26. European Environment Agency (EEA)

### Introduction

**3.26.1.** The European Environment Agency (“the EEA”), which is located in Copenhagen, was established by Council [Regulation \(EEC\) No 1210/90](#), repealed and replaced by [Regulation \(EC\) No 401/2009](#). In collaboration with a partner network, the EEA is responsible for providing the Commission, the Parliament, the member states and, more generally, the public with reliable information on the state of Europe’s environment, climate change and sustainability issues. [Figure 3.26.1](#) presents key figures for the EEA<sup>82</sup>.

**Figure 3.26.1 – Key figures for the EEA**



\* 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: Annual accounts of the EEA for the 2021 and 2022 financial years; staff figures provided by the EEA.

### Information in support of the statement of assurance

**3.26.2.** Our audit approach, the basis for our opinion, the responsibilities of the EEA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>82</sup> More information on the EEA’s role and activities is available on its website: [www.eea.europa.eu](http://www.eea.europa.eu).

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

### Opinion

#### 3.26.3. We have audited:

(a) the accounts of the European Environment Agency ("the EEA"), which comprise the financial statements<sup>83</sup> and the reports on the implementation of the EEA's budget<sup>84</sup> for the financial year ended 31 December 2022, 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

**3.26.4.** In our opinion, the EEA's accounts for the year ended 31 December 2022 present fairly, in all material respects, the EEA's financial position as at 31 December 2022, 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.

<sup>83</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>84</sup> The reports on the 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

**3.26.5.** In our opinion, the revenue underlying the accounts of the EEA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.26.6.** In our opinion, the payments underlying the accounts of the EEA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.26.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.26.8.** In our [2021 report](#), we concluded that the use of a negotiated procedure without prior publication to amend a framework contract by doubling the initial budget to €1 million was irregular. As a result, all subsequent payments made in connection with this procedure are irregular. The contract expired in December 2022. The associated 2022 payments amounted to €470 660.

## Follow-up of previous years' observations

**3.26.9.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).



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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	The Agency amended a framework contract for the provision of building repair and maintenance services by doubling its value. We considered the amendment irregular, and consequently, all subsequent specific contract and payments under the amendment are also irregular (see paragraph 3.26.9).	The contract expired in 2022. The irregular payments in 2022 amounted to €470 660 (see paragraph 3.26.8).	Closed
2	2021	In relation to an extension of a framework contract for the provision of canteen and catering services beyond the permitted four-year duration, the Agency did not file an exception note in the central register as required by its internal control standards.	The contract expired in 2022.	Closed
3	2021	In relation to a service contract for the provision of the Geographic Information System support services, the Agency amended the contract retroactively without documenting and filing the non-compliance event in the central register of exceptions.	In 2022, the Agency has strengthened the process concerning the identification, approval and filing of exceptions.	Closed

## European Environment Agency (EEA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
4	2021	For one audited payment in relation to a framework contract for the provision of IT services, we noted weaknesses in the ex ante verifications of the scope and nature of services rendered.	The Agency has taken corrective action, and started to request relevant information from the contractor (detailed budget breakdown with justifications, as well as CVs, and timesheets).	Closed

European Environment Agency (EEA)

## EEA's reply

**3.26.8.** The EEA confirms the payments made in 2022 under the framework contract in question. In the meantime the Agency has awarded a new framework service contract for the provision of building repair, maintenance and refurbishment services for a total estimated value of € 2.2 million.

## 3.27. European Fisheries Control Agency (EFCA)

### Introduction

**3.27.1.** The European Fisheries Control Agency (“EFCA”), which is located in Vigo, was established by Council [Regulation \(EC\) No 768/2005](#), repealed and replaced by [Regulation \(EU\) 2019/473](#). EFCA’s main task is to coordinate the member states’ fisheries control, inspection and surveillance activities to ensure that the rules of the common fisheries policy are applied effectively and uniformly. [Figure 3.27.1](#) presents key figures for EFCA<sup>85</sup>.

**Figure 3.27.1 – Key figures for EFCA**



\* 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: Annual accounts of EFCA for the 2021 and 2022 financial years; staff figures provided by EFCA.

The increase in budget and staff numbers is mainly explained by EFCA’s additional tasks related to the implementation of the Trade and Cooperation Agreement with the UK.

### Information in support of the statement of assurance

**3.27.2.** Our audit approach, the basis for our opinion, the responsibilities of EFCA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>85</sup> More information on EFCA’s role and activities is available on its website: [www.efca.europa.eu](http://www.efca.europa.eu).

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

### Opinion

#### 3.27.3. We have audited:

(a) the accounts of the European Fisheries Control Agency (EFCA), which comprise the financial statements<sup>86</sup> and the reports on the implementation of EFCA's budget<sup>87</sup> for the financial year ended 31 December 2022, 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

**3.27.4.** In our opinion, EFCA's accounts for the year ended 31 December 2022 present fairly, in all material respects, EFCA's financial position as at 31 December 2022, 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.

<sup>86</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>87</sup> The reports on the 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

**3.27.5.** In our opinion, the revenue underlying the accounts of EFCA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.27.6.** In our opinion, the payments underlying the accounts of EFCA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.27.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.27.8.** In 2022, the EFCA signed a framework contract to the value of €90 million for chartering three vessels, with an initial duration of 24 months, to be tacitly renewed four times, each time for additional 12 months, up to six years in total. Annex 1 point 1.1 of the Financial Regulation allows framework contracts with a duration of more than four years, but only in exceptional, duly justified cases. EFCA justified the longer contract by the need to ensure an adequate return on investment to contractors, who were required to fit out the vessels with rigid-hull inflatable boats. We found this justification to be insufficient, because the fit-out costs were estimated at around only 1 % of the total value of the contract. In addition, EFCA retained the option to terminate the contract unilaterally after the first two years and after each subsequent year, which undermines the argument that the contractor needed a guaranteed six-year contract duration to secure return on investment. If the contract is extended beyond the four-year limit, we will consider subsequent associated payments irregular.

## Observations on management and control systems

**3.27.9.** In May 2022, EFCA launched a negotiated procedure without prior publication of a contract notice for the lease of offshore patrol vessel to be used in the waters between the EU and the UK. In June 2022, it signed a contract for the lease of an offshore patrol vessel, in order to bridge the gap between the expiry of a previous contract and the entry into force of a new contract (for three vessels) under an ongoing open procedure which had lasted longer than initially expected. EFCA justified the negotiated procedure by extreme urgency brought about by unforeseeable events not attributable to the contracting authority, which is an exception permitted by point 11.1 (c) of Annex I to the Financial Regulation. We concluded that, while some of the factors which produced this urgency may not have been foreseeable, some others were. The fact that they were not adequately taken into account indicates a weakness in EFCA's planning and its management of the procurement for chartering the three vessels.

**3.27.10.** We found that the procedures used for selecting and contracting external experts systematically lacked an adequate audit trail required under Article 36(3) of the Financial Regulation. Specifically, we were unable to obtain sufficient evidence that experts were assigned to tasks based on pre-defined selection criteria pertaining to their relative merits, and that the principles of non-discrimination and equal treatment set out in Article 237 of the Financial Regulation were adhered to.

## Observations on budgetary management

**3.27.11.** We found that EFCA had carried over €11.9 million (41 %) of available 2022 commitment appropriations to 2023. This included, €1.6 million (or 53 %) of appropriations under Title II, related to administrative activities (34 % in 2021), and €10.1 million (or 63 %) of appropriations under Title III, related to operational activities (42 % in 2021). High rates of carry-overs contradict the budgetary principle of annuality.

## EFCA's reply

**3.27.8.** EFCA takes note of the ECA's observation. When preparing the procedure, the Agency considered that a normal four-year contract duration may not have been perceived by the market as providing sufficient return on investment. The successful delivery and continuity of the service subject of the related FWC is critical for the core operations of EFCA. This service needs to be provided with special equipment to guarantee the safety and wellbeing of the staff and experts participating in the fisheries control activity.

**3.27.9.** In 2021, in view of the launch of the open call for the next FWC for chartering services, and due to the potential issues identified related to the Brexit, EFCA contracted a market research report. The specifications provided by EFCA for this report were clearly related to the analysis of the EU market and identifying potential risks in pursuing only EU contractors of the shipping industry. In addition, the main reason of the delay in the award of the framework contract for chartering services, and therefore what triggered the launch of this NP, was related to the nature and legal status of one of the offers submitted.

**3.27.10.** The Agency has taken note of the ECA's observation and has put in place corrective action to address the issue.

**3.27.11.** The high carry forwards of 2022 are the consequence of very particular circumstances which are not expected to be repeated.





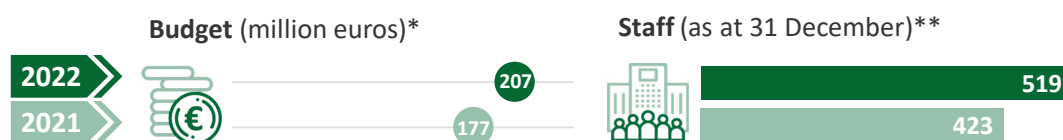
## **Agencies funded under MFF heading 4 – Migration and Border Management**

## 3.28. European Union Agency for Asylum (EUAA)

### Introduction

**3.28.1.** The European Union Asylum Support Office (“the EUAA”), which is located in Valletta, was established by [Regulation \(EU\) No 2021/2303](#). The EUAA superseded the European Asylum Support Office (“EASO”), established in 2010. It has regional offices in Cyprus, Greece, Italy and Spain. The EUAA’s main task is to support member states in applying the package of EU laws that governs asylum, international protection and reception conditions, known as the Common European Asylum System. In 2022, the EUAA had 14 operating plans signed with member states in place. The ultimate aim of the EUAA’s work is the harmonisation of asylum practices across the EU, in line with EU obligation. [Figure 3.28.1](#) presents key figures for the EUAA<sup>88</sup>.

**Figure 3.28.1 – Key figures for the EUAA**



\* 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: Annual accounts of the EUAA for the 2021 and 2022 financial years; staff figures provided by the EUAA.

The increase in budget and staff numbers is mainly explained by EUAA’s additional tasks related to the implementation of the Common European Asylum System (CEAS).

### Information in support of the statement of assurance

**3.28.2.** Our audit approach, the basis for our opinion, the responsibilities of the EUAA’s management and of those charged with governance, and the auditor’s responsibilities for the

<sup>88</sup> More information on the EUAA’s role and activities is available on its website: [www.euaa.europa.eu](http://www.euaa.europa.eu).

## European Union Agency for Asylum (EUAA)

audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

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

### Opinion

#### 3.28.3. We have audited:

- (a) the accounts of the European Union Agency for Asylum ("the EUAA"), which comprise the financial statements<sup>89</sup> and the reports on the implementation of the EUAA's budget<sup>90</sup> for the financial year ended 31 December 2022, 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

**3.28.4.** In our opinion, the EUAA's accounts for the year ended 31 December 2022 present fairly, in all material respects, the EUAA's financial position as at 31 December 2022, 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.

<sup>89</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>90</sup> The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

## Emphasis of matter

**3.28.5.** We draw attention to note 3.6.2 to the accounts, “War in Ukraine”, which describes the impact of the Russian war of aggression against Ukraine on the EUAA’s operations.

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.28.6.** In our opinion, the revenue underlying the accounts of the EUAA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.28.7.** In our opinion, the payments underlying the accounts of the EUAA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.28.8.** The observations which follow do not call the ECA’s opinion into question.

## Observations on legality and regularity of transactions

**3.28.9.** In our report for the 2017 and 2020 financial years, we concluded that the procurement procedures (for €2.1 million in total) for rented premises in Lesbos and Rome were irregular due to insufficient competition and non-respect of the principle of economy. As a result, all subsequent payments made in connection with these procedures are irregular. In 2022, the associated payments amounted to €281 095.

**3.28.10.** We audited a purchase of 150 laptops for €161 524 under a contract for the provision of IT equipment. We noted that that the agency had purchased the laptops from the provider's online catalogue instead of from the pre-approved pricelist included with the financial and technical offers. The purchased laptops were of the same brand, with similar technical specifications, but more expensive. A further 12 % uplift was applied to the already more expensive prices from the online catalogue. This led to a purchase being made which was €49 224 (44 %) more expensive than it would have been if it had been based on the pre-approved pricelist.

The contractual provisions do not forbid the EUAA to purchase replacement items from the online catalogue, but limit such purchases to the price for the corresponding item as listed in the contractor's initial bid. We therefore consider the amount of €49 224 irregular.

## Observations on management and control systems

**3.28.11.** The EUAA's internal rules specify that sub-delegations of financial authority will be renewed as soon as a new authorising officer by delegation has been nominated. We found three cases of sub-delegations that required reconfirmation in April 2021, but had not been reconfirmed until February 2022, when the situation was rectified.

## Observation on budgetary management

**3.28.12.** Schengen associated countries co-finance some of the EUAA's activities. Their share of the EUAA's budget for these activities is based on the proportion of the size of their economies (expressed as either GDP or GNI) to the size of the EU economy. However, the agreements between the EU and these countries which serve as legal basis for calculating their contributions to EUAA's budget, are unclear and allow divergent interpretations.

We consider EUAA's interpretation flawed, because it leads to Schengen associated countries contributing around €0.7 million (7 %) less to the EUAA's budget for the activities in question than the size of their economies, in relation to the size of the EU economy, would dictate. This distortion of proportionality is caused by the fact that the EUAA calculates the contributions of each Schengen associated country by dividing the size of that country's economy over the combined size of the economies of the EU and all Schengen associated countries taken together, and then by multiplying that fraction, or 'contribution ratio', by the EU budget's subsidy for the EUAA's activities concerned (and not by the whole EUAA's budget for these activities, including both the share of the EU budget and of the Schengen associated countries).

## Follow-up of previous years' observations

**3.28.13.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2017	In its 2017 audit report financial year, the ECA concluded that the procurement procedures for EASO's rented premises in Lesbos were irregular. As a result, all subsequent payments on this contract are irregular.	The rental contract for the Lesbos premises ended on 30 April 2023.	Open
2	2018	EASO should establish effective financial ex-post controls.	The EUAA carried out an ex-post control exercise in 2022, covering the 2020 and 2021 financial years. The implementation of the corresponding corrective actions is still underway.	Open
3	2020	The procurement procedure used for the rented premises in Rome was irregular. As a result, all subsequent payments under these contracts are irregular.	The EUAA terminated the contract for its premises in Rome with effect from 31 July 2023.	Open

## European Union Agency for Asylum (EUAA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
4	2020	A high number of management posts are vacant, of these many had been occupied on an acting basis for more than one year. This is at odds with the <a href="#">Staff Regulations</a> , which limits the duration of temporary management appointments to one year. This precarity at the level of managerial positions may impair EASO's leadership and its strategic continuity.	As at 31 December 2022, the number of temporary managers was seven, of whom two had held their position for more than one year.  As from October 2022 until mid-January 2023, the EUAA stopped renewing those temporary postings that were set to expire after one year, and discontinued the practice altogether in January 2023.	Closed
5	2020	EASO has not updated its policy for the management and prevention of conflict of interest.	The update of the policy for the management and prevention of conflict of interest was carried out in 2022 and approved by Management Board in January 2023.	Closed



## The EUAA's reply

**3.28.9.** The Agency takes note of the observation.

**3.28.10.** The Agency takes note of the observation. The decision to purchase the ICT supplies in question was determined by the operational needs and urgency as well as limited market availability of IT supplies caused by the global chip shortage crisis. Adequate controls have been defined to provide reasonable assurance that in future, purchase replacement items from the online catalogue will be limited to the price for the corresponding item as listed in the contractor's initial bid.

**3.28.11.** The Agency takes note of the observation.

**3.28.12.** The Agency understands the reasoning behind ECA's observation and acknowledges that the arrangements between the EU and the associated countries may be considered ambiguous and open to interpretation. However, the Agency considers that its approach is in line with the legal provisions.

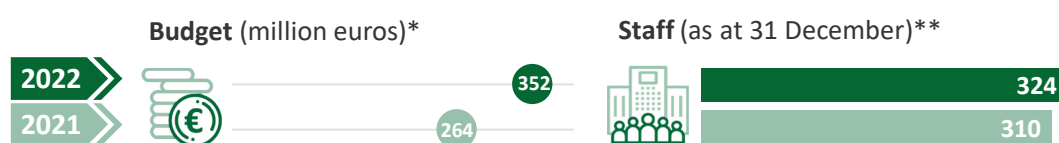
## 3.29. European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

### Introduction

**3.29.1.** The European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (“eu-LISA”), which is located in Tallinn, Strasbourg and St Johann im Pongau, was established by [Regulation \(EU\) 2018/1726](#). eu-LISA superseded the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, established in 2011. eu-LISA’s mandate covers the development and operational management of the Entry/Exit System for non-EU nationals and the European Travel Information and Authorisation System. eu-LISA’s core mission is to fulfil the operational management tasks for the second-generation Schengen Information System, the Visa Information System and the European system for the comparison of fingerprints.

[Figure 3.29.1](#) presents key figures for eu-LISA<sup>91</sup>.

**Figure 3.29.1 – Key figures for eu-LISA**



\* 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: Annual accounts of eu-LISA for the 2021 and 2022 financial years; staff figures provided by eu-LISA.

<sup>91</sup> More information on eu-LISA’s role and activities is available on its website: <https://www.eulisa.europa.eu>.

## European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

The increase in budget and staff members is mainly justified by eu-LISA's additional tasks related to the management of new large-scale IT systems and the interoperability of IT systems.

### Information in support of the statement of assurance

**3.29.2.** Our audit approach, the basis for our opinion, the responsibilities of eu-LISA's management and of those charged with governance, and the auditor's responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

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

## Opinion

**3.29.3.** We have audited:

- (a) the 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"), which comprise the financial statements<sup>92</sup> and the reports on the implementation of eu-LISA's budget<sup>93</sup> for the financial year ended 31 December 2022, 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).

<sup>92</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>93</sup> The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

## Reliability of the accounts

### Opinion on the reliability of the accounts

**3.29.4.** In our opinion, eu-LISA's accounts for the year ended 31 December 2022 present fairly, in all material respects, eu-LISA's financial position as at 31 December 2022, 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.

### Emphasis of matter

**3.29.5.** We draw attention to Note 2.1.5.3 to the annual accounts for 2022, which describes the delays in the implementation of the Entry/Exit System and its impact on eu-LISA operations.

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.29.6.** In our opinion, the revenue underlying the accounts of eu-LISA for the year ended 31 December 2022 is legal and regular in all material respects.

## Payments

### Qualified opinion on the legality and regularity of the payments underlying the accounts

**3.29.7.** In our opinion, except for the effects of the matters described in the ‘Basis for qualified opinion on the legality and regularity of payments underlying the accounts’ paragraphs, the payments underlying the accounts of eu-LISA for the year ended 31 December 2022 are legal and regular in all material respects.

### Basis for qualified opinion on the legality and regularity of payments underlying the accounts

**3.29.8.** We audited 26 eu-LISA payments. Of these, six, related to five framework contracts, were irregular. We also identified other 2022 payments linked to three specific contracts which we found irregular in our [2021 report](#). The total amount of affected expenditure is €17.8 million. This represents 4.8 % of the total payment appropriations available in 2022, which exceeds the materiality threshold set for this audit. Because of similar observations, we qualified our opinion on the legality and regularity of eu-LISA’s payments in 2020 and 2021.

**3.29.9.** eu-LISA used a specific contract for fixed price elements to purchase hardware either not covered by the associated framework contract or priced 23 % higher than the corresponding items in the framework contract. This constitutes a substantial deviation from the framework contract. Consequently, the associated 2022 payments, corresponding to the increase in price of the fixed price element, which amounted to €2.9 million, are irregular.

**3.29.10.** For another specific contract for custom development and testing related to the EES, eu-LISA concluded an amendment to raise the contract value by €3.6 million. However, in line with the associated framework contract, the specific contract in question was for a fixed price, therefore such a change was not allowed. Consequently, the 2022 payment, to the value of €0.9 million, related to these additional services is irregular.

**3.29.11.** eu-LISA acquired software licences and paid upfront maintenance for 36 months. However, the contract stated that “yearly licence fees and maintenance fees may be invoiced per calendar year and in advance for the whole year”, and that, “in exceptional cases and subject to prior approval of the contracting authority, the licence fees, maintenance fees or maintenance related costs may be invoiced for more than one calendar year and in advance for the whole period.” eu-LISA did not provide the contractor with prior approval for invoicing for more than one calendar year, so we

consider the payment in advance of 24 months of maintenance, with a total value of €0.2 million, to be irregular.

**3.29.12.** In 2016, eu-LISA signed a specific contract for the provision of programme management services for a period of one year, in line with the provisions of the associated framework contract. Through subsequent amendments, eu-LISA extended the duration of the contract by 67 months, while the terms of the framework contract only allowed a total duration of services of 48 months. We consider that the specific contract substantially deviates from the framework contract and is thus irregular. The 2022 payments of €2.8 million which relate to the extension beyond the initial 48 months are therefore irregular.

**3.29.13.** In our [2021 report](#), we raised an observation on procurement related to large-scale IT systems. We concluded that a specific contract of €40 million was irregular: it did not properly implement the associated framework contract because it did not specify the details of the services acquired (quantities, date of deliveries). In paragraph 2.16, Box 2.1 and paragraph 3.29.8 of that report we commented on the budgetary pressure which contributed to eu-LISA's decision to conclude this specific contract in a generic form. In 2022 eu-LISA paid €7.5 million under this contract. These payments are irregular.

**3.29.14.** In our [2021 report](#), we raised an observation on the procurement for maintenance of the common shared infrastructure. For a specific contract that included a fixed part and a variable part, while the fixed part corresponded to the price of the framework contract, the variable part was nearly ten times higher. After an amendment to the specific contract, the variable part was more than 22 times higher than the initial amount of the framework contract. We concluded that the specific contract fundamentally deviated from the framework contract, and that no amendments had been made to the associated framework contract. As a result, the specific contract was non-compliant with the framework contracts, as were the associated payments. In 2022 eu-LISA paid €3.0 million in connection with this irregular amendment.

**3.29.15.** In our [2021 report](#), we raised an observation on procurement for another specific contract related to fixed price elements. The value of the contract, €1.8 million was in line with the value in the framework contract. Subsequently, eu-LISA signed an amendment to the specific contract and increased the amount to €2.2 million. We concluded that the specific contract fundamentally deviated from the framework contract, and that no amendments had been made to the framework contract. As a result, the specific contract was non-compliant with the framework contracts, as were the associated payments. In 2022 eu-LISA paid €0.4 million related to this irregular amendment.

**3.29.16.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.29.17.** eu-LISA decided to award a contract in connection with the Visa Information System using a negotiated procedure without prior publication of a contract notice. It justified this decision on the grounds of extreme urgency. eu-LISA decided to use this type of procedure against the advice of its own procurement service and legal service.

We concluded that the use of this procedure was not justified, and that an ordinary procedure could have been used. eu-LISA had been aware of the issue with the transition from the previous contract at least since 2021, when a negotiated procedure for similar services was launched and cancelled. The fact that the use of a negotiated procedure without previous publication of a contract notice and with a single contractor was not properly justified means that the resulting framework contract and specific contract are irregular, as are all associated payments. According to information obtained from eu-LISA, no payments were made under this contract in 2022.

## Observation on management and control systems

**3.29.18.** Under a contract with an IT reseller, eu-LISA acquired hardware to the value of €27.7 million. According to the terms of the contract, the reseller should have provided eu-LISA with the price list of the hardware vendors. The contract stipulates that the price to be paid by eu-LISA is the vendor's price minus a pre-defined discount plus a mark-up for the reseller. We found that eu-LISA had not obtained the price lists of the hardware vendors from the reseller and had not performed ex-ante checks.

**3.29.19.** The procurement of a transversal operations framework contract, with an estimated total value of €490 million, was divided in two lots. eu-LISA appointed two evaluation committees, each with 33 members. We consider that such a high number of members dilutes their individual responsibility. In addition, we noted that for six meetings of the evaluation committee no records of meetings had been kept, and only the final report had been signed.

## Observation on budgetary management

**3.29.20.** We found that the eu-LISA had carried over €14.4 million (23 %) of available 2022 commitment appropriations to 2023. This included €13.7 million (or 95 %) of appropriations under Title II, related to administrative expenditure (97 % in 2021). Recurrent high rates of carry-overs contradict the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

## Follow-up of previous years' observations

**3.29.21.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).



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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2017	eu-LISA currently manages three separate, non-integrated large-scale IT systems, all dealing with data in the EU's policy area of freedom, security and justice. Such an approach may prevent eu-LISA from achieving economies of scale and synergies between the different systems.	The interoperability project started in August 2021. The full implementation of the transversal operational and sourcing model, planned for the end of 2023, will provide the conditions for achieving economies of scale and synergies between the systems.	Open
2	2018	Budget implementation was less than planned. eu-LISA, together with the Commission, should improve alignment of budgetary planning with the timing of the related legal acts.	This underlying problem, which is not within eu-LISA's control, has not been resolved yet.	Open
3	2021	For a procurement for related to large-scale IT systems, we concluded that a specific contract of €40 million did not properly implement the related framework because it did not specify the details of the services acquired (quantities, date of deliveries).	In 2022 eu-LISA paid €7.5 million under this contract (see paragraph 3.29.13). eu-LISA developed an action plan to address the ECA 2021 findings, to be implemented by the end of 2023.	Open

## European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
4	2021	For procurement for the maintenance of the common shared infrastructure, we concluded that the specific contract fundamentally deviated from the framework contract, and that no amendment were made to the framework contract.	In 2022 eu-LISA paid €3 million under this contract (see paragraph 3.29.14). eu-LISA developed an action plan to address the ECA 2021 findings, to be implemented by the end of 2023.	Open
5	2021	For one specific contract, the contractual delivery dates were not respected. Nevertheless, eu-LISA paid €1.2 million without a modification to the specific contract and the framework contract.	eu-LISA terminated the contract in question.	Closed
6	2021	On procurement for another specific contract related to fixed price elements, the value of the contract, €1.8 million, corresponded to the value of the framework contract. Subsequently, eu-LISA signed an amendment to the specific contract and increased the amount to €2.2 million. We concluded that the specific contract fundamentally deviated from the framework contract	In 2022 eu-LISA paid €0.4 million under this contract (see paragraph 3.29.15). eu-LISA developed an action plan to address the ECA 2021 findings, to be implemented by the end of 2023.	Open

## European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
7	2021	<p>Eu-LISA amended the value of three contracts. The amendments increased the maximum amount of the contracts by 50 %.</p> <p>Because the contracts amended were close to expiry and that the amount committed was still considerably lower than the maximum amount of the contract, eu-LISA could have used the new transversal contracts as soon as possible instead of amending the legacy contracts by the maximum amount allowed by the Financial Regulation.</p>	eu-LISA developed an action plan to address the ECA 2021 findings, to be implemented by the end of 2023.	Open
8	2021	<p>For two audited payments with a total value of €2.6 million, we found that products that were included in the specific contract were not included in the framework contract.</p> <p>eu-LISA should improve its contract management to assure that specific contracts are always aligned with the framework contracts.</p>	eu-LISA developed an action plan to address the ECA 2021 findings, to be implemented by the end of 2023.	Open
9	2021	We found that eu-LISA had carried over €11.4 million of 2021 commitment appropriations to 2022. Of that amount, €11.1 million, (97 %), related to administrative expenditure (Title II). Recurrent high rates of carry-overs go against the budgetary principle of annuality and are indicative of structural issues in the implementation of the budget.	The situation persisted in 2022.	Open

## eu-LISA's reply

**3.29.9.** The Agency takes note of the Court's observation. However, the Agency would like to note that the price increase represents 0.96 % in the total value of the framework contract and that the hardware configuration was adjusted with the aim to improve synergies of the overall infrastructure setup. The Agency has already undertaken the necessary revisions to its contract management practice. These measures however do not cover older contracts such as the one forming the object of this observation.

**3.29.10.** The Agency takes note of the Court's observation. The Agency has already undertaken the necessary revisions to its contract management practice to check whether specific contracts require a prior amendment to the FWC or not. These measures however do not cover older contracts such as the one forming the object of this observation.

**3.29.11.** The Agency takes note of the Court's observation. The Agency has already undertaken the necessary revisions to its contract management practice to better document exceptions for the type of situations addressed by the observation.

**3.29.12.** The Agency takes note of the Court's observation. Transversal services were described in the tender documents as permanent throughout the entire duration of the framework contract, to ensure coordination of the different activities and stakeholders. When the framework contract, in line with its provisions, was automatically extended for an additional two years, transversal services continued to be necessary, and the specific contract was extended accordingly. The Agency would like to note that this contract expired in May 2022. The Agency is taking steps to avoid similar situations in the future.

**3.29.13.** The Agency takes note of the Court's observation. This specific contract had to be signed at the end of 2018 in order to preserve the budget necessary to ensure the interoperability between the Entry-Exit System and the Visa Information System. This necessity was brought about by the delayed adoption of the Implementing Decision compared to the initial schedule of Legislative Financial Statement of the EES Regulation, which were outside the Agency's control.

The Agency, as soon as the Court communicated the finding in 2022:

- amended the contract to address the shortcomings identified by the Court, by adding a more detailed description of services provided;
- issued only two additional service requests under the contract, necessary to complete the testing of the deliverables (total value EUR 0.2 mio);
- did not further extend the contract, which expired in 2022.

European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

**3.29.14.** The Agency takes note of the Court's observation and would like to note that the contract has now expired.

**3.29.15.** The Agency takes note of the Court's observation.

**3.29.17.** The Agency takes note of the Court's observation and would like to note that the contract has now expired. The decision taken by the Authorising Officer to use a negotiated procedure was justified by the fact that the timelines for implementing the EES programme formally changed only at a later stage.

The overall time necessary for the contract award and for transition to a new contractor was estimated to be of at least 8 months. This would imply that an awarded contractor could have, realistically, only started to support the systems as of April/May 2023, leaving a maintenance gap of 5-6 months. During this period, the Agency would have not been able to fulfil its mandate and neither ensure compliance with the system-specific regulation.

The notes to the file demonstrate that the Agency assessed the matter from all different angles in order to balance the legal and operational requirements with the requirements stemming from the Financial Regulation.

**3.29.18.** The Agency takes note of the Court's observation. The Agency had performed a market study whereby a price benchmarking of the selected solution provider and a price comparison against alternative solutions and vendors were verified prior the purchase. Following the Court's observation, the Agency obtained the necessary price lists from vendors.

**3.29.19.** The Agency takes note of the Court's observation. The size of the evaluation committee reflected the scope and complexity of this transversal procurement procedure. All specialisations had to be represented for a complete evaluation of the tenders.

**3.29.20.** The Agency takes note of the Court's observation. The Agency performed the carry-overs for administrative activities which were necessary or recurrent, providing reassurance on the respect of sound financial management for the underlying operations.

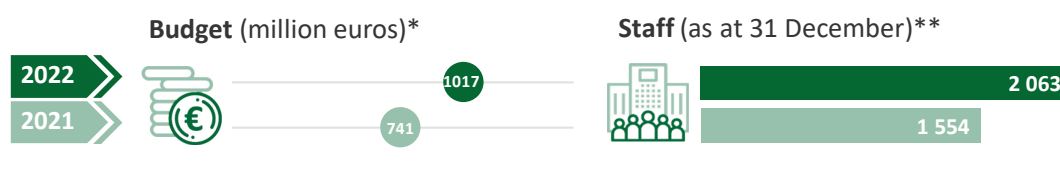
Corrective actions are being designed to improve the governance and use of external support services, which has steadily increased over the years to offset systematic understaffing of the Agency.

## 3.30. European Border and Coast Guard Agency (Frontex)

### Introduction

**3.30.1.** The European Border and Coast Guard Agency (“Frontex”), which is located in Warsaw, was established by [Regulation \(EU\) 2016/1624](#), repealed and replaced by [Regulation \(EU\) 2019/1896](#). Frontex superseded the European Agency for the Management of Operational Cooperation at the External Borders of the member states of the European Union, established in 2004. Frontex and the national authorities of member states responsible for border management and return operations jointly constitute the European Border and Coast Guard, sharing responsibilities for ensuring European integrated border management and managing entries across the external borders efficiently. [Figure 3.30.1](#) presents key figures for Frontex<sup>94</sup>.

**Figure 3.30.1 – Key figures for Frontex**



\* 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: Annual accounts of Frontex for the 2021 and 2022 financial years; staff figures provided by Frontex.

The significant increase in Frontex’s budget and staff figures is due to the widened mandate under [Regulation \(EU\) 2019/1896](#).

### Information in support of the statement of assurance

**3.30.2.** Our audit approach, the basis for our opinion, the responsibilities of Frontex’s management and of those charged with governance, and the auditor’s responsibilities for the

<sup>94</sup> More information on Frontex’s role and activities is available on its website: [www.frontex.europa.eu](http://www.frontex.europa.eu).

## European Border and Coast Guard Agency (Frontex)

audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

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

### Opinion

#### 3.30.3. We have audited:

- (a) the accounts of the European Border and Coast Guard Agency ("Frontex"), which comprise the financial statements<sup>95</sup> and the reports on the implementation of Frontex's budget<sup>96</sup> for the financial year ended 31 December 2022, 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

**3.30.4.** In our opinion, Frontex's accounts for the year ended 31 December 2022 present fairly, in all material respects, Frontex's financial position as at 31 December 2022, 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.

<sup>95</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>96</sup> The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

## Emphasis of matter

**3.30.5.** We draw attention to Note 1.3, “Certification of the accounts”, where the accounting officer declares, for the second year in a row, that they were not able to validate the accounting system because of missing information relating to an IT system, owned by the Commission, which supplies accounting data.

**3.30.6.** We draw attention to Notes 3.2.1, “Operating revenue”, 4.0.3, “The financing sources of the budget” and 4.4 “Budget outturn account” where the Frontex accountant explains that the contributions from Schengen associated countries (SAC) are not correctly calculated. Consequently, the contribution made by the EU to Frontex’s budget is also incorrectly calculated. For 2022, the EU contribution is overstated by €3.2 million, and the SAC contributions are understated by the same amount.

The Frontex 2022 accounts and the 2021 comparable amounts presented in the 2022 accounts have been adjusted to reflect this (refer to Note 3.6 “Prior period error”).

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.30.7.** In our opinion, the revenue underlying the accounts of Frontex for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.30.8.** In our opinion, the payments underlying the accounts of Frontex for the year ended 31 December 2022 are legal and regular in all material respects.



## Other matter

**3.30.9.** In Frontex’s [annual activity report for 2022](#), in his declaration of assurance, the current Executive Director, mentions that he has taken note of the reservations expressed by the former Executive Director and the former Executive Director *ad interim* (in annex 12 of the annual activity report) but is not in a position to provide an opinion on these reservations. These relate a) to the management of different contracts for travel services for the Standing Corps and b) the management of a grant for training activities of the Standing Corps category 1. In relation to point a) we refer to our [2021 annual report](#), paragraph 3.30.13.

**3.30.10.** The observations which follow do not call the ECA’s opinion into question.

## Observations on the reliability of the accounts

**3.30.11.** Frontex overestimated the accrued charges incurred in 2022 for its mission costs by €4.7 million of a total of €213.5 million of accrued charges.

**3.30.12.** Frontex does not have a formalised guidance or procedures to ensure consistent calculation of accrued charges (2022: €213.5 million). As a result, the estimated amount varies, depending on the unit responsible for preparing the computation of the accrual.

## Observations on the legality and regularity of transactions

**3.30.13.** In October 2021, Frontex signed a service contract with a contractor for psychological screening for new European Border and Coast Guard officers. The contract had an initial value of €79 000. Frontex intended this contract to be a “bridging solution” between the framework contract for psychological services that had ended in 2021 and a new one, for which an open tender procedure was being prepared. Due to delays in the new procedure, Frontex amended the contract four times, increasing its value to €502 900, or 536 % more than the initial value. Frontex registered these occasions in the registry of exceptions and non-compliance events. Article 172(3)(a)(iii) of the Financial Regulation allows an increase of the contract value of up to 50 % in such situations. The total payments for this contract amounted to €502 500 of which €384 000 are irregular.

## Observations on management and control systems

**3.30.14.** In May 2019, Frontex signed a framework contract with a total value of €30 million in relation to travel services, including accommodation. We found that the invoices issued by the travel agency for the accommodation were not supported by the actual invoices of the hotels. Instead, the underlying invoices provided by the travel agency had actually been issued by a travel agency's subsidiary. The internal controls put in place by Frontex regarding the implementation of the contract were not sufficient as they did not provide evidence on the actual costs incurred. This is a critical weakness, entailing a significant risk of overcharging.

**3.30.15.** Frontex uses the Commission's system for managing its travel-related costs. We found that the information in the system does not reconcile actual costs paid with the travel agency's costs, which are reported and processed separately from those paid by the staff on mission. This is an internal control weakness which exposes Frontex to the risk that payments related to the travel agency's costs may not be correct.

**3.30.16.** In July 2022, Frontex introduced new ceilings for authorising officers by delegation in relation to payments, recovery orders and budgetary transfers. The decision was effective immediately, from the day it was signed. However, there was a delay in implementing those ceilings in the IT system. As a result, between July 2022 and August 2022, when the system update was completed, eight authorising officers by delegation authorised 17 payments over the new ceiling, amounting to €10.9 million. This contravenes Article 41(1) of the Framework Financial Regulation. We note that this significant internal control weakness was registered in Frontex's registry of exceptions and non-compliance events.

**3.30.17.** In one recruitment procedure, we found that the selection committee had added up its members' individual assessments, instead of applying a consensual method stipulated by Frontex's internal rules. Furthermore, there was a lack of clear standards or instructions to selection committee members on how to assess the individual selection criteria. Finally, the chair of the selection committee declared a direct hierarchical relationship with the recruited person, without any evidence that there were mitigating measures to address the potential conflict of interest. These weaknesses undermine the principles of transparency and equal treatment of candidates in recruitment procedures, and may expose Frontex to reputational and legal risks. We made a similar observation in paragraph 3.30.14 of our [2021 report](#).

## Observations on budgetary management

**3.30.18.** Schengen associated countries co-finance Frontex's activities. Their share of Frontex's budget is based on the proportion of the size of their economies (expressed as either GDP or GNI) to the size of the EU economy. However, the agreements between the EU and

## European Border and Coast Guard Agency (Frontex)

these countries which serve as legal basis for calculating their contributions to Frontex's budget, are unclear and allow divergent interpretations.

As we observed in our 2020 report, we consider Frontex's interpretation flawed, because it leads to Schengen associated countries contributing around €3.5 million (7 %) less to the Frontex's budget than the size of their economies, in relation to the size of the EU economy, would dictate. This distortion of proportionality is caused by the fact that Frontex calculates the contributions of each Schengen associated country by dividing the size of that country's economy over the combined size of the economies of the EU and all Schengen associated countries taken together, and then by multiplying that fraction, or 'contribution ratio', by the EU budget's subsidy for Frontex (and not by the whole budget of Frontex, including both the share of the EU budget and of the Schengen associated countries).

### Follow-up of previous years' observations

**3.30.19.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and /or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2015	States participating in border operations declare costs incurred using cost claim sheets. In our <a href="#">special report 12/2016</a> , we recommended that agencies should use simplified cost options whenever appropriate to avoid such inefficiencies.	In November 2022, Frontex requested all beneficiaries to provide Frontex with extended lists of unit costs to simplify the reimbursement process and reduce the number of documents to be delivered with the payments. The Agency is in the process of assessing and validating the member states' proposals with the aim of introduction of heavy technical equipment unit costs as of Q3 2023.	Open
2	2016 / 2018	The level of carry-overs and cancellations was high. Frontex should strive for more precise cost estimates and budget forecasts	The situation persisted in 2022.	Open

## European Border and Coast Guard Agency (Frontex)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and /or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
3	2018	The ex-ante verifications were ineffective. Frontex should work on the development of a simplified and transparent financing scheme that also covers equipment-related costs.	In November 2022, Frontex requested all beneficiaries to provide Frontex with extended lists of unit costs to simplify the reimbursement process and reduce the number of documents to be delivered with the payments. The Agency is in the process of assessing and validating the member states' proposals with the aim of introduction of heavy technical equipment unit costs as of Q3 2023.	Open
4	2018	Frontex should adopt and implement a sensitive post policy.	A decision on sensitive functions is being drawn up, and is expected to be adopted in 2023.	Open
5	2018 / 2019	Frontex did not reach the required occupancy laid down in the staff establishment plan. Frontex should improve the guidance given to selection committee members and verify the candidates' financial entitlements for salary payments more closely.	The situation persisted in 2022, although there has been a clear improvement over the last three years (2020: 61.1 %; 2021: 77 %; 2022: 82.4 %).	Open

## European Border and Coast Guard Agency (Frontex)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and /or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
6	2020	Declaration by a national authority of unannounced return operations in a grant agreement at the financial closure of the action. Frontex made an ex-post budgetary commitment to cover the resulting budget deficit, which is not in line with its Financial Regulation.	A correction was decided upon in October 2022. The technical solution is already available, but it will not be fully implemented before Q1 2023, after member state staff are trained by Frontex. By the end of 2023 at the latest, the IT tool will have been updated to take full account of the correction.	Open

## European Border and Coast Guard Agency (Frontex)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and /or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
7	2020	Ombudsman opened two inquiries: (a) In November 2020 it assessed the effectiveness and transparency of Frontex's complaints mechanism and the role and independence of Frontex's fundamental rights officer and issued on 15 June 2021 nine suggestions; (b) in March 2021, it investigated how Frontex complies with its fundamental rights obligations and ensures accountability in relation to its new enhanced responsibilities. There are also two ongoing investigations: (a) from OLAF, concerning allegations of harassment, misconduct and migrant pushbacks concerning Frontex and (b) from the European Parliament, concerning possible allegations of violations of fundamental rights in Frontex.	To address all the recommendations, Frontex developed a comprehensive action plan (altogether 115 actions, of which 89 have been implemented by 11 January 2023). The progress in implementation of recommendations is regularly presented to the management board.	Open
8	2020	Delay in the recruitment of the required 40 fundamental rights monitors poses a serious risk to the operations and reputation of Frontex.	At the end of 2022 the Agency filled in 41 posts of fundamental rights monitors (1 x AD7, 28 x AD5 and 12 x AST4).	Closed

## European Border and Coast Guard Agency (Frontex)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and /or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
9	2020	Frontex was exposed to reputational damage and litigation due to offers for AD7 posts sent to 47 advanced-level candidates (instead of the approved AST posts), in anticipation of the Commission's reply on the posts. The Commission subsequently concluded that Frontex had not legal authority to upgrade these posts.	Following the allocation of new AD posts to Frontex in 2022, Frontex followed up on its indicative plan and, in February 2022 offered AD7 posts to those candidates who have accepted the offer in 2021.  No legal case has been launched for this matter.	Closed
10	2020	The four Schengen Associated Countries contributions in Frontex initial budget are understated as they made up of 6.9 % instead of 7.4 % of the budget. There is a need for horizontal guidance from the Commission to EU bodies on how to calculate contributions from non-EU countries consistently.	The 2022 accounts have been amended by the Agency's accountant to reflect the adjustment for the year. After reviewing the issue, in September 2021 the Management Board of Frontex decided that the methodology to calculate these contributions would not change.	Open
11	2020	When Frontex's accountant calculated the Agency's performance indicators for the accounts, they treated the reductions to the budget not as amending budgets but as acts of budget implementation which contradicts the decisions by the Management Board.	The accountant continued with the same approach in 2022 (see Note 4.0.1 of the accounts)	Open



## European Border and Coast Guard Agency (Frontex)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and /or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
12	2021	We found several issues in the evaluation of the technical-professional capacity and the economic and financial capacity in a procurement procedure for a framework contract for the provision of travel services. In February 2022, Frontex suspended the contract and in May 2022 the contract was terminated.	A new open tender for the provision of travel agency services to Frontex is in the pipeline for 2023 taking into account our observations.	Open
13	2021	In the audited recruitment procedures, we found that the selection committees applied different method for the quantification of the individual assessments than the one foreseen in the internal guidelines. Furthermore, there was a lack of clear standards on how to assess the individual selection criteria.	The same issue has been identified also this year (see paragraph 3.30.17). Frontex adopted new implementing rules in January 2022.	Open
14	2021	The authorising officers had not formally accepted the conditions of Executive Director's Decision on delegations. Moreover, they had not formally declared their compliance on the declaration of the absence of conflicts of interest.	Since 2022, the delegation and sub-delegation of powers are signed via Ares for all authorising officers, including declaration of absence of conflicts of interest.	Closed

## European Border and Coast Guard Agency (Frontex)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and /or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
15	2021	Frontex signed a framework contract for personal protective equipment and sanitary items without a standard price but with a maximum gross margin for every item ordered. However, when implementing the contract, it did not carry out systematic checks on the gross margin.	Frontex checked the gross margin on a risk-based sample, and did not find discrepancies.	Closed
16	2021	We found the following weaknesses in two procurement procedures: a) a significant delay in publishing the award decision and b) for the assessment of the economic and financial capacity it requested turnover twice the maximum amount allowed.	Frontex adopted internal procedures to ensure the on-time publication of the award decision and the proper justification when a deviation occurs in the criteria for the assessment of the economic and financial capacity.	Closed
17	2021	In three audited grant agreements the beneficiaries did not respect the 75-day deadline to request the final payment. Frontex also did not make the final payment within the deadline of 60 days.	There is a decrease in the delayed submissions and grant payments in 2022 in relation to 2021. The teams concerned monitor the situation and register where necessary the appropriate suspension to the payments. Furthermore, Frontex reinforced the staff in order, to improve the timely managing of the tasks that are required to make the payment timely.	Closed

## European Border and Coast Guard Agency (Frontex)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and /or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
18	2021	An overall analysis of the payments in 2021 showed delays in the payments process which are a serious deficiency in Frontex's internal controls.	Despite the reporting on late payments in place, there was a substantial increase in the number of the payments done by Frontex in relation to the previous years. In 2022, there was a deterioration of the late payments both in volume (26 %, 2021: 16 %) and in value (20 %, 2021: 12 %).	Open

## Frontex's reply

**3.30.5.** The missing part of the accounting system validation of Frontex is the mission management system (MiPS).

**3.30.6.** See reply to paragraph 3.30.18.

**3.30.11.** The Agency will develop and implement methodology for carry-forward of the deployment expenses ensuring the delineation and allocation of expenses to respective financial years.

**3.30.12.** The Agency takes note of ECA's observation. As different types of expenditures have their own specificities, legal agreements and scope, hence different units calculate different accruals. However, the Agency acknowledges the opportunity to formalise this approach in a guidance document.

**3.30.13.** In order not to delay the important business processes (recruitment of standing corps), Frontex transparently described the circumstances and motivations for exceptions, acknowledging and accepting that it leads to an irregularity, which should be avoided in the future.

**3.30.14.** The Agency acknowledges that the internal controls put in place regarding the implementation phase, were not sufficient.

The risks were taken into consideration during the design of the ongoing tender for travel services, hence the provision by the contractor of the relevant invoices (produced by the provider of the service) is a key control element during the contract implementation phase.

**3.30.15.** The Agency acknowledges that indeed there are discrepancies between the costs with the travel Agency in MiPS and in ABAC. These are created by the fact that invoices from the travel Agency can come months after a mission has been finished and the staff member has been paid. However, in the Agency's opinion this does not pose a risk of making payment with a wrong amount. Regarding the travel agency's costs, all invoices are checked and certified correct, and only then are processed in ABAC fully complying with the applicable financial rules.

**3.30.16.** Taking into account the lessons learnt following the implementation of the Executive Director Decision (EDD) 2022/125, a disclaimer was included in the new EDD 2022/166, concerning the thresholds, being applicable 15 days following the entry into force of the EDD.

**3.30.17.** Frontex acknowledges the correctness of the finding. Accordingly, the Agency will change its internal (scoring/evaluation) procedure for recruitment of Temporary Agents (TA) to the procedure already used for Contract Agents (CA) recruitments (and for large scale Standing Corps recruitments) where there is only one final evaluation report agreed between the Selection Committee (SC) members and where no individual scorings of SC members are used.

## European Border and Coast Guard Agency (Frontex)

Frontex also acknowledges ECA's observation on the potential conflict of interest but considers that it has taken measures (e.g., members of the Selection Committee from outside Frontex, internal procedures) to ensure that this risk is mitigated.

**3.30.18.** There are a number of agreements in place with Schengen Associated Countries (SAC) for the calculation of their contribution to Frontex budget and there is a different understanding on how to apply them, between the Accounting Officer and the Agency.

In this regard the Agency, the Management Board, the European Commission and SAC agree on the methodology to be used for the calculations of the SAC contributions.

In the Agency's view the methodology used by the Agency since 2016 is in line with the existing legal framework and the governing agreements with the SAC. During the 86th Management Board meeting in September 2021, based on a thorough examination of the methodology carried out by the Management Board Working Group on Budget and Accounts in cooperation with other actors, the Management Board concluded that the calculation methodology for the SAC contributions to the budget of Frontex would not be revised.

The Agency does not intend to change the methodology used for the calculation of SAC contributions. There is no substantiated request from member states (MS) or SAC to revise the methodology. Any change in the methodology will require negotiations with SAC, possible adjustment of the legal framework and Management Board decision.



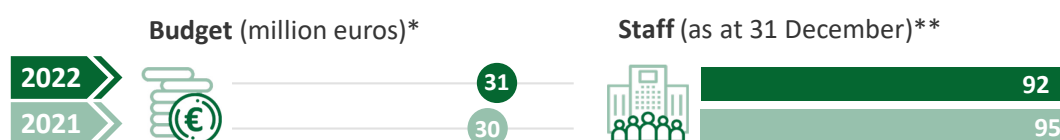
## **Agencies funded under MFF heading 5 – Security and Defence**

## 3.31. European Union Agency for Law Enforcement Training (CEPOL)

### Introduction

**3.31.1.** The European Union Agency for Law Enforcement Training (“CEPOL”), which is located in Budapest, was established by [Regulation \(EU\) 2015/2219](#). CEPOL superseded the European Police College (also “CEPOL”), established in 2005. CEPOL’s task is to bring together the national police training institutes in the member states to provide training sessions, based on common standards, for senior police agents. [Figure 3.31.1](#) presents key figures for CEPOL<sup>97</sup>.

**Figure 3.31.1 – Key figures for CEPOL**



\* 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: Annual accounts of CEPOL for the 2021 and 2022 financial years; staff figures provided by CEPOL.

### Information in support of the statement of assurance

**3.31.2.** Our audit approach, the basis for our opinion, the responsibilities of CEPOL’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>97</sup> More information on CEPOL’s role and activities is available on its website: [www.cepola.europa.eu](http://www.cepola.europa.eu).

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

### Opinion

#### 3.31.3. We have audited:

- (a) the accounts of the European Union Agency for Law Enforcement Training ("CEPOL"), which comprise the financial statements<sup>98</sup> and the reports on the implementation of CEPOL's budget<sup>99</sup> for the financial year ended 31 December 2022, 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

**3.31.4.** In our opinion, CEPOL's accounts for the year ended 31 December 2022 present fairly, in all material respects, CEPOL's financial position as at 31 December 2022, 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.

<sup>98</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>99</sup> The reports on the 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**

**3.31.5.** In our opinion, the revenue underlying the accounts of CEPOL for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

#### **Qualified opinion on the legality and regularity of payments underlying the accounts**

**3.31.6.** In our opinion, except for the effects of the matters explained in the ‘Basis for qualified opinion on the legality and regularity of payments underlying the accounts’ paragraphs, the payments underlying the accounts of CEPOL for the year ended 31 December 2022 are legal and regular in all material respects.

#### **Basis for qualified opinion on the legality and regularity of payments underlying the accounts**

**3.31.7.** We audited two framework contracts, one with a total value of €1.6 million, signed in May 2018 for accommodation, shuttle and parking services, and another, with a total value of €21.5 million, signed in January 2022 for travel services. CEPOL implemented both contracts directly through order forms (service requests) sent by emails. We found that the service requests were sent by CEPOL staff members who did not have the delegated authority to enter into legal commitments on behalf of CEPOL, or by interim employees who – because of their interim status – could not legally have such delegated authority. Therefore, the service requests did not constitute valid legal commitments, and all associated payments are irregular. In 2022 CEPOL made 359 payments under these two contracts, with a total value of €4.1 million.

**3.31.8.** When auditing the implementation of a framework contract of €1.1 million for educational editorial services in 2022, we found that the amounts paid could not be reconciled with the services provided. Some categories of tasks did not reflect the nature

## European Union Agency for Law Enforcement Training (CEPOL)

of actual work performed, and for some categories, the amount of work paid for did not correspond to the amount actually done.

Because of a lack of essential audit evidence supporting the amounts paid, we conclude that all payments under this framework contract, which in 2022 amounted to €152 655, are irregular.

**3.31.9.** The total amount of non-compliant expenditure is €4.2 million. This represents 13.5 % of the total payment appropriations available in 2022. This exceeds the materiality threshold set for this audit.

### Follow-up of previous years' observations

**3.31.10.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2020	We observed weaknesses in CEPOL's internal control environment, in relation to the management of budgetary commitments; (a) CEPOL signed three legal commitments before the respective budgetary commitments had been approved; (b) two different specific contracts (legal commitments) were linked with the same individual budgetary commitment.	CEPOL has taken steps, including training and workshops, to increase awareness and reduce occurrence of such administrative errors. We found no similar cases in 2022.	Closed
2	2021	The services requested were not in the scope of the framework contract which resulted in irregular payments for these services.	The contract in question expired, and a new all-inclusive framework contract has been in place since January 2022.	Closed
3	2021	During the evaluation process of a procurement procedure CEPOL put emphasis on a criterion that was not clearly presented in the tender specifications. This created the risk of bidders being treated unequally.	The current contract is in place until September 2023 and CEPOL does not intend to use the option to renew it for another 12 months.	Open
4	2021	Selection criteria overlapped with award criteria in one procurement procedure.	The contract expired on 31 August 2021.	Closed

## European Union Agency for Law Enforcement Training (CEPOL)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
5	2021	Due to the lack of internal controls in monitoring of outstanding payments, CEPOL closed a budgetary commitment before all payments were executed.	CEPOL has taken steps, including training and workshops, to increase awareness and reduce occurrence of such administrative errors. We found no similar cases in 2022.	Closed

## CEPOL's reply

**3.31.7.** Although CEPOL agrees with the finding in principle, we stress the facts that: even if there was a weakness in the formalisation of the legal commitment, the services were ordered in line with the Agency's needs and controls were applied in full to ensure the correct implementation of the payments concerned; internal controls were in place to ensure that the funds were used for the intended purpose and no actual loss was incurred; CEPOL has immediately introduced corrective measures, even before the end of the audit process.

**3.31.8.** We take note of the ECA's observation and have taken corrective action to address the issues identified. We do agree with ECA that the number of pages ordered, delivered and paid did not fully match, as due to nature of work, namely editorial and educational content development, this was not always precisely quantifiable in advance. However, we would like to note that checks were carried out on the deliverables. Finally, the categories of tasks were based on those listed in a previous contract with the Publication Office.

**3.31.9.** Please see our replies to paragraphs 3.31.7 and 3.31.8.

## 3.32. European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)

### Introduction

**3.32.1.** The European Monitoring Centre for Drugs and Drug Addiction (“the EMCDDA”), which is located in Lisbon, was established by Council [Regulation \(EEC\) No 302/93](#), repealed and replaced by [Regulation \(EC\) No 1920/2006](#). The EMCDDA’s main task is to collect, analyse and disseminate information about drugs and drug addiction in order to prepare and publish objective, reliable and comparable information at European level. The information is intended to provide a basis for analysing demand for drugs and ways of reducing it, as well as other phenomena associated with the drug market. [Figure 3.32.1](#) presents key figures for the EMCDDA<sup>100</sup>.

**Figure 3.32.1 – Key figures for the EMCDDA**



\* 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: Annual accounts of the EMCDDA for the 2021 and 2022 financial years; staff figures provided by the EMCDDA.

### Information in support of the statement of assurance

**3.32.2.** Our audit approach, the basis for our opinion, the responsibilities of the EMCDDA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>100</sup> More information on the EMCDDA’s role and activities is available on its website: [www.emcdda.europa.eu](http://www.emcdda.europa.eu).

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

### Opinion

#### 3.32.3. We have audited:

- (a) the accounts of the European Monitoring Centre for Drugs and Drug Addiction (“the EMCDDA”), which comprise the financial statements<sup>101</sup> and the reports on the implementation of the EMCDDA’s budget<sup>102</sup> for the financial year ended 31 December 2022, 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

**3.32.4.** In our opinion, the EMCDDA’s accounts for the year ended 31 December 2022 present fairly, in all material respects, the EMCDDA’s financial position as at 31 December 2022, 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.

<sup>101</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>102</sup> The reports on the 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**

**3.32.5.** In our opinion, the revenue underlying the accounts of the EMCDDA for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

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

**3.32.6.** In our opinion, the payments underlying the accounts of the EMCDDA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.32.7.** The observations which follow do not call the ECA's opinion into question.

## **Observations on management and control systems**

**3.32.8.** We found that the budgetary management system used by the EMCDDA had flagged 7 % of the budgetary payments (107 out of 1 595) as late payments. However, most of the flagged payments were not actually late. The EMCDDA paid interest only in the case of one late payment. This discrepancy is caused by incorrect parametrisations and/or incorrect data inputs regarding the due date of payment or the reception of the documents entailing a payment obligation. Having a significant number of 'false positives' due to improper parametrisation and/or data quality may expose the EMCDDA to financial and reputational risk.



## Observations on budgetary management

**3.32.9.** We noted that for one contract concluded in May 2021, amounting to €75 000, the legal commitment had not been preceded by a budgetary commitment of the same amount. The budgetary commitment had first been created in April 2021, for an amount of €55 000. Therefore, €20 000 of the legal commitment of €75 000 was initially not covered by a corresponding budgetary commitment. In December 2021, this deficit was reduced to €3 000, when the initial budgetary commitment was increased to €72 000. The same situation took place in 2022, when the renewal of the contract for an amount of €75 000 was not fully covered by a corresponding budgetary commitment, with a deficit amounting to €8 000. This is not in line with the requirements of Articles 10.3 (budgetary accounting) and 73.2 (expenditure operations) of EMCDDA Financial Regulation.

## Follow-up of previous years' observations

**3.32.10.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2018	The EMCDDA hired interim workers through a framework contract without respecting the requirements of <a href="#">Directive 2008/104/EC</a> and of the Portuguese labour law. The EMCDDA should analyse the working conditions of its interim workers and ensure they are in line with European and national labour law.	The framework contract in question expired in March 2022. The last payment regarding interim workers took place in January 2022.	Closed

## The EMCDDA's reply

**3.32.8.** The referred inconsistent “flagging” (of late payments) resulting from the EMCDDA’s electronic system for financial and accounting management (ABAC), did not affect the regularity of the operations involved, namely the payment of the sums dues and the payment of the interest, as required in the referred case. In this context, the EMCDDA has adopted some measures to minimize the referred risk for “false positive” and to further ensure that its ABAC system may provide for a clear and accurate picture of the actual late payments, if any. These measures address both the detected issues of parametrisation and the quality of the data input/entry (into the ABAC system) of the due date of payment, or the date of reception of the documents supporting a request/obligation for payment.

**3.32.9.** Pursuant to the agreements in place for the sharing of the costs/expenditure relating to the areas of the EMCDDA premises whose use is shared with other two Entities, the EMCDDA had to bear just a part of the total cost/expenditure for the contract at stake. In this context, the cost/expenditure to be borne by the EMCDDA relied on corresponding budgetary commitments, whilst the remaining cost (to be borne by the two other Parties according to the agreements in place) relied on offsetting/clearing accounting operations, as applied according to the relevant rules. This solution has been implemented on the basis of the above referred agreements in place, and in order to maximise the efficient use of the limited budget resources available, due to the significant constraints affecting the EMCDDA’s budget. By considering the expected next substantial increase of the EMCDDA budget, the latter will be better placed to take the measures that may be required to ensure the budget commitment of the total/“gross” cost of the referred contract, without prejudice to the agreed sharing of this cost with third Parties.

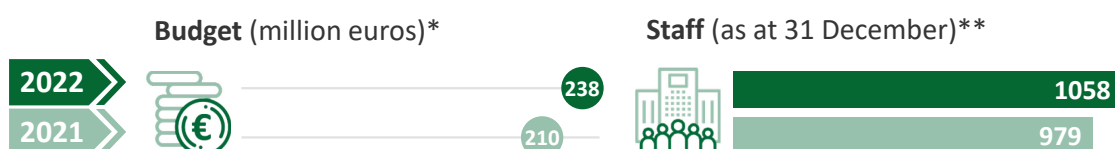
## 3.33. European Union Agency for Law Enforcement Cooperation (Europol)

### Introduction

**3.33.1.** The European Union Agency for Law Enforcement Cooperation (“Europol”), which is located in The Hague, was established by Council [Decision \(2009/371/JHA\)](#), repealed and replaced by [Regulation \(EU\) 2016/794](#). Europol’s objective is to support action by the member states’ police authorities and other law enforcement services. It also supports mutual cooperation in preventing and combating serious crime affecting two or more member states, forms of crime which affect a common interest covered by EU policy, and terrorism.

[Figure 3.33.1](#) presents key figures for Europol<sup>103</sup>.

**Figure 3.33.1 – Key figures for Europol**



\* 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: Annual accounts of Europol for the 2021 and 2022 financial years; staff figures provided by Europol.

### Information in support of the statement of assurance

**3.33.2.** Our audit approach, the basis for our opinion, the responsibilities of Europol’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>103</sup> More information on Europol’s role and activities is available on its website: [www.europol.europa.eu](http://www.europol.europa.eu).

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

### Opinion

#### 3.33.3. We have audited:

- (a) the accounts of the European Union Agency for Law Enforcement Cooperation ("Europol"), which comprise the financial statements<sup>104</sup> and the reports on the implementation of Europol's budget<sup>105</sup> for the financial year ended 31 December 2022, 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

**3.33.4.** In our opinion, Europol's accounts for the year ended 31 December 2022 present fairly, in all material respects, Europol's financial position as at 31 December 2022, 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.

<sup>104</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>105</sup> The reports on the 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

**3.33.5.** In our opinion, the revenue underlying the accounts of Europol for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.33.6.** In our opinion, the payments underlying the accounts of Europol for the year ended 31 December 2022 are legal and regular in all material respects.

**3.33.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.33.8.** Between 2020 and 2022 Europol has paid the daily subsistence allowance to three Dutch nationals employed as seconded national experts (SNEs). As Europol is located in the Netherlands, the three SNEs were not entitled to these allowances under Europol's internal rules. Europol identified the issue in December 2022, and in February 2023 decided not to claim back the payments made to the three SNEs in the past. The amount waived was disclosed in the 2022 annual accounts (5.3.4. Accumulated overpayment). From December 2022, the payment of daily allowances to the three SNEs was stopped. The total associated payments to the three SNEs during the 2020-2022 period, amounting to €155 553, are irregular. The irregular payments for 2022 amounted to €90 605.

**3.33.9.** In 2022, Europol paid a grant of €3.3 million to fund the activities of a national police force in a member state, including €1.4 million as reimbursement for the purchase of five boats and a 7 % provision for associated overheads, including VAT. However, for the acquisition of boats for police operations, VAT should not be reimbursed pursuant to the

#### European Union Agency for Law Enforcement Cooperation (Europol)

provisions of Article 186(4)(c) of the Financial Regulation, because the beneficiary is a public authority, governed by public law, and engaged in activities as public authority. We conclude therefore that part of the grant, amounting to €0.2 million – which corresponds to the ineligible VAT and the related portion of the associated overheads – is irregular.

At our request, Europol identified other grants under which VAT was reimbursed for similar activities, for an additional €0.2 million.

### Follow-up of previous years' observations

**3.33.10.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2020	Europol had paid late in 33 % of cases. We observed similar levels of delays in 2019, 2018 and 2017. This recurrent weakness exposes Europol to reputational risk.	Compared to 2020 (32.8 %) and 2021 (7.8 %), in 2022 the late payment rate was further reduced to 7.2 %. The percentage of late payments in value was reduced from 4.6 % at the end of 2021 to 1.9 % at the end of 2022.	Closed
2	2021	Between 2019 and 2021, Europol assessing one case of a potential conflict of interest in relation to a senior member of staff taking up a new job elsewhere, did not issue its decision within the deadline and thus effectively authorised the person concerned to take up the new job without any restrictions.	Europol has committed to respecting the statutory deadlines in the future. In 2022, there have been no instances of senior management leaving Europol.	Closed



## Europol's reply

**3.33.8.** At the end of December 2022, Europol identified and disclosed the overpayment of 155,553 Euros, with respect to the daily subsistence allowance for 3 Seconded National Experts (SNEs) from the Netherlands, to the European Court of Auditors (ECA) and in the annual accounts for the financial year 2022. In line with the requirements set out in Article 101 of the Financial Regulation 2018/1046, Europol decided to waive the recovery of the overpayment, including in view of the interest to uphold the relationship of trust and cooperation with the sending authorities. Europol performed a series of thorough checks, with the result that no further instance of overpayment on the same grounds with respect to financial entitlements for SNEs was identified. On the way forward, enhanced ex-ante verification, drawing on expert knowledge and adequate resource allocation in the Human Resources Unit, will contribute to provide effective assurance on the legality of the corresponding financial entitlements prior to payment.

**3.33.9.** Europol takes note of the Court's observation. Article 5 of the Council Decision 2008/617/JHA on the improvement of cooperation between the Special Intervention Units (SIUs) of EU member states provides that SIUs shall ensure joint training and exercises. The operational grant concerned the activities of SIUs coordinated by one member state. Europol considered that, under Article 186(4)(c) of the Financial Regulation 2018/1046 and the corresponding specific implementation guidance of the European Commission on grant administration, Value Added Tax (VAT) was an eligible cost where it is not recoverable under applicable national legislation and where it relates to training, awareness raising or similar activities in the area of security, except for VAT paid by member states when acting as public authorities in their sovereign capacity, in particular where private companies could not provide the related services. On the way forward, Europol will assess the eligibility of VAT in operational grants in light of the ECA's observations.



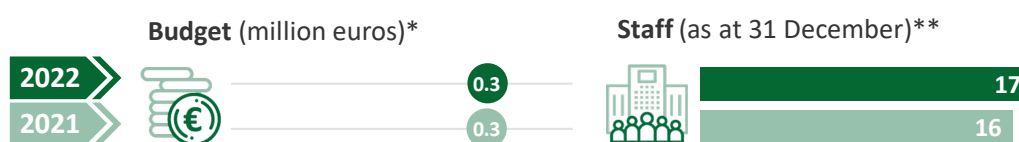
## **Agencies funded under MFF heading 7 – European Public Administration**

## 3.34. Euratom Supply Agency (ESA)

### Introduction

**3.34.1.** The Euratom Supply Agency ('ESA'), located in Luxembourg, was established in 1958, with the adoption, by the Council of the European Atomic Energy Community, of ESA's [statutes](#), repealed and replaced by Council [Decision 2008/114/EC, Euratom](#). ESA's main task is to ensure that there is a regular supply of nuclear materials, in particular nuclear fuels, to EU users. It does so by managing a common supply policy based on the principle of equal access to sources of supply. [Figure 3.34.1](#) presents key figures for ESA<sup>106</sup>.

**Figure 3.34.1 – Key figures for ESA**



\* 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: Annual accounts of ESA for the 2021 and 2022 financial years; staff figures provided by ESA.

### Information in support of the statement of assurance

**3.34.2.** Our audit approach, the basis for our opinion, the responsibilities of ESA's management and of those charged with governance, and the auditor's responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>106</sup> More information on ESA's role and activities is available on its website:  
<http://ec.europa.eu/euratom/index.html>.

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

### Opinion

#### 3.34.3. We have audited:

- (a) the accounts of the Euratom Supply Agency ("ESA"), which comprise the financial statements<sup>107</sup> and the reports on the implementation of ESA's budget<sup>108</sup> for the financial year ended 31 December 2022, 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

**3.34.4.** In our opinion, ESA's accounts for the year ended 31 December 2022 present fairly, in all material respects, ESA's financial position at 31 December 2022, 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.

<sup>107</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>108</sup> The reports on the 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**

**3.34.5.** In our opinion, the revenue underlying the accounts of ESA for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

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

**3.34.6.** In our opinion, the payments underlying the accounts of ESA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.34.7.** The observations which follow do not call the ECA's opinion into question.

## **Observations on management and control systems**

**3.34.8.** ESA systematically awards low-value contracts (below €15 000) without issuing corresponding evaluation reports and award decisions. This is not in line with points 30.3-30.4 of Annex I to the Financial Regulation.

Euratom Supply Agency (ESA)

## ESA's reply

**3.34.8.** The Euratom Supply Agency agrees to the finding. The agency will provide appropriate guidance to all staff involved in procurement and financial management, including templates, to ensure that the procurement procedures are properly approved and documented.



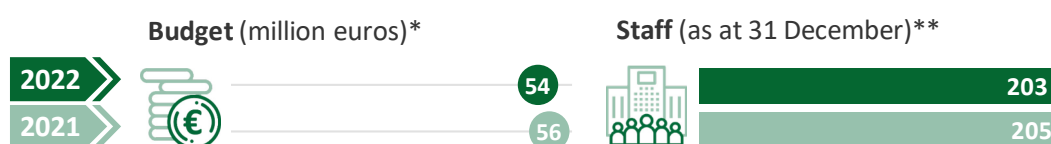
## **Self-financed Agencies**

## 3.35. Translation Centre for the Bodies of the European Union (CdT)

### Introduction

**3.35.1.** The Translation Centre for the Bodies of the European Union (“the CdT”), which is located in Luxembourg, was established by [Regulation \(EC\) No 2965/94](#). The CdT provides European Union bodies with translation services. It is a self-financed body. Its budget is funded from fees charged to its customers. [Figure 3.35.1](#) presents key figures for the CdT<sup>109</sup>.

**Figure 3.35.1 – Key figures for the CdT**



\* 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: Annual accounts of the CdT for the 2021 and 2022 financial years; staff figures provided by the CdT.

### Information in support of the statement of assurance

**3.35.2.** Our audit approach, the basis for our opinion, the responsibilities of the CdT’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>109</sup> More information on the CdT’s role and activities is available on its website: [www.cdt.europa.eu](http://www.cdt.europa.eu).



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

### Opinion

#### 3.35.3. We have audited:

- (a) the accounts of the Translation Centre for the Bodies of the European Union ("the CdT"), which comprise the financial statements<sup>110</sup> and the reports on the implementation of the CdT's budget<sup>111</sup> for the financial year ended 31 December 2022, 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

**3.35.4.** In our opinion, the CdT's accounts for the year ended 31 December 2022 present fairly, in all material respects, the CdT's financial position as at 31 December 2022, 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.

<sup>110</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>111</sup> The reports on the 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

**3.35.5.** In our opinion, the revenue underlying the accounts of the CdT for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

#### Qualified opinion on the legality and regularity of payments underlying the accounts

**3.35.6.** In our opinion, except for the effects of the matters explained in the ‘Basis for qualified opinion on the legality and regularity of payments underlying the accounts’ paragraphs, the payments underlying the accounts of the CdT for the year ended 31 December 2022 are legal and regular in all material respects.

#### Basis for qualified opinion on the legality and regularity of payments underlying the accounts

**3.35.7.** In our [2021 report](#) (see paragraph 3.35.9), we concluded that three contracts (for €0.7 million in total) which the CdT awarded as an outcome of a negotiated procedure were irregular, because the reasons the CdT cited for the use of such a procedure – the need to protect exclusive rights in two cases and extreme urgency in one case – were not substantiated. As a result, all the subsequent payments under these contracts are irregular. In 2022, only one of these three contracts led to a payment, amounting to €0.6 million.

**3.35.8.** We found two similar cases during our audit work for the 2022 financial year. In both cases the CdT had signed a contract (one for €110 000 and another for €52 000) using a negotiated procedure with a single provider without the prior publication of a contract notice and justified its choice of procedure by extreme urgency. We found that the CdT’s justification was insufficient, as the extreme urgency was not

## Translation Centre for the Bodies of the European Union (CdT)

demonstrated. Consequently, we conclude that the contracts are irregular, as is the total amount of €0.1 million in associated 2022 payments.

**3.35.9.** The CdT manages 117 separate framework contracts, stemming from a single procurement procedure divided in 20 lots relating to the translation of texts in the legal field from English into 20 EU official languages. The global ceiling for this procedure was €1 million, but – in breach of Article 2(31) of the Financial Regulation – the associated framework contracts did not specify their global value. We found that the CdT had only followed the related spending at the level of the budget line concerned, and had not monitored the consumption of the ceiling either at the level of the individual framework contracts or the whole procedure. As a result, by the end of 2022, the CdT had paid €1.7 million under the contracts concerned. The amount of €0.7 million paid in excess of the ceiling is irregular. Part of the excess (€0.2 million) was already paid in 2021. The irregular payments for 2022 amounted to €0.5 million.

**3.35.10.** The total amount of non-compliant expenditure is €1.3 million. This represents 2.4 % of the total payment appropriations available in 2022. This exceeds the materiality threshold set for this audit.

**3.35.11.** The observations which follow do not call the ECA's opinion into question.

## Observations on management and control systems

**3.35.12.** In three audited procurement procedures for services, the tender specifications omitted important criteria for assessing tenderers' technical and professional capacities. When requesting evidence of the financial capacity of the tenderer, the CdT had not defined a set of relevant, specific, and measurable minimum levels, below which tenderers would not be accepted. We consider this a weakness in the evaluation of the tenderers' ability to deliver the requested services.

**3.35.13.** CdT does not monitor the consumption of financial ceilings at the level of individual procedures and framework contracts for translations. This is a critical weakness in the CdT's management and control systems.

## Follow-up of previous years' observations

**3.35.14.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	Weaknesses in three public procurements: signing the contracts without prior publication of a contract notice. Insufficient justification on the need to protect exclusive rights or on the extreme urgency.	In 2022, only one of these three contracts was open and led to one payment (see paragraph 3.35.7.	Open
2	2021	Weaknesses in the documentation in two public procurement procedures	The CdT updated its procedures and templates to address the weaknesses identified.	Closed

## The CdT's reply

**3.35.7.** The Centre takes note of the finding of the Court. This finding is linked to the previous audit organised last year for which the Centre provided a detailed explanation on its positions and the reasons backing up its procurement procedure decision. This single payment of the invoice was done concerning equipment which had already been delivered when the Court of Auditors raised its observation in last year's audit.

**3.35.8.** The Centre takes note of the Court's arguments concerning the reasons justifying the use of Annex I, point 11.1 c) of the Financial regulation in this case. Since no clear solution could be adopted by the Centre to bridge between the old and the new FWC, the Authorising Officer of the Centre decided, after weighing the different elements, to procure an extension of the service through these negotiated procedures.

**3.35.9.** The Centre takes note of the finding. In the meantime, the Centre has developed a BO report which lists all framework contracts in force and includes all the necessary details to follow consumption of the ceiling of each one of them. This report is generated daily and highlights that action might be necessary as soon as a 75 % consumption rate is reached. The Centre has also developed a feature in its workflow platform that automatically detects when a given framework contract reaches a 90 % budget consumption rate and sends daily warning emails to a number of in-house recipients until action has been taken.

**3.35.12.** The tender documents used for these procedures were based on older templates and did not include a clear indication of the tenderer's minimum financial capacity. The new templates used by the Centre require that these figures be clearly specified and filled in.

**3.35.13.** As stated in the Centre's reply for observation 3.35.9, the Centre has developed a BO report which lists all framework contracts in force and includes all the necessary details to follow consumption of the ceiling of each one of them.

## 3.36. Community Plant Variety Office (CPVO)

### Introduction

**3.36.1.** The Community Plant Variety Office (“the CPVO”), which is located in Angers, was created by Council [Regulation \(EC\) No 2100/94](#). Its main task is to register and examine applications for the grant of EU industrial property rights for plant varieties and to ensure that the necessary technical examinations are carried out by the competent offices in the member states. The CPVO is a self-financed body. Its budget is funded from fees charged to private companies. [Figure 3.36.1](#) presents key figures for the CPVO<sup>112</sup>.

**Figure 3.36.1 – Key figures for the CPVO**



\* 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: Annual accounts of the CPVO for the 2021 and 2022 financial years; staff figures provided by the CPVO.

### Information in support of the statement of assurance

**3.36.2.** Our audit approach, the basis for our opinion, the responsibilities of the CPVO’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>112</sup> More information on the CPVO’s role and activities is available on its website: [www.cpvo.europa.eu](http://www.cpvo.europa.eu).

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

### Opinion

#### 3.36.3. We have audited:

- (a) the accounts of the Community Plant Variety Office ("the CPVO"), which comprise the financial statements<sup>113</sup> and the reports on the implementation of the CPVO's budget<sup>114</sup> for the financial year ended 31 December 2022, 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

**3.36.4.** In our opinion, the CPVO's accounts for the year ended 31 December 2022 present fairly, in all material respects, the CPVO's financial position as at 31 December 2022, 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.

<sup>113</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>114</sup> The reports on the 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

**3.36.5.** In our opinion, the revenue underlying the accounts of the CPVO for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.36.6.** In our opinion, the payments underlying the accounts of the CPVO for the year ended 31 December 2022 are legal and regular in all material respects.

**3.36.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.36.8.** In our [2021 report](#) (see paragraph 3.36.9), we concluded that a framework contract for security services was irregular because the CPVO excluded two tenderers based on irregular requirements to demonstrate financial capacity. As a result, all the subsequent payments under these contracts are irregular, including the 2022 payments amounting to €63 231.

## Observations on management and control systems

**3.36.9.** In a procurement procedure for IT services, we found the following shortcomings:

- (a) The selection criteria in the tender specifications required an annual turnover of four times the estimated annual contract value. This goes against point 19 of Annex I of the



## Community Plant Variety Office (CPVO)

Financial Regulation, which stipulates that the minimum yearly turnover must not exceed two times the estimated annual contract value.

- (b) The tender specifications did not include the annual budget of the contract and, therefore, it was not clear how to calculate the minimum turnover required in the selection criteria. Consequently, the Evaluation Committee did not apply this requirement when assessing the financial capacity of the single tenderer who submitted a bid.

The lack of clarity in the tender specifications regarding some criteria undermines the transparency and objectivity of the procedure and the excessive turnover requirement, could have discouraged some potential tenderers from submitting their bids.

**3.36.10.** On 1 September 2021, the current President of the CPVO took up duties as President ad interim. However, he did not issue new delegations of his powers as authorising officer at the time. Nor did he reconfirm the existing delegations that had been issued by the previous president. This situation persisted after the nomination of the current President of the CPVO on a permanent basis on 1 February 2022, until our audit visit in November 2022. The CPVO's internal rules did not provide for the automatic continuity of existing delegations when the president changed.

For an extended period, the CPVO's budget was therefore implemented on the basis of outdated delegations. This indicates a weakness in the associated management and control systems.

**3.36.11.** For two grants (amounting to €469 037) funding research projects, we detected that the CPVO had not defined the criteria to be used to evaluate the operational and technical aspects of proposed projects prior to awarding a grant, including the criteria to set the co-financing rates. The CPVO also does not carry out comprehensive ex-ante and ex-post checks (including checks on site) on the reality and eligibility of the activities and costs funded under its grants. In addition, requests for final payment are not accompanied by sufficient supporting documentation such as timesheets, payslips and invoices. These are systematic weakness in the CPVO's management and control systems, contravening Article 111 of the Financial Regulation and increasing the risk of overpayment.

## Follow-up of previous years' observations

**3.36.12.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2014	Although the CPVO became operational in 1995, no headquarters agreement has yet been signed with the host member state.	This is not within the CPVO's control. Following several requests to France, the CVPO received a draft headquarters agreement on 3 March 2023 for comment.	Open
2	2016	The CPVO's founding <a href="#">Regulation</a> does not require periodic external performance evaluations.	This is not within the CPVO's control. The CPVO and its Administrative Council have asked the Commission to update this. The issue was raised again in the Administrative Council meeting of 31 March 2023.	Open
3	2021	Procurement procedure for security services (which concluded with a contract of €249 609) and the associated payments considered irregular because of the application by the evaluation committee of illegal tender specifications to demonstrate tender's financial capacity which lead to the exclusion of two tenderers	<p>The CPVO made payments under this contract in 2022 (see paragraph 3.36.9). The CPVO's intention is to terminate the current contract as soon as possible.</p> <p>We also found similar issues in our 2022 audit (see paragraph 3.36.10).</p> <p>The CPVO accepted to review and update the tender specifications to demonstrate tender's financial capacity</p>	Open

## CPVO's reply

**3.36.8** The CPVO takes note of the observations of the Court. The CPVO has decided to terminate the current contract as soon as the CPVO will be able to enter a new contract (following the publication of a new call for tender).

**3.36.9** The CPVO takes note of the observation of the Court. An explicit calculation shall be documented in future calls for tender and the procedure shall be updated.

**3.36.10** The CPVO takes note of the observation of the Court. New guidelines on the procedure to replace the CPVO president in case of absence or indisposed have been adopted on 31/03/2023 (attached to this reply).

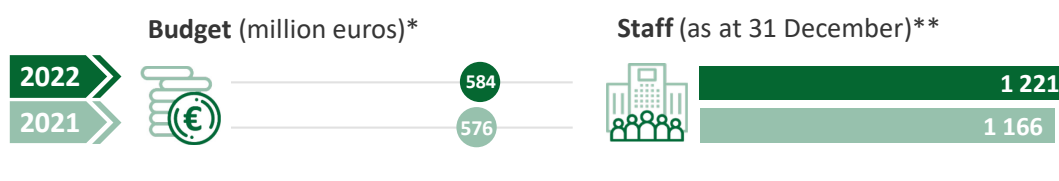
**3.36.11** The CPVO acknowledges that there are weaknesses in the R&D procedure. The procedure shall be updated to make it more robust. CPVO will carefully review future proposals in light of the comments of the Court.

## 3.37. European Union Intellectual Property Office (EUIPO)

### Introduction

**3.37.1.** The European Union Intellectual Property Office (“EUIPO”), which is located in Alicante, was established by [Regulation \(EU\) 2017/1001](#). EUIPO superseded the Office for Harmonisation in the Internal Market (“OHIM”), established in 1994. EUIPO is responsible for managing the EU trademark and registered EU designs, as well as European and international cooperation in the field of intellectual property. It also manages the European Observatory on Infringements of Intellectual Property Rights. EUIPO is a self-financed body. Its budget is funded from fees charged to applicants. [Figure 3.37.1](#) presents key figures for EUIPO<sup>115</sup>.

**Figure 3.37.1 – Key figures for EUIPO**



\* 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: Annual accounts of EUIPO for the 2021 and 2022 financial years; staff figures provided by EUIPO.

### Information in support of the statement of assurance

**3.37.2.** Our audit approach, the basis for our opinion, the responsibilities of EUIPO’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>115</sup> More information on EUIPO’s role and activities is available on its website: [www.euiipo.europa.eu](http://www.euiipo.europa.eu).

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

### Opinion

#### 3.37.3. We have audited:

- (a) the accounts of the European Union Intellectual Property Office ("EUIPO"), which comprise the financial statements<sup>116</sup> and the reports on the implementation of EUIPO's budget<sup>117</sup> for the financial year ended 31 December 2022, 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

**3.37.4.** In our opinion, EUIPO's accounts for the year ended 31 December 2022 present fairly, in all material respects, EUIPO's financial position as at 31 December 2022, 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.

<sup>116</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>117</sup> The reports on the 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

**3.37.5.** In our opinion, the revenue underlying the accounts of EUIPO for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.37.6.** In our opinion, the payments underlying the accounts of EUIPO for the year ended 31 December 2022 are legal and regular in all material respects.

**3.37.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the legality and regularity of transactions

**3.37.8.** EUIPO awarded a contract of €5 million for travel agency services after a negotiated procedure without prior publication of a contract notice for reasons of extreme urgency brought about by unforeseeable events, when it is impossible to comply with ordinary procedures time limits, pursuant to point 11.1 (c) of Annex I to the Financial Regulation.

The contract became necessary after the previous contractors (ranked first and second in cascade) informed EUIPO of their decision not to renew the existing contract.

We consider that the use of such procedure was not justified because the contractor's decision not to renew a contract in line with the contract provisions defined by EUIPO cannot be considered as an unforeseeable event not attributable to the contractor authority. Moreover, we consider that the delay between the date EUIPO received the information of the intention not to renew the contract and the award of the new contract was sufficient to conduct an accelerated open procedure. EUIPO did not make any payments under this contract in 2022.

## European Union Intellectual Property Office (EUIPO)

**3.37.9.** In our [2018 report](#) on EU agencies, we concluded that EUIPO had signed a contract for cleaning services with a tenderer who had submitted an abnormally low offer and as such the procurement procedure and the underlying payments were irregular. In 2022 EUIPO paid €798 197 under this contract.

### Follow-up of previous years' observations

**3.37.10.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2018	EUIPO signed a contract for cleaning services with a tenderer who submitted an abnormally low offer. The procurement procedure and the underlying payments are irregular. EUIPO should analyse situations of potentially abnormal offers in a rigorous manner to ensure compliance with the Financial Regulation and fair competition.	Payments were made under this contract in 2022 (see paragraph 3.37.9). The contract expired in March 2022.	Open
2	2019	EUIPO published a vacancy notice to constitute a reserve list of Project Specialists in its Customer Department. The selection procedure had a number weaknesses undermining the principles of transparency and equal treatment of candidates.	Reserve list expired at the end of 2021.	Closed



## European Union Intellectual Property Office (EUIPO)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
3	2021	<p>EUIPO modified its budget structure in 2021, presenting the payment of €8.5 million made to the European School in Alicante under Title 4, "Contribution to EU policies", instead of Title 1, "Expenditure relating to persons working with the Office", which had been the practice in previous years.</p> <p>In essence, we consider co-financing of the European School to be an instrument of human resources policy, linked to the wellbeing of the EUIPO's staff and their families. Re-classifying the related payments as a contribution to an EU policies goes against the nature of the expenditure."</p>	The situation persisted in the 2022 accounts. In 2023 EUIPO will present the finding to its budget committee.	Open

## EUIPO's reply

**3.37.8.** In order to reduce the risk of the previous contract not being implemented in full, the Office had opted for a contract in cascade with two contractors. Unfortunately, as reported by the Court, not only the first contractor but also the second one in the cascade notified the Office of the non-renewal of the contract almost simultaneously, which was an exceptional and unprecedented event for the Office concerning a sector of activity which was particularly impacted by the COVID pandemic.

In this context, the Office considered that the best option, providing the necessary guarantees for the timely conclusion of a contract was the negotiated procedure without prior publication of a contract notice. Through this procedure, the Office signed a Framework Contract strictly limited in time, namely bridging the gap until a new open procurement procedure is finalised.

**3.37.9.** As stated in the Office's reply included in the 2018 audit report, the Office has followed all steps foreseen by the Financial Regulation when dealing with an offer which could appear as abnormally low. Consequently, the Office did not concur with the Court's statement that offering a service (which is exceptional and rarely used) for a reduced price represents unfair practice and offers unfair competitive advantage vis-à-vis competitors.

The Office did not identify any reasons to terminate the contract early and consequently it has remained in force until its expiry in March 2022.

## 3.38. Single Resolution Board (SRB)

### Introduction

**3.38.1.** The Single Resolution Board (“the SRB”), which is located in Brussels, was established by [Regulation \(EU\) No 806/2014](#) on the Single Resolution Mechanism (“the SRM [Regulation](#)”). The SRB’s mission is to ensure that credit institutions and certain investment firms (“credit institutions”) which fail, or which are likely to fail, can be resolved in an orderly fashion with as little impact as possible on the real economy and the public finances of the participating member states of the Banking Union. The SRB is in charge of administering the Single Resolution Fund, which was established by the SRM [Regulation](#) and which is intended to support the Single Resolution Mechanism.

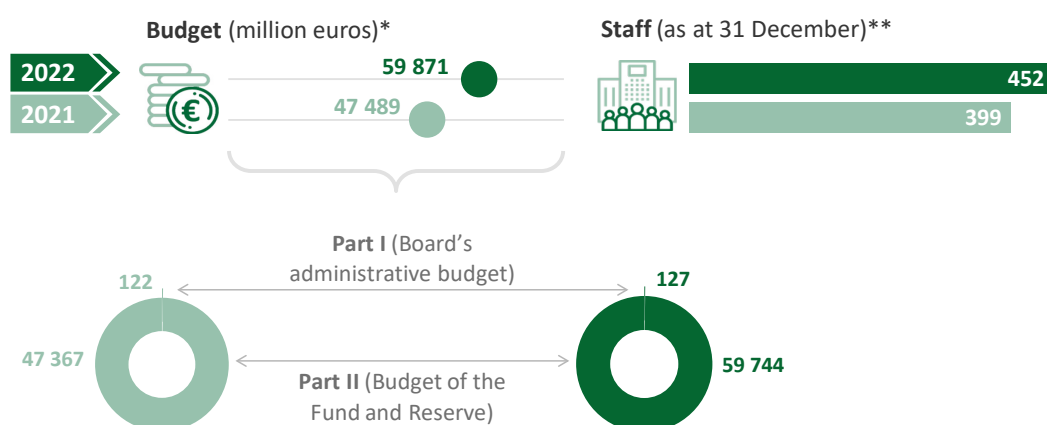
**3.38.2.** The SRB has its own budget, which is separate from the EU budget. Contributions are raised from credit institutions established in member states participating in the Banking Union. [Figure 3.38.1](#) presents key figures for the SRB<sup>118</sup>.

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<sup>118</sup> More information on the SRB’s role and activities is available on its website:  
<https://www.srb.europa.eu>.

## Single Resolution Board (SRB)

Figure 3.38.1 – Key figures for the SRB



\* 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: Annual accounts of the SRB for the 2021 and 2022 financial years; staff figures provided by the SRB.

The Single Resolution Fund (SRF) is being gradually built up during the period from 2016 to 2023 and should reach the target of at least 1 % of the amount of covered deposits of all credit institutions within the European Banking Union by 31 December 2023.

### Information in support of the statement of assurance

**3.38.3.** Our audit approach, the basis for our opinion, the responsibilities of the SRB's management and of those charged with governance, and the auditor's responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

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

### Opinion

#### 3.38.4. We have audited:

- (a) the accounts of the Single Resolution Board ("the SRB"), which comprise the financial statements<sup>119</sup> and the reports on the implementation of the SRB's budget<sup>120</sup> for the financial year ended 31 December 2022, 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

**3.38.5.** In our opinion, the SRB's accounts for the year ended 31 December 2022 present fairly, in all material respects, the SRB's financial position as at 31 December 2022, 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.

<sup>119</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>120</sup> The reports on the implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

## Emphasis of matter

**3.38.6.** We draw attention to note 8.L “Disclosure on appeals and legal cases” of the SRB’s accounts, which describes administrative appeals and judicial proceedings related to the ex-ante contributions between some credit institutions and national resolution authorities and the SRB as well as other legal proceedings brought against the SRB before the General Court and the Court of Justice of the European Union. The SRB considers that it is probable that an outflow of economic resources will be required to settle one of the pending cases. Consequently, the exposure related to this case is recognised as a provision for an amount of €64 200 corresponding to the legal costs of the opposing party's legal representations (in note 7.F). The SRB considers it is not probable that an outflow of economic resources will be required to settle the remainder of cases. Therefore, their related exposure is not recognised as a provision in the statement of financial position. Their possible impact on the SRB’s financial statements for the financial year ended 31 December 2022 (in particular on contingent liabilities, provisions and liabilities) is subject to a specific annual audit, as stipulated under Article 92(4) of the SRM Regulation.

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.38.7.** In our opinion, the revenue underlying the accounts of the SRB for the year ended 31 December 2022 is legal and regular in all material respects.

## Emphasis of matter

**3.38.8.** We note that the emphasis of matter paragraph for reliability of the accounts described in paragraph 3.38.6 also applies in full for the legality and regularity of revenue.

## Other matter

**3.38.9.** Without calling into question the opinion expressed above, we observe that Fund contributions are calculated on the basis of information provided by credit institutions (and some investment firms) 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 insist that a comprehensive and consistent control framework be put in place 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. We also noted that for entities that are part of a group referred to in Article 7(2)(a) of SRM [Regulation](#), agreed-upon procedures by auditors are mandatory from 2022. This increases assurance regarding the reliability of the information provided by the credit institutions.

The SRB cannot release details of the risk assessed contribution calculation for each credit institution, as they are interlinked and include confidential information about other credit institutions. Although this may affect the transparency of these calculations, the Court of Justice considered that the SRB's obligation to state reasons for its ex-ante contribution decisions must be balanced against the principle of the protection of business secrets. It ruled<sup>121</sup> that "Delegated [Regulation](#) 2015/63 does not prevent the SRB from disclosing, in collective and anonymised form, sufficient information to enable an institution to understand how its individual situation was taken into account in the calculation of its ex-ante contribution to the SRF relative to the situation of all the other institutions concerned." We noted that - like for the calculation of the 2021 contributions - for the calculation of the 2022 contributions, SRB organised a consultation phase for the institutions in question in order for them to issue comments on any aspect of the calculation exercise. In this consultation, common data points from the contribution calculation exercise were communicated that allowed institutions, together with the data in the institution's individual data reporting form, to simulate the calculation of the 2022 ex-ante contribution. We also note that the consultation of 2022 also covered the impact of adjustments in the data initially submitted by the credit institutions. This additional step on restatements in the consultation process has increased the SRB's transparency towards institutions.

<sup>121</sup> Judgment of 15 July 2021, Commission / Landesbank Baden-Württemberg and CRU (C-584/20 P and C-621/20 P), paragraphs 120 and 139.

## Single Resolution Board (SRB)

**Payments****Opinion on the legality and regularity of payments underlying the accounts**

**3.38.10.** In our opinion, the payments underlying the accounts of the SRB for the year ended 31 December 2022 are legal and regular in all material respects.

**3.38.11.** The observations which follow do not call the ECA's opinion into question.

**Observations on the legality and regularity of transactions**

**3.38.12.** The SRB had signed a specific service contract with a contractor for a 12-month duration ending in October 2021. In April 2022, the SRB received the final payment invoice for services rendered from September 2021 to January 2022, beyond the period of the contract. Following this, the payment stayed on hold until the Chair of the SRB approved it in July 2022. The transaction was properly registered by the SRB as a non-compliance event. The amount of €87 315, paid for the services provided after the expiry of the contract is irregular, as no amendment was concluded with the contractor to extend the duration of the contract.

**Follow-up of previous years' observations**

**3.38.13.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).



## Single Resolution Board (SRB)

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2020	In case of a national central bank that has been assigned both the role of investment manager and custodian for the SRF, the SRB has not carried out an assessment of the organisational and administrative arrangements in place, in order to mitigate a potential conflict of interest arising from assuming these roles.	The 2023 Internal Audit Plan was approved by the Board in its Plenary Session in November 2022. One of the approved audits was an onsite visit/inspection to the Investment Manager/Custodian. This is expected to take place at the end of 2023.	Open
2	2020	The capacity of the SRB's risk management process to carry out an independent monitoring of the investment portfolio of SRF is limited. Its first limitation is that it is not automated. Its second limitation is that it relies on reports and analysis from the NCB and the SRB's front office.	The SRB developed a new tool for independent monitoring of the investment portfolio. It also set up a series of reports that allow the Risk department to be able to perform its analytical tasks on a fully autonomous manner with high level of flexibility.	Closed

## Single Resolution Board (SRB)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
3	2021	<p>We found some deficiencies in the recruitment procedures:</p> <p>(a) for one procedure the selection panel decided to increase the number of the candidates in the reserve list after their evaluation and</p> <p>(b) no direct link between some general competencies in the vacancy notice and the tests in the procedure.</p>	<p>(a) The SRB now documents, where applicable, the reasons for any changes in the pre-defined number of the candidates to be placed on final reserve list.</p> <p>(b) The SRB has added an additional internal document to map the competences explicitly to the assessment documents.</p>	Closed

## SRB's reply

**3.38.9** The annual ex-ante contributions to the Fund are calculated on the basis of information provided by credit institutions and some investment firms to the Board. Even though, the SRM Regulation does not provide for a comprehensive and consistent control framework to ensure the reliability of the information, the SRF addresses this issue to the extent possible. The data provided is verified against the data submitted in the previous year by the institutions as well as against the data in the ECB database. Validation rules have been implemented in the data collection portal and additional assurance, in the form of Agreed Upon Procedures report, is collected from the significant institutions. Discrepancies are flagged to the NRAs, asking for clarification, thus having been able to improve the quality of the data in the previous cycles. In addition to the ex-ante data verification steps already implemented by the SRB, ex-post checks are performed in a form of desk reviews in order to collect additional evidence on the reliability of the data. Moreover, as regards transparency, in addition to the implementation of the consultation phase itself and the provision of common data points, the SRB has also provided additional reasoning in the decision text, additional annexes to the decision and detailed support documents such as the calculation tool and calculation guidance. The calculation guidance listed all the necessary calculation steps and provided explanations how the calculation tool should be used for the recalculation of ex-ante contributions. This way the institutions were able to recalculate fully their 2022 ex-ante contribution.

**3.38.12** The SRB takes note of ECA's finding. The concerned amount pertains to the deliverables set out in the specific contract (SC), including the finalisation of on-going services requested under the initial procurement (i.e. 87,315 EUR out of 1,248,173 EUR). No additional services were performed and the final total amount was below the ceiling of the SC. SRB considers that there was a mutual agreement as both parties accepted the performance of the SC and their common true intent was clear to conclude the services foreseen in the contract. In any event, any potential issue regarding the SC was rectified via the procedure for Management of Exceptions and Non-Compliance Events, which was diligently followed.

## **Commission Executive Agencies**

## 3.39. European Climate Infrastructure and Environment Executive Agency (CINEA)

### Introduction

**3.39.1.** The European Climate, Infrastructure and Environment Executive Agency ('CINEA'), which is located in Brussels, was established by Commission [Implementing Decision \(EU\) 2021/173](#), applicable from 1 April 2021 to 31 December 2028. CINEA superseded the Innovation and Networks Executive Agency ('INEA'), established in 2013, and is the successor to the Trans-European Transport Network Executive Agency, established in 2007. CINEA's mission is to support stakeholders in delivering the European Green Deal. It also implements parts of various EU programmes, most of them associated with environment and climate policy. [Figure 3.39.1](#) presents key figures for CINEA<sup>122</sup>.

**Figure 3.39.1 – Key figures for CINEA**



\* 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: Annual accounts of CINEA for the 2021 and 2022 financial years; staff figures provided by CINEA.

### Information in support of the statement of assurance

**3.39.2.** Our audit approach, the basis for our opinion, the responsibilities of CINEA's management and of those charged with governance, and the auditor's responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>122</sup> More information on CINEA's role and activities is available on its website: [https://cinea.ec.europa.eu/index\\_en](https://cinea.ec.europa.eu/index_en).

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

### Opinion

#### 3.39.3. We have audited:

- (a) the accounts of the European Climate Infrastructure and Environment Executive Agency ("CINEA"), which comprise the financial statements<sup>123</sup> and the reports on the implementation of CINEA's budget<sup>124</sup> for the financial year ended 31 December 2022, 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

**3.39.4.** In our opinion, CINEA's accounts for the year ended 31 December 2022 present fairly, in all material respects, CINEA's financial position as at 31 December 2022, 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.

<sup>123</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>124</sup> The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

## Emphasis of matter

**3.39.5.** We draw attention to the introductory part of the CINEA 2022 Annual Accounts, which describes the implementation of a new budgetary, accounting and financial system, SUMMA, as a pilot for the development of the system for the European Commission. Our opinion is not qualified in respect of this matter.

## Legality and regularity of the transactions underlying the accounts

### Revenue

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

**3.39.6.** In our opinion, the revenue underlying the accounts of CINEA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.39.7.** In our opinion, the payments underlying the accounts of CINEA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.39.8.** The observations which follow do not call the ECA's opinion into question.

## Observations on management and control systems

**3.39.9.** The Commission has decided to replace its central budgetary and accounting system, ABAC, by 1 January 2025, with a new system, named SUMMA. In December 2018, DG BUDG asked CINEA, alongside two other agencies (Eurojust and ERA), to participate in the development of SUMMA as a pilot. From the 2022 financial year, CINEA has been using SUMMA to manage its administrative budget.

## European Climate Infrastructure and Environment Executive Agency (CINEA)

CINEA's SUMMA user management system is managed by DG BUDG, which is in charge of granting and removing rights of SUMMA users based on the information provided by CINEA. The fact that CINEA does not yet directly manage the access rights, as was the case for the predecessor system, may constitute a risk that the user roles in SUMMA may not be correctly assigned and updated, in line with the provisions of Article 36(3)(a) of the Financial Regulation. SUMMA also does not yet feature an adequate user profile for auditors.

CINEA's manual of financial procedures has not yet been updated to reflect the workflows and language of SUMMA.

The accounting officer's report on the validation of SUMMA contained details of an incident where, in January 2023, an initiating agent had been able to make a budgetary modification relating to December 2022 which had changed the budgetary outturn for the year, even though the 2022 budget year had been closed and should not have been subject to amendments. We also identified two further incidents where the budgetary reporting had been affected by inconsistencies (artificial split of paid amounts). These demonstrates the need for the controls built into SUMMA to ensure the integrity of the data.



## CINEA's reply

**3.39.9.** CINEA is not responsible for the management of user profiles in SUMMA, but the Agency will liaise with DG BUDG to suggest the creation of an adequate user profile for auditors.

In 2022, CINEA's main focus was to ensure that transactions processed in SUMMA were executed in a legal and regular manner. This, combined with the fact that the IT system was not yet stable, and the existing central guidance was limited, did not favour a reliable update of CINEA's Manual of Procedures. The situation became in the meantime more stable, allowing CINEA to perform the necessary updates, which will be finalised by the end of 2023.

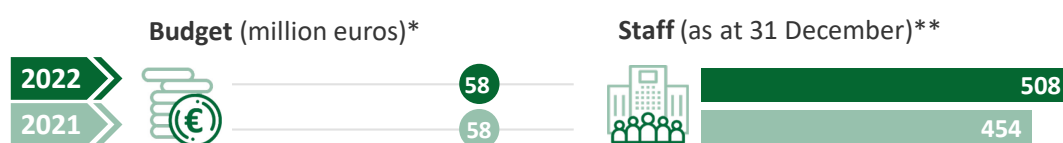
CINEA agrees that the SUMMA pilot version still misses certain functionalities and embedded controls. The Agency has addressed the need of adequate and urgent solutions to DG BUDG. The issues are expected to be solved with the release for the European Commission in 2025.

## 3.40. European Education and Culture Executive Agency (EACEA)

### Introduction

**3.40.1.** The European Education and Culture Executive Agency (“EACEA”), which is located in Brussels, was established by Commission [Implementing Decision \(EU\) 2021/173](#), applicable from 1 April 2021 to 31 December 2028. EACEA superseded the Education, Audiovisual and Culture Executive Agency, established in 2005. EACEA’s thematic focus remains on educational and creative activities, and on projects close to EU citizens. EACEA manages funding for education, culture, the audio-visual sector, sport, citizenship and volunteering. [Figure 3.40.1](#) presents key figures for EACEA<sup>125</sup>.

**Figure 3.40.1 – Key figures for EACEA**



\* 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: Annual accounts of EACEA for the 2021 and 2022 financial years; staff figures provided by EACEA.

### Information in support of the statement of assurance

**3.40.2.** Our audit approach, the basis for our opinion, the responsibilities of EACEA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>125</sup> More information on EACEA’s role and activities is available on its website: <http://www.eacea.ec.europa.eu/>.

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

### Opinion

#### 3.40.3. We have audited:

- (a) the accounts of the European Education and Culture Executive Agency ("EACEA"), which comprise the financial statements<sup>126</sup> and the reports on the implementation of EACEA's budget<sup>127</sup> for the financial year ended 31 December 2022, 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

**3.40.4.** In our opinion, EACEA's accounts for the year ended 31 December 2022 present fairly, in all material respects, EACEA's financial position as at 31 December 2022, 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.

<sup>126</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>127</sup> The reports on the 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

**3.40.5.** In our opinion, the revenue underlying the accounts of EACEA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.40.6.** In our opinion, the payments underlying the accounts of EACEA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.40.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on budgetary management

**3.40.8.** We found that EACEA had carried over €5 million (8.5 %) of available 2022 commitment appropriations to 2023. This included €2.7 million (or 61.8 %) of appropriations under Title III, related to operational expenditure (54.3 % in 2021). A recurrent high rate of carry-overs contradicts the budgetary principle of annuality, and is indicative of structural issues in the budget process and implementation cycle.

## Follow-up of previous years' observations

**3.40.9.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	A high level of carry-overs contradicts the budgetary principle of annuality and suggests structural issues in the implementation of the budget.	The situation persisted in 2022.	Open

European Education and Culture Executive Agency (EACEA)

## EACEA's reply

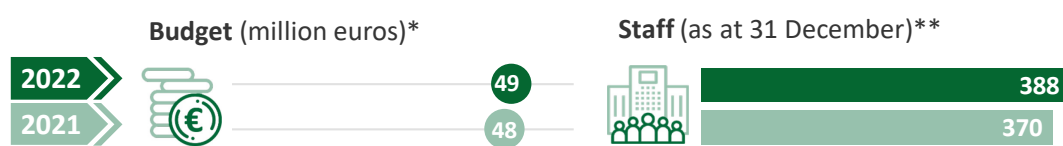
**3.40.8.** The Agency agrees on the figures. On the structural nature of the carry-overs, the Agency highlights that the presence of carry-over is the by-product of the SLA mechanism. In absolute terms the carry-overs are declining compared to 2021 and some mitigating actions are ongoing, others are in discussions and their effects should be visible already next year.

## 3.41. European Innovation Council and SMEs Executive Agency (EISMEA)

### Introduction

**3.41.1.** The European Innovation Council and SME Executive Agency (“EISMEA”), which is located in Brussels, was established by Commission [Implementing Decision \(EU\) 2021/173](#), applicable from 1 April 2021 to 31 December 2028. EISMEA superseded the Executive Agency for Small and Medium-sized Enterprises (“EASME”), established in 2013, and is the successor to the Intelligent Energy Executive Agency, established in 2003. EISMEA’s mission is to reinforce the EU’s position as a global leader in research and innovation by providing support to European innovators, researchers, businesses and consumers. [Figure 3.41.1](#) presents key figures for EISMEA.

**Figure 3.41.1 – Key figures for EISMEA**



\* 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: Annual accounts of EISMEA for the 2021 and 2022 financial years; staff figures provided by EISMEA.

### Information in support of the statement of assurance

**3.41.2.** Our audit approach, the basis for our opinion, the responsibilities of EISMEA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

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

### Opinion

#### 3.41.3. We have audited:

- (a) the accounts of the European Innovation Council and SMEs Executive Agency (EISMEA), which comprise the financial statements<sup>128</sup> and the reports on the implementation of EISMEA's budget<sup>129</sup> for the financial year ended 31 December 2022, 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

**3.41.4.** In our opinion, EISMEA's accounts for the year ended 31 December 2022 present fairly, in all material respects, EISMEA's financial position as at 31 December 2022, 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.

<sup>128</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>129</sup> The reports on the 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

**3.41.5.** In our opinion, the revenue underlying the accounts of EISMEA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.41.6.** In our opinion, the payments underlying the accounts of EISMEA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.41.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on management and control systems

**3.41.8.** We found internal control weaknesses in the implementation of a digital communication services contract of €80 500.

- (a) The invoices for the three interim payments were not accompanied by activity reports as stipulated in the specific contract. Thus, EISMEA did not comply with Article 115(2) of the Financial Regulation, which requires that payments must be accompanied by proof that the item being paid for is in accordance with the contract.
- (b) There were significant delays in the receipt of invoices. As a result, EISMEA paid the first interim payment only after the final payment. This indicates that EISMEA did not actively follow up on the services being provided.

## Follow-up of previous years' observations

**3.41.9.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2019	EASME signed a legal commitment without having a corresponding budgetary commitment in place. This instance of non-compliance was not recorded in the register of exceptions and was not followed up by EASME. Four further such cases also occurred under similar circumstances. Descriptions of these further errors had been recorded in the register of exceptions. This raises specific concerns about the risk of irregularities in the management of EASME's commitments.	EISMEA is in the process of revising the guidelines for reporting deviations. It will also provide trainings to raise awareness on the applicable rules.	Open
2	2020	EASME paid for a software licence and maintenance under a framework contract for the acquisition of software licences and IT services without performing any internal controls to ascertain whether the contractor had used the correct prices and charged the correct mark-ups. This indicates weak ex-ante internal controls.	EISMEA now requests analysis of the original invoices and the planned uplift.	Closed

## European Innovation Council and SMEs Executive Agency (EISMEA)

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
3	2021	In an inter-institutional procurement procedure for communication and event organisation services, with a total estimated value of €130 million, EASME's initial estimate for its share was €30 million. Due to subsequent decreases in the share of the other participating entities it was raised to €52 million, i.e. including a buffer of €22 million, in order to maintain the initial estimated €130 million budget. This contravenes the Financial Regulation.	EISMEA has revised its procedures to address the identified weaknesses.	Closed
4	2021	In 2020 and 2021, EISMEA made several entries related to contract management issues in its registry of exceptions and non-compliance events. This recurrence of non-compliance events during the implementation of contracts suggests a weakness of EISMEA's internal controls. This could expose EISMEA to financial, legal, and reputational risks.	Entries in the registry related to contract management were reduced in 2022 compared to previous years. EISMEA is putting in place actions to further raise awareness on the matter.	Open

## EISMEA's reply

**3.41.8. (a)** The contractor was participating in the weekly meetings where they provided orally reporting for the work done during the previous week and planning for the weeks to come. No written reports were requested as all the tasks were discussed during the meetings and it was reflected in the minutes. For the current intramuros contracts the executed tasks are listed in the timesheet of relevant month.

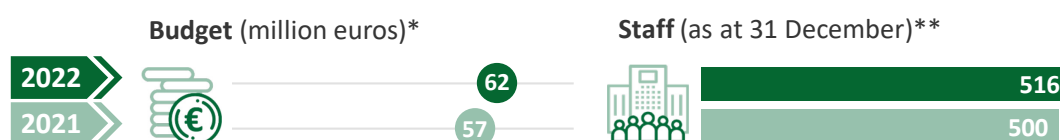
**(b)** New procedures are put in place to avoid similar situation.

## 3.42. European Research Council Executive Agency (ERCEA)

### Introduction

**3.42.1.** The European Research Council Executive Agency (“ERCEA”), which is located in Brussels, was established by Commission [Decision 2008/37/EC](#), repealed and most recently replaced by Commission [Implementing Decision \(EU\) 2021/173](#), applicable from 1 April 2021 to 31 December 2028. ERCEA is responsible for the implementation of the European Research Council action under Horizon Europe. [Figure 3.42.1](#) presents key figures for ERCEA<sup>130</sup>.

**Figure 3.42.1 – Key figures for ERCEA**



\* 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: Annual accounts of ERCEA for the 2021 and 2022 financial years; staff figures provided by ERCEA.

### Information in support of the statement of assurance

**3.42.2.** Our audit approach, the basis for our opinion, the responsibilities of ERCEA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>130</sup> More information on ERCEA’s role and activities is available on its website:  
<https://erc.europa.eu/about-erc/erc-executive-agency-ercea>.

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

### Opinion

#### 3.42.3. We have audited:

- (a) the accounts of the European Research Council Executive Agency ("ERCEA"), which comprise the financial statements<sup>131</sup> and the reports on the implementation of ERCEA's budget<sup>132</sup> for the financial year ended 31 December 2022, 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

**3.42.4.** In our opinion, ERCEA's accounts for the year ended 31 December 2022 present fairly, in all material respects, ERCEA's financial position as at 31 December 2022, 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.

<sup>131</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>132</sup> The reports on the 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

**3.42.5.** In our opinion, the revenue underlying the accounts of ERCEA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.42.6.** In our opinion, the payments underlying the accounts of ERCEA for the year ended 31 December 2022 are legal and regular in all material respects.

## Follow-up of previous years' observations

**3.42.7.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).



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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	<p>The 2021 budgetary appropriations were insufficient by €222 667 to cover the ERCEA legal obligation regarding the municipality tax.</p> <p>This was not entered into the register of exceptions until after our audit, contravening internal control principles.</p>	<p>ERCEA recorded the matter into the register of exceptions on 18 May 2022.</p> <p>The ERCEA committed these €222 667 in its 2022 budget.</p>	Closed

European Research Council Executive Agency (ERCEA)

## ERCEA's reply

The Agency has taken note of the ECA's report.

## 3.43. European Health and Digital Executive Agency (HaDEA)

### Introduction

**3.43.1.** The European Health and Digital Executive Agency (“HaDEA”), which is located in Brussels, was established by Commission Implementing [Decision \(EU\) 2021/173](#), for a period beginning on 16 February 2021 and ending on 31 December 2028. HaDEA’s tasks include managing EU action in the area of public health and coordinating digital programmes in areas including industry and space. [Figure 3.43.1](#) presents key figures for HaDEA<sup>133</sup>.”

**Figure 3.43.1 – Key figures for HaDEA**



\* 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: Annual accounts of HaDEA for the 2021 and 2022 financial years; staff figures provided by HaDEA.

HaDEA gained financial autonomy in April 2021. The increase of staff and budget results from growth during HaDEA’s start-up period and from the comparison of a full year in 2022 with a nine-month period in 2021. It is expected that both budget and staff will continue to increase over the next few years.

### Information in support of the statement of assurance

**3.43.2.** Our audit approach, the basis for our opinion, the responsibilities of HaDEA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>133</sup> More information on HaDEA’s role and activities is available on its website:  
<https://hadea.ec.europa.eu>.

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

### Opinion

#### 3.43.3. We have audited:

(a) the accounts of the European Health and Digital Executive Agency ("HaDEA"), which comprise the financial statements<sup>134</sup> and the reports on the implementation of HaDEA's budget<sup>135</sup> for the financial year ended 31 December 2022, 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

**3.43.4.** In our opinion, HaDEA's accounts for the year ended 31 December 2022 present fairly, in all material respects, HaDEA's financial position as at 31 December 2022, 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.

<sup>134</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>135</sup> The reports on the 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

**3.43.5.** In our opinion, the revenue underlying the accounts of HaDEA for the year ended 31 December 2022 is legal and regular in all material respects.

### Payments

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

**3.43.6.** In our opinion, the payments underlying the accounts of HaDEA for the year ended 31 December 2022 are legal and regular in all material respects.

**3.43.7.** The observations which follow do not call the ECA's opinion into question.

## Observations on the management and control systems

**3.43.8.** We found weaknesses in four out of six audited low-value procurement procedures (below €15 000). These included unclear descriptions of contract subjects, negotiations with potential contractors starting before invitations to tender were sent, certain costs being included in the contractor's offer but omitted from the order forms, and award decisions not having been signed by the authorising officer

## Follow-up of previous years' observations

**3.43.9.** An overview of the action taken in response to the ECA's observations from previous years is provided in the [Annex](#).

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

Sequence number	Year of the ECA's observation	The ECA's observation (summary)	Corrective action taken and / or other relevant developments (summary)	Status of the ECA's observation (Open / Closed)
1	2021	The Director-General of DG SANTE delegated her authority to act as HaDEA's interim Director until HaDEA gained the capacity to implement its own budget. This was not in line with HaDEA's founding <a href="#">Regulation</a> .	This was a one-off event. HaDEA now has a permanent Executive Director	Closed
2	2021	By 31 December 2021, HaDEA had not signed a service-level agreement with the Commission for the rental of its office space.	HaDEA has concluded the service-level agreement with the Commission.	Closed

European Health and Digital Executive Agency (HaDEA)

## HaDEA's reply

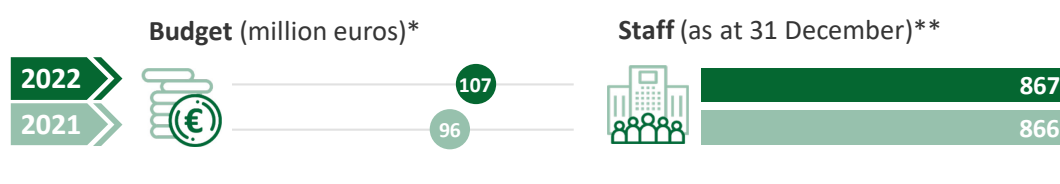
**3.43.8.** HaDEA agrees with the observation. HaDEA applies as of September 2022 the dedicated IT tool PPMT (Prescribed Procurement Management Tool), which streamlines further the procurement processes.

## 3.44. European Research Executive Agency (REA)

### Introduction

**3.44.1.** The European Research Executive Agency (“REA”), which is located in Brussels, was established by Commission [Implementing Decision \(EU\) 2021/173](#), applicable from 1 April 2021 to 31 December 2028. REA superseded the Research Executive Agency, established in 2007. REA supports the EU Research and Innovation policy by managing projects supported by Horizon Europe framework programme and by its predecessor Horizon 2020. REA also manages the Research Fund for Coal and Steel and promotion measures concerning agricultural products. [Figure 3.44.1](#) presents key figures for REA<sup>136</sup>.

**Figure 3.44.1 – Key figures for REA**



\* 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: Annual accounts of REA for the 2021 and 2022 financial years; staff figures provided by REA.

### Information in support of the statement of assurance

**3.44.2.** Our audit approach, the basis for our opinion, the responsibilities of REA’s management and of those charged with governance, and the auditor’s responsibilities for the audit of the accounts and underlying transactions are described in section 3.1. The signature on page 351 forms an integral part of the opinion.

<sup>136</sup> More information on REA’s role and activities is available on its website: [www.ec.europa.eu/rea](http://www.ec.europa.eu/rea).



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

### Opinion

#### 3.44.3. We have audited:

- (a) the accounts of the European Research Executive Agency ("REA"), which comprise the financial statements<sup>137</sup> and the reports on the implementation of REA's budget<sup>138</sup> for the financial year ended 31 December 2022, 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

**3.44.4.** In our opinion, REA's accounts for the year ended 31 December 2022 present fairly, in all material respects, REA's financial position as at 31 December 2022, 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.

<sup>137</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>138</sup> The reports on the 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**

**3.44.5.** In our opinion, the revenue underlying the accounts of REA for the year ended 31 December 2022 is legal and regular in all material respects.

### **Payments**

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

**3.44.6.** In our opinion, the payments underlying the accounts of REA for the year ended 31 December 2022 are legal and regular in all material respects.

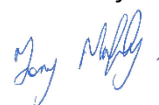
European Research Executive Agency (REA)

## REA's reply

The Agency has taken note of the Court's report.

This report was adopted by Chamber IV, headed by Mr Mihails Kozlovs, Member of the Court of Auditors, in Luxembourg at its meeting of 19 September 2023.

*For the Court of Auditors*



Tony Murphy  
*President*

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