

2023

Annual report on EU agencies for the financial year 2023



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OF AUDITORS

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

Acronym	Full name
HaDEA	European Health and Digital Executive Agency
REA	European Research Executive Agency
SRB	Single Resolution Board



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Chapter 1

The EU agencies and the ECA's audit

Introduction

1.1. The European Court of Auditors (ECA) is the external auditor of the EU's finances¹, in which capacity 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 management².

1.2. As part of our 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 audited by other independent external auditors³.

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 2023 financial year. 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 the report. The report is structured as follows:

- **Chapter 1** describes the agencies and the nature of our annual audits.
- **Chapter 2** presents the overall results of our audit and provides an overview and analysis of the financing models of EU agencies which collect own revenue. It also makes reference to our other agency-related audit results and opinions.
- **Chapter 3** contains a *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, as well as matters and observations that do not call these opinions into question.

1.4. Overall, our audit of the agencies for the financial year ended 31 December 2023 produced similar results as 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,;

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

² Available on our website: www.eca.europa.eu.

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

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

1.5. For most agencies, we draw attention to significant issues or 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 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, 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**⁴ 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 executive agencies**⁵ 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).

Other bodies have specific mandates

1.10. The **four other bodies** are the EIT, EPPO, the ESA and the SRB. The EIT is an independent decentralised EU body which pools scientific, business and education resources

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

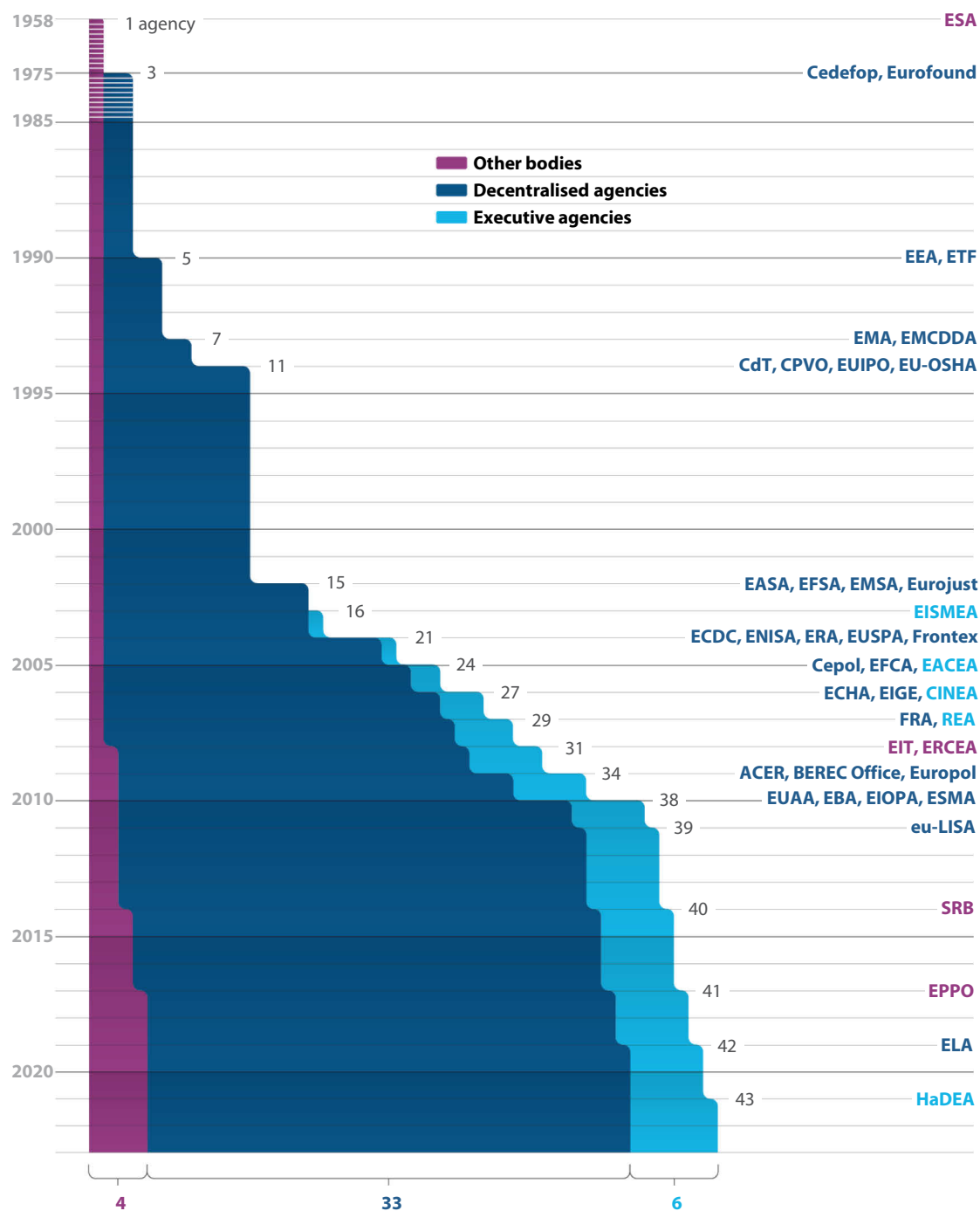
⁵ CINEA, EACEA, EISMEA, ERCEA, HaDEA, and REA.

to boost the EU's innovation capacity by providing grant funding. 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. Lastly, 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, so there is as little impact as possible on the real economy and public finances of EU member states. In this report, we also report on the SRB's contingent liabilities.

Recent changes

1.11. The number of agencies has increased over the years but has remained unchanged since 2022. This report covers 43 agencies, as shown in [Figure 1.1](#). In 2024, the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) was superseded by the European Union Drugs Agency (EUDA).

Figure 1.1 – Timeline and overview of the evolution of agencies

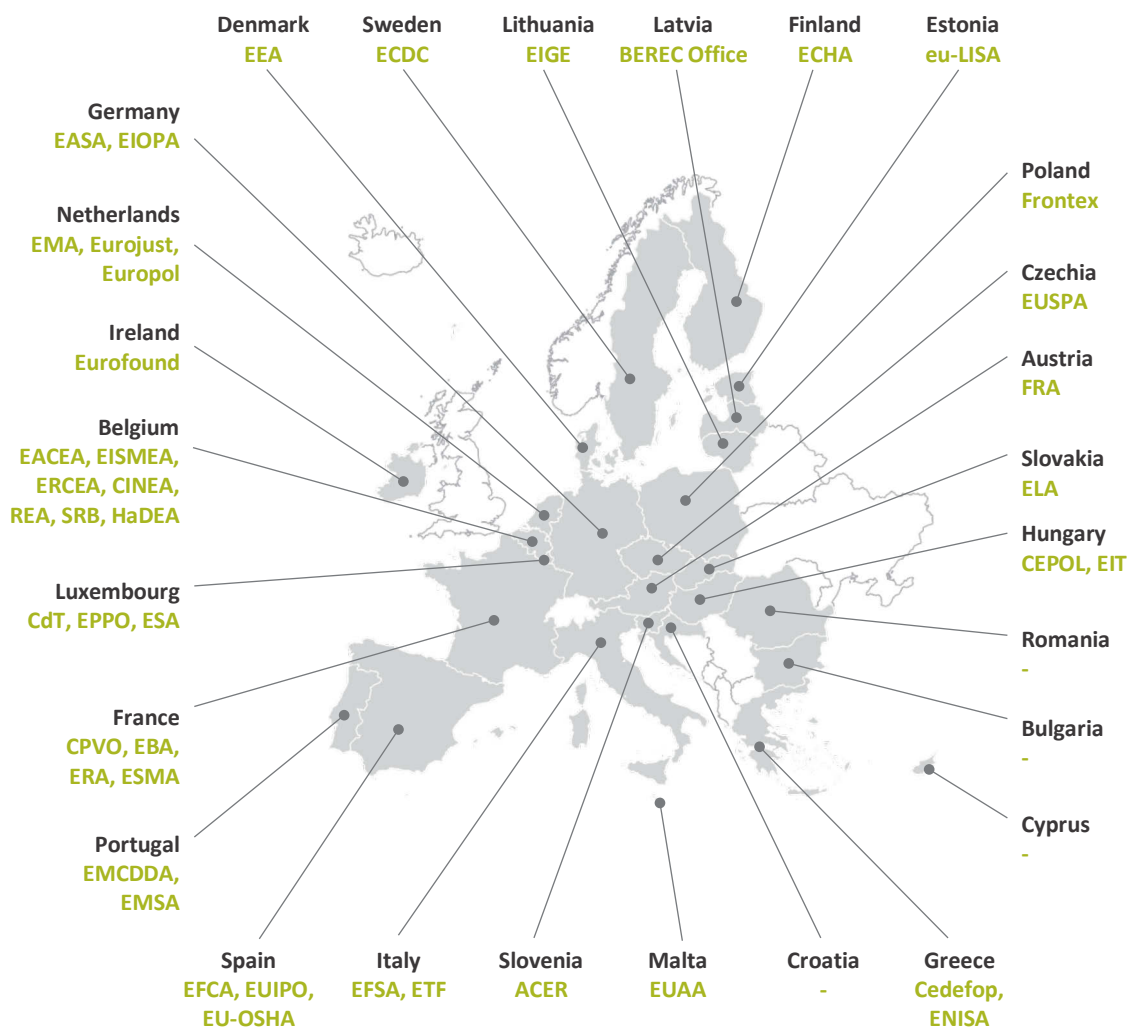


Note: Each year refers to that in which the founding act of the agency (or its predecessor) came into force.

Source: ECA.

1.12. All Commission executive agencies are located in Brussels. Decentralised agencies and other bodies are located across the EU, 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.

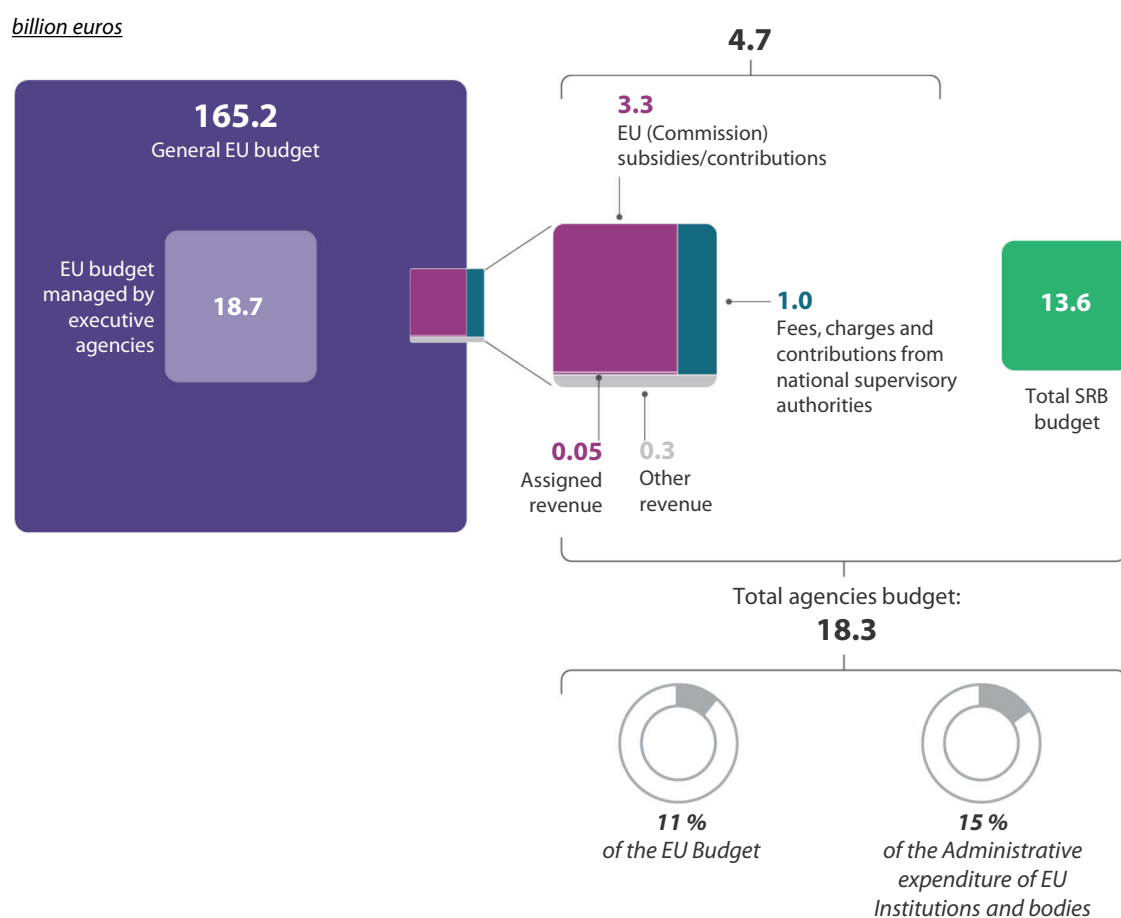
Agencies are financed from various sources and under different MFF headings

1.13. In 2023, the total budget of all agencies (excluding the SRB) was €4.4 billion (2022: €4.5 billion). This is equivalent to 3 % of the EU's general budget for 2023 (2022: 3 %), as shown in [Figure 1.3](#).

1.14. The 2023 budget of the SRB was €13.6 billion (2022: €11.3 billion). This consists of contributions from banks to set up the Single Resolution Fund (€13.5 billion) and to finance the SRB's administrative expenditure (€151 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 2023 amounted to €391 million (2022: €345 million), only cover their own staff and administrative expenditure. The amount of the general EU budget managed by the executive agencies in 2023 to implement programmes on behalf of the Commission was €18.7 billion (2022: €19.3 billion).

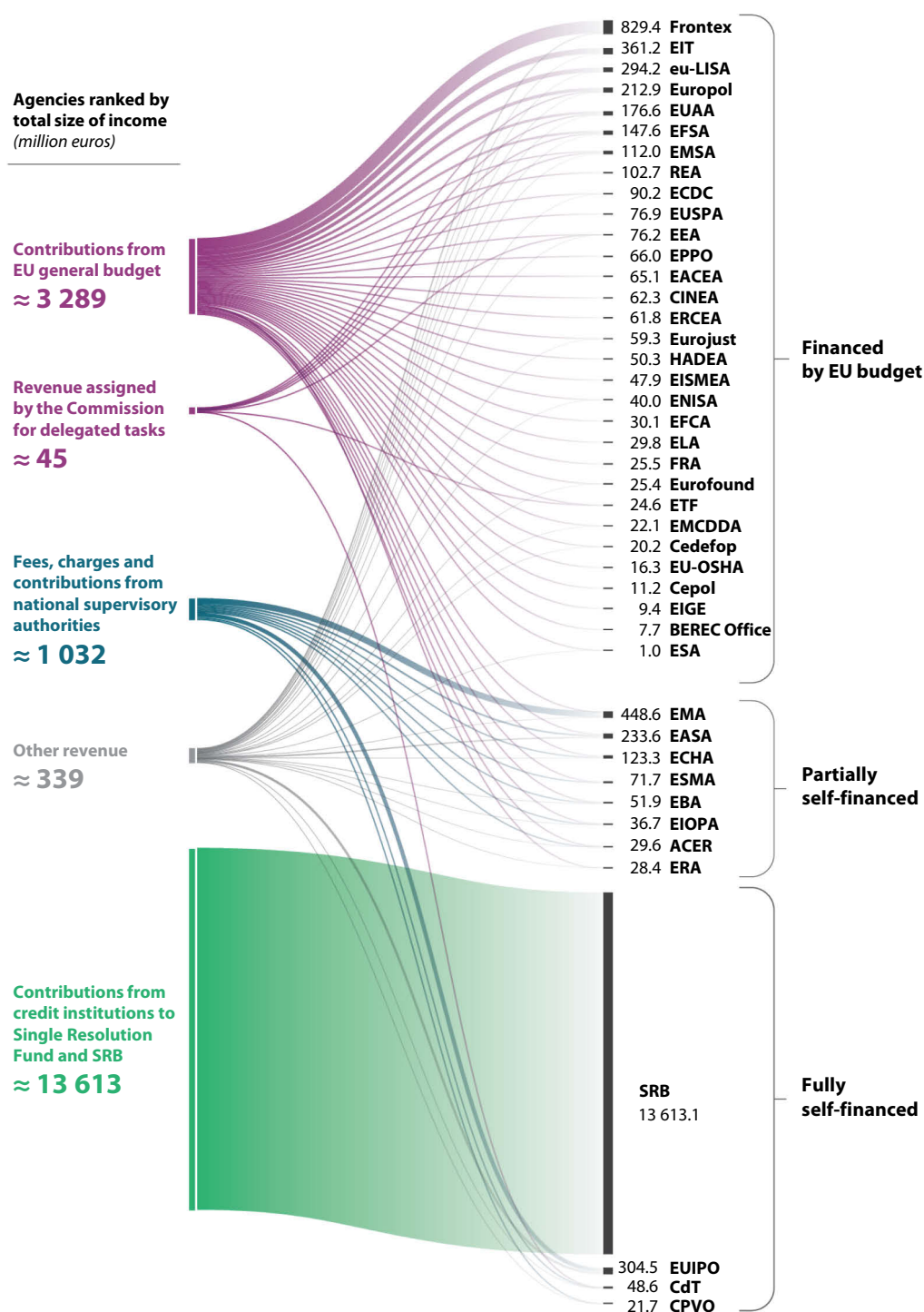
Figure 1.3 – Agencies’ financing sources for 2023



Source: General budget of the European Union for the 2023 financial year; final annual accounts of the European Union 2023; annual activity reports of the executive agencies for 2023; compiled by the ECA.

1.16. Most agencies, including all executive agencies, are financed almost entirely by the EU general budget. The others are partly or fully financed by fees and charges from industry and by direct contributions from countries participating in their activities. [Figure 1.4](#) gives a breakdown of the agencies’ budgets by source of revenue.

Figure 1.4 – Agencies' 2023 budgets by source of revenue



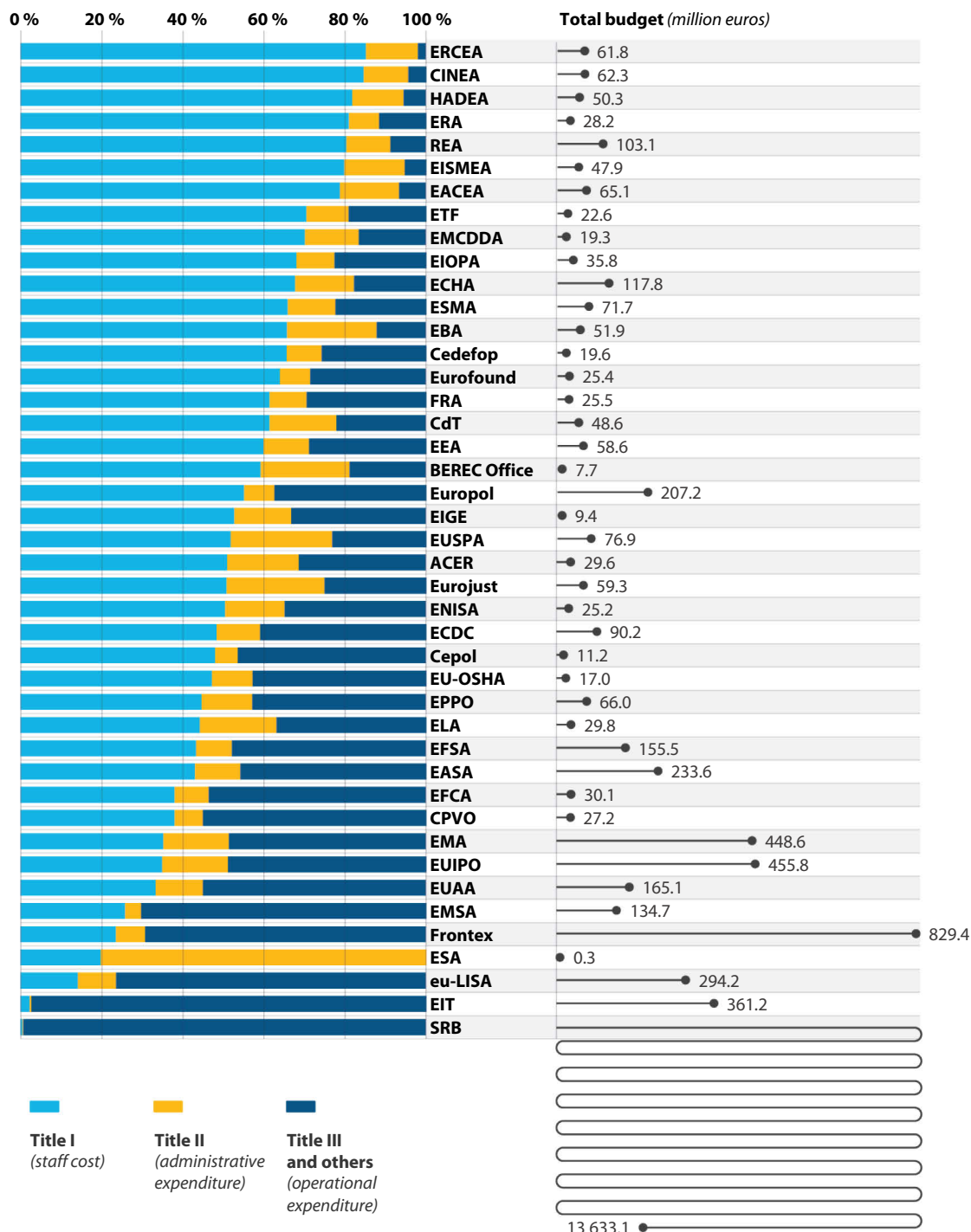
Note: Budgetary reserves are not included.

Source: Agencies' final annual accounts 2023, compiled by the ECA.

1.17. Figure 1.5 presents the agencies' 2023 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, in 2023, agencies' staff and administrative budgets represent around 15 % of the total payment appropriations available under Multiannual Financial Framework (MFF) heading 7 – European public administration. This compares with 49 % for the Commission, 17 % for the Parliament, 8 % for the EEAS, 5 % for the Council and 6 % for the other EU institutions and bodies.

Figure 1.5 – Agencies’ 2023 expenditure for each budget title



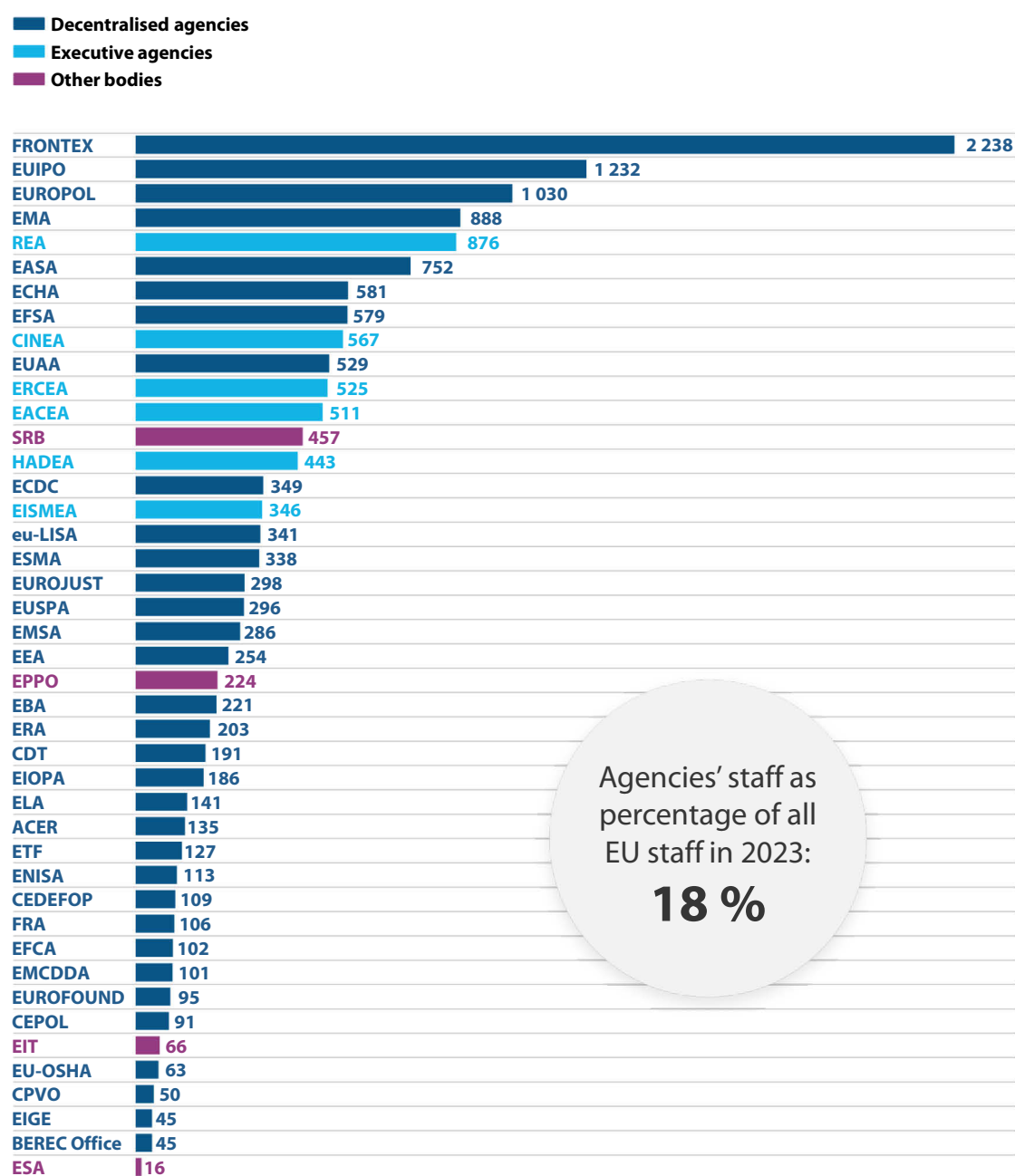
The figure for EUIPO includes appropriations of €106 million, mostly from past positive budget results as presented in its adopted budget and disclosed in its accounts.

The figure for SRB comprises two parts: €151 million for the administration of the Board and €13.5 billion of annual *ex ante* contribution for the Single Resolution Fund.

Source: Agencies’ final annual accounts 2023, compiled by the ECA.

1.18. Figure 1.6 shows how many staff the agencies employed on 31 December 2023. In total, they employed 16 146 members of staff (2022: 15 775). This figure corresponds to the actual number of posts occupied by permanent officials, temporary and contract staff and seconded national experts on that date. 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 and bodies.

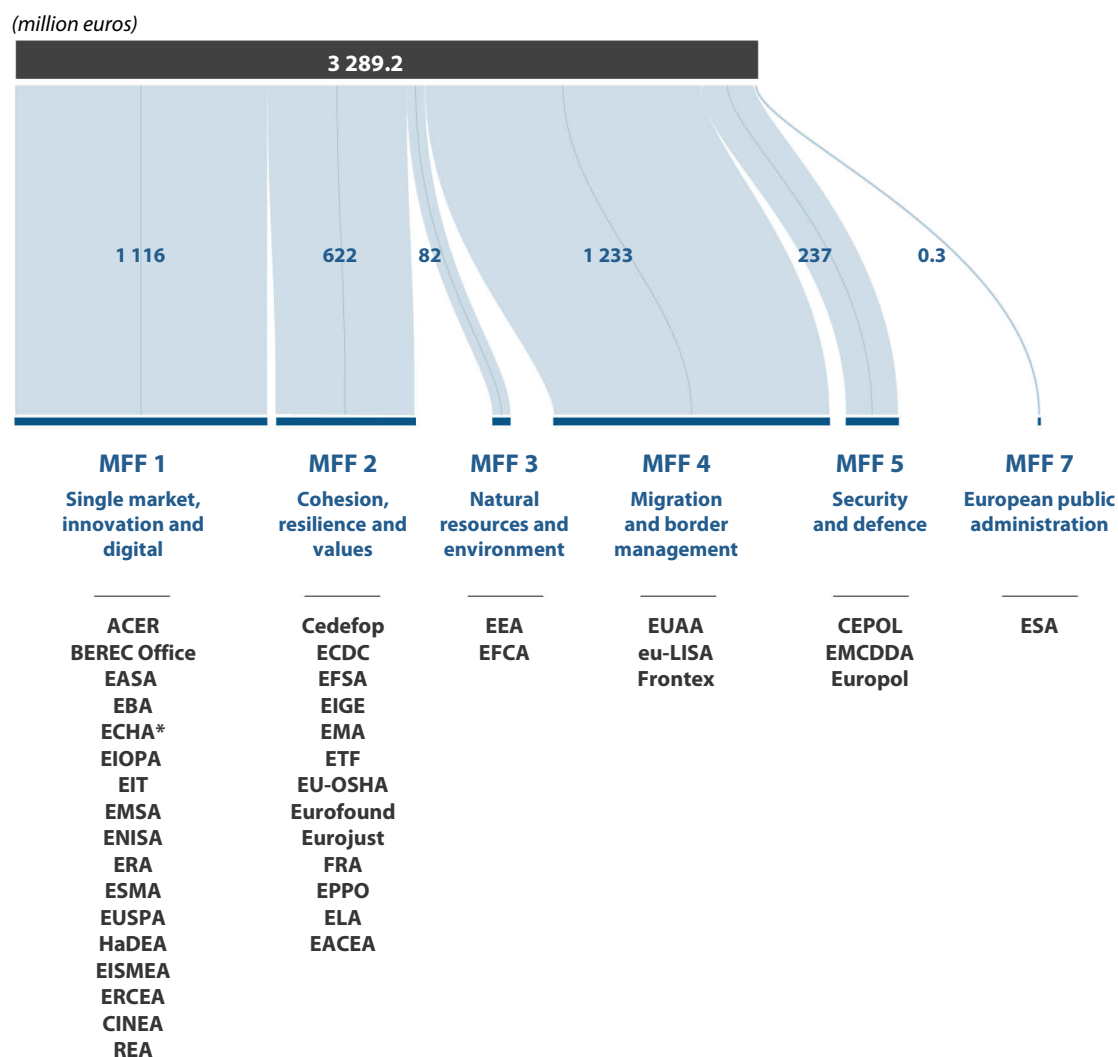
Figure 1.6 – Number of staff per agency at the end of 2023



Source: ECA.

1.19. The €3.3 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



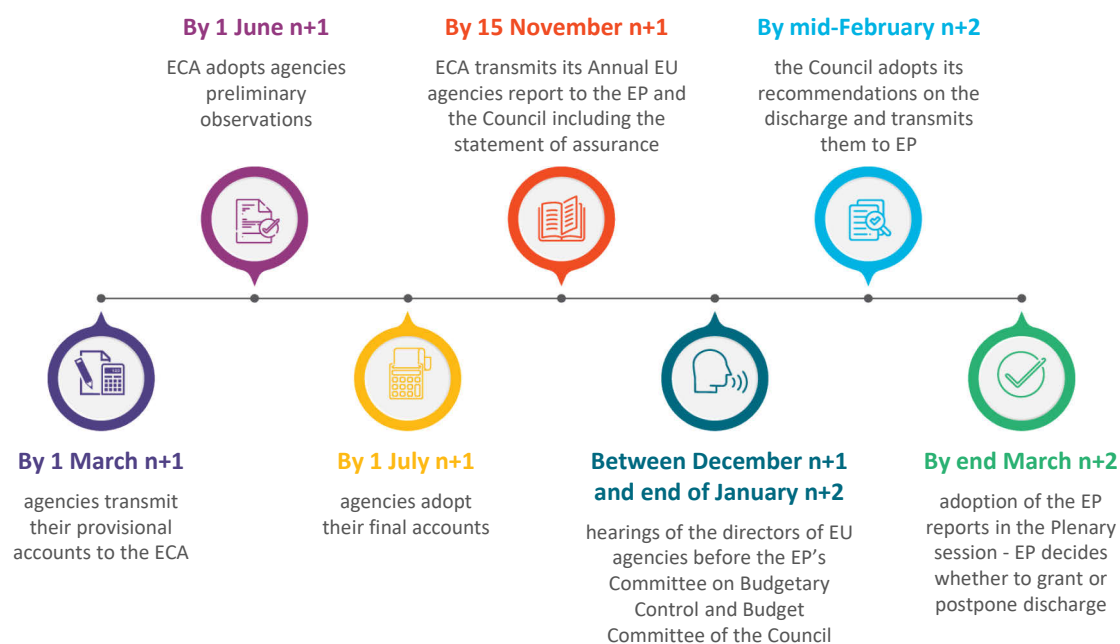
Note: ECHA is mainly financed from MFF 1, but also, to a lesser degree, from MFF 3.

Source: Agencies' final annual accounts 2023, compiled by the ECA.

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

1.20. In the case of most decentralised agencies and other bodies, and 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. The budgetary and discharge procedures for two fully self-financed decentralised agencies (the CPVO and EUIPO) are administered by, respectively, the CPVO Administrative Council and EUIPO Budget Committee, not by the European Parliament and the Council⁶. Similarly, the SRB's annual budgetary and discharge procedure is solely under the responsibility of its Board.

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

1.22. The [EU Agencies Network](#) was set up by the agencies and joint undertakings as a cooperation platform to enhance their 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, the Network endorsed its second multiannual strategy (2021-2027)⁷, which consists of two pillars shaped by the Commission's political and strategic direction:

⁶ [Review 01/2014: "Gaps, overlaps and challenges: a landscape review of EU accountability and public audit arrangements"](#), paragraph 84.

⁷ [2021-2027 Strategy for the EU Agencies Network](#), Brussels, 9 November 2020.

- o the Network as a role model for administrative excellence;
- o the Network as a well-established institutional partner.

1.23. EU Agencies Network is chaired by a different agency or joint undertaking every year on a rotational basis. In 2023, this role was fulfilled by the Fusion for Energy joint undertaking (until 28 February) and by EIOPA (from 1 March). Twice per year, the Network holds plenary meetings coordinated by a shared support office. There are ten thematic sub-networks (see [Figure 1.9](#)) within the Network. These can also interact with EU institutions, which can themselves be members of the sub-networks. The ECA participates actively in some 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:

- 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 2023, and
- 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 supplement 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 2023 and 30 June 2024.

Our audit approach is based on an assessment of key risks

1.27. Our audit is designed to address key risks that we have identified on the basis of our audit results from previous years. For the 2023 financial year, the audit was carried out in response to the risk assessment, which is summarised in [Figure 1.10](#).

Figure 1.10 – Assessment of key risks

	HIGH risk MEDIUM risk LOW risk	
	Reliability of agencies' accounts	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.
	Legality and regularity of revenue	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.
	Legality and regularity of payments (expenditure) <i>Risk is medium overall, but varies</i>	<p data-bbox="593 869 644 999"> Title I - Staff expenditure Salaries are mainly administered by the Commission's PMO service, which the ECA audits regularly.</p> <p data-bbox="593 1016 644 1146"> Title II - Administrative expenditure 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> <p data-bbox="593 1187 644 1317"> Title III - Operational expenditure 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>
	Risk to sound financial management	Most of the problems we identified concerned public procurement procedures which did not ensure that the best possible value for money was achieved.
	Budget management	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.

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 internationally accepted 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 report suspected fraud to the relevant EU bodies OLAF and EPPO

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



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Chapter 2

Overview of audit results

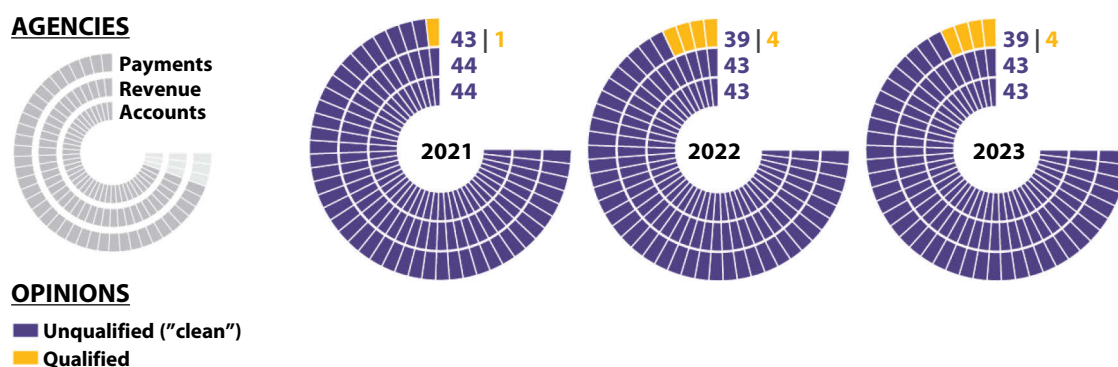
Introduction

2.1. This chapter presents an overview of the results from the ECA's annual audits of the agencies for the 2023 financial year. It includes work on a horizontal topic related to the financing models of the EU agencies that collect their own revenue, as well as other recent agency-related audit work published by the ECA. Based on our audit work, we suggest several actions to be taken by the agencies.

Results of the annual agency audits for the 2023 financial year are positive overall

2.2. Overall, our audit of the annual accounts of the agencies for the financial year ending on 31 December 2023 gave similar results as in previous years (see [Figure 2.1](#)).

Figure 2.1 – 2021-2023 annual audit opinions on agencies’ accounts, revenue and payments



Source: ECA.

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

2.3. For the 2023 financial year, we issue unqualified (‘clean’) audit opinions on the accounts of all 43 agencies (see [Figure 2.1](#)).

‘Emphasis of matter’ paragraphs are important to understanding the accounts of CdT, CINEA, EBA, EIT, EMA, ERA, ESMA, Eurojust, eu-LISA, Frontex and 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 the understanding of the accounts or the underlying revenue or payments. For the 2023 financial year, we have used ‘emphasis of matter’ paragraphs in our reports on 11 agencies: the CdT, CINEA, the EBA, the EIT, EMA, ERA, ESMA, Eurojust, eu-LISA, Frontex and SRB.

2.5. The CdT provides disclosures on the decline in operating revenue, which has negatively affected its economic outcome, and on the continuing shrinkage of the reserve that

was created in 2011 to offset fluctuations in business volume and ensure budgetary and pricing stability.

2.6. The CINEA, ERA and Eurojust accounts include disclosures regarding the implementation of SUMMA, a new budgetary, accounting and financial system, as a pilot.

2.7. The EBA's accounts include disclosures on the significant impacts of the Digital Operational Resilience Act (DORA) and the Markets in Crypto-assets Regulation (MiCAR) as regards the unfunded resources needed to set up the related tasks and implement an appropriate oversight and supervisory policy.

2.8. The EIT's accounts disclose assumptions that were used to estimate operational costs (grant expenses), which are accrued and presented in the balance sheet as a decreasing item of pre-financing assets. Grant expense accrual is a significant estimate that inevitably entails uncertainty.

2.9. EMA provides significant disclosures relating to its former London premises and the uncertainties created by the fact that the subtenant's parent company has filed for bankruptcy. EMA could be held liable for the entire amount remaining payable under the head lease. The maximum amount, including a council tax liability, that will be payable by EMA if the premises remain vacant for the remainder of the lease, is €550 million.

EMA is currently renegotiating the sublease conditions with the group's UK branch. As part of these renegotiations, EMA has agreed to a deferral of rental payments for the first two quarters of 2024 and a reduction in the subtenant's rent from 1 January 2024. In this connection EMA has made a provision for onerous contract in the amount of €131.4 million.

2.10. The accounts of ESMA and the EBA include a disclosure of uncertainty regarding the outcome of a lawsuit (UniSystems Luxembourg and Unisystems systimata pliroforikis v ESMA – case [T-750/22](#)). ESMA also provides a disclosure on an impairment in relation to outstanding fees from third-country supervised entities.

2.11. The accounts of eu-LISA include a disclosure regarding the financial situation of a key contractor with two active framework contracts.

2.12. Frontex's accounts include a disclosure explaining the acting accounting officer's reversal of changes made by the previous accounting officer between 2020 and 2022. This concerns the 2022 closing balance of net assets, revenue from the EU subsidy, contributions from Schengen-associated countries, and the reversal of previous years' write-offs.

2.13. SRB's accounts include disclosures on its potential financial exposure as a result of the latest judgments of the General Court in relation to the *ex ante* contributions and the

annual target level amounting to €2.77 billion, on administrative appeals and judicial proceedings brought against the SRB before EU courts, and on the fact that the initial period of the Single Resolution Fund has come to an end and the target level has been reached.

‘Other matter’ paragraph addresses an issue of specific importance for the SRB accounts

2.14. ‘Other matter’ paragraphs serve to communicate significant matters other than those that are presented or disclosed in the annual accounts.

2.15. Our legal mandate includes two reporting obligations with regard to the SRB. Firstly, Article 287 of the Treaty on the Functioning of the European Union requires us to issue “a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions”, which we do in the specific annual report on the SRB (see chapter 3). Secondly, Article 92(4) of the SRM Regulation imposes on us an obligation to “report on any contingent liabilities (whether for the Board, the Council, the Commission or otherwise) arising as a result of the performance by the Board, the Council and the Commission of their tasks under this Regulation”. We meet the second reporting obligation in the Appendix to the specific annual report on the SRB.

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

2.16. For the 2023 financial year, we issue unqualified (‘clean’) audit opinions on the legality and regularity of the revenue underlying all agencies’ accounts (see [Figure 2.1](#)).

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

2.17. The SRM Regulation does not establish a comprehensive and consistent control framework to ensure the reliability of the information which banks provide to the SRB for the calculation of their *ex ante* contributions to the Single Resolution Fund. However, the SRB does perform consistency and analytical checks of that information, as well as some *ex post* checks of individual banks. The SRB cannot release details on the risk-adjusted calculations it makes for each bank’s contribution, as they are interlinked and include confidential information about other banks. The SRB has significantly improved transparency within the limits imposed by its obligation to observe the confidentiality of the institutions’ business secrets, and to meet the standards of reasoning and transparency set by the European Court of Justice.

As in the previous financial year, we noted that, when calculating the 2023 contributions, the SRB organised a consultation with the institutions in question. Under this procedure, the SRB

communicated data that allowed banks to simulate the calculation of their 2023 *ex ante* contributions, including the impact of any adjustments to the data they had initially submitted.

'Clean' opinions on the legality and regularity of the payments underlying the accounts of 39 agencies

2.18. For the 2023 financial year, we issue unqualified ('clean') audit opinions on the legality and regularity of the payments underlying the annual accounts of 39 agencies (see [Figure 2.1](#)).

2.19. For four agencies (EIT, ELA, ENISA and eu-LISA) we issued qualified opinions. In each case the amount of expenditure affected exceeded the materiality threshold set for this audit.

2.20. For EIT the qualification is linked to irregular grant payments, which EIT checked *ex post* using a sample of 174 cost items. Of these, EIT rejected certain costs in relation to 27 cost items and we identified further three cost items for which EIT could not demonstrate that the beneficiaries had complied with essential conditions set out in the grant agreement. The resulting total estimated amount of irregular grant payments is €12.2 million.

2.21. In the case of ELA, the qualification regards payments of €1.6 million made in 2023 in connection with a contract awarded following an open procedure that we assessed as irregular in [our 2022 report](#) (€1.3 million) and in connection with shortcomings in *ex ante* checks in the area of contract implementation (€0.3 million).

2.22. For ENISA, the qualification is linked to irregular payments made in 2023 in the amount of €1.8 million in relation to reassignment of funds between different contracts and commitments, which contravened the rules.

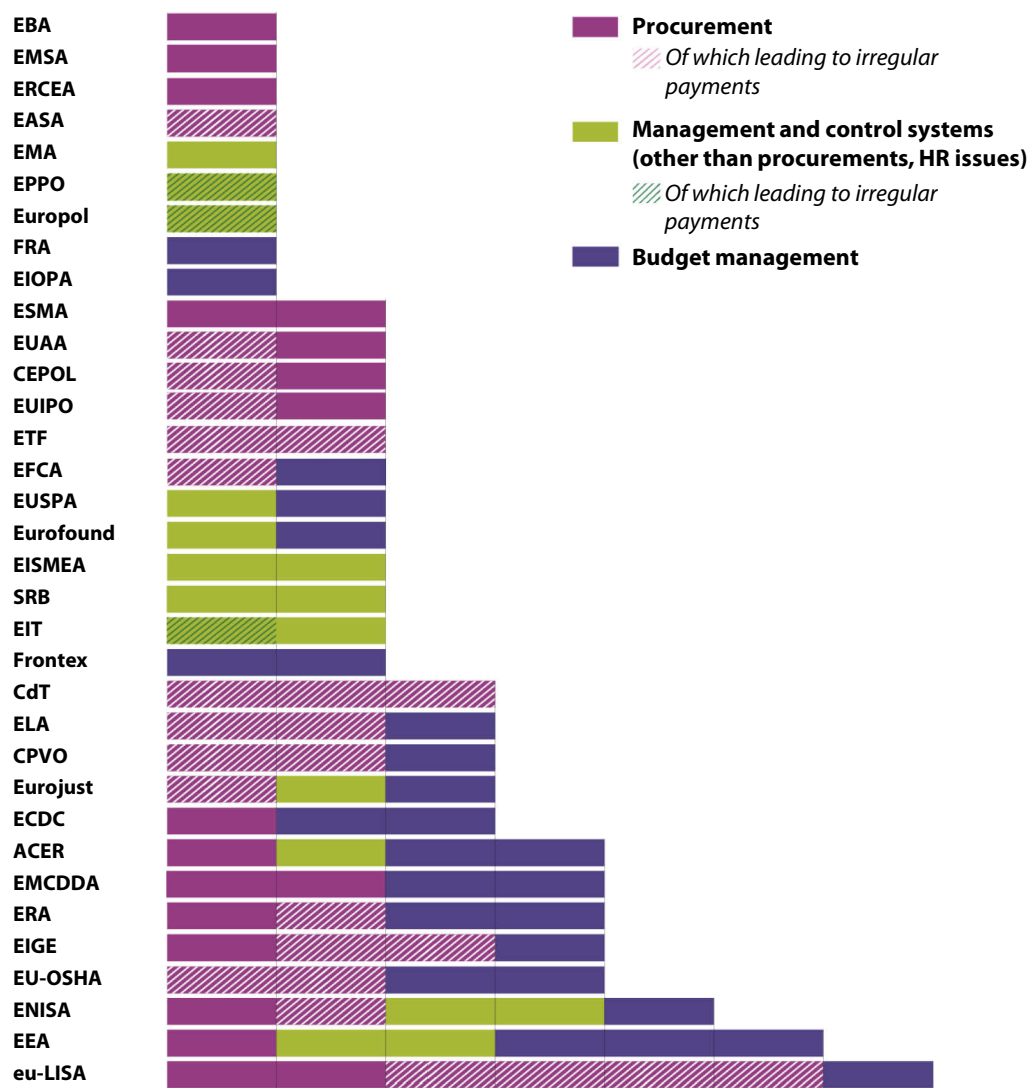
2.23. For eu-LISA, the qualification is linked to irregular payments of €12.6 million made in 2023 for the implementation of contracts we audited for 2023 (€2.7 million) and other contracts that we assessed as irregular in [our 2022 report](#) (€9.9 million).

Our observations address areas for improvement at 34 agencies

2.24. In total, we make 86 observations, concerning the need for further improvements at 34 agencies. These numbers include the observations which serve as the basis for qualified opinions. Our observations concern shortcomings in public procurement procedures, management and control systems and budgetary management. Weaknesses in public procurement procedures remain the main source of irregular payments.

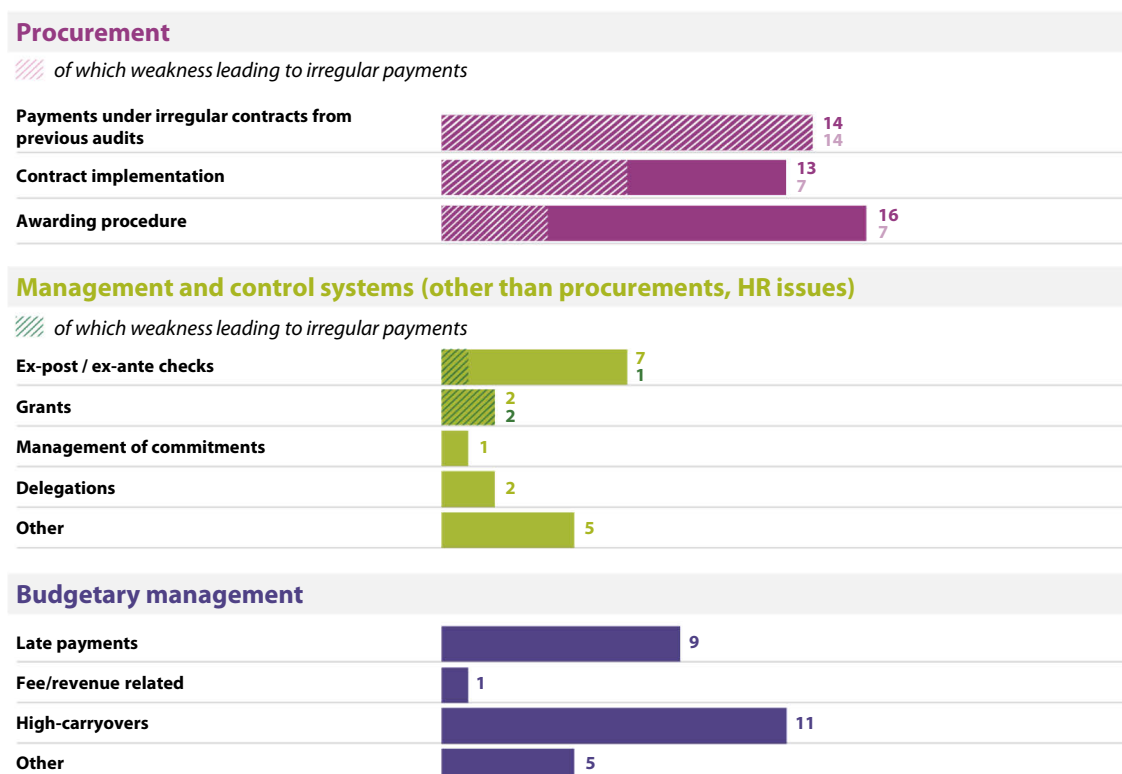
2.25. *Figure 2.2* and *Figure 2.3* show how many of each type of observation are made in the report in respect of these 34 agencies.

Figure 2.2 – Number of observations on 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

2.26. 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 by all the 43 agencies. For 23⁸ we reported public procurement shortcomings (see [Figure 2.3](#)). [Box 2.1](#) presents examples of typical irregularities in the award and implementation of contracts.

⁸ ACER, CdT, CEPOL, CPVO, EASA, EBA, ECDC, EEA, EFCA, EIGE, ELA, EMCDDA, EMSA, ENISA, ERA, ERCEA, ESMA, ETF, EUAA, EUIPO, eu-LISA, EU-OSHA and Eurojust.

Box 2.1

Examples of the irregular award and implementation of contracts

The **CPVO** signed two contracts of a similar nature for information security services, for a combined total of €339.3 thousand. Both contracts were awarded to the same provider, using a cascade mechanism. The underlying framework contract allowed this award mechanism to be used for individual contracts up to €200 thousand.

Considering the similar nature of the contracted services and the fact that the combined total value exceeded €200 thousand, the CPVO's decision to treat these contracts as two separate ones, and to use the cascade mechanism instead of re-opening competition, contravened Article 160 of the Financial Regulation, which prohibits the splitting of contracts to circumvent the rules. The associated payments (€339.3 thousand in 2023) were therefore irregular.

EFCA used an interinstitutional framework contract for the provision of travel services to acquire event organisation services, which was beyond the scope of the contract as applicable to EFCA. The associated payments (€257 thousand in 2023) were therefore irregular.

2.27. We note that the number of observations we make about procurement has remained high over the last three financial years (34 in 2021, 48 in 2022, 43 in 2023), and the number of agencies concerned has remained stable (22 in 2021, 24 in 2022, 23 in 2023). As shown in [Figure 2.4](#), since the 2021 report we have made new observations on procurement every year in relation to eight agencies (CdT, CEPOL, CPVO, EBA, EIGE, ELA, ENISA and eu-LISA).

Figure 2.4 – Our observations on public procurement weaknesses and irregularities have increased in the last three years

	2021	2022	2023	Total number of procurement-related observations	
eu-LISA	2 1	3 4 3	1 2 3	19	▲ (n)
CdT	1 1	2 2 1	2 1	10	● (n)
ENISA	2	1 2	1 1	7	● (n)
CEPOL	1 2	2	1 1	7	→ (n)
EIGE	2	1 1	1 1 1	7	
EEA	4	1	1	6	
CPVO	1	1 1	1 1	5	
EUA	1	1 1	1 1	5	
EUIPO	1	1 1	1 1	5	
FRONTEX	3	1 1		5	
ELA	1	1	1 1	4	
ETF		2	2	4	
EFCA		2	1	3	
EU-OSHA	1		2	3	
EASA		1 1	1	3	
EBA	1	1	1	3	
ESMA	1		2	3	
EUROJUST	1	1	1	3	
ACER	1		1	2	
ECDC			1	2	
EIOPA	1	1		2	
EISMEA	1	1		2	
EMCDDA			2	2	
EMSA	1		1	2	
ERA			1 1	2	
EUROFOUND	1	1		2	
SRB		1		1	
BEREC	1			1	
EIT		1		1	
EMA	1			1	
ERCEA			1	1	
ESA		1		1	
EUSPA		1		1	
HADEA		1		1	
Number of procurement-related observation per type in a given year	6 23 5	18 22 8	11 18 14	125	
TOTAL number of agencies for which we raised a procurement-related observation in a given year	22	24	23		

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.

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 rules given in the Financial Regulation for modifying existing contracts. They should also ensure that specific contracts define the prices, quantities and delivery times and that contract implementation is subject to adequate checks relating to these key elements.

Some management and control systems are affected by weaknesses

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

2.29. For 12 agencies⁹ we report non-procurement weaknesses in management and control systems. Our observations concern issues such as the absence of adequate *ex post/ex ante* checks, expenditure implemented without the proper delegation of power by an authorising officer, and weaknesses in the management of grants and commitments, as well as other issues, including shortcomings in business continuity or risk management, or segregation of duties. **Figure 2.3** shows the most common types of internal control weaknesses we have identified. **Box 2.2** provides an example of such weaknesses.

⁹ ACER, EEA, EISMEA, EIT, EMA, ENISA, EPPO, Eurofound, Eurojust, Europol, EUSPA, SRB.

Box 2.2

Example of weaknesses in management and control systems

The EEA outsourced *ex ante* financial checks of grant payments to the European Topic Centres (contracted to carry out tasks agreed with the EEA's partner network) to an external contractor.

We found a number of shortcomings in the resulting control arrangements:

- The EEA did not update its procedures for *ex ante* checks or its *ex post* strategy to reflect the fact that *ex ante* checks had been outsourced. This creates the risk that the quality of the checks performed by the contractor is not ensured or that the results of these checks are not properly followed up.
- In one case, the EEA did not sufficiently follow up on the results of the contractor's checks regarding salary costs.
- The EEA did not require the contractor to check whether any salaries – the biggest cost category – had been declared more than once (this is a risk because the same partner, with the same staff, can be the beneficiary of more than one grant agreement), or whether the ETCs' cost declarations were consistent with previous years' payments.

Action to be taken 2

The agencies' implementation of their budgets should be subject to effective and efficient internal controls. These should include robust *ex ante* controls to prevent errors and irregularities before operations are authorised.

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

2.30. For 18 agencies¹⁰ we report weaknesses relating to various aspects of budgetary management, for example excessive automatic carryovers of non-differentiated appropriations, late payments, or issues with fees. [Figure 2.3](#) shows the most common types of weaknesses concerning budgetary management. [Box 2.3](#) provides an overview in relation to late payments.

¹⁰ ACER, CPVO, ECDC, EEA, EFCA, EIGE, EIOPA, ELA, EMCDDA, ENISA, ERA, eu-LISA, EU-OSHA, EUROFOUND, EUROJUST, EUSPA, FRA and Frontex.

Box 2.3

Frequency of late payments

The rules require agencies to make payments within specified time limits; any failure to honour these deadlines may entitle creditors to late-payment interest. As part of our work, we report whenever the frequency of late payments exceeds 5 %.

For 2023 we note that the total amount of late-payment interest was immaterial, but nine agencies (ACER, ECDC, EEA, EMCDDA, ENISA, ERA, EU-OSHA, Eurojust and Frontex) nonetheless frequently made payments after the corresponding deadline.

Frequency of late payments by agency:

Agency	Frequency of late payments
ACER	11 %
ECDC	7 %
EEA	18 %
EMCDDA	10 %
ENISA	9 %
ERA	13 %
EU-OSHA	13 %
Eurojust	53 %
Frontex	13 %

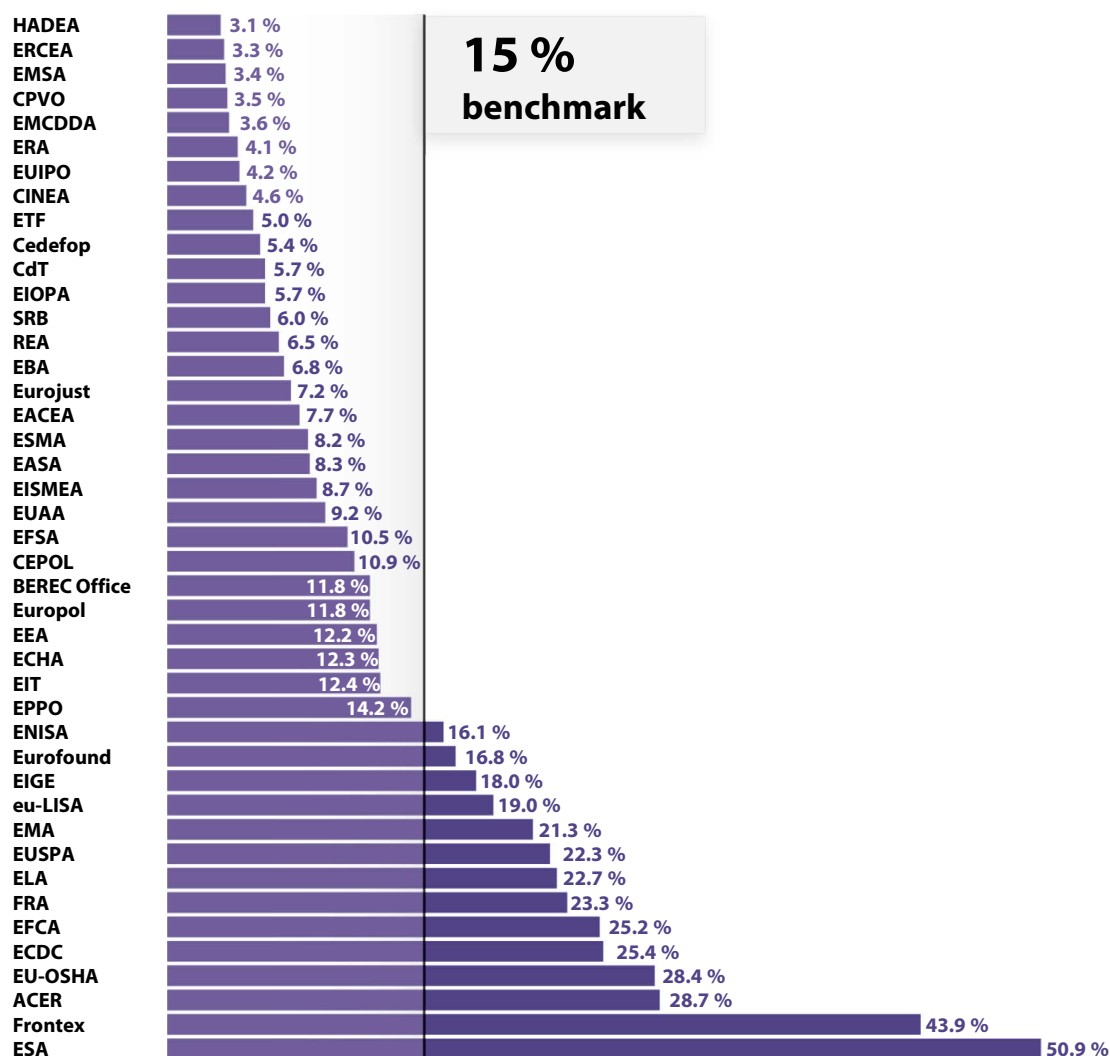
Action to be taken 3

The agencies concerned should improve their compliance with the legal time limits for payments. Although the total amount paid in late-payment interest was immaterial, the significant frequency of late payments is detrimental to the agencies' reputation.

2.31. *Figure 2.5* shows the level of automatic carryovers of voted non-differentiated appropriations for each agency. The Financial Regulation does not set ceilings for carryovers. We consider the level of carryovers to be excessive if the value exceeds 10 % for staff costs (Title I), 20 % for administrative expenditure (Title II) or 30 % for operational costs (Title III and others), or if the overall value exceeds the 15 % benchmark which we have established on the basis of the level of carryovers of the voted non-differentiated appropriations of EU

institutions. In addition, we only report excessive levels of carryovers if they are recurrent. In 2023 this was the case for 11 agencies¹¹.

Figure 2.5 – Level of carryovers affecting all budget titles combined



Source: Agencies' 2023 final annual accounts, compiled by ECA.

Action to be taken 4

To resolve excessive levels of carryovers, the agencies concerned should further improve their budget planning and implementation cycles. They should also assess the appropriateness of using non-differentiated appropriations (intended for annual administrative expenditure) to fund operational expenditure (more commonly multi-annual, for which, in principle differentiated appropriations are better suited).

¹¹ ACER, ECDC, EFCA, EIGE, ELA, eu-LISA, EU-OSHA, Eurofound, EUSPA, FRA and Frontex.

Agencies are following up on previous years' audit observations

2.32. We provide information on the status of follow-up actions taken by the agencies in response to observations from previous years. For the 135 observations that had not been addressed at the end of 2022, corrective action had been completed in 66 cases. For 27 agencies¹² we report a total of 69 observations from previous years that remained open at the end of 2023.

2.33. *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

Status of follow-up as used in this report

Closed: There is evidence that the agency or another entity concerned took corrective action to address the observation, or the observation is no longer applicable, for example because the contract which gave rise to the observation 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 that corrective action has been taken, but the process is not yet fully implemented or complete.

¹² ACER, CdT, Cedefop, CEPOL, CINEA, CPVO, EASA, EFCA, EIGE, EIOPA, EISMEA, EIT, ELA, EMA, EMCDDA, EPPO, ERA, ESA, ETF, EUAA, EUIPO, eu-LISA, Eurojust, Europol, FRA, Frontex and HADEA.

Financing models of EU agencies that collect their own revenue

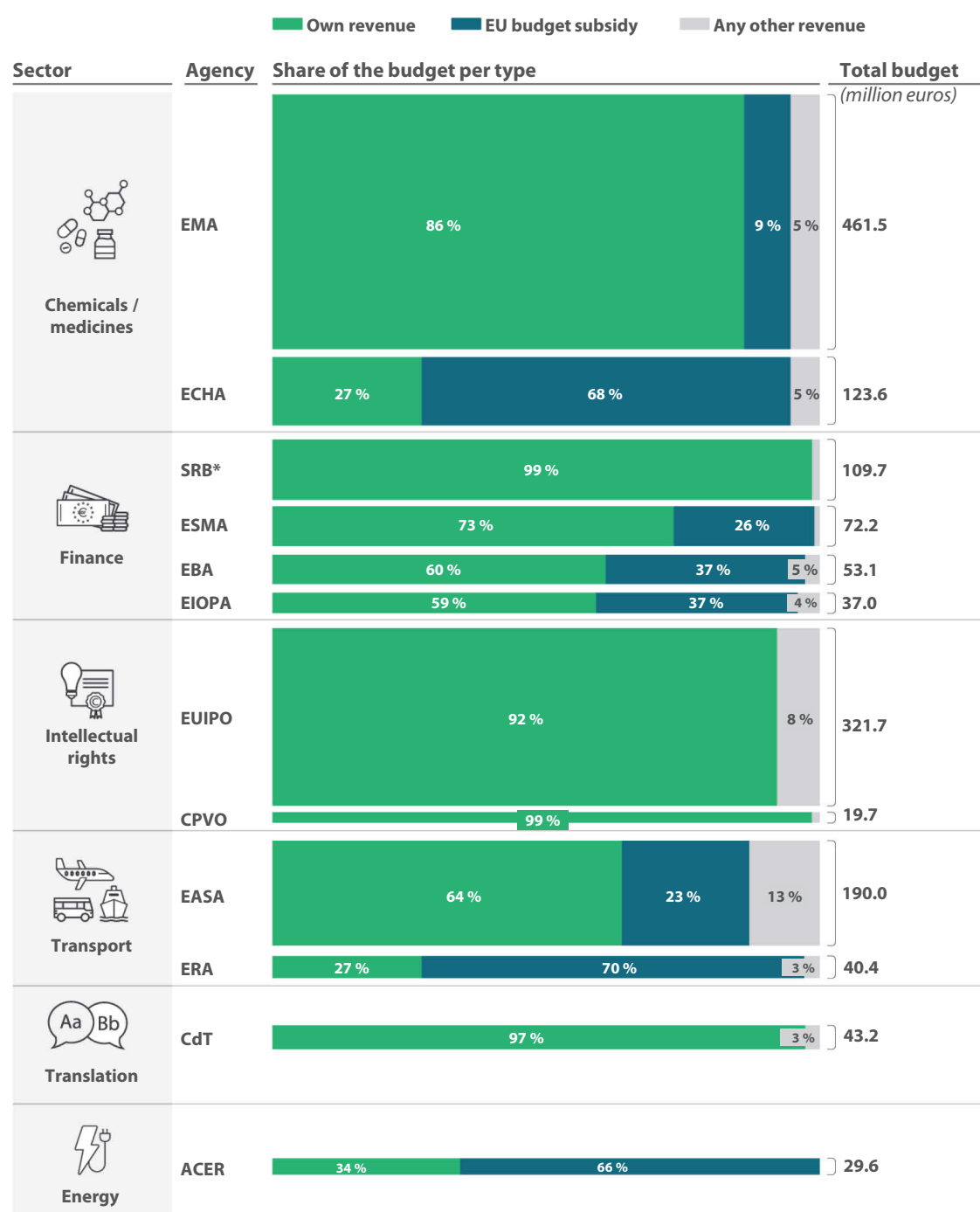
2.34. We supplemented our recurrent audit work on the reliability of the agencies' accounts and the legality and regularity of their revenue and payments with an overview and analysis of the financing models of the twelve EU agencies which collect their own revenue, either in addition to the subsidy received from the EU budget (ACER, EASA, EBA, ECHA, EIOPA, EMA, ERA, ESMA) or as their sole source of financing (CdT, CPVO, EUIPO and SRB).

2.35. An agency's own revenue is provided for in its founding regulation or other EU legislation. Own revenue includes any fees, charges and contributions collected in relation to the agency's core activities, other than the subsidy from the EU budget or assimilated contributions from participating third countries. It is different from incidental revenue (or 'other revenue'), which is generally unrelated to the agency's core activities (such as revenue from subletting or from positive exchange rate differences).

2.36. Our objective was to examine the similarities and differences in the way agencies handle their own revenue, in order to identify good practices and areas for improvement. For this we made a survey of the 12 agencies concerned. We examined their financial statements, consolidated annual activity reports and other documents for the period 2019-2023, as well as our own special reports. Unless specified otherwise, the figures on agencies' revenue and related costs are presented on a cash basis because, for many agencies, the available cash-based figures were more detailed and comprehensive than accruals-based figures. In the case of the SRB, we also excluded from the scope of this analysis part II of its budget, i.e. contributions to the Single Resolution Fund and the related return on investments, which amounted to €11.0 billion in 2023.

2.37. The 12 agencies that collect their own revenue can be grouped by the fields in which they operate: chemicals and medicines (ECHA and EMA), energy (ACER), finance (EBA, EIOPA, ESMA and SRB), intellectual property rights (CPVO and EUIPO), translation (CdT) and transport (EASA and ERA). As shown in [Figure 2.6](#), own revenue constitutes a significant part of the agencies' budgets, ranging from 27 % for ECHA and ERA to 86 % for EMA and nearly 100 % for the four fully self-financed agencies. The total amount in own revenue collected by EU agencies in 2023, excluding contributions to the Single Resolution Fund collected by the SRB, was €1.1 billion, which is around a quarter of the combined budget of all 43 EU agencies. It is mainly because own revenue accounts for so much of the budget that we decided to cover this topic.

Figure 2.6 – Share of own revenue in the budgets of the agencies concerned varies from 27 % to nearly 100 %



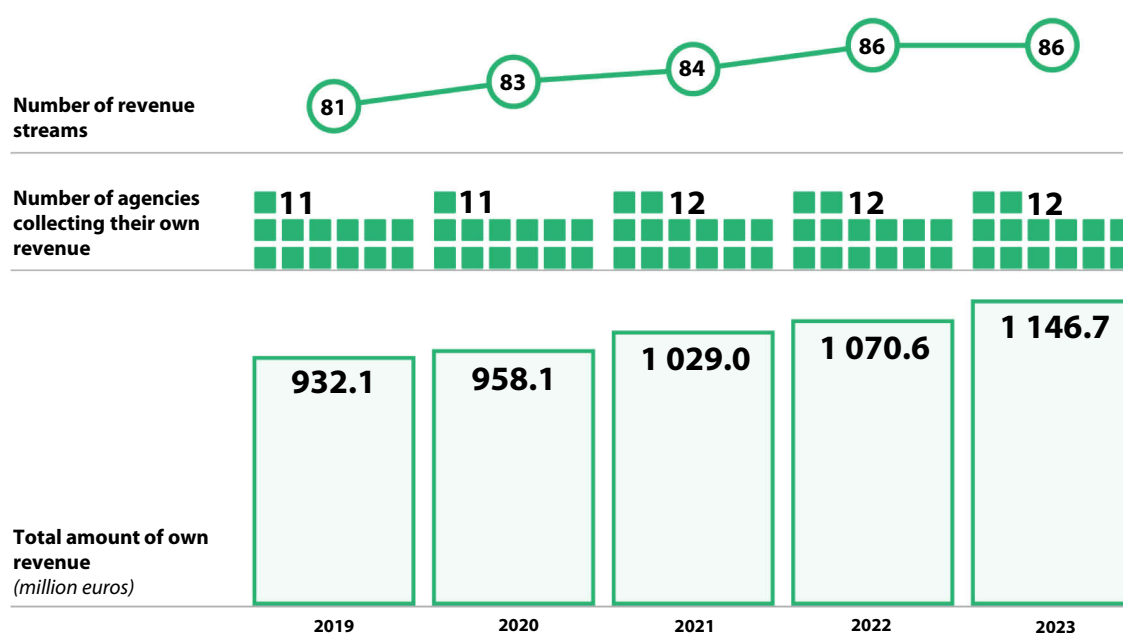
* The revenue figures for the SRB do not take into account part II of its budget, i.e. contributions to the Single Resolution Fund and the related return on investments, which amounted to €11.0 billion in 2023.

Source: ECA, based on the agencies' financial data and replies to our survey.

2.38. As shown in [Figure 2.7](#), over the last five years the amount of own revenue collected by EU agencies increased by 23 %, which is slightly above the euro area inflation rate of 19 % during that period. Agencies collect their revenue in distinct 'revenue streams' consisting of

fees or contributions defined in legislation for a given public service. For example, issuing type certificates confirming the airworthiness of a given category of aircraft is one revenue stream for EASA, and issuing approvals for design organisations in the aviation sector is another. Between 2019 and 2023, the number of revenue streams used by EU agencies increased from 81 to 86. Of the five revenue streams that were added in that period, four concern ESMA (two added in both 2020 and 2022). The fifth concerns ACER, which in 2021 became the twelfth agency to collect own revenue. Overall, the five new revenue streams brought in €19.7 million – 9 % of the total increase of €214.3 million over the last five years.

Figure 2.7 – Own revenue has been increasing slowly over the last five years



Source: ECA, on the basis of the agencies financial data and agencies' replies to our survey.

2.39. In 2024, new or amended legislation relating to fees was adopted for five agencies (ACER, EBA¹³, EMA, EIOPA¹⁴ and ESMA¹⁵). In addition, there are currently legislative proposals

¹³ Commission Delegated Regulation (EU) 2024/1505 supplementing Regulation (EU) 2022/2554 by determining the amount of the oversight fees to be charged by the Lead Overseer to critical ICT third-party service providers and the way in which those fees are to be paid; Commission Delegated Regulation (EU) 2024/1503 supplementing Regulation (EU) 2023/1114 by specifying the fees charged to issuers of significant asset-referenced tokens and issuers of significant e-money tokens.

¹⁴ Commission Delegated Regulation (EU) 2024/1505; Proposal for a Directive amending 2009/65/EC, 2009/138/EC, 2011/61/EU, 2014/65/EU and (EU) 2016/97; Retail investment strategy.

¹⁵ Commission Delegated Regulation (EU) 2024/1505; Regulation (EU) 2023/2631 on European green bonds; Commission Delegated Regulation (EU) 2024/1702 amending

on the table regarding fees for three agencies (ERA, ESMA, EUIPO¹⁶). The changes adopted or proposed so far concern the creation of new revenue streams for EBA, EIOPA, ESMA and EUIPO, and reforms to the existing revenue streams of ACER, ECHA, EMA, ERA, ESMA and EUIPO.

Agencies collect different types of revenue streams and cater for different clients

2.40. The 12 partly and fully self-financed agencies have various revenue streams (each defined separately in the agency's founding regulation or other EU legislation) which can be grouped into five main categories.

- **Certificates / authorisations / registration of substances:** Agencies with this type of revenue stream collect fees for checking and validating that an applicant meets the required standards to be authorised to market their products. For example, EASA certifies the fitness for operation of different types of aircraft, while EMA is responsible for the scientific evaluation, supervision and safety monitoring of medicines.
- **Contributions:** This type of revenue is collected from entities in a specific sector (mainly financial institutions) to support the operation of agencies with supervisory and similar responsibilities in the same area. For example, the three European supervisory authorities (EBA, EIOPA and ESMA) meet part of their operational expenses through contributions from national competent authorities.
- **Protection of intellectual property rights:** Agencies with this type of revenue stream collect fees for the registration and further management and protection of intellectual

Delegated Regulation (EU) No 1003/2013 as regards harmonisation of certain aspects of fees charged to trade repositories; Commission Delegated Regulation (EU) 2024/1703 amending Delegated Regulation (EU) 2020/1732 as regards harmonisation of certain aspects of fees charged to securitisation repositories; Commission Delegated Regulation (EU) 2024/1704 amending Delegated Regulation (EU) 2019/360 as regards harmonisation of certain aspects of fees charged to trade repositories; Commission Delegated Regulation (EU) 2024/1705 amending Delegated Regulation (EU) 2022/805 as regards harmonisation of certain aspects of fees charged to certain benchmark administrators; Commission Delegated Regulation (EU) 2024/1706 amending Delegated Regulation (EU) No 272/2012 as regards harmonisation of certain aspects of fees charged to credit rating agencies.

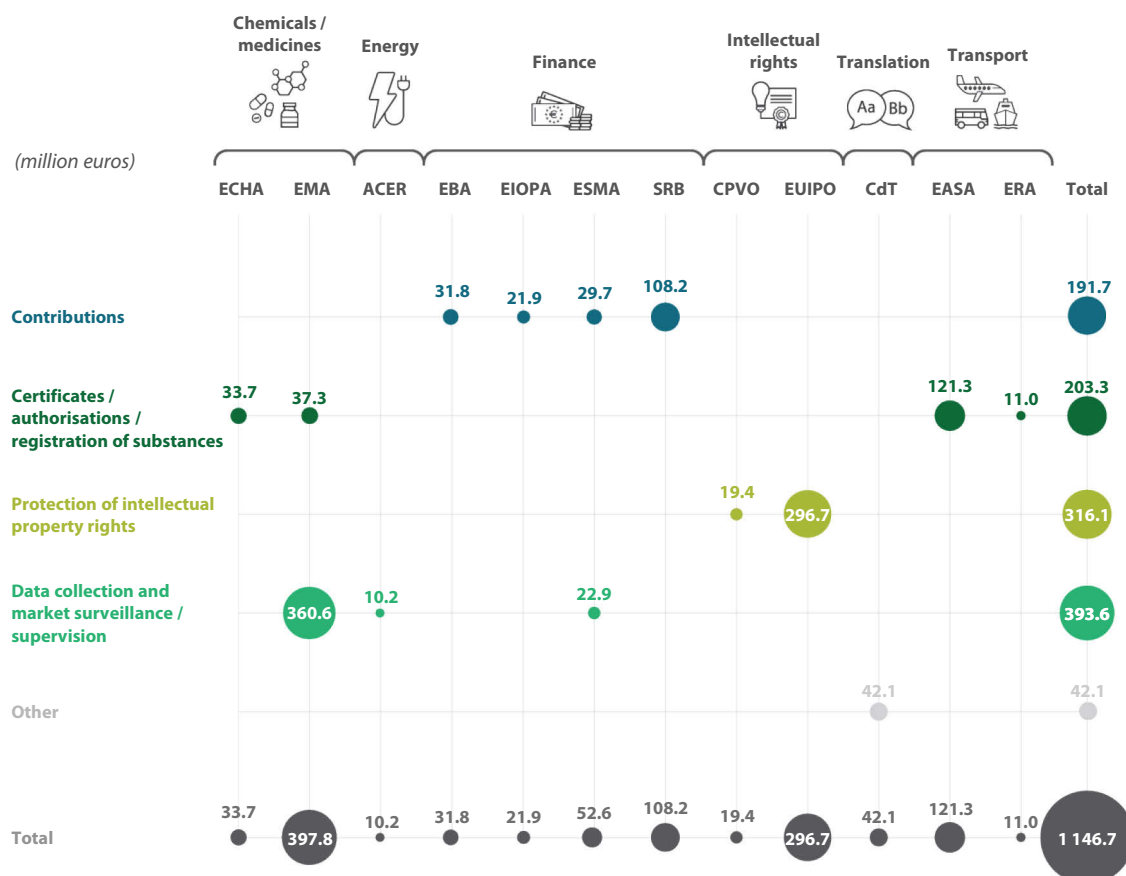
¹⁶ Proposal of a regulation on standard essential patents and amending Regulation 2017/1001; Proposals for regulations on supplementary protection certificates; Proposal on the unitary supplementary protection certificate for plant protection products; Proposal on the unitary supplementary certificate for medicinal products; Proposal on the supplementary protection certificate for plant protection products; Proposal on the supplementary protection certificate for medicinal products.

property rights across the EU. The CPVO grants intellectual property rights for new plant varieties, and EUIPO for trademarks and product designs.

- **Data collection and market surveillance/supervision:** This type of revenue is collected from entities in the supervised industry or market. For example, ACER charges wholesale energy providers fees based on the data it collects from them to assess and monitor the wholesale energy markets, while ESMA is charging annual fees from its directly supervised entities.
- **Other:** This category covers payments which the CdT receives from its clients for its translation, terminology and other services.

2.41. As shown in *Figure 2.8*, the type of revenue stream collected is closely linked to the area in which each agency operates. For example, all four agencies operating in the financial sector receive contributions, either from national competent authorities (EBA, EIOPA and ESMA) or from banks (SRB). Agencies operating in the same sector will tend to have similar types of revenue.





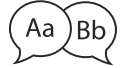

Figure 2.8 – Type of own revenue is often linked to the sector in which an agency operates



Source: ECA, based on agencies' financial data and replies to our survey.

2.42. As shown in *Table 1*, the 12 agencies that collect own revenue cater for various clients or stakeholders (public sector bodies, large companies, small and medium enterprises, individuals), and the number of entities from which they collect money for their services can range from fewer than 50 to more than one thousand. For example, the CdT only has a handful of customers, since it carries out translation and similar services for EU institutions and bodies. This contrasts with EUIPO, which registers trademarks and product designs for a vast number of highly diverse clients.

Table 1 – Agencies with own revenue streams cater for a wide range of clients

Sector	Agencies	Clients	Clients outside EU?	How many clients per year?
 Chemicals / medicines	ECHA	Mostly large companies	No	over 1 000
	EMA	Mostly large companies	Yes, for some revenue streams	over 1 000
 Energy	ACER	Mostly SMEs	Yes	51 to 200
 Finance	EBA	Mostly public sector bodies	No	11 to 50
	EIOPA	Mostly public sector bodies	No	11 to 50
	ESMA	Large companies, SMEs and public sector bodies	Yes, for some revenue streams	51 to 200
	SRB	Mostly large companies	No	over 1 000
 Intellectual rights	CPVO	Large companies, SMEs and individuals	Yes	over 1 000
	EUIPO	Large companies, SMEs and individuals	Yes	over 1 000
 Translation	CdT	Mostly public sector bodies	No	51 to 200
 Transport	EASA	Large companies, SMEs and individuals	Yes	over 1 000
	ERA	Mostly large companies	Yes, for some revenue streams	201 to 1 000

Source: ECA, based on agencies' replies to our survey.

In principle, fees should reflect the related costs, but the way they are set differs between agencies

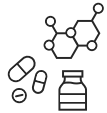



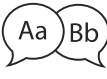

2.43. Article 16 of the Framework Financial Regulation sets the following general principle for setting and adjusting the level of fees: *“For bodies for which the revenue is constituted by*

fees and charges in addition to the Union contribution, fees should be set at a level such as to avoid a significant accumulation of surplus. Where a significant positive or negative budget result [...] becomes recurrent, the level of the fees and charges shall be revised.” This rule does not apply to the contributions received by the three European supervisory authorities (EBA, EIOPA and – for activities not covered by fees – ESMA), which receive 60 % of their funding from national competent authorities, with the remaining 40 % coming from the EU budget.

2.44. The actual procedure for setting fees is set out in the founding regulation or other act pertaining to a given agency, and varies from one agency to another. As shown in [Table 2](#), there are three main approaches.

- **Data-driven formulas** are applied to calculate fees using a range of parameters, including external data. For example, ACER’s fee structure includes a fixed and a variable element. The variable element is updated annually based on each client’s transaction records from the previous year. ESMA’s annual fees depend on the estimated expenditure and are proportionate to the applicable turnover (e.g. revenue) of its supervised entities.
- **Fixed rates** are based on predetermined costs per unit of work. For example, ERA bills a certain amount per working hour for processing a given application, and the CdT charges its clients per page of translation.
- **Fixed fees** are predetermined amounts for a given service, defined in the relevant applicable legal acts and not changing with the actual amount of work involved. For example, EMA has a fixed fee for authorising the marketing of a medicine.

Table 2 – Agencies’ fees are calculated using one of three main methods



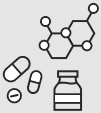





















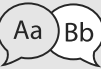


Sector	Agency	Data-driven formulas	Fixed rate per hour/page	Fixed fee per service
 Chemicals/ medicines	ECHA			✓
	EMA			✓
 Energy	ACER	✓		✓
 Finance	EBA	✓		
	EIOPA	✓		
	ESMA	✓		✓
	SRB	✓		
 Intellectual property rights	CPVO			✓
	EUIPO			✓
 Translation	CdT		✓	
 Transport	EASA		✓	✓
	ERA		✓	✓








Source: ECA, based on agencies’ replies to our survey.

2.45. Two agencies (EASA and ERA), use automatic indexation to adjust their fees to inflation. Two other agencies (ECHA and EMA), can also have their fees adjusted for inflation, subject to a Commission decision. However, the Commission does not make adjustments every year. In fact, for ECHA, the last fee adjustment took place in 2015. This can create operational challenges for the agencies concerned, especially during periods of high inflation. Additionally, most agencies that determine their fees using data-based formulas (EBA, EIOPA, ESMA and SRB) benefit from an indirect indexation mechanism. This is because the data used in the formulas (such as the EU subsidy which determines the level of national competent authorities’ contributions to EBA, EIOPA and ESMA) tends to reflect the level of inflation. ACER is an exception in this regard, as its fee-setting formula is largely based on a fixed element that was set determined in a [2020 Commission decision](#) and has not been updated since. Generally,

agencies cannot revise their fees on their own but depend on the Commission, or the Parliament and the Council acting on a Commission proposal, to enact any changes. The CdT is an exception, because its fees can be adjusted by its Management Board.

Table 3 – With one exception (CdT), agencies cannot revise their fee levels on their own initiative

 YES  NO					
Sector	Agency	Responsibility for deciding the level of own revenue	Provision for indexation?	Automatic indexation?	Year fees were last updated*
 Chemicals/medicines	ECHA	Commission			2015
	EMA	Parliament and Council at Commission's initiative + Commission for indexation updates			2024
 Energy	ACER	Commission			NA
 Finance	EBA	Parliament and Council at Commission's initiative			2024
	EIOPA	Parliament and Council at Commission's initiative			2024
	ESMA	Commission + Parliament and Council at Commission's initiative			2024
	SRB	Commission			2024
 Intellectual property rights	CPVO	Commission			2023
	EUIPO	Commission + Parliament and Council at Commission's initiative			2017
 Translation	CdT	Management Board			2021

 YES  NO					
Sector	Agency	Responsibility for deciding the level of own revenue	Provision for indexation?	Automatic indexation?	Year fees were last updated*
 Transport	EASA	Commission (except for automatic indexation)			2024
	ERA	Commission (except for automatic indexation)			2024

* Year in which fees were last updated for at least one revenue stream.

Source: ECA, based on agencies' replies to our survey.

Not all agencies with own revenue streams clearly identify the related costs





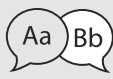
2.46. We consider that, to comply with the general principle in Article 16 of the Framework Financial Regulation (see paragraph 2.43), the agencies concerned should be able at least to identify the costs of activities which generate own revenue and separate them from the costs of activities funded from the EU budget subsidy. To comply fully with that principle, we consider that they should meet the following criteria:

- They should match their own revenue streams with the related costs, either individually or in clusters of revenue streams linked to essentially the same public service. The method of clustering revenue streams for essentially the same public service could apply where, for example, the fees charged for initial certification, authorisation or registration and any subsequent annual or periodic renewals are treated as separate revenue streams. Agencies that are not able to identify their costs in this way may accumulate deficits or surpluses on some of the public services they provide without even realising it, and the quality of their management decisions may be affected as a result.
- In addition, so they can match revenue streams with the related costs over time, agencies should link them on an accruals basis, in the same way as for the statement of financial performance summarising overall revenue and expenses in their annual accounts.
- Finally, for the sake of transparency, we consider that agencies should publish this information in a comprehensive and clear format.


As shown in [Table 4](#), not all the agencies concerned met all of these criteria.

Table 4 – Not all agencies clearly identify the costs linked to own revenue streams

✓ YES ✗ NO

Sector	Agency	Number of revenue streams	Required to identify own revenue costs	Systems in place to identify own revenue costs?	Required to disclose own revenue costs	Form of disclosure	Accruals-based data at least as detailed as cash-based data?
 Chemicals/ medicines	ECHA	2	✓ per stream	✓ per stream	✓ per stream	✓ per stream	✗
	EMA	15	✓ for one stream	✓ per stream	✓ for one stream	✓ for one stream	✓
 Energy	ACER	1	✓ per stream	✓ per stream	✓ per stream	✓ per stream	✗
 Finance	EBA	1	✗	✗	✗	✗	✓
	EIOPA	1	✗	✗	✗	✗	✓
	ESMA	8	✓ per stream	✓ per stream	✗	✗	✓
	SRB	2	✓ per stream	✓ per stream	✓ per stream	✓ per stream	✓
 Intellectual property rights	CPVO*	6	✗	✓ per activity	✗	✓ per activity	✓
	EUIPO*	15	✗	✓ per activity	✗	✓ per activity	✓
 Translation	CdT	6	✗	✓ per stream	✗	✓ per stream	✓

✓ YES ✗ NO

Sector	Agency	Number of revenue streams	Required to identify own revenue costs	Systems in place to identify own revenue costs?	Required to disclose own revenue costs	Form of disclosure	Accruals-based data at least as detailed as cash-based data?
 Transport	EASA	19	✓ all streams combined	✓ per activity	✓ all streams combined	✓ all streams combined	✗
	ERA	10	✓ all streams combined	✓ per cluster of streams	✓ all streams combined	✓ per activity	✓

* The CPVO and EUIPO have systems in place to distinguish between the costs of different activities. However, these activities are not directly linked to the agencies' own revenue streams or clusters of streams for essentially the same public service.

Source: ECA, based on agencies' replies to our survey.

2.47. Seven agencies (ACER, EASA, ECHA, EMA, ERA, ESMA and SRB) are legally required to identify and account separately for the costs of activities funded from own revenue:

- EASA and ERA are only required to identify total costs for all own revenue streams combined.
- ACER is under a similar requirement but, as it only has one revenue stream, by definition it is also required to identify the related costs at that level.
- ESMA is required to identify and account for the costs relating to each of its revenue streams (with the exception of contributions from national competent authorities – see paragraph 2.49) in order to respect the principle that supervisory costs must be recovered in full (i.e. the fees ESMA charges supervised entities must cover all its related costs).
- EMA is required to provide specific analytical information on revenue and expenditure for just one of its 15 revenue streams – fees for pharmacovigilance activities.
- The two remaining agencies (ECHA and SRB) each have two revenue streams. In both cases the legislation requires each revenue stream to form a distinctive part of the agency's budget, so both agencies account separately for the costs relating to each stream.

2.48. The seven agencies mentioned in paragraph 2.47 all have systems in place to meet the requirements applying to them with regard to identifying the costs relating to their own revenue streams. Certain agencies go beyond those requirements:

- EMA identifies the costs relating to almost all of its own revenue streams, although it is only required to identify costs for its pharmacovigilance activities.
- EASA groups its own revenue streams into two ‘domains of activity’ (‘product certification’ and ‘organisation approval’, consisting of nine and twelve streams respectively, with two streams shared between the two) on which basis it identifies its costs. Each domain covers a range of similar, but different, services and clients (e.g. ‘product certification’ covers changes and repairs and type certificates, while ‘organisation approval’ covers approvals for design organisations and production organisations). Therefore, the two domains are broader than clusters of revenue streams linked to essentially the same public service.
- ERA has ten own revenue streams, which it groups into six clusters. It is at the level of these clusters that it identifies the related costs.

2.49. The founding regulations for the three European supervisory authorities (EBA, EIOPA and – with the exception of activities financed from supervisory fees – ESMA) set out that, at least initially, the contributions they receive from the national competent authorities should represent 60 % of their budgets, with the remaining 40 % coming from the EU budget. This reflects the mixture of regulatory tasks (for which EU funding is appropriate¹⁷) and supervisory convergence tasks (for which contributions from national competent authorities are appropriate) in the mandates of the three authorities. However, in the founding regulations, there is no clear delineation in the three authorities’ activities between these two sources of funding. Consequently, in the absence of a specific requirement, they do not differentiate between the costs of activities covered by the EU budget subsidy and those covered by national contributions.

2.50. The CdT has a system in place for monitoring the cost of each activity and product that generates own revenue. This enables it to compare the cost of each activity with the associated revenue levels after any discounts. It can then quantify profits or losses for at least 17 of its main products (such as translation, trademarks, custom translation and language consultancy), giving an annual total for invoiced revenue. The 17 products can be linked to five of the CdT’s six own revenue streams (all except the Interactive Terminology for Europe database, which represents 1.7 % of the CdT’s own revenue). In 2023, 10 of the 17 products reported losses totalling €3.4 million.

¹⁷ See the report from the Commission to the European Parliament and the Council on the operation of the European Supervisory Authorities (COM(2022) 228 final), page 15.

2.51. At the CPVO, the three biggest of six revenue streams (application fees, technical examinations and annual fees – which together represent around 95 % of the CPVO’s revenue) are interlinked as they are all mandatory parts of successful applications for a community plant variety right. The remaining streams relate to different public services but could be grouped as other *ad hoc* fees. However, the CPVO does not receive any subsidy from the EU budget and accounts for its costs globally. It does not identify costs for individual or clustered revenue streams.

2.52. EUIPO allocates its expenditure to activities, but there is no direct link between the costs of these activities and its revenue streams, either individually or in clusters linked to essentially the same public services. The mandatory fees applicable to successful applications for a trademark intellectual property right include four revenue streams (basic fees, fees for additional classes, renewal fees and international application fees) which accounted for 77 % of EUIPO’s own revenue in 2023. In our special report on EU intellectual property rights protection¹⁸, we observed that EUIPO’s fee structure does not reflect its real costs. However, as a fully self-financed agency, EUIPO knows the cost of all its revenue streams combined.

2.53. Six agencies that are legally required to identify and account for the costs relating to activities funded from own revenue (ACER, EASA, ECHA, EMA, ERA and SRB – see paragraph 2.47) are also required to publish information on those costs. In addition to these six agencies, EUIPO, the CdT and the CPVO also published their costs in 2023. They did so in a variety of ways, using one or two of the following three reports.

- The **annual accounts**: EASA, ERA, ECHA and the SRB used the section on budget implementation to give information on their own-revenue budgetary result and the related expenses committed, paid and carried over.
- The **consolidated annual activity report**: EMA used this report to disclose the total amount of remuneration paid to national competent authorities. This form of reporting was also used by EUIPO and the CPVO.
- The **single programming document**: ACER, the CdT, EASA, ECHA, EMA, ERA and the SRB used this or similar multiannual reports (covering annual and multiannual work programmes, revenue and expenditure estimates and resources programming) to provide information about resource allocation and planned multiannual costs per activity.

¹⁸ [Special report 06/2022](#) (paragraphs 36-41).

Action to be taken 5

Agencies that are not yet in a position to identify and separately account for the costs of activities generating each of their own revenue streams (or clusters of revenue streams linked to essentially the same public service) should develop this capacity in order to improve their decision-making and the quality of information they provide to stakeholders as regards the deficits or surpluses that such activities produce.

To increase the accuracy and relevance of this information, they should match their revenue to the related costs over time using accruals-based accounting.

For the sake of full clarity and transparency, each agency that collects own revenue should disclose the same information in an easy-to-understand way in its final annual accounts, consolidated annual activity report and single programming document, since these reports serve different purposes.

The standard practice for handling surpluses is to pay them into the EU budget, but some agencies accumulate them as reserves

2.54. *Figure 2.9* provides an overview of the 12 agencies' own revenue, EU subsidy and related costs for 2019-2023. It shows that, in 2023, three agencies had a surplus from activities generating own revenue, while three had a deficit and one was in equilibrium. Data was unavailable for the remaining five. At the level of overall operations, the picture is more complete: eight agencies had a surplus, whereas four had a deficit. The data for the last five years also shows significant fluctuations in revenue levels (including own revenue) and the related costs, so that many agencies experienced both surpluses and deficits during that period.

Figure 2.9 – Most agencies with own revenue streams experienced both surpluses and deficits during 2019-2023



Note: Data based on budgetary results (cash), except for EMA and ESMA.

* For EMA and ESMA, data based on accounting results (accruals).

Source: ECA, based on the agencies' financial data and replies to our survey.

2.55. Article 17 of the Framework Financial Regulation requires the agencies to repay to the Commission any budget surplus up to the EU budget contribution received during the year. Any part of the budget result exceeding the annual contribution must then be entered in the agency's budget for the following financial year as revenue. However, each agency tackles surpluses in accordance with specific rules set out in its own financial regulation. As shown in [Table 5](#), there are three general approaches to dealing with a surplus, and the agencies can use a combination of these:

- **Returning the surplus to the EU up to the amount of the annual EU budget subsidy**, either as a payment or as a reduction in the following year's subsidy, in line with Article 17 of the Framework Financial Regulation. This approach is mandatory for ACER, ECHA and EMA, and one of two or three options for a number of other agencies. In 2023, six agencies (ACER, ECHA, EIOPA, EBA, ESMA and EMA) used this option to transfer a total of €3.8 million to the EU budget.
- **Returning the surplus to the agency's clients or contributors**, either as a reimbursement or as a reduction in the following year's contribution. This approach is taken by the four agencies operating in the financial sector (EBA, EIOPA, ESMA and SRB) and, under certain conditions, the CdT.
- **Allocating the surplus to a reserve** set up, in principle, to guarantee the agency's continued operation. EUIPO and the CdT are both legally required to hold a reserve of a certain minimum size, while a number of other agencies are allowed to have one. At the end of 2023, the budgetary accounts of four agencies (EUIPO, CdT, EASA and CPVO) included reserves and accumulated surpluses of €592 million. In our special report on EU intellectual property rights protection¹⁹, we commented on the size of EUIPO's surplus, which amounted to €309 million on the balance sheet (using the accruals basis) in 2020. At the end of 2023, this figure had fallen to €306 million. However, on the same date EUIPO's budgetary accounts included an amount of €438 million for the reserve and accumulated surplus combined.

¹⁹ [Special report 06/2022](#) (paragraph 37).

Table 5 – In most cases, surpluses are paid into the EU budget

		Chemicals / medicines 		Energy 	Finance 			Intellectual rights 	Translation 	Transport 				
<i>(amounts in million euros)</i>		ECHA	EMA	ACER	EBA	EIOPA	ESMA	SRB	CPVO	EUIPO	CdT	EASA	ERA	
Surplus Allocation	Paid into EU budget	✓	✓	✓	✓	✓	✓			*1	*2			
	Clients / Contributors				✓	✓	✓	✓		✓	*3			
	Reserve							✓	✓	✓	✓	✓	✓	
	Reserve required							*4		✓	✓			
	Level of reserve required									✓	✓			
	Level respected in 2023									✓	✓			
	Surplus to be paid into EU budget at the end of 2023	1.49	0.02	0.35	1.08	0.14	0.73					*5	*5	
	Payment of surplus amount into EU budget in 2019-2023	✓	✓	✓	✓	✓	✓	✗	✗	✗	✗	✓	*5	*5
	Amount deducted from clients / contributors in 2023				0.61	0.16	0.36	36.82						
Level of reserves (including accumulated surplus) at the end of 2023 (budget)							62.2	1.53	*6	437.53	*7	25.59	59.79	
Level of reserves at the end of 2023 (accounting)	11.24	55.50	8.33	7.34	5.92	11.36		10.58	577.13	31.82	43.80	10.31		

- ¹ EUIPO's financial regulation allows it, under certain conditions and following a Budget Committee decision, to transfer part of its accumulated surplus to the EU budget. The required conditions have not occurred yet.
- ² The CdT's financial regulation specifies that any surplus generated should first be paid back into the EU budget up to the amount of the yearly contribution received. However, the agency is fully self-financed and does not normally receive any contributions from the EU budget; any surplus therefore typically flows into the reserve.
- ³ The CdT's financial regulation allows it, if the budget surplus exceeds €1 million, to reimburse its clients in proportion to their share of total revenue in the financial year concerned.
- ⁴ The SRB is required to store in the Single Resolution Fund the equivalent of at least 1 % of the covered deposits of all authorised credit institutions in all participating member states. The Single Resolution Fund is outside the scope of this analysis.

- ⁵ EASA and ERA paid back into EU budget surplus amounts generated only from subsidies.
- ⁶ The level of reserves includes €289.3 million of reserve fund and €148.2 million of accumulated surplus. Part of the accumulated surplus is already committed. The remaining uncommitted surplus amounts to €52.5 million.
- ⁷ €8.9 million of reserve for pricing stability and €16.5 million of permanent prefinancing fund form the most part of the level of reserves.

Source: ECA, based on the agencies' financial data and replies to our survey.

2.56. All agencies handle negative budget results in essentially the same way. Under Article 17(3) of the Framework Financial Regulation, a negative balance at the end of the financial year must be entered in the agency's budget for the following financial year as payment appropriations or, where appropriate, offset against any positive budget result in the following financial years. **Box 2.5** shows how one agency has dealt with frequent deficits over the last decade.

Box 2.5

The CdT covers budget deficits from a reserve and, ultimately, the EU budget

Over the last decade, the CdT experienced 7 years of budgetary deficits and 6 years of accounting losses. The main cause was declining volumes of business, as the number of pages translated decreased by 25 % (from 729 000 in 2015 to 548 000 in 2023). The CdT is dependent on a handful of big institutional clients (EU institutions and bodies, including larger agencies), some of which have tended to require less translation or can meet their needs in other ways.

To address the fall in business volumes, the CDT has been drawing on a special reserve that was established in 2011 to ensure budget and price stability. The reserve was largest in 2014, when it totalled €15.6 million. It then began to shrink, dropping to €10.3 million in 2022 and €8.9 million in 2023. This represents a 14 % decrease since 2022 and, more significantly, a 43 % decrease since 2014.

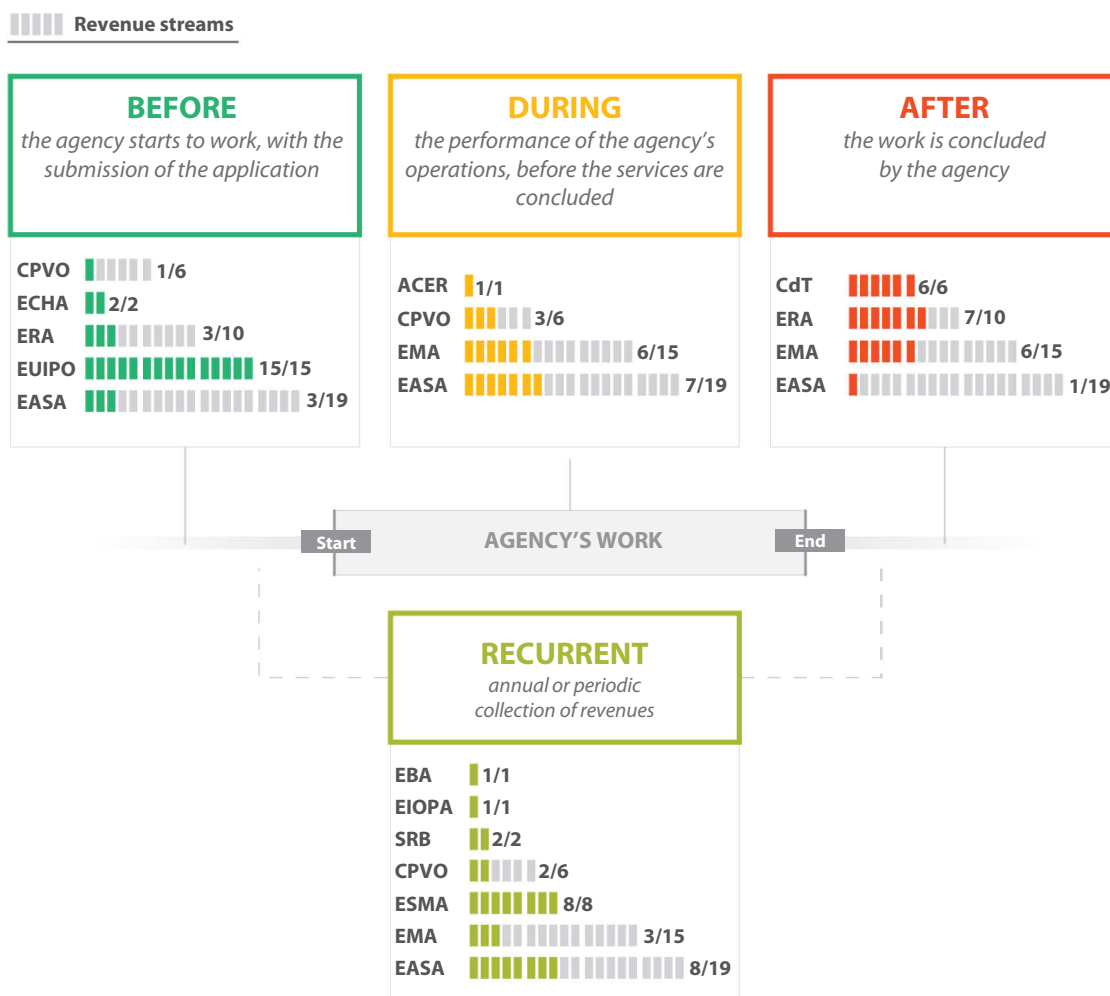
Once the reserve is fully depleted, any further deficits would have to be covered by EU budget subsidies, as provided for by Articles 10 and 13 of the [CdT's founding regulation](#).

The timing of own revenue collection may affect agencies' cashflow management

2.57. As shown in *Figure 2.10*, agencies collect their own revenue at various stages of the client relationship.

- **On application:** many services provided by agencies require the upfront payment of a fee when clients submit a request. Examples include intellectual property protection from EUIPO, and the registration and authorisations of substances by ECHA.
- **Before the agency completes the work:** agencies such as EMA (scientific advice and applications) and ACER require payment for certain services during operations, and before completion.
- **After the agency completes the work:** payment for certain types of service does not become due until operations have been completed. The main example is the CdT, which is entitled to receive payment only on delivery.
- **Recurrent:** several revenue streams include annual fees for operation in a market (e.g. ESMA), or contributions from national competent authorities (EBA, EIOPA and ESMA) or credit institutions (SRB).

Figure 2.10 – Agencies collect fees at different stages of their work



Source: ECA, based on the agencies' financial data and replies to our survey.

2.58. The timing of revenue collection significantly affects an agency's cashflows. Agencies which receive payments upfront, like the CPVO and EUIPO, may benefit from immediate cashflow, enhanced liquidity and reduced risk of bad debt. Conversely, agencies which receive payment after delivery of a service, like the CdT, may face delayed cash inflows and higher bad debt risk, which complicates the task of cashflow management. Some agencies, such as ACER and EMA, collect fees during the provision of services, which helps them to balance the related costs and mitigate the risks associated with long delivery times. Finally, agencies which charge recurrent annual or periodic fees (such as EBA, EIOPA, ESMA and the SRB) can count on predictable and stable cashflows, which favours long-term financial planning.

Other ECA reports referring to the work of EU agencies

2.59. In addition to our specific audit reports on the EU agencies, in the course of 2023 and the first half of 2024 we issued a number of special reports on EU policy implementation which referred to the work of one or more agencies. [Figure 2.11](#) lists those special reports.

Figure 2.11 – ECA special reports referring to agencies in 2023 and the first half of 2024

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

Chamber I

Sustainable use of natural resources



EPPA

Special report 06/2023:

Conflict of interest in EU cohesion and agricultural spending: Framework in place but gaps in transparency and detection measures

EEA

Special report 18/2023:

EU climate and energy targets: 2020 targets achieved, but little indication that actions to reach the 2030 targets will be sufficient

EEA

Special report 29/2023:

The EU's support for sustainable biofuels in transport. An unclear route ahead.

EEA

Special report 01/2024:

Reducing carbon dioxide emissions from passengers' cars. Finally picking up pace, but challenges on the road ahead.

ACER

Special report 09/2024:

EU Security of the supply of gas in the EU: EU's framework helped member states respond to the crisis, but impact of some crisis-response measures cannot be demonstrated.

Chamber II

Investment for cohesion, growth and inclusion



CINEA

Special report 08/2023:

Intermodal freight transport: EU still far from getting freight off the road

EUROFOUND, FRA

Special report 20/2023:

Supporting persons with disabilities: Practical impact of EU action is limited

CINEA

Special report 04/2024:

Reaching EU road safety objectives: Time to move up a gear

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

Chamber III

External action,
security and justice



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



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

EUROPOL, EUROJUST

Special report 27/2023:

Screening foreign direct investments in the EU: First steps taken, but significant limitations remain in addressing security and public-order risks effectively

CINEA

Special report 24/2023:

Smart cities: Tangible solutions, but fragmentation challenges their wider adoption

EISMEA, EIT

Special report 08/2024:

EU Artificial intelligence ambition: Stronger governance and increased, more focused investment essential going forward

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.

CPVO: The CPVO confirms that the budgetary discharge by the Administrative Council is given on the basis of review of the work of the Court of Auditors and the results of Internal Control activities carried out within the agency.

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.

2.22. ENISA: ENISA refers to its reply to paragraph 3.10.7.

2.23. eu-LISA: eu-LISA refers to its reply to paragraph 3.29.8.

2.25. eu-LISA: eu-LISA refers to its reply to paragraph 3.29.8

2.27. CPVO: The CPVO refers to its reply to paragraph 3.36.8.

ENISA: ENISA takes note of the Court's observation. It is also worth noting, whereas ENISA does not provide grants, the ECA's audit mainly focuses on procurement. Consequently, the ECA audit findings are essentially related to this area.

CdT: The CdT refers to its replies to paragraphs 3.35.9, 3.35.10, and 3.35.11.

2.27, 2.29. EUAN: The EUAN acknowledges the Court's preliminary observations, particularly in the areas of public procurement management, management and control systems. 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.

Box 2.2. EEA: The EEA has responded to the Court's observations in this example, and refers to its reply to paragraph 3.26.8.

2.30. FRA: FRA refers to its reply to paragraph 3.25.8.

CPVO The CPVO refers to its reply to paragraph 3.36.10.

2.30, 2.31. 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.

Box 2.3. ENISA refers to its reply to paragraph 3.10.10.

2.31. eu-LISA: eu-LISA refers to its reply to paragraph 3.29.16.

2.45. EUIPO: In line with the situation described by the ECA, it appears that EUIPO is one of the very few agencies which in fact did not increase its fees over the last 7 years, as they are fixed by its founding regulation. In other words, the EU Trade Mark regulation currently in force was agreed in a completely different geopolitical and economic context. Inflation has actually significantly reduced the real-terms value of the trade marks and designs fees.

With a view to preserve the sustainability of the EUIPO's activities, it is important that inflation is not only impacting the expenditures of the Office but also its main and almost unique source of revenue. This would also preserve the principles that support the fees setting methodology adopted by the legislator.

2.46. EUIPO: In the case of the EUIPO, all activities are funded from the Office's own resources, independently of whether they generate revenue or not.

Table 4. EUIPO: With respect to the EUIPO, the situation reflects the fact that not all the activities under its mandate generate revenue. As a matter of fact, the fees paid by the users of the EU Trade mark and Designs system cover all the Office's activities, including for instance European Cooperation and the Observatory on infringements of Intellectual Property rights.

2.52. EUIPO: The EUIPO operates on a fully self-financed basis, with all activities supported by its own resources in accordance with the principle of universality of the budget. For this reason, the fee structure also subsidises all non-revenue activities such as the Observatory on infringements of intellectual property rights, cooperation with the Member states, contribution to EU policies, amongst others.

With respect to the question concerning the reflection of real costs, as previously replied to the report in question, the legislator opted for including the fees in the basic regulation and has laid down the criteria on which the fees are set in its preamble, referring to the fact that they should also cover non-revenue making activities and take several factors into account such as the required coexistence and complementarity between the EU trade mark and the national trade mark systems, also taking into account the size of the market covered by the EU trade mark and the needs of small and medium-sized enterprises; and the rights of proprietors of an EU trade mark to be enforced efficiently in the Member States.

Action to be taken 5. EUIPO: With respect to the EUIPO, all the activities are funded from its own resources, including the ones which do not entail revenue, in line with the requirements of its founding regulation. Therefore, all the costs are to be compared to the available revenue. That comparison is done for planning purposes through the budget and Annual Work Programme. For implementation reporting purposes, it is done via the annual accounts and the consolidated annual activity report.

2.55. EUIPO: EUIPO indeed has a legal obligation, as stipulated in Article 172(10) of the constituent act, to establish a reserve fund with sufficient funds to ensure the continuity of its operations and the execution of its tasks for one year, that is, equivalent to the estimated appropriations foreseen in Titles 1, 2 and 3 of the Office's budget (Article 100 (1) of the EUIPO's Financial Regulation.

That reserve fund serves a different purpose than the budgetary surplus.

While the reserve fund corresponds to a regulatory requirement, the budgetary surplus is the consequence of the EUIPO's tight control of its costs, allowing for positive budgetary results.

With respect to the budgetary surplus by 2020, the balance carried forward (chapter 10.1 of the budget) amounts to EUR 165.5 million and was reduced to EUR 52.4 million in the 2023 budget.

With respect to the surplus generated starting 2016 (after the last legal reform), the EU Trade Mark Regulation provides mechanisms to prevent the accumulation of significant new surplus, namely the offsetting costs incurred by the central industrial property offices of the Member States as the result of the tasks they carry out for the EU trade mark system and the possible transfer of a recurring significant surplus to the EU budget.

As far as the surplus existing prior to the entry into force of the revised EUTMR is concerned, it is being mobilised since 2020, following the entry into force of the Office's new financial regulation, in support of Union Policies in the field of IP. This explains the important reduction from EUR 165.5 million in 2020 to EUR 52.4 million according to the 2023 budget.



EUROPEAN
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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.

- 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.



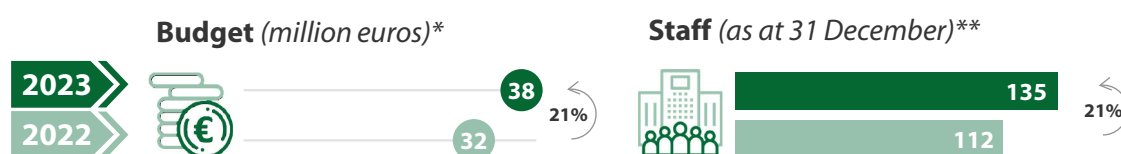
Agencies funded under MFF heading 1 – Single Market, Innovation and Digital

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), located in Ljubljana, was established by [Regulation \(EC\) No 713/2009](#), subsequently 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 ACER²⁰.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

The significant increase in ACER’s budget and staff is linked to the decision of the budgetary authorities to address ACER’s understaffing.

Source: Annual accounts of ACER for the 2022 and 2023 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 370 forms an integral part of the opinion.

²⁰ More information on ACER’s role and activities is available on its website: 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 statements²¹ and the reports on the implementation of ACER's budget²² for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, ACER's financial position as at 31 December 2023, 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.

²¹ 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.

²² 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 ACER's accounts for the year ended 31 December 2023 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 ACER's accounts for the year ended 31 December 2023 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. When DG BUDG stopped providing accounting services, ACER appointed a new accounting officer, with effect on 1 July 2023. However, the new accounting officer, who was the team leader of the budget, finance and procurement department, continued to manage that team, including initiating and verification agents, as well as authorising officers. This is against Article 44 of ACER's financial regulation, which requires the duties of authorising officer and the accounting officer to be segregated and mutually exclusive.

3.2.9. In August, ACER launched a procurement procedure for consultancy services in the area of security, occupational health and safety and business continuity, divided into two lots, with a total estimated value of €1 million. We found that the procedure was affected by several shortcomings, mostly regarding the selection criteria for assessing the tenderers' technical capacity, which were imprecise (e.g. as regards the way in which their years of experience were to be counted), or too narrow (e.g. as regards the requirement for a specific audit certification for the information security auditor profile, and not accepting other similar, widely recognised audit certifications). These shortcomings risked dissuading certain potential bidders from submitting offers. We note, however, that no appeals were filed against this procedure and that ACER received a sufficient number of offers to show that a minimum degree of competition was ensured.

Observations on budgetary management

3.2.10. In 2023 ACER carried over 29 % of the year's total appropriations to 2024. Like last year, we observed that there were significant carry-overs under Title II (39 %) and Title III (67 %). Recurrent high rates of carry-overs undermine the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

3.2.11. In 2023 ACER processed 1 633 payment requests, of which 174 (10.7 %), for an amount of €1.17 million, were paid outside the legal deadline. However, no late payment interest was charged. For comparison, in 2022 ACER processed 1 446 payment requests, of which 255 (14 %), for an amount of €1 million, were paid late, leading to a total of €306 in late payment interest.

Follow-up of previous years' observations

3.2.12. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA 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 % 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 contract are therefore irregular.	In 2023, for a second year in a row, ACER did not order any items not included in the contract price list.	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 persisted in 2023. In 2024 and subsequent years, ACER expects to obtain additional secretarial posts and to be able to transfer the tasks performed by interims to statutory staff.	Open
3	2022	In December 2022, a payment order of €714.7 thousand was authorised by an authorising officer by delegation whose powers of authorisation	Since the ABAC security system implements the authorising limit by budget line and not by payment, ACER instructed the	Closed

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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		<p>were limited to €500 thousand. This indicates a weakness in ACER's internal controls with regard to the delegation of powers for authorising payments.</p>	<p>authorising officers to observe the payment limits of their delegations, especially for payments made from more than one budget line. The reports on payments, which are generated on a monthly basis, are used to check the correct application of these guidelines. No incidents of payments above authorised limits were detected for 2023.</p>	
4	2022	<p>We found that ACER had carried over €7.2 million (29 %) of 2022 commitment appropriations to 2023. This included €5.5 million (or 66 %) 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 % in 2021). We also reported on this issue in paragraph 139 of our special report 03/2023 on internal electricity market 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.</p>	<p>The situation persisted in 2023 (see paragraph 3.2.10).</p>	Open

ACER's reply

3.2.8. As soon as the team leader was appointed as accounting officer her authorising officer delegation and access to the workflows in the financial system have been ceased, thus ensuring the segregation of duties. The authorising officers within the team had their authorising powers delegated by the Director as such not reporting to the team leader for any of their decisions while exercising their function as authorising officers by delegation. However, as from 1 May 2024 a reorganisation took place, and the team leader of the Budget, Finance and Procurement team has been released from her team leadership duties.

3.2.9. The design of the selection criteria was intended to be appropriate and proportionate to the nature and value of the contract, fostering competition while upholding high standards of quality and fairness. Further, it is pertinent to highlight that the procurement procedure successfully attracted a sufficient number of offers, thereby maintaining competitiveness. The absence of appeals against this procedure further suggests that the process was accepted by the tenderers.

3.2.10. The Agency acknowledges the relatively high level of carry overs of 29% from its appropriations but would like to bring to the attention of the Court the fact that all the carry overs were made to cover open obligations from the contracts the Agency signed during 2023. Most of these contracts have a duration of one year and were entered into as planned and needed in the course of 2023 with the implicit effect of their duration extending beyond the borders of 2023. It should be noted that the implementation of payments so carried over from previous years have reached or even exceeded the 95% target, thus completing the budget cycle in accordance with the provisions of the Financial Regulation on budget annuality and carry over of non-differentiated appropriations.

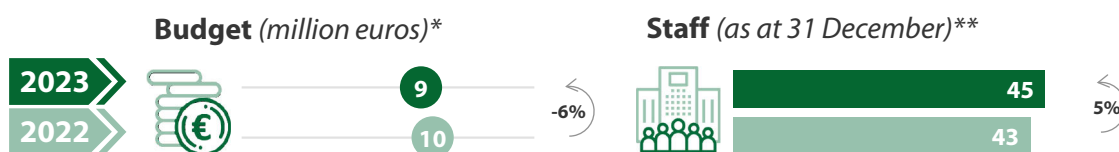
3.2.11. Upon further investigation, we noticed that some of the payments reported as late in ABAC Data Warehouse reports were in fact not late but incorrectly encoded as such due to incorrect registration of payment deadlines. We will address these issues in future ABAC reports.

3.3. Agency for Support for BEREC (BEREC Office)

Introduction

3.3.1. The Agency for Support for BEREC (BEREC Office), located in Riga, was established by Regulation (EC) No 1211/2009, subsequently repealed and replaced by Regulation (EU) No 2018/1971. The BEREC Office provides professional and administrative support services to the Body of European Regulators for Electronic Communications (BEREC). Under BEREC's guidance, 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 Office²³.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of the BEREC Office for the 2022 and 2023 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 for the audit of the accounts and underlying transactions, are described in section 3.1. The signature on page 370 forms an integral part of the opinion.

²³ More information on the BEREC Office's role and activities is available on its website: www.berec.europa.eu.

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 BEREC (BEREC Office), which comprise the financial statements²⁴ and the reports on the implementation of the BEREC Office's budget²⁵ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the BEREC Office's financial position as at 31 December 2023, 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.

²⁴ 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.

²⁵ 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 BEREC Office's accounts for the year ended 31 December 2023 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 BEREC Office's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

Agency for Support for BEREC (BEREC Office)

The BEREC Office's reply

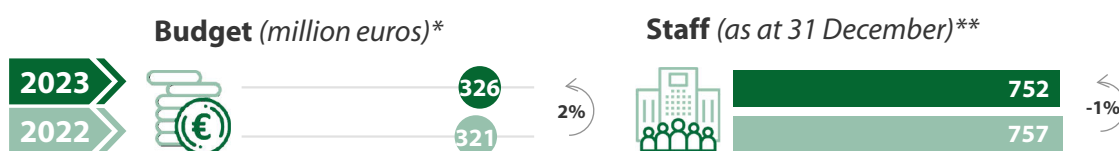
The Agency has taken note of the ECA's report.

3.4. European Union Aviation Safety Agency (EASA)

Introduction

3.4.1. The European Union Aviation Safety Agency (EASA), located in Cologne, was established by [Regulation \(EU\) 2018/1139](#). It superseded the European Aviation Safety Agency established in 2002. EASA has specific regulatory and executive tasks in the field of aviation safety, particularly in relation to the design, production, maintenance and operation of aeronautical products. [Figure 3.4.1](#) presents key figures for EASA²⁶.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EASA for the 2022 and 2023 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 370 forms an integral part of the opinion.

²⁶ More information on EASA’s role and activities is available on its website: 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 statements²⁷ and the reports on the implementation of EASA's budget²⁸ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EASA's financial position as at 31 December 2023, 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.

²⁷ 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.

²⁸ 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 EASA's accounts for the year ended 31 December 2023 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 EASA's accounts for the year ended 31 December 2023 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 our [2022 report](#) (paragraph 3.4.8), we concluded that a contract which EASA awarded as the outcome of a negotiated procedure was irregular, because EASA did not substantiate the reason it cited – extreme urgency – for using such a procedure. As a result, all subsequent payments under this contract – for a total of €1.6 million in 2023 – were irregular.

Follow-up of previous years' observations

3.4.9. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA 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 its founding regulation.	EASA has no control over this matter, because it would require a change to the founding regulation. The cumulative surplus at the end of 2023 was €50 million.	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 Staff Regulations, which requires the publication of a list of cases assessed in the context of the risk of advocacy and lobbying, EASA did not publish the one case we reviewed. Neither, in contravention of another provision of Article 16 of the Staff Regulations, did EASA consult the joint committee.	EASA has revised its procedures to address the weaknesses identified and appointed a joint committee in 2023.	Closed
3	2022	EASA launched a negotiated procedure without first publishing a contract notice. It justified the	With regard to this contract, EASA did not deem it viable to interrupt provision of the service as	Open

European Union Aviation Safety Agency (EASA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		<p>use of this procedure by the need for extreme urgency. However, we found that the urgency did not result from an unforeseeable event, since the budget for the new contract had already been approved in early December 2021, leaving enough time for an open procedure.</p> <p>We therefore concluded that the legal basis for the negotiated procedure was incorrect and the procedure was irregular, as were all associated payments.</p>	<p>the risk of a break in European aviation safety incident reporting was considered too high.</p> <p>The contract led to payments totalling €1.6 million in 2023 (see paragraph 3.4.8) and expired in June 2023. The follow-up contract was awarded through an open procedure.</p>	
4	2022	<p>EASA launched a procurement procedure for event management services. The value of the tender was €2.5 million. EASA noted that there was a significant price difference between the financial offers it received from the bidders and requested clarifications. It then amended the price of the tender. However, Article 151 of the Financial Regulation states that corrections of this kind are only allowed to correct obvious clerical errors.</p> <p>After one bidder objected to the price correction, EASA made a second evaluation and excluded</p>	<p>Following our observation, EASA modified its approach to apply a strict interpretation of the concept of obvious clerical error, establish how these are to be corrected, and communicate in as much detail as possible which requirements have not been met if a bidder is excluded.</p>	Closed

European Union Aviation Safety Agency (EASA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		the bidder on the grounds that it “did not meet the requirements set in the tender specifications”. However, as EASA did not specify which requirements had not been met, the bidder’s exclusion was not properly justified.		
5	2022	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 collected correctly. This goes against Articles 74(5) and 75 of the Financial Regulation.	<p>Following our observation, EASA’s applicant relations section made corrections to ensure there is a record that administrative eligibility checks have been carried out for each new application.</p> <p>Similar corrections are still being made with regard to technical eligibility checks, which are carried out by the technical sections.</p>	Open

12B European Union Aviation Safety Agency (EASA)

EASA's reply

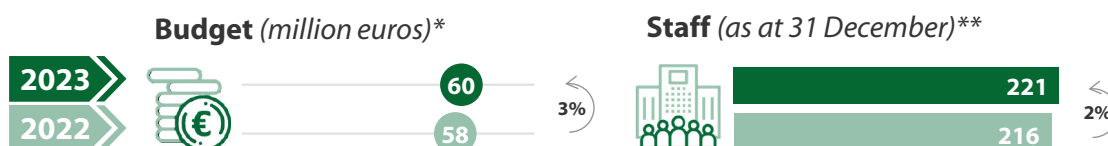
The Agency has taken note of the ECA's report.

3.5. European Banking Authority (EBA)

Introduction

3.5.1. The European Banking Authority (EBA), 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 EBA²⁹.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of the EBA for the 2022 and 2023 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 370 forms an integral part of the opinion.

²⁹ More information on the EBA's role and activities is available on its website: 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 (EBA), which comprise the financial statements³⁰ and the reports on the implementation of the EBA's budget³¹ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the EBA's financial position as at 31 December 2023, 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

3.5.5. We draw attention to Note IV.1 to the annual accounts for 2023, which describes the uncertainty related to the outcome of case T-750/22, "UniSystems Luxembourg and Unisystems systimata plioforikis v ESMA", concerning a public procurement procedure led by ESMA in which EBA is a participating contracting authority.

We also draw attention to Note IV.5, which describes the significant impact of the [Digital Operational Resilience Act \(DORA\)](#), in force since January 2023 and applicable from

³⁰ 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.

³¹ The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

European Banking Authority (EBA)

January 2025, and the [Markets in Crypto-assets Regulation \(MiCAR\)](#), in force since June 2023 and applicable from December 2024. The two regulations have given the EBA new mandates and tasks. While the legislative financial statements supporting the legislative proposals provided for fee-funded posts for oversight (DORA) and supervisory (MiCAR) tasks, they do not address the matter of funding either for setting up those tasks or for the posts needed to prepare and implement oversight and supervisory policy, all of which had to take place in 2023 before fee collection could start. The EBA therefore reallocated resources to these preparatory activities.

Our opinion is not modified in respect of these matters.

Other matter

3.5.6. According to the evidence obtained from the EBA, the resources redeployed for the preparatory activities related to DORA and MiCAR, mentioned in paragraph [3.5.5](#) were significant (24.5 full time equivalents in 2023).

Legality and regularity of the transactions underlying the accounts

Revenue

Opinion on the legality and regularity of revenue underlying the accounts

3.5.7. In our opinion, the revenue underlying the EBA's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

Opinion on the legality and regularity of payments underlying the accounts

3.5.8. In our opinion, the payments underlying the EBA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

Observations on the legality and regularity of transactions

3.5.10. We audited a procurement procedure for "blockchain analytics services and crypto-assets markets data", with an estimated value of €360 thousand, which resulted in multiple framework contracts. We found that three tenderers that did not meet the financial

European Banking Authority (EBA)

capacity requirements – because they could only provide two years of financial statements instead of three as required – were nevertheless allowed to participate in the procedure. One of the three was awarded a contract as the second-ranked tenderer in the cascade. This breached Article 167(1) of the Financial Regulation, as well as the principle of transparency and equal treatment. In 2023 the EBA did not make any payments to this contractor, because so far it has only used the services of the first-ranked contractor.

Follow-up of previous years' observations

3.5.11. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	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. In both cases, the EBA overestimated the maximum value of the contracts because of shortcomings in its research on market prices prior to launching the tenders.	One section in the EBA's newly developed guidance for selection committees relates specifically to the distinction between award and selection criteria. The EBA conducts market research by publishing "prior information notices" in the Official Journal in which it invites companies to respond to a questionnaire (public consultation) and asks for indicative prices to help it estimate contract value.	Closed

European Banking Authority (EBA)

EBA's reply

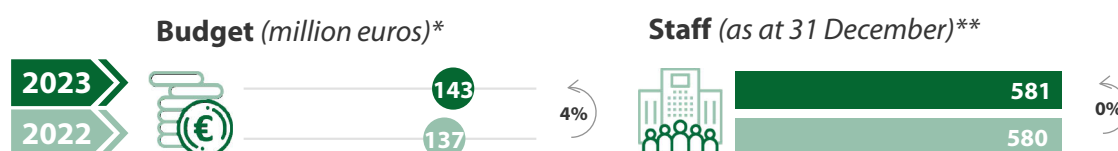
3.5.10. The procurement procedure concerned a nascent industry. In taking the decision to allow the three tenderers in question to participate, the EBA relied on Article 19.3 Annex I to the Financial Regulation, and paragraph 4.3.1.19 of the procurement vade mecum, which allow for the EBA to take the approach that it did. The EBA understands that the position of the Court is that the EBA, to ensure transparency, should have stated this possibility in the call for tender documentation, although the procurement vade mecum is silent on this point. The EBA received 23 tenders for this procedure, including from industry leaders identified in the market analysis. In 2024, the EBA will not make any payments to the contractor in question and will adjust its future tender specifications accordingly.

3.6. European Chemicals Agency (ECHA)

Introduction

3.6.1. The European Chemicals Agency (ECHA), 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 innovation and the competitiveness of Europe's chemicals industry. Figure 3.6.1 presents key figures for ECHA³².

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of ECHA for the 2022 and 2023 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 370 forms an integral part of the opinion.

³² More information on ECHA's role and activities is available on its website: 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 statements³³ and the reports on the implementation of ECHA's budget³⁴ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, ECHA's financial position as at 31 December 2023, 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.

³³ 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.

³⁴ 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 ECHA's accounts for the year ended 31 December 2023 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 ECHA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

European Chemicals Agency (ECHA)

ECHA's reply

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

3.7. European Insurance and Occupational Pensions Authority (EIOPA)

Introduction

3.7.1. The European Insurance and Occupational Pensions Authority (EIOPA), 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 EIOPA³⁵.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EIOPA for the 2022 and 2023 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 [370](#) forms an integral part of the opinion.

³⁵ More information on EIOPA’s role and activities is available on its website: 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 statements³⁶ and the reports on the implementation of EIOPA's budget³⁷ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EIOPA's financial position as at 31 December 2023, 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.

³⁶ 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.

³⁷ 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 EIOPA's accounts for the year ended 31 December 2023 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 EIOPA's accounts for the year ended 31 December 2023 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 budgetary management

3.7.8. For one audited administrative payment (amounting to €712 thousand), the EIOPA authorised the budgetary commitments only after the related legal commitments were signed. This goes against Article 73(2) of EIOPA's financial regulation.

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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
01	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.	<p>Since the observation was made, EIOPA has concluded no further contracts requiring its landlord's consent.</p> <p>EIOPA intends to launch appropriate procurement procedures for any future construction works and to negotiate with the landlord to grant the successful tenderer permission to carry out the relevant works.</p>	Open
02	2022	EIOPA signed in April 2022 a telecommunication services for mobile phone communication contract, 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.	<p>The 2022 contract for telecommunication services concluded for indefinite period is still ongoing.</p> <p>The irregular bridging arrangement expired in April 2022.</p>	<p>Open as regards the indefinite duration of the contract</p> <p>Closed as regards the</p>

European Insurance and Occupational Pensions Authority (EIOPA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		To ensure business continuity, 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.		bridging arrangement

European Insurance and Occupational Pensions Authority (EIOPA)

EIOPA's reply

3.7.8. The Authority takes note of the Court's observation and would like to reiterate its adherence to the rules set in the Financial Regulation including the provisions of the Article 73 (2) of EIOPA Financial Regulation. While the budget commitment approval process was duly initiated prior to receipt of the debit note, the actual financial commitment was indeed only effective after receipt of the debit note.

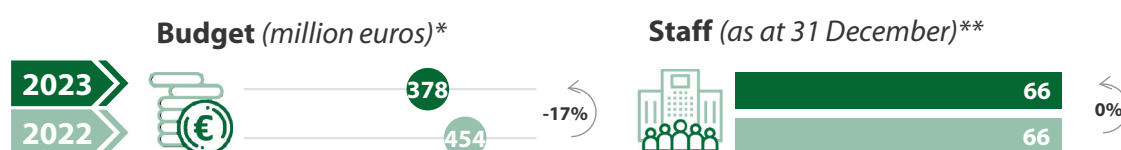
EIOPA will implement additional measures to mitigate and reduce a similar risk in the future.

3.8. European Institute of Innovation and Technology (EIT)

Introduction

3.8.1. The European Institute of Innovation and Technology (EIT), located in Budapest, was established by [Regulation \(EC\) No 294/2008](#), subsequently 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 2023, knowledge and innovation communities grants amounted to €344 million (2022: €372 million), representing 97 % of the EIT’s total expenditure (2022: 98 %). [Figure 3.8.1](#) presents key figures for the EIT³⁸.

Figure 3.8.1 – Key figures for the EIT

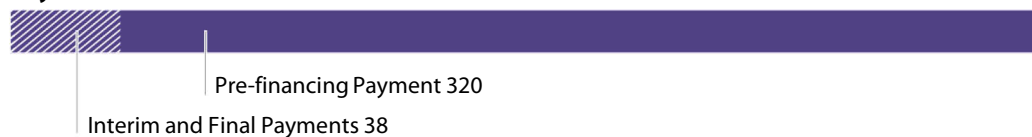
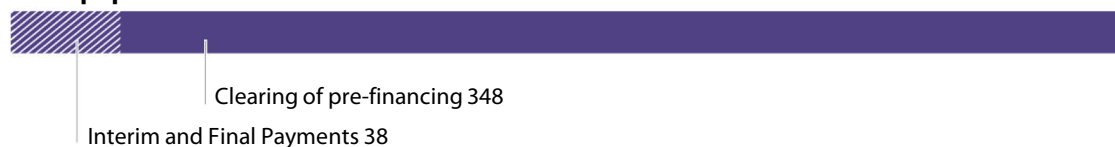


* Budget figures are based on the total payment appropriations available during the financial year.

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

Source: Annual accounts of the EIT for the 2022 and 2023 financial years; staff figures provided by the EIT.

³⁸ More information on the EIT’s role and activities is available on its website: <https://eit.europa.eu/>.

Figure 3.8.2 – 2023 EIT audit population compared to payments**Payments - total €357 million****Audit population - total €385 million**

Note: EIT payments include a material level of pre-financing and clearings. In line with the harmonised definition of underlying transactions (for details see paragraph 3.1.8), we examine payments once the expenditure has been incurred. We examine advance payments when the recipient of funds provides justification for their proper use, and when EIT accepts the justification by clearing the advance payment, in the same year or later.

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 370 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

3.8.3. We have audited:

- (a) the accounts of the European Institute of Innovation and Technology (EIT), which comprise the financial statements³⁹ and the reports on the implementation of the EIT's budget⁴⁰ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the EIT's financial position as at 31 December 2023 and 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

3.8.5. We draw your attention to notes 1.3.5 and 3.3. of the EIT's annual accounts, describing the accounting policy and underlying assumptions applied for the estimate of the operational costs (grant expenses), which are accrued and presented as a decreasing item of pre-financing assets in the balance sheet. Grant expense accrual is a significant estimate, inherently entailing uncertainties. Our opinion is not qualified in respect of this matter.

³⁹ 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.

⁴⁰ 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

3.8.6. In our opinion, the revenue underlying EIT's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

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

3.8.7. 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 EIT for the year ended 31 December 2023 are legal and regular in all material respects.

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

3.8.8. The EIT checks the legality and regularity of its grant payments *ex post*. For the final payments incurred in the 2023 financial year, the *ex post* verifications were performed by external firms until June 2024, based on agreed-upon-procedures with EIT. Overall, the external firms examined a representative sample of 174 costs items and reported findings in relation to 39 of them. The EIT has validated these findings and informed us that, in its assessment, 27 of them included ineligible costs.

We have reviewed the verifications performed by the external firms and the related follow-up carried out by the EIT. We found that, in addition to the 27 cost items mentioned above, there are further three which also include ineligible costs.

The cost items in question concerned salary costs of three seconded employees. In such a case, the provisions of the grant agreement, which are explained in the annotated grant agreement, require the costs to be actually incurred, i.e., real and definitively and genuinely borne by the beneficiary, as well as identifiable and verifiable, i.e., reconcilable with records and supporting documents showing what was actually paid. In this case however, the costs were paid in September 2024, only after we had asked for a proof of payment, 17 months after the invoice was issued, while the invoice indicated a one-month payment deadline.

While, under certain conditions, beneficiaries are allowed to claim costs before paying them, they must demonstrate that the eligibility conditions mentioned above are fulfilled

European Institute of Innovation and Technology (EIT)

(i.e., that the costs have been subsequently paid). At the time of our audit, this was not the case, as the payment only occurred following our request for a proof of payment.

In line with our audit methodology, since this correction was not made independently from our audit, the related expenditure, which is representative for the whole population of EIT grants, is consequently irregular for the purposes of our audit opinion.

The total irregular amount for the 30 cost items concerned was €188.1 thousand. This corresponds to an estimated error rate of 3.4 %.

By applying this error rate to the €359.9 million EIT's cleared grant payments in 2023, we estimate that €12.2 million is affected by error. This represents 3.2 % of the total audit population of €385.2 million in 2023. This exceeds the materiality threshold set for this audit.

Emphasis of matter

3.8.9. We draw your attention to notes 4.1 of the EIT's annual accounts, describing that EIT changed its grant agreements structure from annual to multi-annual grants. In accordance with Article 111 (4), the assessment of the legality and regularity of multi-annual grants can only be performed at the time of interim and final payments. In 2023, the EIT paid an amount of €319.8 million as pre-financing payments related to multi-annual grant agreements, which corresponds to 89.5 % of the 2023 total payments amounting to €357.4 million.

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 (see paragraph [3.1.8](#)). We will therefore assess the legality and regularity of these payments only in future years.

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

Observations on management and control systems

3.8.11. In accordance with Articles 45(5) and (8) of the Framework Financial Regulation, the EIT has developed a set of procedures and guidelines for the performance of *ex post* checks of grant payments. These payments account for the bulk of the EIT's operations and represent the area of the highest risk.

However, these procedures and guidelines have not yet been updated to take account of the implications of the EIT's move to a multi-annual grant agreement structure on its *ex post* control strategy (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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	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.	The situation has not changed in 2023, as the request for additional posts was not accepted by the EU budgetary authorities. This issue is not within the EIT's control.	Open
2	2022	For two audited payments in 2021 and three in 2022, the EIT had authorised budgetary commitments only after the contracts were signed. This goes against Article 73(2) of the Framework Financial Regulation.	The EIT organised meetings with the departments concerned to clarify the correct procedures. One instance of a budgetary commitment signed after the legal commitment was still detected in 2023.	Open
3	2022	The legality and regularity of the EIT's grants, which constitute 98 % of the EIT's budget, was verified <i>ex post</i> by an independent external auditor. For the 2021 grants, the EIT established an error rate of 1.7 %. However, unlike in previous years this error rate was not disclosed in the EIT's 2022 annual activity report due to the	In its 2023 annual activity report, the EIT published the error rate for the previous year.	Closed

European Institute of Innovation and Technology (EIT)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		late conclusion of the annual exercise for its calculation.		
4	2022	For a software renewal order, the EIT did not carry out an <i>ex ante</i> verification to confirm whether the contractor had charged the correct price and uplift fee. This is contrary to the provisions of Article 30 of the EIT financial regulation on <i>ex ante</i> controls.	We have found no similar cases in our 2023 audit.	Closed
5	2022	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 3 days, the interest amounted to €11.4 thousand and in the other, for a payment of €3.2 million, delayed by 67 days, the interest amounted to €20.7 thousand. In both cases, the EIT did not adequately monitor the regulatory deadlines, which demonstrates a weakness in the EIT's payment workflow.	In 2023, the EIT completed the last grant cycle where payment transactions had to be processed and encoded manually. All such transactions were processed in line with legal due dates, thanks to an improved coordination between the operational and finance teams. As of 2023, EIT has completed its transition to the eGrants tool that supports the complete grant management cycle, including the monitoring of payment transactions, and the automation of payments. This mitigates the risk of similar issues occurring in the future.	Closed

The EIT's reply

3.8.8. The EIT does not accept one of the errors reported by the Court, related to a single case, affecting three cost items, which, in its opinion are eligible.

One of the EIT's grant beneficiaries (Company A) reported the salary costs of three employees seconded to it by a related entity (Company B) that is owned by the same parent company. These employees worked on an innovation project, which delivered all intended tasks and outcomes as per the grant agreement. Reporting costs of seconded personnel is explicitly allowed by the Horizon Europe grant agreement ("Cost category A.3 – seconded persons"). Company B, which employed the three individuals, continued to pay the salaries and related charges, and they invoiced the total cost of the three employees to Company A, in line with the secondment agreement in place. All salaries and charges were paid by Company B during the duration of the grant agreement in 2022, and the total cost invoiced to Company A was included in Company A's audited financial statements for 2022, meaning that the cost of secondment of the three individuals was actually incurred by Company A.

The Horizon Europe Grant Agreement sets a series of conditions that need be in place for the cost of seconded employees to be eligible. In EIT's assessment, all of the 13 eligibility conditions that are applicable to the costs of seconded personnel were fulfilled by the beneficiary. Therefore, the costs of seconded persons were considered eligible to be reimbursed by EIT.

In particular, EIT considers that the costs in question were definitively and genuinely borne by the beneficiary (Company A), as the costs were booked in the beneficiary's accounting records and included in their audited financial statements for 2022. It is only the settlement of the invoice from Company B to Company A that took place at a later stage, which is regular business practice between related entities.

EIT considers that there is no condition or requirement in the Horizon Europe grant agreement or in the Annotated Grant Agreement or in the grant agreement signed with the beneficiary as to when a payment needs to be made. In particular, the Annotated Grant Agreement provides as follows: "If costs are invoiced or paid later than the end date, they are eligible only if the debt existed already during the action duration (supported by documentary evidence) and the final cost are known at the moment of the final report." This is what happened: the cost (debt) existed already during the action duration, which is supported by documentary evidence.

While EIT considers that the case in question is not affected by error and does not require recovery from the beneficiary, it takes note that the Court's assessment is based on the application of its audit methodology. The EIT notes that, without this case, the estimated error rate reported by the Court would be below the 2 % materiality threshold, leading to a clean audit opinion on the legality and regularity of EIT's payments.

European Institute of Innovation and Technology (EIT)

3.8.11. The EIT is already in the process of updating its ex-post control mechanism in order to address the relevant implications of the recent transition to multiannual grant agreement structure.

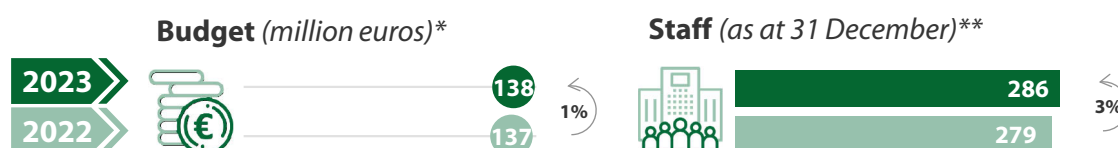
3.9. European Maritime Safety Agency (EMSA)

Introduction

3.9.1. The European Maritime Safety Agency (EMSA), 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 EMSA⁴¹.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EMSA for the 2022 and 2023 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 370 forms an integral part of the opinion.

⁴¹ More information on EMSA's role and activities is available on its website: 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 statements⁴² and the reports on the implementation of EMSA's budget⁴³ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EMSA's financial position as at 31 December 2023, 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.

⁴² 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.

⁴³ 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 EMSA's accounts for the year ended 31 December 2023 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 EMSA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

Observations on management and control systems

3.9.7. We audited an open procurement procedure for the provision of remotely piloted aircraft systems for maritime surveillance over an extended coastal range. The winning bidder submitted two separate tenders for the procurement procedure. The key difference between the two related to the inclusion of a technical feature (an automatic scanning sensor) in one of the tenders but not the other. Both tenders were accepted and evaluated by the contracting authority.

Accepting more than one tender from the same bidder in the same open procedure was a breach of Article 164(2) of the Financial Regulation and contrary to the legal principles of transparency and equal treatment. By submitting more than one tender in the same procedure, an economic operator could unduly improve its chances of winning by its ability and willingness to invest more resources to prepare several bids, instead of clearly presenting the best bid it can offer.

However, before the submission deadline all the bidders were informed, in reply to a question from one of them, that they could submit multiple tenders, and none of them objected. Moreover, the two tenders submitted by the winning bidder were ranked first and second. For these reasons, we conclude that, even without this breach of Article 164(2), the outcome of the procedure would have been the same.

European Maritime Safety Agency (EMSA)

EMSA's reply

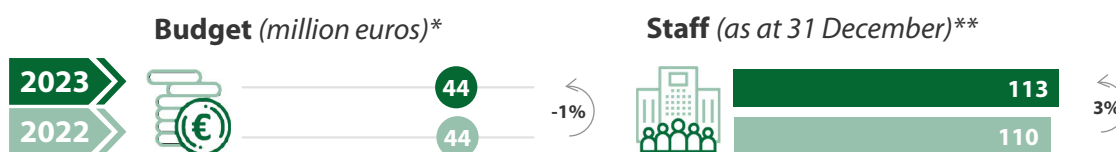
3.9.7. The Agency takes note of the observation of the Court. The Agency's legal interpretation is that it was lawful and in line with the Financial Regulation to accept multiple tenders from the same tenderer in the context of the audited procedure. As was the case for the audited procedure, EMSA is following the guidelines and templates provided by DG BUDG. To ensure the principle of transparency and equal treatment, the Agency will ensure that its tender specifications are clear from the outset whether multiple tenders are accepted or not, keeping the wording updated in line with the latest version of the standard templates made available to EU Institutions and bodies.

3.10. European Union Agency for Cybersecurity (ENISA)

Introduction

3.10.1. The European Union Agency for Cybersecurity (ENISA), located in Athens, was established by [Regulation \(EU\) 2019/881](#). ENISA succeeded and replaced the European Union Agency for Network and Information Security, established in 2013, and is a 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 ENISA⁴⁴.

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 2022 and 2023 financial years; staff figures provided by ENISA.

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 370 forms an integral part of the opinion.

⁴⁴ More information on ENISA's role and activities is available on its website: 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 statements⁴⁵ and the reports on the implementation of ENISA's budget⁴⁶ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, ENISA's financial position as at 31 December 2023, 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.

⁴⁵ 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.

⁴⁶ 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 for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

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

3.10.6. 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 ENISA’s accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

3.10.7. In August 2022, €15 million was added to ENISA’s budget to meet the request from member states for enhanced cybersecurity support from ENISA in the wake of Russia’s invasion of Ukraine. In order to provide this support, in September 2022 ENISA launched an open procurement procedure with 28 lots (one per member state and one for horizontal services) and, in November and December 2022, signed 28 separate framework contracts, with 16 different contractors, for a total amount of €14.4 million. Subsequently, following member states’ revised requests for cybersecurity support from ENISA in the beginning of 2023, the ENISA management board adopted a decision to make an exception and temporarily derogate Articles 12(6), 73(2) and 75(1) and (3) of its own financial regulation and, consequently, the corresponding articles of the Framework Financial Regulation. ENISA used this decision as a basis to reassign amounts under a number of individual commitments and their related payment appropriations between the 28 contracts. This was recorded in ENISA’s register of exceptions. The total irregular amount paid in 2023 in relation to these non-compliant reassignments of funds is €1.8 million. This represents 4.1 % of the total payment appropriations available in 2023. This exceeds the materiality threshold set for this audit.

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

Observations on management and control systems

3.10.9. In a procurement procedure for graphic design services, with a total estimated value of €0.5 million and a total duration of 4 years, the two bidders with the cheapest offers proposed a total price which was 47 % and 64 % of the average of the eight offers accepted. ENISA did not request clarifications from the two bidders nor documented its assessment regarding the potentially abnormally low tenders, which contravened point 23.1 of Annex I to the Financial Regulation. The two bidders concerned were ranked first and second in cascade.

3.10.10. Without prior approval of the management board and without prior consent of the Commission, in September 2023 ENISA's Executive Director derogated Articles 15 and 32 of the ENISA founding Regulation (EU) 2019/881 and Article 41 and 45 of ENISA's financial regulation, to allow 15 interim staff to assume roles in the financial circuit.

3.10.11. By decision of the Executive Director from July 2023, ENISA's Accounting Officer is at the same time the Internal Control Coordinator. This is not in line with Articles 44 of ENISA's financial regulation, which stipulates that the duties of the authorising officer and accounting officer shall be segregated and mutually exclusive. The powers and duties of the authorising officer, which are defined in Article 45 of ENISA's financial regulation, include responsibility to put in place internal control systems. Therefore the role of Internal Control Coordinator, which covers this part of the authorising officer's responsibilities, is incompatible with the role of the accounting officer.

Observations on budgetary management

3.10.12. In 2023, ENISA processed 3 156 payment requests, of which 291 (9 %), for an amount of €1.2 million, were paid outside the legal deadline. A total of €1.2 thousand was charged in late payment interest. For comparison, in 2022 ENISA processed 2 477 payment requests, of which 223 (9 %), for an amount of €1.1 million, were paid late, although no late payment interest was charged. ENISA had already spotted this issue through internal controls in 2022.

Follow-up of previous years' observations

3.10.13. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2021	Absence of evaluation report and award decision for low-value contracts.	ENISA introduced templates of award decisions comprising evaluation reports for low-value contracts.	Closed
2	2022	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 €120.3 thousand. Considering that ENISA selected the provider without launching an open procurement procedure, we conclude that these payments were irregular.	No further payments for these services were made during 2023, either directly to the provider or as reimbursements to ENISA staff.	Closed
3	2022	ENISA lacks pre-determined guidelines to help evaluations committees to properly assess tenders.	Guidelines are now systematically provided to evaluation committees.	Closed

ENISA's reply

3.10.7. ENISA acknowledges the ECA's observation and would like to note that the Management Board's decision constituted an exception (limited in time and scope) to respond to a particular exceptional situation in an extremely difficult international context.

This exception was duly registered as per application of ENISA's Internal Control Framework and was accordingly reported in the 2023 Consolidated Annual Activity Report.

3.10.9. ENISA takes note of the ECA's observation and would like to note the following.

ENISA did not request clarifications from the two bidders with the cheapest offers proposed because they were not assessed as abnormally low. As regards the offer which was 64% below the average, ENISA does not consider this offer as abnormally low as it was only at 77% of the average if the highest price offer is omitted from the average. The second offer was proposed by a company who was contracted by ENISA for similar services over the previous 8 years and ENISA had good awareness of their pricing structure.

3.10.10. According to ENISA's Corporate Strategy adopted by the Management Board in 2023, due to business needs and shortage of resources, ENISA has been using Interim Agents and SNEs for non-statutory, demand driven, repetitive and more technical tasks, such as the initiation of financial and operational transactions.

If the shortage of resources is not addressed in the medium term by the budgetary authorities, ENISA shall formally seek to derogate from the financial rules (with the prior consent of the Commission).

3.10.11. ENISA takes note of the ECA's observation. ENISA considers that the roles of Internal Control Coordinator and Accounting Officer are not necessarily incompatible, in particular because the Authorising Officer had not delegated any powers to the Internal Control Coordinator.

ENISA shall further clarify the roles and responsibilities of the Internal Control Coordinator in its internal processes so as to address any possible misinterpretation to that end.

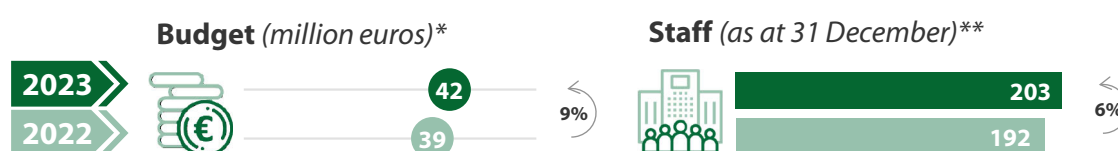
3.10.12. ENISA agrees to this audit observation. To address this weakness, a weekly monitoring report is in place to actively monitor time to payment since Q2 2023.

3.11. European Union Agency for Railways (ERA)

Introduction

3.11.1. The European Union Agency for Railways (ERA), located in Lille and Valenciennes, was established by [Regulation \(EU\) 2016/796](#). ERA superseded the European Railway Agency, established in 2004. ERA's task is to enhance the interoperability and safety of European railway systems. It is also responsible for issuing authorisations, certificates and approvals in this field. [Figure 3.11.1](#) presents key figures for ERA⁴⁷.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of ERA for the 2022 and 2023 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 370 forms an integral part of the opinion.

⁴⁷ More information on ERA's role and activities is available on its website: 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 statements⁴⁸ and the reports on the implementation of ERA's budget⁴⁹ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, ERA's financial position as at 31 December 2023, 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.

⁴⁸ 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.

⁴⁹ 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 2023, which describes the continued implementation of a new budgetary, accounting and financial system, SUMMA as a pilot for the development of the system for the European Commission.

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 ERA's accounts for the year ended 31 December 2023 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 ERA's accounts for the year ended 31 December 2023 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 the legality and regularity of transactions

3.11.9. ERA signed a specific contract for the acquisition of network and security services, for an amount of €238.9 thousand, without a reopening of competition as required by the framework contract. The specific contract, which was later amended to €254.4 thousand, and all payments linked to it were therefore irregular. In 2023, ERA paid a total of €254.4 thousand in connection with the specific contract.

Observations on management and control systems

3.11.10. In a procurement procedure for the provision of facilities management services for a total of €1 million, ERA did not properly define the selection criteria. Some

European Union Agency for Railways (ERA)

criteria were too generic, and one referred to the bid instead of the bidder. In addition, the evaluation committee did not properly assess whether any bids were abnormally low.

Observations on budgetary management

3.11.11. In 2023, ERA did not comply with the time limits stipulated in Article 98(2) of the Financial Regulation, which requires authorising officers to “send the debit note immediately after establishing the amount receivable”, or in Article 5(1) of Regulation 2018/764 on ERA’s fees and charges, which sets a 30-day deadline for issuing invoices. The data provided by ERA indicates that out of 1682 invoices, 240 (14 %) were issued with delay. Delays in invoicing, which in 2023 averaged 47 days, can lead to delays in revenue collection and budget difficulties.

3.11.12. In 2023 ERA processed 1 101 payments, of which 148 (13 %), for an amount of €1.3 million, were made outside the legal deadline. However, no late payment interest was charged. For comparison, in 2022 ERA processed 920 payments, of which 179 (19 %) were paid late, although no late payment interest was charged.

Follow-up of previous years’ observations

3.11.13. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2018	In 2019, ERA will start collecting fees and charges for certification tasks. The new regulation on fees and charges required the specific needs of small and medium-sized enterprises to be taken into account. ERA should introduce effective controls to check whether the applicants qualify as small and medium-sized enterprises.	ERA is currently updating the one stop shop application.	Open
2	2022	<p>ERA did not put in place a risk management and control strategy for implementing the SUMMA system.</p> <p>ERA did not update its financial circuits or its strategy for <i>ex ante</i> and <i>ex post</i> checks to align them with the changes made necessary by the introduction of SUMMA.</p> <p>ERA's SUMMA user management system is managed by DG BUDG, which is responsible for granting and removing the rights of SUMMA users on the basis of information provided by</p>	<p>ERA has further strengthened and documented its internal control mechanisms to take account of the introduction of SUMMA. A procedure for much closer follow-up has also been implemented.</p> <p>In 2023 ERA updated its financial manual, which also includes its strategy for <i>ex ante</i> and <i>ex post</i> checks.</p> <p>Faced with the absence of a standard access rights report from SUMMA, ERA has implemented mitigating measures. Any</p>	<p>Closed as regards risk management and financial circuits</p> <p>Open as regards user management</p>

European Union Agency for Railways (ERA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		ERA. This process is not yet formally structured, and ERA does not specifically check attributed user rights. There is therefore a risk that the user roles in SUMMA may not be correctly assigned and updated. SUMMA also still lacks a suitable user profile for auditors.	inconsistencies detected have been raised with DG BUDG for correction. <i>Ex post</i> checks of user rights have been arranged. However DG BUDG was still in charge of granting and removing access rights in 2023.	
3	2022	ERA does not have a policy for classifying and protecting sensitive information, which is a weakness in the implementation of the internal control framework.	The policy was endorsed by ERA's management team in June 2023.	Closed
4	2022	We noted that, as part of the general practice for procurement procedures, the members of evaluation committees either copied an image of their signature into documents or showed approval by means of an e-mail instead of a handwritten or qualified electronic signature. The practice of not using valid signatures on official documents is a weakness in ERA's management and control systems.	At the beginning of 2023, ERA introduced a system of qualified electronic signatures for staff with decision rights.	Closed
5	2022	ERA takes an average of 106 days to issue invoices for the fees and charges associated with	In 2023, ERA issued 33 % of its invoices late (see paragraph 3.11.11). The main cause of delay was	Open

European Union Agency for Railways (ERA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		<p>the issue of certificates, approvals and authorisations. This delay contravenes Article 98(2) of the Financial Regulation, which requires authorising officers to “send the debit note immediately after establishing the amount receivable”, and Article 5(1) of Regulation 2018/764 on ERA’s fees and charges, which sets a 30-day deadline for invoicing. Delays in invoicing can lead to delays in revenue collection and additional budget difficulties.</p>	<p>the obligation for ERA to wait for a statement of costs from national rail safety authorities before it could proceed to invoicing. Currently, ERA has no legal leverage for imposing deadlines on national safety authorities, but it expects the matter to be addressed through a revision of Regulation 2018/764 on the fees and charges payable to ERA and their conditions of payment.</p>	
6	2022	<p>ERA’s own data shows that, in 2022, it did not comply with the time limits set in Article 116 of the Financial Regulation in 179 out of 920 payments (20 %). In 112 cases (12 % of the total), payment was more than 30 days late. This weakness, which ERA attributes to the implementation of SUMMA, exposes the agency to financial and reputational risk, and goes against the principle of economy.</p>	<p>ERA has implemented several measures, such as discussing monthly reports on payment processing status in management team meetings and mandatory training in SUMMA for all staff with financial roles, to reduce the number of late payments. In 2023 13 % of ERA payments were made late (see paragraph 3.11.12).</p>	Open

ERA's reply

3.11.9. ERA has resorted to the EC reopening of competition under the respective FWC as it considered the required services to be covered by that reopening. ERA assesses that in doing so, it has eventually not influenced the overall final price of the specific contract. However, from 2024, ERA has started to apply its own reopening of competition for the services in scope.

3.11.10. The Agency assessed that the criteria applied were linked to the bidders' capacity to deliver and that the total weighted prices did not point to an abnormally low value. Such aspects will be better documented in the future procedures.

3.11.11. The revision of Regulation 2018/764 on the fees and charges payable to ERA and their conditions of payment, which got a favourable vote on 26 June 2024, will allow the Agency to address this observation, by setting a deadline for receiving the statement of costs from national rail safety authorities before it could establish the amount receivable and proceed to invoicing.

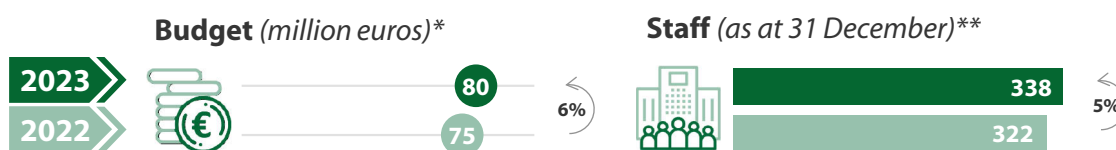
3.11.12. Starting 2023 and continuing in 2024, dedicated automated reports and monthly reviews have been put in place to ensure that invoices are paid timely. The beginning of 2024 shows payment time statistics which are in line with the target.

3.12. European Securities and Markets Authority (ESMA)

Introduction

3.12.1. The European Securities and Markets Authority (ESMA), located in Paris, was established by [Regulation \(EU\) No 1095/2010](#). ESMA's mandate is to enhance investor protection and promote stability and order in financial markets. It achieves 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 ESMA⁵⁰.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of ESMA for the 2022 and 2023 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 [370](#) forms an integral part of the opinion.

⁵⁰ More information on ESMA's role and activities is available on its website: 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 statements⁵¹ and the reports on the implementation of ESMA's budget⁵² for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, ESMA's financial position as at 31 December 2023, 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

3.12.5. We draw attention to Note IV.1 "Other significant disclosures" to the annual accounts for 2023, which describes the uncertainty related to the outcome of case T-750/22, "UniSystems Luxembourg and Unisystems systemata plioforikis v ESMA", concerning a public procurement procedure.

We draw attention to the disclosure of an impairment of €368.3 thousand, corresponding to outstanding fees from third-country supervised entities. The impairment is linked to

⁵¹ 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.

⁵² The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

European Securities and Markets Authority (ESMA)

the fact that the [European Market Infrastructure Regulation \(EMIR\)](#) does not provide ESMA with an effective mechanism for enforcing the collection of outstanding fees from outside the EU. We note that the recent co-legislators' agreement to amend the regulation ([EMIR 3](#)) introduced the possibility for ESMA to withdraw recognition from third-country supervised entities that do not pay their fees.

Our opinion is not modified in respect of these matters.

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 ESMA's accounts for the year ended 31 December 2023 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 ESMA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

Observations on management and control systems

3.12.9. We audited two procurement procedures for services, both for a maximum duration of seven years, and with estimated values of €16.2 million and €43 million respectively. We found that the financial capacity required from the tenderers (yearly turnover of at least €8.1 million for one contract, at least €21.5 million for the other) exceeded two times the estimated annual contract value (€2.3 million / €6.1 million), which is the maximum allowed by point 19.1 of Annex I to the Financial Regulation. This maximum may be exceeded in duly justified cases linked to the nature of the purchase, provided that the contracting authority explains it in the procurement documents, which ESMA did not do. ESMA reported this issue in the register of exceptions, including its justification for using higher thresholds, only after the contracts were signed. Excessive financial capacity requirements may dissuade potential bidders from participating in a tender procedure.

European Securities and Markets Authority (ESMA)

3.12.10. ESMA asked three of the four tenderers in a negotiated procedure for services relating to ‘crypto off-chain data’, with an estimated value of €100 thousand, to provide additional clarifications. In one case, the clarification request went beyond the elements listed in the tender specifications or included in the actual tender. This contravened Article 151 of the Financial Regulation, which allows contracting authorities to request clarification only to confirm the correction of obvious errors, provide missing information or explain supporting documents. Requesting clarifications beyond what Article 151 allows may distort competition and undermine equal treatment. However, since the other three tenderers were excluded in any case, this irregularity did not affect the outcome of the procedure.

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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	In 2022, ESMA made eight commitments under a framework contract dating back to 2015, although the contract ceiling had already been reached. The total value of commitments exceeding the ceiling was €217.1 thousand. The ESMA staff responsible for <i>ex ante</i> checks did not have full access to the relevant information, so this issue was not detected until our audit.	ESMA has reinforced its internal control system by putting in place instructions to improve <i>ex ante</i> verifications of the budget ceiling in all framework contracts.	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 has reiterated that the revision is necessary.	In 2022, ESMA submitted proposals to the Commission for streamlining and harmonising its fee management system. The Commission adopted the amendment to the delegated act on trade repositories fee management on 11 March 2024. The amending delegated act was published in the Official Journal on 18 June 2024.	Closed
3	2020	The Credit Rating Agencies Regulation provides scope for circumventing the fee-charging mechanism. Credit rating	In 2022, ESMA submitted proposals to the Commission for streamlining and	Closed

European Securities and Markets Authority (ESMA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		<p>agencies were able to avoid fees by transferring revenue to non-EU jurisdictions. The Regulation is subject to the Commission's right to initiate the legislative changes. ESMA published a consultation paper and submitted technical advice to the Commission on amending the Regulation.</p>	<p>harmonising its fee management system. The Commission adopted the amendment to the delegated act on credit rating agencies fee management on 11 March 2024. The amending delegated act was published in the Official Journal on 18 June 2024</p>	

European Securities and Markets Authority (ESMA)

ESMA's reply

3.12.9. and **3.12.10.** ESMA acknowledges the procedural issue(s) and emphasises that eventually there was no impact on the outcome of the procurement procedure(s). Furthermore, it is worth noting that ESMA has already put in place the relevant mitigating measures aimed at enhancing further the internal control in procurement processes.

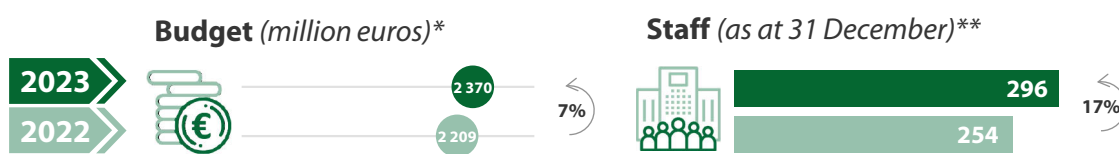
3.13. European Union Agency for the Space Programme (EUSPA)

Introduction

3.13.1. The European Union Agency for the Space Programme (EUSPA), located in Prague, was established by [Regulation \(EU\) 2021/696](#). EUSPA superseded the European Global Navigation Satellite System Agency, established in 2010, and is the latest successor to the European Global Navigation Satellite System Supervisory Authority, established in 2004. EUSPA manages the EU's space programme and provides multiple services in the space sector.

[Figure 3.13.1](#) presents key figures for EUSPA⁵³.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EUSPA for the 2022 and 2023 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 370 forms an integral part of the opinion.

⁵³ More information on EUSPA's role and activities is available on its website: 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 statements⁵⁴ and the reports on the implementation of EUSPA's budget⁵⁵ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EUSPA's financial position as at 31 December 2023, 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.

⁵⁴ 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.

⁵⁵ 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

3.13.5. In our opinion, the revenue underlying EUSPA's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

Opinion on the legality and regularity of payments underlying the accounts

3.13.6. In our opinion, the payments underlying EUSPA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

Observations on management and control systems

3.13.8. We audited the final payment under a grant agreement in support of monitoring activities for the Galileo Reference Centre, which was signed on 3 December 2021 and worth €1 million. We found that, on 26 August 2021, EUSPA's executive director had sent a letter confirming an early start to monitoring on 1 September 2021 and the eligibility of the related costs subject to them being incurred after that date and being eligible under the criteria of the grant. The letter was a de facto legal commitment to finance the activities prior to signature of the grant agreement. During the three months between 1 September 2021 and 2 December 2021, the activities carried out under the grant were not covered by a budgetary commitment.

The authorisation to start the monitoring early, before the grant agreement and the budgetary commitment were signed, was not reported in either the exceptions register or the annual activity report, in contravention of Article 193 of the Financial Regulation.

Observations on budgetary management

3.13.9. In 2023 EUSPA carried over 17 % of the year's total appropriations to 2024. We observed that there were significant carry-overs under Title II (65 %). Recurrent high carry-over

European Union Agency for the Space Programme (EUSPA)

rates undermine the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

Follow-up of previous years' observations

3.13.10. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	<p>In September 2021, EUSPA launched a negotiated procedure with a national public entity, without prior publication of a contract notice, for the provision of various search and rescue services up to a maximum of €120 million. The tenderer had already been providing similar services to EUSPA since 2016. The resulting framework contract entailed the involvement of several subcontractors. We found some discrepancies between the tender specifications and the evaluation committee's assessment. For example, the evaluators either waived or did not properly apply the requirement for subcontractors to declare no conflict of interest. In another example, the reference year given for setting the prices in the bid was 2022, not 2021 as per the technical specifications.</p>	<p>In all current procurement procedures EUSPA insists that financial offers use the same reference year as in the tender notice, or issues a corrigendum if the reference year needs to be changed. EUSPA also examines whether any conflicts of interest have been declared as required in the tender specifications and analyses all mitigating measures proposed by the tenderer, requesting clarification if needed.</p>	Closed

EUSPA's reply

3.13.8. The case concerns the succession in between two specific grants agreements under a Framework Partnership Agreement. For continuity of services purposes the beneficiary requested that cost incurred after the expiry of specific grant n. 3 and before the entry into force of specific grant n. 4 could be accounted retroactively as part of the specific grant n. 4 **after its signature**. The Agency, replied that activities under specific grant n.4 would have been considered eligible, on the basis of article 193.2 of the Financial Regulation. With the exchange of letters EUSPA considers that it did not enter into any legal commitment ('de facto' or otherwise) with the beneficiary, as the beneficiary recognised in its correspondence that related cost incurred as from September 1st 2021 could be accounted retroactively as part of the 4th specific grant after its signature. As the agency did not deny or call into question this unilateral declaration by the beneficiary, it considers it to be legally enforceable and preventing the beneficiary from claiming any legitimate expectations.

Given the above, there was no need to register the early start of activities without budgetary commitment in the Exceptions Register.

The Agency acknowledges that the case above was not reported in the annual activity report under article 193.2.

3.13.9. The agency understands that the Court does not imply that the agency breached Article 12.6 of the Framework Financial Regulation. We emphasise that the high level is due to large contracts signed at the end of the previous year and that the rate of cancellation of payment appropriations in the following year is very low.



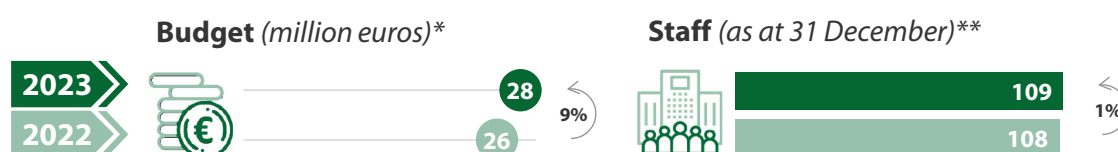
Agencies funded under MFF heading 2 – Cohesion, Resilience and Value

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), located in Thessaloniki, was established by Council Regulation (EEC) No 337/75 (subsequently 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 Cedefop⁵⁶.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of Cedefop for the 2022 and 2023 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 370 forms an integral part of the opinion.

⁵⁶ More information on Cedefop's role and activities is available on its website: 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 statements⁵⁷ and the reports on the implementation of Cedefop's budget⁵⁸ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, Cedefop's financial position as at 31 December 2023, 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.

⁵⁷ 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.

⁵⁸ 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 Cedefop's accounts for the year ended 31 December 2023 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 Cedefop's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

Follow-up of previous years' observations

3.14.7. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2021	Weaknesses in transition to ABAC: (a) The final dates of implementation for carried-over budgetary commitments were not recorded correctly	(a) A similar situation arose with some budgetary commitments carried forward from 2023 to 2024. Cedefop corrected the final implementation dates where necessary.	Open
2	2022	Between 2017 and 2022, Cedefop paid monthly and daily subsistence allowances to two Greek nationals employed as seconded national experts. Cedefop is located in Greece, and its internal rules do not entitle Greek seconded national experts to these allowances.	Cedefop intends to amend its internal rules so that any seconded national expert who has to relocate to Thessaloniki will be eligible for allowances. Cedefop did not pay daily subsistence allowances to Greek seconded national experts in 2023.	Open
3	2022	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's and Iceland's contributions to the 2022 Cedefop budget were higher, and the EU's	An amendment to Protocol 31, on cooperation in specific fields outside the four freedoms, entered into force on 1 January 2023. Since 2023, therefore, Cedefop has received Norway's and Iceland's contributions to its budget through the EU budget.	Closed

European Centre for the Development of Vocational Training (Cedefop)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		contribution was lower, than they should have been.		

European Centre for the Development of Vocational Training (Cedefop)

Cedefop's reply

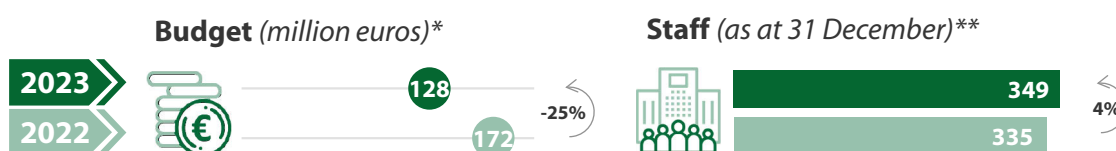
The Agency has taken note of the ECA's report.

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

Introduction

3.15.1. The European Centre for Disease Prevention and Control (ECDC), 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. The ECDC also coordinates a European network of bodies operating in this field. [Figure 3.15.1](#) presents key figures for the ECDC⁵⁹.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

The significant decrease in the ECDC's budget is due to the end in 2022 of the one-off Health Emergency Preparedness and Response Authority (HERA) incubator grants scheme.

Source: Annual accounts of the ECDC for the 2022 and 2023 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 [370](#) forms an integral part of the opinion.

⁵⁹ More information on the ECDC's role and activities is available on its website: 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 (ECDC), which comprise the financial statements⁶⁰ and the reports on the implementation of the ECDC's budget⁶¹ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the ECDC's financial position as at 31 December 2023, 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.

⁶⁰ 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.

⁶¹ 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 ECDC's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

Opinion on the legality and regularity of payments underlying the accounts

3.15.6. In our opinion, the payments underlying the ECDC's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

Observations on management and control systems

3.15.8. We audited a final payment of €1.5 million under a contract for services relating to vaccine effectiveness and impact studies. The payment schedule comprised an advance payment (pre-financing), two interim payments and a final balance. The contract also stipulated that the pre-financing had to be deducted from the interim payments.

We found that the ECDC had in fact deducted the €250 thousand paid as pre-financing from the final payment, ten months later than required by the contract. This was in breach both of the specific terms of the contract and of Article 73(3) of the ECDC's financial regulation.

Observations on budgetary management

3.15.9. In 2023, the ECDC carried over 25 % of the year's total appropriations to 2024. We observed that there were significant carry-overs under Title III (54 %), 17 % of which were subsequently cancelled. The carry-over rate was also significant for Title II (25 %). The carry-over rate for Title I was not high, but 22 % of the appropriations carried over were cancelled. Recurrent high carry-over rates undermine the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

European Centre for Disease Prevention and Control (ECDC)

3.15.10. In 2023, the ECDC processed 2 036 payment requests, of which 133 (6.5 %), for an amount of €1 million, were paid outside the legal deadline. A total of €270 was charged in late payment interest. For comparison, in 2022 the ECDC processed 2 025 payment requests, of which 57 (3 %), for an amount of €523 thousand, were paid late, although no late payment interest was charged.

Follow-up of previous years' observations

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

European Centre for Disease Prevention and Control (ECDC)

Annex – Follow-up of previous years' observations

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	In 2022, the ECDC continued to manage incubator grants paid by the Health Emergency Preparedness and Response Authority (HERA) to 24 national health authorities in EU / European Economic Area countries. As the beneficiaries were public authorities, VAT was not an eligible cost under Article 186(4)(c) of the Financial Regulation. We concluded that the total amount of non-compliant expenditure relating to VAT exceeded the materiality threshold we set for the audit.	The HERA incubator grants scheme ended in 2022.	Closed

The ECDC's reply

3.15.8. ECDC acknowledges the observation and emphasises this does not stem from a systematic error and preventive measures have been instituted to prevent its recurrence.

3.15.9. The Centre has taken note of the ECA's analysis however claims that these carry-forwards resulted from an operational necessity.

3.15.10. The Centre acknowledges the observation and has instituted measures to address this as a notable portion of the late transaction pertains to two specific business areas where improvements have been enforced.

Regarding the amount of €1 million, it is noteworthy that the five highest valued transactions represent 54 % of that amount and three of these transactions were received mid-December and could not be paid within 30 days due to the closure of the Centre and the reopening of the European Commission's financial system, used by the Centre, until 11 January 2024.

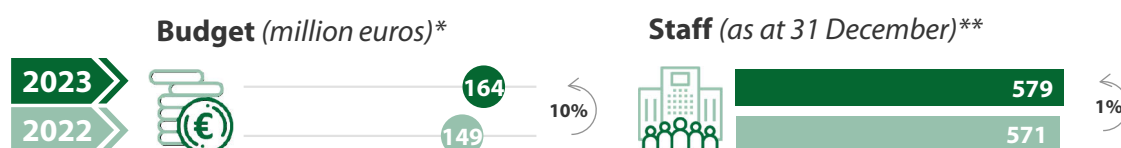
The Centre has diligently investigated the observation and not identified a common denominator but will continue to strengthen its effort to reduce the percentage below the KPI of 5 % which the ECA applies.

3.16. European Food Safety Authority (EFSA)

Introduction

3.16.1. The European Food Safety Authority (EFSA), located in Parma, was established by Regulation (EC) No 178/2002. EFSA supplies the scientific information that is needed when drafting EU legislation on food and food safety, collects and analyses data to identify and monitor risks, and provides independent information on those risks. *Figure 3.16.1* presents key figures for EFSA⁶².

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EFSA for the 2022 and 2023 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 370 forms an integral part of the opinion.

⁶² More information on EFSA’s role and activities is available on its website: 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 statements⁶³ and the reports on the implementation of EFSA's budget⁶⁴ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EFSA's financial position as at 31 December 2023, 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.

⁶³ 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.

⁶⁴ 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 EFSA's accounts for the year ended 31 December 2023 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 EFSA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

European Food Safety Authority (EFSA)

EFSA's reply

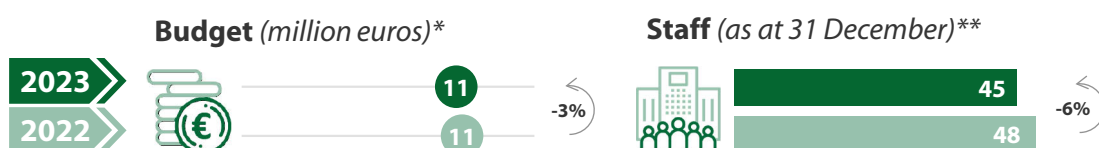
3.16.4. & 3.16.5. & 3.16.6. The Authority acknowledges receipt of the clean audit report of the Court of Auditors and EFSA welcomes the unqualified audit opinions on the reliability of the accounts and the legality and regularity of the transactions underlying the accounts.

3.17. European Institute for Gender Equality (EIGE)

Introduction

3.17.1. The European Institute for Gender Equality (EIGE), 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 EIGE⁶⁵.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EIGE for the 2022 and 2023 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 370 forms an integral part of the opinion.

⁶⁵ More information on EIGE's role and activities is available on its website: 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 statements⁶⁶ and the reports on the implementation of EIGE's budget⁶⁷ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EIGE's financial position as at 31 December 2023, 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.

⁶⁶ 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.

⁶⁷ 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 EIGE's accounts for the year ended 31 December 2023 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 EIGE's accounts for the year ended 31 December 2023 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. When approving budgetary commitments, purchase orders and invoices for services relating to the assessment of its staff, EIGE mixed up two interinstitutional framework contracts, which led to:

- o incorrect application of the *ex ante* checks stipulated by Article 73(3) of its own financial regulation;
- o an amount exceeding the ceiling of the framework contract by €54 thousand;
- o the incorrect application of daily rates.

Consequently, all the related 2023 payments, for a total of €76.5 thousand, were irregular.

3.17.9. In our 2022 report on EU agencies (paragraph 3.17.9) we established that one bid sent to the functional mailbox of the procurement team had gone missing and had therefore not been taken into account in the remainder of the procedure. Because of this, we concluded that the entire procedure and the resulting contract, as well as any associated payments, were irregular. In 2023, EIGE paid €59.6 thousand under this contract.

Observations on management and control systems

3.17.10. When auditing a payment under a framework contract for intranet services, we noted that EIGE monitored contract consumption at the level of payments rather than budgetary commitments. We then observed the same practice under another framework contract. This approach is not compliant with Article 111 of the EU Financial Regulation. It creates a risk that the total value of signed legal commitments, which are based on budgetary commitments and oblige EIGE to make payments in the future, will exceed the framework contract ceiling.

Observations on budgetary management

3.17.11. In 2023 EIGE carried over 18 % of the year's total appropriations to 2024. We observed that there were significant carry-overs under Title III (48 %). The carry-over rates for Title I and Title II were not high, but some 20 % of the appropriations carried over under Title I were cancelled. Recurrent high rates of carry-overs undermine the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

Follow-up of previous years' observations

3.17.12. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	In two audited payments we found that a cost category (“unforeseen expenditure”) not included in the framework contract worth €3.7 million had been included in specific contracts (order forms) and invoices. The total amount paid under this contract in 2022 was €511.3 thousand. Of this, €25.6 thousand was labelled “unforeseen expenditure” and was therefore irregular.	The framework contract was amended to include contingency provisions for unforeseen additional costs, up to a limit of 7 %, related to the initial order.	Closed
2	2022	In one audited procurement procedure (negotiated procedure with at least three candidates, with a value below €60 thousand), we established that one bid sent to the functional mailbox of the procurement team had gone missing, 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	In 2023 EIGE paid €60 thousand under this contract (see paragraph 3.17.9) EIGE has taken several steps: - IT team tests mailboxes as soon as they are set up - IT sets automatic notifications of receipt and tests that the function is working	Open

European Institute for Gender Equality (EIGE)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		entire procedure and the resulting contract, as well as any associated payments, were irregular.	- Bidders are instructed to contact EIGE immediately if they do not receive a confirmation of receipt.	
3	2022	EIGE had not disclosed earmarked budget appropriations of €3.7 million (around one third of budget), for a framework contract for event organisation services, in the single programming document for 2021-2023. This undermined the agency's budgetary transparency towards its management board and other stakeholders.	The 2023-2025 single programming document has been amended so that the framework contract is presented in the procurement plan. The 2024-2026 single programming document includes plans to launch operational framework contracts.	Closed

EIGE's reply

3.17.8. EIGE takes note of the Court's observation and will take measures to ensure a proper implementation of interinstitutional framework contracts with particular attention to HR related contracts.

3.17.9. EIGE implemented several corrective and preventive measures, such as:

- Set-up of automatic acknowledgment of receipt in the procurement functional mailbox.
- Testing of the procurement mailbox by ICT agents.
- Update of the template for invitation to tender specifying the need to contact the general procurement mailbox in 48 hours if no acknowledgment of receipt was received.

3.17.10. EIGE established a template for monitoring the consumption of framework contracts in November 2023. The template takes into account both payments and commitments. EIGE will take measures to reinforce a consistent and correct use of the template.

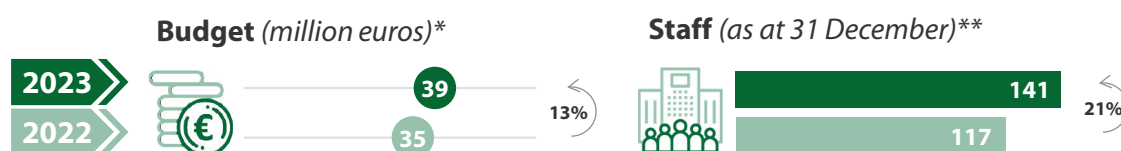
3.17.11. The high-level inflation in the EU and particularly in Lithuania affected EIGE's budget implementation capabilities in 2023, similarly to 2022. EIGE will take measures to improve the budget execution.

3.18. European Labour Authority (ELA)

Introduction

3.18.1. The European Labour Authority (ELA), 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 ELA⁶⁸.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

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.

Source: Annual accounts of ELA for the 2022 and 2023 financial years; staff figures provided by ELA.

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 [370](#) forms an integral part of the opinion.

⁶⁸ More information on ELA’s role and activities is available on its website: 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 statements⁶⁹ and the reports on the implementation of ELA's budget⁷⁰ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, ELA's financial position as at 31 December 2023, 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.

⁶⁹ 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.

⁷⁰ 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 ELA's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

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

3.18.6. 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 ELA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

3.18.7. In our 2022 report (paragraph 3.18.9), we concluded that a contract for designing and organising training events, which ELA awarded as an outcome of an open procedure, was irregular because the winning financial offer was for €12.9 million, while the tender specifications established the maximum contract value at €6 million, which contravenes point 12.3 (a) of Annex I to the Financial Regulation. As a result, all the subsequent payments under this contract, which in 2023 amounted to €1.32 million, are irregular.

3.18.8. We found shortcomings in ELA's *ex ante* checks in the area of contract implementation, which in 2023 led to irregular payments of €0.3 million:

- o in one case, in the context of another training-related framework contract, ELA overpaid €261.5 thousand for services which the contractor invoiced separately, although they were already covered by a monthly flat rate or were not included in the financial offer;
- o in the case of an interim payment for a communication services contract, ELA overpaid €37.6 thousand because the contractor's invoice exceeded the contractual limit for interim payment.

3.18.9. The total amount of irregular expenditure is €1.6 million. This represents 3.8 % of the total payment appropriations available in 2023. This exceeds the materiality threshold set for this audit

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

Observations on budgetary management

3.18.11. In 2023, ELA carried over 26 % of the year's total non-differentiated appropriations to 2024. Like last year, we observed that there were significant carry-overs under Title II (76 %). In addition, 19 % of Title II appropriations approved for 2023 were cancelled. Recurrent high rates of carry-overs also undermine the budgetary principle of annuality and are indicative of structural issues in the budgetary process and implementation cycle.

Follow-up of previous years' observations

3.18.12. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2021	ELA has not yet adopted a business continuity plan.	ELA adopted its business continuity plan in September 2023.	Closed
2	2022	<p>The daily and monthly allowances received by a national liaison officer – which, by the end of 2022, amounted to €83.7 thousand, of which €50.7 thousand was paid in 2022 – were irregular.</p> <p>ELA's <i>ex ante</i> checks on allowances for national liaison officers and seconded national experts were weak. There were no <i>ex post</i> checks.</p>	<p>ELA has strengthened the <i>ex ante</i> checks regarding proof of residence of seconded national experts and national liaison officers. Checks carried out retroactively did not lead to any additional findings. In January 2024, ELA adopted a decision on the recovery of the overpaid allowances.</p>	Closed
3	2022	<p>In a procurement procedure to support ELA's activities in the field of training events, the tender specifications established a maximum contract value of €6 million over four years. ELA awarded the contract to a tenderer whose financial offer was €12.9 million.</p> <p>We concluded that this procurement and the contract award were irregular. No payments associated with this contract were made in 2022.</p>	<p>In 2023 ELA paid €1.3 million under this contract (see paragraph 3.18.7). The contract expired in February 2024.</p> <p>ELA has revised its tender documents, including financial offer templates, to clarify that tenders exceeding the contracting authority's maximum budget will be rejected.</p>	Open

European Labour Authority (ELA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
4	2022	There was a lack of formalised <i>ex ante</i> and <i>ex post</i> controls 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.	Despite certain improvements (such as the formalisation of <i>ex ante</i> checks using a paperless workflow tool), we again detected shortcomings in the <i>ex ante</i> checks in 2023, in some cases leading to irregular payments (see paragraph 3.18.8). A contract for <i>ex post</i> checks was concluded in October 2023.	Open
5	2022	At the end of 2022, the proportion of temporary workers (seconded national experts and interims) at ELA was 58 %.	In 2022, ELA requested the conversion of 15 seconded national expert posts into temporary agent posts. In 2023, the conversion of five seconded national expert posts into contractual agent posts was approved. At the end of 2023, the proportion of ELA's temporary workers (seconded national experts and interims) remains high at 47 %.	Open
6	2022	From November 2022 to March 2023 (i.e. 5 months), ELA used an interim agent and a trainee to perform ELA's core financial activities associated with budget implementation, which contravened Article 41(1) of ELA's financial rules.	ELA continued to use an interim agent and a trainee to perform core financial activities associated with budget implementation in 2023.	Open

European Labour Authority (ELA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
7	2022	ELA's budget for 2022 was adopted by the ELA's management board but it was not published in the Official Journal of the European Union.	ELA's 2022 budget was published in the Official Journal of the European Union on 31 May 2023 (2023/C 191/01).	Closed
8	2022	ELA had high carry-over rates of (65 %): €3.4 million (or 80 %) under Title II (63 % in 2021), and €16.4 million (or 91 %) under Title III (38 % in 2021).	ELA's carry-over rate of remained high in 2023 (see paragraph 3.18.11).	Open

ELA's reply

3.18.7. The contract in question ended on February 3, 2024 and it wasn't renewed. A new framework agreement for event management was established in November 2023. The decision to employ an irregular contract until the new one came into force was driven by the need to mitigate risks. By doing so, ELA aimed to safeguard its reputation and maintain a consistent level of service delivery. ELA's commitment to executing planned activities remained unwavering. The irregular contract acted as a bridge, allowing ELA to continue its essential functions without disruption.

3.18.8. ELA will analyse the incorrect payments and identify common patterns/specific areas where improvements are needed. ELA will enhance its ex-ante checks by thoroughly reviewing and formalizing the process for assessing key parameters.

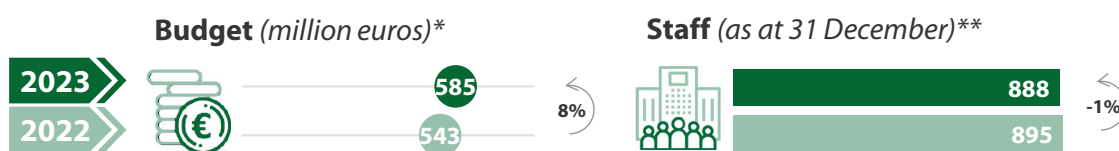
3.18.11. ELA will assess its budgetary processes, from elaboration to implementation, will identify any structural issues, areas and analyse patterns that contribute to high rates of carry-overs and cancellations. High volumes of using interinstitutional procurements (mainly in IT area) indicates many unpredictable variables, resulting in lower budget execution. ELA makes efforts to enhance budget implementation by regular monitoring and quickly updating plans in response to new opportunities or circumstances.

3.19. European Medicines Agency (EMA)

Introduction

3.19.1. The European Medicines Agency (EMA), located in Amsterdam, was established by Regulation (EC) No 726/2004. EMA succeeded and replaced the European Agency for the Evaluation of Medicinal Products, established in 1993. 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 EMA⁷¹.

Figure 3.19.1 – Key figures for EMA



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

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

Source: Annual accounts of EMA for the 2022 and 2023 financial years; staff figures provided by EMA.

Information in support of the statement of assurance

3.19.2. Our audit approach, the basis for our opinion, the responsibilities of 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 370 forms an integral part of the opinion.

⁷¹ More information on EMA’s role and activities is available on its website: 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 (EMA), which comprise the financial statements⁷² and the reports on the implementation of EMA's budget⁷³ for the financial year ended 31 December 2023, 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, EMA's accounts for the year ended 31 December 2023 present fairly, in all material respects, EMA's financial position as at 31 December 2023, 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 paragraph

3.19.5. We draw attention to note 3.1.3, note 4.3.2, note 4.8.1 and note 4.8.2 to EMA's accounts, which provide significant disclosures in connection with property-related obligations. The lease on 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, 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 EMA's

⁷² 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.

⁷³ The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

European Medicines Agency (EMA)

lease expires in June 2039. Since EMA remains the party to the head lease, it could be held liable for the entire amount under the head lease contractual obligation (€375 million) and any other financial obligations which would arise as result of the premises being vacant. The maximum exposure, including council tax liability payable by EMA in the case of the premises being vacant for the remainder of the lease, amounts to €550 million.

We also draw attention to another element highlighted in note 4.3.2 to EMA's accounts, namely the financial situation of the subtenant's ultimate parent company and in particular the filing for bankruptcy for the subtenant's group's US and Canada branches in November 2023. Following that event, the ultimate parent company of the subtenant has been in contact with its landlords, including EMA, to renegotiate their leases. The negotiations were concluded in March 2024. In accordance with the discussions held with the EU budgetary authorities and with the consent of its landlord, EMA has agreed on an amendment of the existing sublease with the subtenant by way of rent reduction and including provisions for either the EMA or the subtenant to early terminate the sublease under certain conditions before the scheduled end date in June 2039.

At the time these final accounts are issued, the amendment of the existing sublease covering the relevant renegotiated terms, clauses and conditions is on-going and the Agency's subtenant continues to carry on operations from its London premises.

The Agency's subtenant has met its contractual obligations for year 2023, with rental payments covering the period up to 31 December 2023. However, EMA has accepted the deferral of the rental payments covering the first three quarters of 2024, until the amendment of the existing sublease contract with the subtenant is signed. In this respect, EMA has made a provision for onerous contract, for an amount of €131.4 million.

Our opinion is not modified in respect of 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 EMA's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

European Medicines Agency (EMA)

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

3.19.7. In our opinion, the payments underlying EMA's accounts for the year ended 31 December 2023 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. During the first quarter of 2023, EMA carried out a data migration from the former veterinary inspection system to the new corporate system, IRIS. We found that following the migration, for 48 veterinary inspections carried out, amounting to €1.3 million, EMA had not respected the deadlines set out in Article 10 of Council Regulation 297/95 and had issued the corresponding invoices with significant delays. As a consequence, the related revenue was wrongly booked in 2023, instead of 2022. These delays were not reported in the register of exceptions. This shows a weakness in EMA's management and control systems and contravenes Article 30 of EMA's financial regulation.

Follow-up of previous years' observations

3.19.10. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	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 carried out to ensure that the costs of school meals were excluded, therefore calling into question whether such checks were systematically carried out.	EMA strengthened the checks regarding childcare contribution costs, ensuring that the required evidence is obtained.	Closed
2	2022	We found that EMA had not assigned clear identification to some of the assets since its relocation to Amsterdam in 2019. We also found some discrepancies between the list of assets donated by the Dutch government, EMA's assets register, and the assets found on the premises.	EMA has started the process of labelling the previously unlabelled furniture items. A new inventory is planned for 2024.	Open
3	2022	For one audited payment of €2 million, EMA authorised the related budgetary commitment only after the legal commitment was accepted.	EMA revised its standard operating procedure and established and performed an annual <i>ex post</i> check of more than 1 500 budgetary	Closed

European Medicines Agency (EMA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		This goes against Article 73 (2) of EMA's financial regulation.	commitments, which detected no cases of non-compliance in 2023.	

EMA's reply

3.19.5. The issue of London premises arose following the 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 continue to be 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 until 2039. It has been and continues to be necessary to manage this topic at the right political level and find a long-term resolution for the Agency. In 2023, the situation regarding EMA's premises in London became increasingly challenging due to global macroeconomic changes, following the pandemic, and changing work habits of the population that had significant negative consequences in the UK office real estate sub-market, i.e. the business of the current Agency's sub-tenant. The parent company's liquidity situation and macroeconomic factors directly affected the sub-tenant, who approached EMA to renegotiate the sub-lease agreement to be able to remain in the premises. The negotiations, concluded in March 2024, will enable the sub-tenant to remain in the premises, paying an agreed rent and all the other building charges. Having stabilised the situation post pandemic, taking account of the financial amount of the exposure, long period of lease remaining, considering the volatility of economic factors already demonstrated in a short period of time and uncertainty how the real estate market will develop in decades to follow, the EMA Management Board urges EU institutions to resolve this matter at the highest political level to enable the Agency to fully focus its resources on implementing its public health mission, the recently expanded mandate and addressing public health crises.

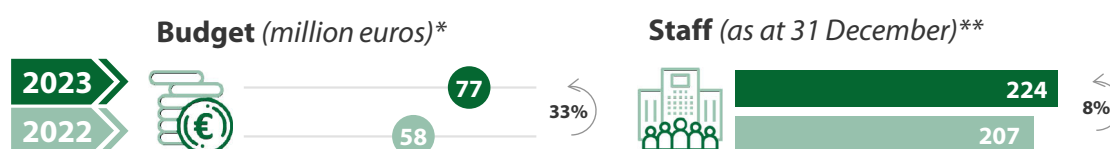
3.19.9. EMA agrees with ECA's observation, however would like to highlight that these incidents were estimated to be below the materiality threshold and did not result in a loss of revenue. EMA will look for improving the process in the context of the implementation of the New Fee Regulation.

3.20. European Public Prosecutor's Office (EPPO)

Introduction

3.20.1. The European Public Prosecutor's Office (EPPO), 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 EPPO⁷⁴.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

The significant increase in the EPPO's budget is due to the continued build-up of staffing resources and core IT systems and infrastructures following its creation in 2021.

Source: Annual accounts of EPPO for the 2022 and 2023 financial years; staff figures provided by EPPO.

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 370 forms an integral part of the opinion.

⁷⁴ More information on EPPO's role and activities is available on its website: www.eppo.europa.eu.

The ECA's statement of assurance 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 statements⁷⁵ and the reports on the implementation of EPPO's budget⁷⁶ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EPPO's financial position as at 31 December 2023, 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.

⁷⁵ 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.

⁷⁶ 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

3.20.5. In our opinion, the revenue underlying EPPO's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

Opinion on the legality and regularity of payments underlying the accounts

3.20.6. In our opinion, the payments underlying EPPO's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

Observations on the legality and regularity of transactions

3.20.8. We audited a payment relating to the reimbursement of costs for EPPO staff whose children were attending the European Schools in Luxembourg. We found that EPPO had used a different registration cut-off date than that laid down in the contribution agreement with the Commission, resulting in a total overcharge of €25.4 thousand for two pupils. The temporary overcharge was regularised as part of the debit note for 2024, which was paid in March 2024.

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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2021	In 2021, 21 % of EPPO's payments were made late. In addition, EPPO relied on interim staff to process payments.	In 2023, the rate of late payments was below the ECA's reporting threshold.	Closed
2	2021	EPPO has not yet adopted a comprehensive business continuity plan.	A business continuity plan has still not been adopted. According to EPPO, the adoption is dependent on the allocation of additional human and budgetary resources by the budgetary authority.	Open

European Public Prosecutor's Office (EPPO)

EPPO's reply

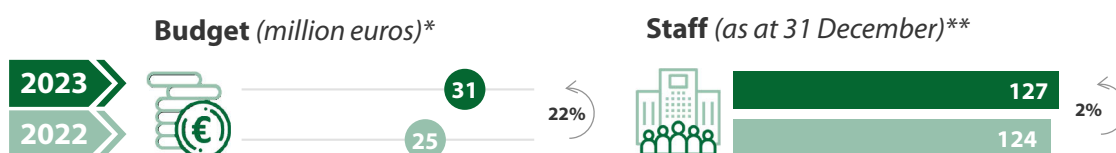
3.20.8. EPPO acknowledges the observation. Indeed, the temporary overcharge was regularised in 2024. Furthermore, the EPPO is taking further steps to strengthen its internal control system by organising dedicated training workshops for operational and financial actors.

3.21. European Training Foundation (ETF)

Introduction

3.21.1. The European Training Foundation (ETF), located in Turin, was established by Council Regulation (EEC) No 1360/90 (subsequently 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 vocational training programmes. *Figure 3.21.1* presents key figures for the ETF⁷⁷.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

The significant increase in the ETF's budget is due to the growing number of externally funded projects under various contribution agreements.

Source: Annual accounts of the ETF for the 2022 and 2023 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 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 370 forms an integral part of the opinion.

⁷⁷ More information on the ETF's role and activities is available on its website: 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 (ETF), which comprise the financial statements⁷⁸ and the reports on the implementation of the ETF's budget⁷⁹ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the ETF's financial position as at 31 December 2023, 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.

⁷⁸ 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.

⁷⁹ 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 ETF's accounts for the year ended 31 December 2023 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 ETF's accounts for the year ended 31 December 2023 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. In our 2022 report on the EU agencies (paragraph 3.21.8), we concluded that, in the matter of a framework contract awarded for the provision of content support services worth €1 million, the ETF departed from the technical specifications by awarding the contract to a tenderer which had not reached the required financial turnover in one of the reference years under consideration. The contract resulting from the procedure was therefore irregular, as were all the related payments, which came to €175.5 thousand in 2023.

3.21.9. We also concluded in the 2022 report (paragraph 3.21.9), in regard to an open procurement procedure for in-country support services worth €4 million, that the economic and financial capacity of the winning tenderer had not been demonstrated as required. The contract resulting from the procedure was therefore irregular, as were all the related payments, which came to €300.6 thousand in 2023.

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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2018	In a public procurement procedure for temporary agency services, the ETF applied award criteria that consisted of mostly non-competitive price elements. The ETF should have used award criteria focusing on competitive price elements.	The contract concerned expired in March 2023.	Closed
2	2022	In an open procedure for the provision of content support services, the ETF incorrectly applied the selection criterion relating to economic and financial capacity by accepting a tenderer whose financial turnover had not reached the required threshold in one of the reference years.	None	Open
3	2022	In another open procurement procedure, this time for in-country support services worth €4 million, the ETF awarded a contract to a tenderer whose economic and financial capacity had not been demonstrated.	None	Open

European Training Foundation (ETF)

The ETF's reply

3.21.8. The ETF acknowledges the finding and has taken note of the Court's report.

The ETF confirms that it has reviewed its methodology on financial solvency in the tendering evaluation process.

3.21.9. The ETF acknowledges the finding and has taken note of the ECA's report. The ETF confirms that it has reviewed its methodology on financial assessment to target, where applicable, the ETF partner countries working outside the 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), located in Bilbao, was established by Council Regulation (EC) No 2062/94, subsequently 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-OSHA⁸⁰.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EU-OSHA for the 2022 and 2023 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 370 forms an integral part of the opinion.

⁸⁰ More information on EU-OSHA's role and activities is available on its website: 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 statements⁸¹ and the reports on the implementation of EU-OSHA's budget⁸² for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EU-OSHA's financial position as at 31 December 2023, 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.

⁸¹ 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.

⁸² 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 EU-OSHA's accounts for the year ended 31 December 2023 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 EU-OSHA's accounts for the year ended 31 December 2023 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 the legality and regularity of transactions

3.22.8. We audited three successive negotiated procedures with a single economic operator, without the publication of a contract notice, for project management support and consultation services. The negotiated procedures, which EU-OSHA justified by extreme urgency, led to three successive 6-month bridge contracts concluded in October 2021, February 2022 and September 2022. We found that EU-OSHA's justification for the choice of procedure was not valid, because it did not meet the conditions set out in point 11.1 (c) of Annex I to the Financial Regulation.

EU-OSHA launched these procedures to fill the gap between the expiry of the previous contract for such services in September 2021, and the conclusion of an open procedure for a new contract, which was suspended due to doubts regarding the admissibility of one of the bidders. In order to address these doubts, EU OSHA contacted the Commission's [Early Detection and Exclusion System](#) Panel. It did so 8 months after the potential inadmissibility of the bidder became known, which means that the urgency was not due to "unforeseeable events" and was in fact attributable to EU-OSHA. We also noted that EU-OSHA awarded the three bridge contracts to the same contractor whose admissibility was in doubt for the suspended open procedure. Therefore, we conclude that the three negotiated procedures and the associated payments, which in 2023 amounted to €67.1 thousand, are irregular.

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

3.22.9. We audited two directly awarded contracts with values of €14.7 thousand and €15 thousand. Direct awards are allowed for contracts up to €15 thousand. We found, however, that the two contracts were for nearly identical services related to research. We therefore concluded that by processing the two contracts separately, EU-OSHA contravened Article 160 of the Financial Regulation, which prohibits the splitting of contracts, in particular where the effect is to limit competition. Consequently, the two contracts and all associated payments, which in 2023 amounted to €29.7 thousand, are irregular.

Observations on budgetary management

3.22.10. In 2023, EU-OSHA carried over 29 % of the year's total appropriations to 2024. Like last year, we observed that there were significant carry-overs under Title II (43 %) and Title III (55 %). Recurrent high carry-over rates undermine the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

3.22.11. In 2023, EU-OSHA processed 1 127 payment requests, of which 144 (13 %), for an amount of €267.1 thousand, were paid outside the legal deadline. However, no late payment interest was charged. For comparison, in 2022 EU-OSHA processed 983 payment requests, of which 19 (2 %), for an amount of €43.9 thousand, were paid late, although no late payment interest was charged.

Follow-up of previous years' observations

3.22.12. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	<p>From 2022 to 2023, EU-OSHA carried over eight provisional commitments amounting to €533.7 thousand. Such carry-overs are allowed under Article 12(6) of EU-OSHA's 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 €109.3 thousand of these provisional commitments. Therefore, the amount of €109.3 thousand should have been de-committed instead of being carried over to 2023.</p>	<p>EU-OSHA has decommitted the relevant amount unduly carried-over and put in place an action plan so that similar incidents do not happen again.</p>	Closed

EU-OSHA's reply

3.22.8. The Agency was confronted with a unique set of circumstances which were clearly beyond its authority to control. The Agency was engaged with the Commission in a confidential exchange waiting for advice from the EDES Panel, received almost a year later. This referral to the EDES Panel created a situation of extreme urgency' to maintain essential project management support services to running ICT projects. The Agency accepts that this is a highly unusual situation but does not believe that it had any other viable options to ensure business continuity while the open procedure was suspended.

3.22.9. These types of services require a high degree of specialised, country-specific knowledge. During market prospection, a limited number of economic operators offered the required services. In addition, in EU-OSHA's experience, additional administrative requirements can create barriers for these small specialised economic operators. The operators invited to participate were chosen based on a market analysis and objective criteria and, therefore, there was no restriction of access to the market as such. EU-OSHA is committed to improving the documentation of its market prospectations related to procurement, as well as to explore alternative procurement tools that will better target the type of services required. EU-OSHA has already started to analyse tools such as calls for expression of interest for external experts and reopening of competition, and to increase awareness internally via info sessions, trainings, and further documentation.

3.22.10. EU-OSHA makes an effective use of commitment appropriations (>95%) and the very low level of cancellation of payment appropriations indicates the reliability of the amounts carried over.

For the expenditure in Title II, the nature of which is exclusively administrative, the carry-overs are linked to the commitments already planned in the Agency's Single Programming Document adopted by its Management Board. In Title III, the carry-overs are explained by the cyclic nature of the expenditure carried out by the Agency for the implementation of its Annual Work Programme.

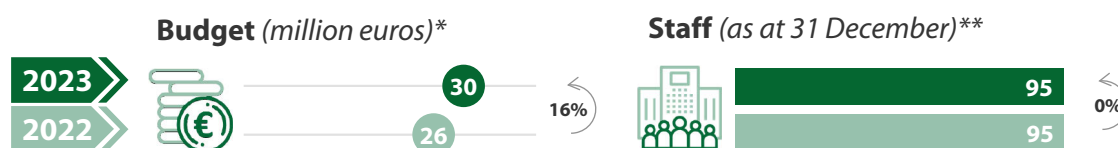
3.22.11. The Agency takes note of this finding and would like to point out that it is aware of this non-compliance with the payment time limits established in the FR, and that it has already been taking measures to address them. 92% (132 out of 144) of late payments in 2023 are reimbursements for experts participating in meetings. To address these delays, EU-OSHA has initiated the implementation of the AGM system (Advanced Gateway to Meetings), which will provide an electronic and automated system for these reimbursements.

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), located in Dublin, was established by Council [Regulation \(EEC\) No 1365/75](#), subsequently 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 Eurofound⁸³.”

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of Eurofound for the 2022 and 2023 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 370 forms an integral part of the opinion.

⁸³ More information on Eurofound’s role and activities is available on its website: 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 statements⁸⁴ and the reports on the implementation of Eurofound's budget⁸⁵ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, Eurofound's financial position as at 31 December 2023, 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.

⁸⁴ 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.

⁸⁵ 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 Eurofound's accounts for the year ended 31 December 2023 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 Eurofound's accounts for the year ended 31 December 2023 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. Eurofound made a payment of €38.6 thousand, linked to a contract for assessing the quality of survey data, without collecting some key supporting documents relating to the contractual deliverables. This is an internal control weakness which could expose Eurofound to operational and reputational risks.

Observations on budgetary management

3.23.9. In 2023, Eurofound carried over 17 % of the year's total appropriations to 2024. We observed that there were significant carry-overs under Title III (59 %). The carry-over rate was also significant for Title II (22 %). The carry-over rate for Title I was not high, but 17 % of the appropriations carried over were cancelled. Recurrent high carry-over rates undermine the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	In one procurement procedure for networking services, Eurofound used the professional and language skills of tenderers' staff as an award criterion. These skills are part of the selection criteria (i.e. tenderers' technical capacity). The lack of a clear distinction between selection criteria, which relate to the evaluation of tenderers, and award criteria, which concern the evaluation of the tenders themselves, contravenes Article 167 of the Financial Regulation.	Eurofound has redrafted its templates in order to raise its staff's awareness of the importance of ensuring a proper distinction between selection and award criteria.	Closed
2	2022	We found weaknesses in connection with Eurofound's traineeship scheme. First, the rules governing the scheme were published on Eurofound's website, but they had not been formally adopted. Second, contrary to the rules, in 2022 Eurofound had failed to update trainees' remuneration in line with changes to the Commission's standard rates of pay and the correction coefficient for Ireland. As a result, in 2022 Eurofound paid 16 trainees a total of €3.3 thousand less than it should have. This constitutes an internal control weakness and exposes Eurofound to reputational, financial and legal risks.	On 7 March 2023, Eurofound adopted a decision on the engagement of trainees and on the conditions for the update of their remuneration.	Closed

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

Eurofound's reply

3.23.8. Eurofound takes note of ECA's observation.

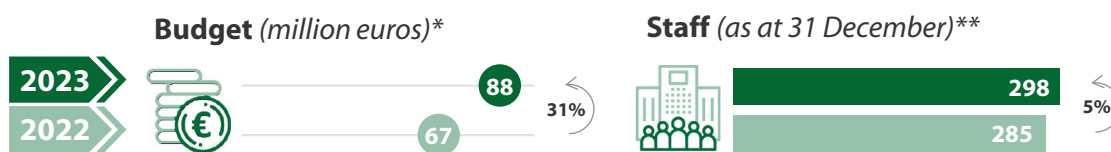
3.23.9. Eurofound notes the distinction between planned and unplanned carry-overs. Only the latter may indicate shortcomings in the planning and implementation process. In 2023, Eurofound had 4% of unplanned carry-overs in Title II and 25% in Title III. Planned carry-overs, however, are a result of Eurofound's multi-annual project work while operating with non-differentiated appropriations.

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

Introduction

3.24.1. The European Union Agency for Criminal Justice Cooperation (Eurojust), 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 Eurojust⁸⁶.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

The significant increase in Eurojust’s budget is due to the growing number of externally funded projects under various contribution agreements.

Source: Annual accounts of Eurojust for the 2022 and 2023 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 370 forms an integral part of the opinion.

⁸⁶ More information on Eurojust’s role and activities is available on its website: 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 statements⁸⁷ and the reports on the implementation of Eurojust's budget⁸⁸ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, Eurojust's financial position as at 31 December 2023, 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

3.24.5. We draw attention to Note 6.9 to the annual accounts for 2023, which describes the continued 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.

⁸⁷ 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.

⁸⁸ 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

3.24.6. In our opinion, the revenue underlying Eurojust's accounts for the year ended 31 December 2023 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 Eurojust's accounts for the year ended 31 December 2023 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 related payments, was therefore irregular. In 2023 Eurojust paid €59.3 thousand under this contract.

Observations on management and control systems

3.24.10. In 2023, we observed an increase in the number and value of non-standard transactions classified as exceptions or non-compliance events. The number of non-compliance events recorded by Eurojust grew from 43 to 71 between 2022 and 2023, and the total amount concerned increased from €294 thousand to €566.4 thousand.

Observations on budgetary management

3.24.11. In 2023, Eurojust processed 2 577 payments, of which 1 287 (50 %), for an amount of €9.6 million were made outside the legal deadline. However, no late payment

European Union Agency for Criminal Justice Cooperation (Eurojust)

interest was charged. For comparison, in 2022 Eurojust processed 2 308 payment requests, of which 1 222 (53 %), for an amount of €7.4 million, were paid late, although no late payment interest was charged.

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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2020	In our 2020 report, we concluded that a procurement procedure for vehicle leasing was irregular. As a result, all payments made on the basis of this framework contract were irregular.	Eurojust has not issued any further specific contracts, but it is obliged to honour contracts already signed. The amount paid under the contract was €59.3 thousand in 2023 (see paragraph 3.24.9). The contract is due to expire in 2024.	Open
2	2022	<p>Eurojust did not update its risk management and control strategy to cover risks associated with the implementation of the SUMMA system.</p> <p>Eurojust's SUMMA user management system is managed by DG BUDG, which is responsible for granting and removing the rights of SUMMA users on the basis of information provided by Eurojust. This process is not yet formally structured, and Eurojust does not specifically check attributed user rights. There is therefore a risk that the user roles in SUMMA may not be correctly assigned and updated. SUMMA also still lacks a suitable user profile for auditors.</p>	<p>In 2023, Eurojust placed SUMMA in its risk management register and maintained a continuous monitoring of incidents.</p> <p>DG BUDG was still in charge of granting and removing access rights in 2023.</p>	<p>Closed as regards risk management</p> <p>Open as regards user management</p>

European Union Agency for Criminal Justice Cooperation (Eurojust)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
3	2022	In 2022, Eurojust made 1 222 payments (53 % of the total of 2 308) outside the time limits given in Article 116 of the Financial Regulation. In 720 cases (32 % of the total), payment was more than 30 days late.	<p>In 2023, staffing gaps and technical constraints in connection with SUMMA continued to impact payment times.</p> <p>In early 2024, Eurojust stated that it had recruited additional staff to tackle delays in the processing of payments.</p> <p>In 2023 50 % of Eurojust payments were made late (see paragraph 3.24.11).</p>	Open

Eurojust's reply

3.24.9. Eurojust acknowledges the Court's Observation. As a result of the Court's observation in the 2020 report, Eurojust has not issued any further specific contracts under the related framework contract. However, the specific contract signed in 2020, prior to the Court's observation, has a duration of four years, and covers the leasing of Eurojust's current fleet of vehicles. Expenditure under this contract has therefore necessarily continued.

3.24.10. Eurojust acknowledges the Court's Observation. The largest part of the total non-compliance events (NCEs) amount in 2023 was due to a single event for a Joint Investigation Team (JIT) grant, for which the financial commitment was approved with one day delay after the grant signature. The high number and amount of NCEs in 2023 is mostly due to insufficient human resources and internal processes inefficiencies. In 2024, Eurojust has addressed these gaps by revising the current procedure for registering and reporting non-compliance events.

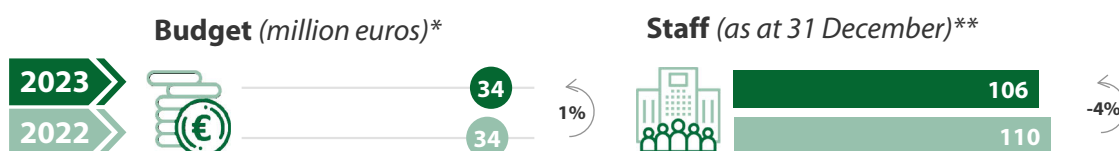
3.24.11. Eurojust acknowledges the Court's Observation. Notwithstanding that Eurojust did not pay any late interest to suppliers in 2023, the high rate of late payments is mostly due to technical issues derived from the SUMMA implementation and to the insufficient human resources, particularly in the area of events and logistics, which involve the most significant volume of payments.

3.25. European Union Agency for Fundamental Rights (FRA)

Introduction

3.25.1. The European Union Agency for Fundamental Rights (FRA), located in Vienna, was established by Council Regulation (EC) No 168/2007. FRA provides assistance and expertise in implementing EU law on fundamental rights to EU and member state authorities. Figure 3.25.1 presents key figures for FRA⁸⁹.

Figure 3.25.1 – Key figures for FRA.



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

** "Staff" includes EU officials, EU temporary staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of FRA for the 2022 and 2023 financial years; staff figures provided by FRA.

Information in support of the statement of assurance

3.25.2. Our audit approach, the basis for our opinion, the responsibilities of 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 370 forms an integral part of the opinion.

⁸⁹ More information on FRA's role and activities is available on its website: 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 (FRA), which comprise the financial statements⁹⁰ and the reports on the implementation of FRA's budget⁹¹ for the financial year ended 31 December 2023, 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, FRA's accounts for the year ended 31 December 2023 present fairly, in all material respects, FRA's financial position as at 31 December 2023, 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.

⁹⁰ 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.

⁹¹ 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 FRA's accounts for the year ended 31 December 2023 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 FRA's accounts for the year ended 31 December 2023 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. In 2023 FRA carried over 23 % of the year's total appropriations to 2024. Like last year, we observed that there were significant carry-overs under Title III (76 %). Recurrent high rates of carry-overs undermine 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	We found that FRA had carried over €6.4 million (26 %) of available 2022 commitment appropriations to 2023. This included €5.9 million (74 %) of appropriations under Title III, which relates to operational expenditure (74 % in 2021). Recurrent high carry-over rates contradict the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.	The carry-over rate for Title III was high again in 2023 (see paragraph 3.25.8)	Open

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. Continuous efforts have been deployed, such a closer monitoring and an early estimation of the carry overs for next year (C8). Other initiatives are currently being assessed. Nevertheless, the Agency has a very good budget implementation: outturn higher than 99% for more than ten years (i.e., less than 1% of cancelled appropriations).



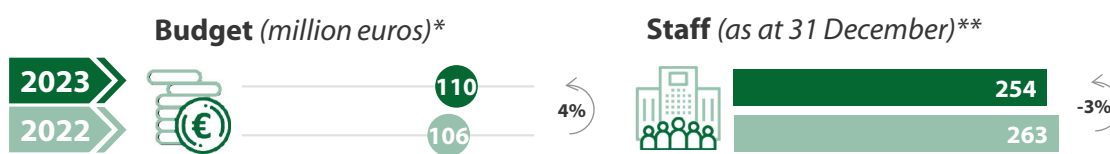
Agencies funded under MFF heading 3 – Natural Resources and Environment

3.26. European Environment Agency (EEA)

Introduction

3.26.1. The European Environment Agency (EEA), located in Copenhagen, was established by Council Regulation (EEC) No 1210/90, subsequently 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 EEA⁹².

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of the EEA for the 2022 and 2023 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 370 forms an integral part of the opinion.

⁹² More information on the EEA's role and activities is available on its website: 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 (EEA), which comprise the financial statements⁹³ and the reports on the implementation of the EEA's budget⁹⁴ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the EEA's financial position as at 31 December 2023, 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.

⁹³ 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.

⁹⁴ 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 EEA's accounts for the year ended 31 December 2023 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 EEA's accounts for the year ended 31 December 2023 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 management and control systems

3.26.8. The EEA outsourced *ex ante* financial checks on grant payments to European Topic Centres – seven thematic expertise centres contracted by the EEA to carry out tasks agreed with its partner network – to an external contractor. We found a number of shortcomings in the resulting control arrangements:

- The EEA did not update its procedures for *ex ante* checks or its *ex post* strategy to reflect the fact that *ex ante* checks had been outsourced. This creates the risk that the quality of the checks performed by the contractor is not ensured or that the results of these checks are not properly followed up.
- . In one case, the EEA did not sufficiently follow up on the external contractor's conclusions that salary costs for one of the partners in a European Topic Centre were likely to be overstated. Subsequently, the EEA requested for verification the salary slips for five staff concerned, but only obtained them for two and still paid the amount claimed for all five..
- In addition, the EEA did not require the contractor to check whether the same salaries – which are the biggest cost category – had been declared more than once (which is a risk, because the same partner, with the same staff, can be a beneficiary of more than one

European Environment Agency (EEA)

grant agreement), or whether the European Topic Centre's cost declarations were consistent with previous years' payments.

3.26.9. The EEA approved the use of lump-sum grant payments to a European Topic Centre to reimburse a partner's salary costs. The decision was supported by an EEA expert's opinion. However, contrary to Article 181(4) of the Financial Regulation, the EEA was not able to show how the lump sum amount was calculated, which creates a risk that it was not commensurate with the services provided.

3.26.10. The EEA increased the value of a framework contract from €6.4 million to €7.4 million. However, when making this amendment, it did not send the modification notice for publication, contravening Article 163 of the Financial Regulation.

Observations on budgetary management

3.26.11. On 22 December 2023, the EEA published an amending budget in the Official Journal of the European Union. The amending budget shows total revenue of €76.1 million and total expenditure of €80.1 million, which is contrary to the budgetary principles of accuracy and equilibrium referred to in Articles 8 and 16 of the EEA's financial regulation.

3.26.12. In 2023 the EEA made 35 budget transfers, without sufficiently documenting why they were needed. This insufficient audit trail goes against Article 30(3)(d) of the EEA's financial regulation.

3.26.13. In 2023 the EEA processed 1 534 payment requests, of which 282 (18 %), for an amount of €9.4 million, were paid outside the legal deadline. However, no late payment interest was charged. For comparison, in 2022 the EEA processed 1 473 payment requests, of which 190 (13 %), for an amount of €4 million, were paid late, although no late payment interest was charged.

Follow-up of previous years' observations

3.26.14. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	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 were irregular. The contract expired in December 2022.	The EEA has awarded a new framework contract for building repair, maintenance and refurbishment services.	Closed

EEA's reply

3.26.8a. The Agency will update its procedures for ex-ante checks and its ex-post strategy to reflect the fact that ex-ante checks had been outsourced. The Agency holds regular meetings with the contractor to monitor progress and address any issues raised by the contractor, and the Agency has performed further verification analysis where necessary.

3.26.8b. For this case, the Agency instructed the ETC lead to address the errors identified by the external contractor and resubmit its cost claim for all staff, providing supporting documentation. The ETC resubmitted the cost claim and provided supporting documentation for two of the five employees for which salary costs were claimed, which was checked against the cost claim. At the end of December, the supporting documentation for the remaining employees had not been received, but the Agency settled the cost statement to avoid the loss of the C8 budgetary appropriations, which couldn't be carried forward to 2024. The Agency repeated the instruction to the ETC lead to provide the supporting documentation for the remaining three employees and received a summary financial statement confirming the salary costs paid for the employees, which matched the cost claimed.

3.26.8c. The Agency takes note of the Court's observation; the update in the procedures for ex-ante checks will ensure this risk is addressed.

3.26.9. The Agency considers the written decision on the lump-sum payment to be fully compliant with the relevant clauses of the Financial Regulation. The Agency will take steps to ensure that in future the lumpsum amounts are properly determined and documented for all the cases, where costs are declared by one-person company/self-employed partner in the ETCs. This concerns in total 3 partners out of 81, representing 1.8% of the total costs declared for the ETCs.

3.26.10. The EEA acknowledges the Court's observation and confirms to have reviewed its control mechanisms to prevent similar occurrence in the future, by reviewing its internal checklist for modification of contract pursuant to Article 172(3) FR.

3.26.11. The Agency acknowledges the Court's observation. The discrepancy in the publishing of the amending budget was a clerical error and the correct budget has been republished.

3.26.12. The Agency takes note of the Court's observation. Justifications for budget transfers are given, either tabled at resource hearings, or by the requestor for smaller transfers. Furthermore, all committed and paid expenditure is clearly documented. Going forward, the Agency will save the justifications with the budget transfers to facilitate the audit trail.

3.26.13. The Agency acknowledges the Court's observation. A contributing factor to the level of delayed payments has been the increasingly heavy workload borne by finance officers. Under the current MFF, the Commission has substantially increased the Agency's tasks and operational posts without any increase in support posts, which is placing an untenable burden

European Environment Agency (EEA)

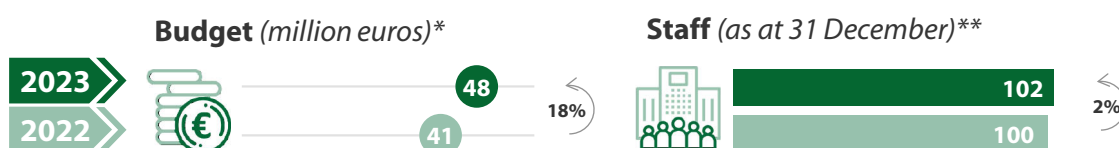
on support functions. The Agency has repeatedly requested additional support posts in its budget submissions without success. The Agency is investigating mitigating measures and controls to improve payment timeliness.

3.27. European Fisheries Control Agency (EFCA)

Introduction

3.27.1. The European Fisheries Control Agency (EFCA), located in Vigo, was established by Regulation (EC) No 768/2005, subsequently 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 EFCA⁹⁵.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EFCA for the 2022 and 2023 financial years; staff figures provided by EFCA.

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 370 forms an integral part of the opinion.

⁹⁵ More information on EFCA's role and activities is available on its website: 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 statements⁹⁶ and the reports on the implementation of EFCA's budget⁹⁷ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EFCA's financial position as at 31 December 2023, 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.

⁹⁶ 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.

⁹⁷ 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 EFCA's accounts for the year ended 31 December 2023 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 EFCA's accounts for the year ended 31 December 2023 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. We found that EFCA used an interinstitutional framework contract for the provision of travel arrangement services to acquire event organisation services which is beyond the scope of that contract, as applicable to EFCA. Such services were part of the framework contract as applicable exclusively to the leading contracting authority. Prior to ordering the services, EFCA sought and obtained the approval of the leading contracting authority to access this part of the framework contract but did not proceed to amend the framework contract accordingly. The associated 2023 payments of €257.3 thousand are therefore irregular.

Observations on budgetary management

3.27.9. In 2023, EFCA carried over 25 % of the year's total appropriations to 2024. Like last year, we observed that there were significant carry-overs under Title II (45 %), and under Title III (39 %). Recurrent high carry-over rates undermine the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

Follow-up of previous years' observations

3.27.10. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	EFCA signed a framework contract for 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 6 years. Annex 1 point 1.1. of the Financial Regulation allows framework contracts with a duration of more than 4 years, but only in exceptional, duly justified cases. We found that EFCA did not have a sufficient justification for a longer contract. Consequently, we concluded that, if the contract is extended beyond the 4-year limit, we will consider subsequent associated payments irregular.	The framework contract remains in place and no payments beyond the 4 year limit have yet occurred (2023 was the contract's second year of implementation).	Open
2	2022	In May 2022, EFCA launched a negotiated procedure without the prior publication of a contract notice for the lease of an 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, 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	EFCA plans to address the weaknesses and to apply better planning and management in the next open call, based on the lessons learned from the past.	Open

European Fisheries Control Agency (EFCA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		<p>expected. EFCA justified the negotiated procedure by extreme urgency brought about by unforeseeable events that were not attributable to the contracting authority, which is an exception permitted under 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, certain 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.</p>		
3	2022	<p>We found that the procedures used for selecting and contracting external experts systematically lacked an adequate audit trail as 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.</p>	<p>EFCA designed and implemented a new template, covering all the minimum elements set out in the interpretative note issued by the Commission for the use and selection of remunerated external experts.</p>	Closed
4	2022	<p>We found that EFCA had carried over €11.9 million (41 %) of available 2022 commitments appropriations to 2023.</p>	<p>The situation persisted in 2023 (see paragraph 3.27.9)</p>	Open

European Fisheries Control Agency (EFCA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		This included €1.6 million (53 %) of appropriations under Title II, and €10.1 million (63 %) of appropriations under Title III. 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.

EFCA encountered unexpected situations during two procurement procedures, leading to delays in the originally forecasted deadlines for awarding contracts.

Given this situation, EFCA evaluated the possibility of utilizing an existing Framework Contract (FWC) - specifically the EEA/ADS/22/014 for travel arrangement services, which had an allocated ceiling of €1.2 million. EFCA notes that it did not exceed this ceiling.

As corrective action, EFCA will develop a contingency plan to mitigate the impact of unexpected events that could lead to procedural delays.

3.27.9. The elevated carry forward amounts in 2023 resulted from unique conditions, notably the substantial budget augmentation in 2022 and procurement delay. Consequently, the likelihood of these carry forwards becoming a recurring issue is minimal. Our projections for 2024-2027 anticipate a consistent decline in the carry-over amounts of appropriations.



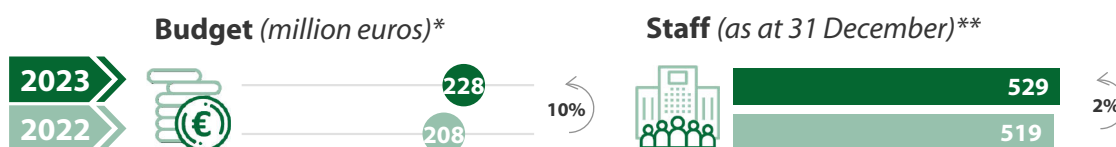
Agencies funded under MFF heading 4 – Migration and Border Management

3.28. European Union Agency for Asylum (EUAA)

Introduction

3.28.1. The European Union Asylum Support Office (EUAA), located in Valletta, was established by [Regulation \(EU\) 2021/2303](#). The EUAA succeeded and replaced the European Asylum Support Office (EASO), established in 2010. It implements operational plans signed with 13 member states. The EUAA aims to harmonise asylum practices across the EU, in line with EU obligations. 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. [Figure 3.28.1](#) presents key figures for the EUAA⁹⁸.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of the EUAA for the 2022 and 2023 financial years; staff figures provided by the EUAA.

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 audit of the accounts and underlying transactions, are described in section 3.1. The signature on page 370 forms an integral part of the opinion.

⁹⁸ More information on the EUAA's role and activities is available on its website: www.euaa.europa.eu.

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 (EUAA), which comprise the financial statements⁹⁹ and the reports on the implementation of the EUAA's budget¹⁰⁰ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the EUAA's financial position as at 31 December 2023, 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.

⁹⁹ 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.

¹⁰⁰ 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

3.28.5. In our opinion, the revenue underlying the EUAA's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

Opinion on the legality and regularity of payments underlying the accounts

3.28.6. In our opinion, the payments underlying the EUAA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

Observations on legality and regularity of transactions

3.28.8. In our [2017 report](#) (paragraphs 3.20.23-3.20.34) and [2020 report](#) (paragraph 3.20.12), we concluded that the EUAA's contracts for the rental of premises in Lesbos and Rome were irregular due to insufficient competition and the non-respect of the principle of economy. As a result, all subsequent payments under these contracts – for a total of €123.8 thousand in 2023 – were irregular.

Observations on management and control systems

3.28.9. The EUAA launched a procedure for the provision of interpretation and cultural mediation services. The total estimated value of the contract was €100 million, divided into six lots. After the award decision was communicated for one of the lots, one tenderer objected because the evaluation committee had wrongly used clarifications provided by that tenderer for a different lot than the one evaluated. Such shortcomings in the evaluation of tenders indicate weaknesses in the management and control systems in the area of procurement. In view of this error, in line with point 35 of Annex I of the Financial Regulation, the EUAA authorising officer requested the evaluation to be reperformed.

Follow-up of previous years' observations

3.28.10. 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

Number	Year of ECA observation	The ECA's observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA 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 lease agreement for the premises in Lesbos was terminated with effect from 30 April 2023. During 2023 the EUAA made payments of €42.7 thousand related to this contract (see paragraph 3.28.8).	Open
2	2018	EASO should establish effective financial <i>ex post</i> controls.	The EUAA has issued a risk based <i>ex post</i> control strategy and has implemented financial <i>ex post</i> controls for financial years 2020, 2021, 2022 and 2023. The results of the last financial <i>ex post</i> controls were reported to the consolidated annual activity report 2023 and communicated to the Management Board.	Closed
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 lease contract was terminated with effect from 31 July 2023. The new lease agreement for premises in Rome entered into force on 1 August 2023. During 2023 the EUAA made payments of €81.1 thousand related to the previous contract (see paragraph 3.28.8).	Open

European Union Agency for Asylum (EUAA)

Number	Year of ECA observation	The ECA's observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
4	2022	We audited a purchase of laptops 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. This led to a purchase being made which was €49.2 thousand (44 %) more expensive than it would have been if it had been based on the pre-approved pricelist. We therefore consider the amount of €49.2 thousand irregular.	In response to our finding, the EUAA immediately applied corrective measures and clarified internally how this framework contract should be used in a compliant manner.	Closed
5	2022	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 which had not been reconfirmed until February 2022, when the situation was rectified.	The EUAA took note of this observation and rectified the situation.	Closed

European Union Agency for Asylum (EUAA)

Number	Year of ECA observation	The ECA's observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
6	2022	<p>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 to the EU economy. However, the agreements with these countries which serve as a legal basis for calculating their contributions, are unclear and allow divergent interpretations.</p> <p>We consider the EUAA's interpretation to be flawed, because it has led to Schengen associated countries contributing around €0.7 million (7 %) less to the EUAA's budget than the size of their economies, in relation to the EU economy, would dictate. This disproportionality is caused by the fact that the EUAA calculates the contribution of each Schengen associated country by dividing the size of the country's economy by the combined size of the EU economy and the economies of all the Schengen associated countries, and then by multiplying the resulting "contribution ratio" by the EU budget subsidy for the EUAA's activities concerned</p>	<p>The EUAA continues to use the same approach to calculating the contributions of the Schengen associated countries.</p> <p>The negotiations with Schengen associated countries are conducted by the Commission.</p>	Open

European Union Agency for Asylum (EUAA)

Number	Year of ECA observation	The ECA's observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		(omitting the budget share of the Schengen associated countries).		

European Union Agency for Asylum (EUAA)

The EUAA's reply

3.28.9. The Agency takes note of the observation. Through the reassessment performed by the evaluation committee, the contracting authority adequately ensured the legality and regularity of the procurement procedure.

European Union Agency for the Operational Management of LargeScale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

3.29. European Union Agency for the Operational Management of LargeScale 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), located in Tallinn, Strasbourg and St Johann im Pongau, was established by [Regulation \(EU\) 2018/1726](#). eu-LISA succeeded and replaced the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, established in 2011. Its 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-LISA¹⁰¹.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of eu-LISA for the 2022 and 2023 financial years; staff figures provided by eu-LISA.

¹⁰¹ 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 LargeScale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

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 370 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 statements¹⁰² and the reports on the implementation of eu-LISA's budget¹⁰³ for the financial year ended 31 December 2023, 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

3.29.4. In our opinion, eu-LISA's accounts for the year ended 31 December 2023 present fairly, in all material respects, eu-LISA's financial position as at 31 December 2023, 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

¹⁰² 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.

¹⁰³ The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

European Union Agency for the Operational Management of LargeScale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

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 2.2.5.3 to the annual accounts for 2023, regarding the financial situation of a key contractor with two active framework contracts.

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 2023 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 2023 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 25 eu-LISA payments. Of these, one, related to a framework contract, was irregular. We also identified other payments in 2023 linked to contracts which we found irregular in our 2022 report. The total amount of irregular expenditure is €12.6 million. This represents 3.2 % of the total payment appropriations available in 2023, 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 since 2020. We note that the bulk of the irregular payment amount reported for 2023 (€9.9 million of €12.6 million) relates to observations raised already in 2022. In terms of the amounts concerned, most of the contracts affected by error have either expired or been terminated by eu-LISA in 2023.

European Union Agency for the Operational Management of LargeScale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

3.29.9. We have audited an open procedure for a multiple framework contract with reopening of competition for the provision of administrative support for the eu-LISA operational site in Strasbourg. During the evaluation, eu-LISA contacted two of the three tenderers by email to obtain additional clarifications regarding the submitted tender documentation, including the financial offer. Both tenderers agreed with the changes in their financial offers proposed by eu-LISA as otherwise their bids would be deemed unacceptable, and the procedure would have had to be cancelled if only one bidder had remained. The implementation of the contracts in question in 2023 showed that the actual costs paid for the modified pricing elements was rather small (€4 thousand). Nevertheless, the fact that eu-LISA made significant changes in some pricing elements of the financial offers of two tenderers, going beyond the corrections allowed under Article 151 of the Financial Regulation, decisively affected the outcome of the tender and the two tenderers were awarded contracts in the framework contract cascade's second and third positions. Therefore, the contracts signed with these two tenderers are irregular and so are the related payments, which in 2023 amounted to €2.7 million for the two contractors concerned.

3.29.10. In our [2022 report](#) (paragraph 3.29.17), we concluded that the use of a negotiated procedure without previous publication of a contract notice and with a single contractor was not properly justified.. The resulting framework contract and its specific contracts were irregular, as well as all associated payments. In 2023, eu-LISA paid an amount of €7.7 million in relation to this framework contract.

3.29.11. In our [2022 report](#) (paragraph 3.29.10), we considered that an amendment to a specific contract increasing its value by €3.6 million was not allowed, because the contract was for a fixed price. Consequently, the 2023 payments, to the value of €1.8 million, related to this contract are irregular.

3.29.12. In our [2022 report](#) (paragraph 3.29.14), we raised an observation on the procurement for the maintenance of common shared infrastructure. 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 contract, as were the associated payments. In 2023 eu-LISA paid €0.4 million in connection with this irregular amendment.

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

Observations on management and control systems

3.29.14. In 2023, eu-LISA spent €11.0 million under two framework contracts with consortia of IT resellers, one for hardware and related services (€1.9 million), and another for software and related services (€9.1 million). According to the terms of both contracts, the price to be paid by eu-LISA is the vendor's price minus a pre-defined minimum discount plus a mark-

European Union Agency for the Operational Management of LargeScale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

up for the reseller. To ensure that the minimum discount is correctly applied, and any greater discounts obtained by resellers from the vendors are correctly reflected in the price charged to eu-LISA, the reseller should provide eu-LISA with the price lists of vendors as well as the invoices showing the actual price paid to the vendor. We found that eu-LISA obtained the price lists of the vendors from the reseller (usually prices prior to any discount) but not the invoices with the actual price paid for these purchases and therefore, was not able to perform a necessary check to ensure that it did not overpay for the goods and services received.

3.29.15. In 2023, eu-LISA amended a framework contract for the provision of services in relation to platform and infrastructure monitoring and maintenance (TOF) to include reinstatement fee costs in its scope. Reinstatement fees are a penalty applied by vendors when the maintenance for a product is not renewed on time but is then resumed later. These costs stem from another framework contract that eu-LISA entered in 2019 for the implementation of the entry exit system (EES) with another consortium. Due to delays in the implementation of the EES, a dispute arose with the contractor, who refused to cover the extra cost of maintenance for certain IT products for the extended duration of the project. Consequently, maintenance elapsed, which led to the necessity to pay a reinstatement fee.

Because of this situation, several IT products lacked proper contractual maintenance coverage between November 2022 and April 2023, with the associated risk for eu-LISA's operations. We note that, by deciding to include the reinstatement fee in another contract (TOF), eu-LISA addressed the risk of disruption of its operations due to persisting lack of maintenance. However, this decision also meant that eu-LISA accepted to pay significant costs (€5.3 million in 2023) which, according to its interpretation of the EES contract, should have been covered by another party (the EES contractor). We also note that, by the time of our audit, eu-LISA had not initiated litigation against the EES contractor over this matter.

Observations on budgetary management

3.29.16. In 2023 eu-LISA carried over 19 % of the year's non-differentiated appropriations to 2024. Like last year, we observed that there were significant carry-overs under Title II (44 %). Recurrent high rates of carry-overs undermine the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

Follow-up of previous years' observations

3.29.17. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA 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 new transversal approach is implemented through framework contracts concluded between 2020 and 2022. These contracts are intended as the main driver for achieving economy of scale. Their impact will be subject to assessment as they are implemented. Their implementation dates range from 2024 to 2026.	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.	eu-LISA attained high levels of budgetary implementation for the appropriations voted for the 2022 and 2023 financial years.	Closed
3	2021	eu-LISA amended the value of three contracts. The amendments increased the maximum amount of the contracts by 50 %. 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	The contract from 2016 was not in force anymore by the end of 2023. The two contracts from 2017 were still in force at the end of 2023.	Closed for the contract of 2016 Open for the two contracts of 2017

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Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		transversal contracts as soon as possible instead of amending the legacy contracts by the maximum amount allowed by the Financial Regulation.		
4	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>	In 2023 there were no payments under this contract and the contract was no longer in force by the end of 2023.	Closed
5	2022	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.	In 2023 there were no payments under this contract but the contract was still in force at the end of 2023.	Open

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Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
6	2022	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.	In 2023, eu-LISA paid €1.8 million under this contract (see paragraph 3.29.11), the contract was no longer in force at the end of 2023.	Open
7	2022	eu-LISA acquired software licences and paid upfront maintenance for 36 months. 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.	In 2023 there were no payments under this contract and the contract was no longer in force by the end of 2023.	Closed
8	2022	In 2016, eu-LISA signed a specific contract for the provision of programme management services for a period of one year. eu-LISA extended the duration of the contract by 67 months, while the terms of the framework contract only allowed a	In 2023 there were no payments under this contract and the contract was no longer in force by the end of 2023.	Closed

European Union Agency for the Operational Management of LargeScale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		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.		
9	2022	For a procurement 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 2023 there were no payments under this contract and the contract was no longer in force by the end of 2023.	Closed
10	2022	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.	Up to May 2023, eu-LISA paid €0.4 million under this contract (see paragraph 3.29.12). the contract was no longer in force at the end of 2023.	Open

European Union Agency for the Operational Management of LargeScale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
11	2022	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 2023 there were no payments under this contract and the contract was no longer in force by the end of 2023.	Closed
12	2022	eu-LISA decided to award a contract in connection with the visa information system using a negotiated procedure without the 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. According to information obtained from eu-LISA, no payments were made under this contract in 2022.	Both the framework contract and at the last specific contract were terminated at the end of 2023. However, in 2023, eu-LISA paid €7.7 million under these contracts (see paragraph 3.29.10).	Open

European Union Agency for the Operational Management of LargeScale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
13	2022	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 <i>ex ante</i> checks.	In 2023, eu-LISA paid €30.1 million under this contract and was not able to perform a necessary check to ensure that it did not overpay for the goods and services received, (see paragraph 3.29.14).	Open
14	2022	The procurement of a transversal operations framework contract, with an estimated total value of €490 million, was divided into 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.	eu-LISA is in the process of adopting its revised procurement guidelines to address the issue.	Open

European Union Agency for the Operational Management of LargeScale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
15	2022	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 of appropriations under Title II. 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.	The situation persisted in 2023, albeit with a slight improvement.	Open

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eu-LISA's reply

3.29.8. The Agency takes note of the ECA's observation and would like to specify that from the total amount of expenditure considered irregular, the majority is related to contracts which the Court had included in last year's report.

The new management of the Agency took immediate corrective action in 2023 and terminated the framework contract which has produced 61 % of the payments considered irregular by the ECA.

For the contracts which expired or were terminated by the Agency in 2023, no further payments will be made in 2024.

3.29.9. The Agency acknowledges the finding, related to an award made in November 2019, as a potential weakness of controls, but underscores that the decisions were based on the principles of proportionality (as evidenced by the actual cost paid) and facilitating competition. In addition, the framework contract already expired.

3.29.10. The Agency takes note of the ECA's observation. Both the framework contract and all specific contracts were terminated by the Agency in 2023.

3.29.11. The Agency takes note of the ECA's observation.

3.29.12. The Agency takes note of the ECA's observation. The specific contract expired in 2022 and the Agency stopped using it after being informed on the ECA's observation.

3.29.14. The Agency takes note of the ECA's observation and would like to note that by systematically checking vendor price lists before signing orders, the Agency had assurance that:

- the essential contractual and tender terms were respected,
- the significant economic benefits of the discount mechanism were achieved, in the interest of sound financial management.

3.29.15. The Agency acknowledges the ECA's observation. The Agency confirms that the issues which arose in the implementation of the EES contract are systematically monitored in view of a formal settlement.

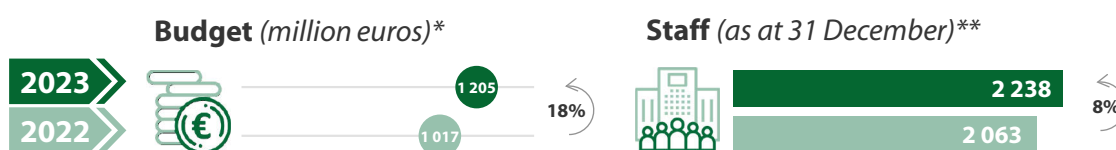
3.29.16. The Agency takes note of the ECA's observation. The Agency is developing a new approach to the management of budgetary commitments for administrative expenditure through annual instalments.

3.30. European Border and Coast Guard Agency (Frontex)

Introduction

3.30.1. The European Border and Coast Guard Agency (Frontex), located in Warsaw, was established by [Regulation \(EU\) 2016/1624](#), subsequently repealed and replaced by [Regulation \(EU\) 2019/1896](#). Frontex succeeded and replaced 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 member states' authorities in charge of border management and return operations jointly constitute the European Border and Coast Guard, which is responsible for integrated management of the EU's external borders. [Figure 3.30.1](#) presents key figures for Frontex¹⁰⁴.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of Frontex for the 2022 and 2023 financial years; staff figures provided by Frontex.

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 audit of the accounts and underlying transactions, are described in section 3.1. The signature on page 370 forms an integral part of the opinion.

¹⁰⁴ More information on Frontex's role and activities is available on its website: www.frontex.europa.eu.

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 statements¹⁰⁵ and the reports on the implementation of Frontex's budget¹⁰⁶ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, Frontex's financial position as at 31 December 2023, 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

3.30.5. We draw attention to Note 4.5 to Frontex's financial statements, which explains the reversal of changes made to the 2022 financial statements by Frontex's previous accounting officer. Adjustments to the 2023 accounts, concerning the 2022 closing balance of net assets, revenue through the EU subsidy and contributions from Schengen associated countries, and the reversal of the previous years' write-offs, reflect the position of Frontex's new accounting officer, aligned with the views of Frontex's management board, that there is no need to revise the current method for calculating the

¹⁰⁵ 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.

¹⁰⁶ The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

European Border and Coast Guard Agency (Frontex)

contributions of Schengen associated countries to Frontex's budget. We refer to our observation on this matter in our [2022 report](#) (paragraph 3.30.18).

Legality and regularity of the transactions underlying the accounts

Revenue

Opinion on the legality and regularity of revenue underlying the accounts

3.30.6. In our opinion, the revenue underlying Frontex's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

Opinion on the legality and regularity of payments underlying the accounts

3.30.7. In our opinion, the payments underlying Frontex's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

Observations on budgetary management

3.30.9. In 2023 Frontex carried over 45 % of the year's total appropriations to 2024. We observed that there were significant carry-overs under Title III (59 %) and Title II (41 %). The carry-over rate for Title I was not high, but 31 % of the appropriations carried over under Title I were cancelled. Recurrent high rates of carry-overs undermine the budgetary principle of annuality and are indicative of structural issues in the budget process and implementation cycle.

3.30.10. In 2023 Frontex processed 38 629 payment requests, of which 5 136 (13 %), for an amount of €100.9 million, were paid outside the legal deadline. A total of €5.8 thousand was charged in late payment interest. For comparison, in 2022 Frontex processed 29 511 payment requests, of which 7 835 (27 %), for an amount of €84.1 million, were paid late, leading to a total of €35 thousand in late payment interest.

Follow-up of previous years' observations

3.30.11. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2015	States participating in border operations declare costs incurred using cost claim sheets. In our special report 12/2016 , we recommended that agencies use simplified cost options whenever appropriate to avoid such inefficiencies.	In response to Frontex's request, most member states (including the biggest contributors of assets) have submitted proposals for unit costs. The approved unit costs have been used in grant agreements and payments since July 2023.	Closed
2	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 2023 (see paragraph 3.30.9).	Open
3	2018	<i>Ex ante</i> verifications were ineffective. Frontex should work on the development of a simplified and transparent financing scheme that also covers equipment-related costs.	In response to Frontex's request, most member states (including the biggest contributors of assets) have submitted proposals for unit costs. The approved unit costs have been used in grant agreements and payments since July 2023.	Closed
4	2018	Frontex should adopt and implement a sensitive-post policy.	Management Board Decision 1/2024 on the policy on identification and management of	Closed

European Border and Coast Guard Agency (Frontex)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
			Frontex sensitive functions was adopted on 12 January 2024.	
5	2018	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.	<p>There has been an improvement in post occupancy rates over the last four years:</p> <ul style="list-style-type: none"> • 2020: 61 % • 2021: 77 % • 2022: 82 % • 2023: 89 % <p>However, Frontex still has a significant number of vacancies</p>	Open
6	2020	Frontex relies on estimates provided by cooperating countries for the financial planning of its return operations. In one case, a national authority included two previously unannounced return operations totalling €355 thousand in a grant agreement at the financial closure of the action. To cover the resulting sudden budgetary deficit, Frontex made an <i>ex post</i> budgetary commitment. This contravened Frontex's financial regulation	In the initial stage of monitoring and forecasting of costs in connection with assisted returns, Frontex introduced a financial component for scheduled return flights from October 2022. This component was fully implemented in the first quarter of 2023, once Frontex had given training to member states' financial users.	Closed

European Border and Coast Guard Agency (Frontex)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
7	2020	<p>The European Ombudsman has 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 nine suggestions on 15 June 2021. (b) In March 2021, it investigated how Frontex was complying with its fundamental rights obligations and ensuring 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; (b) from the European Parliament, concerning allegations of violations of fundamental rights in Frontex.</p>	<p>Frontex has made significant progress in the implementation of the recommendations from the European Ombudsman and OLAF. According to its data, the share of the recommendations or corrective actions implemented to date is 71 % for OLAF, 81 % for the Ombudsman and 100 % for the European Parliament (Frontex Scrutiny Working Group).</p>	Open
8	2020	<p>When calculating Frontex's performance indicators for the accounts, the accounting officer treated reductions to the budget not as amending budgets but as acts of budget implementation, which contradicts the decisions by the Management Board.</p>	<p>Frontex's current budget implementation methodology is in line with DG BUDG guidelines.</p>	Closed

European Border and Coast Guard Agency (Frontex)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
9	2021	We found several issues in the evaluation of technical-professional capacity and 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 it was terminated.	This observation is no longer applicable, as the contract in question was terminated in May 2022.	Closed
10	2021	In the audited recruitment procedures, we found that the selection committees applied a different method for the quantification of 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.	In 2022 and 2023 Frontex brought its internal scoring/evaluation procedure in line with the ECA's recent observations on recruitment.	Closed
11	2021	An overall analysis of payments in 2021 showed delays in the payments process which are a serious deficiency in Frontex's internal controls.	The share of late payments in 2023 (13 %) remains high (see paragraph 3.30.10). although it has improved considerably compared to 2022 (27 %).	Open
12	2022	Frontex overestimated the accrued charges incurred in 2022 for its mission costs by	A methodology for carrying over deployment expenses has been approved and was	Closed

European Border and Coast Guard Agency (Frontex)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		€4.7 million out of a total of €213.5 million in accrued charges.	implemented for the 2023 carry-overs procedure.	
13	2022	Frontex does not have formalised guidance or procedures to ensure the consistent calculation of accrued charges (2022: €213.5 million). As a result, the estimated amount varies depending on which unit is responsible for calculating the accrual amount.	Frontex plans to formalise its standard methodology in this area in the third quarter of 2024 to ensure accruals are calculated in a consistent way.	Open
14	2022	In October 2021, Frontex signed a service contract for the psychological screening of new European Border and Coast Guard officers. The contract had an initial value of €79 thousand. Frontex intended the contract to be a “bridging solution” between the framework contract for psychological services that had ended in 2021 and a new contract, for which it was preparing an open tender procedure. Due to delays in that procedure, Frontex amended the contract four times, increasing its value to €502.9 thousand (more than six times the initial value). Frontex registered these amendments in the registry of exceptions and non-compliance events.	This observation is no longer applicable, as the contract in question expired in July 2022.	Closed

European Border and Coast Guard Agency (Frontex)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		Article 172(3)(a)(iii) of the Financial Regulation allows the value of contracts to be increased by up to 50 % in such situations. The total payments for this contract amounted to €502.5 thousand, of which €384 thousand was irregular.		
15	2022	In May 2019, Frontex signed a framework contract with a total value of €30 million for travel services, including accommodation. We found that the invoices which the travel agency issued for accommodation were not supported by the hotels' actual invoices. Instead, the underlying invoices were actually issued by another travel agency's subsidiary. Frontex's internal controls on the implementation of the contract were insufficient in that they did not produce evidence of the costs actually incurred. This is a critical weakness which entails a significant risk of overcharging.	<p>The contract signed in May 2019 expired. The subsequent contract was terminated in May 2022 as a result of Frontex's internal controls identifying similar issues as in the previous contract.</p> <p>The tender procedure for the subsequent contract had to be cancelled due to a lack of eligible, technically acceptable and valid offers at the award stage. As an intermediate solution, following the termination of the previous contract, Frontex introduced a system of self-booking by staff, based on an administrative notice, and it intend to use the forthcoming Commission's general contract for travel services.</p>	Open
16	2022	Frontex uses the Commission's system to manage its travel costs. We found that the	In 2023 we have not identified any similar instances.	Closed

European Border and Coast Guard Agency (Frontex)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		<p>information in the system on costs paid does not tally with the travel agency's costs, which are reported and processed separately from those paid by staff on mission. This is an internal control weakness which exposes Frontex to a risk that payments to cover the travel agency's costs may not be correct.</p>		
17	2022	<p>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 date of signature. However, there was a delay in implementing the 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 above the new ceilings, for a total difference of €10.9 million. This contravenes Article 41(1) of the framework financial regulation for decentralised regulatory agencies. This significant internal control weakness was registered in</p>	<p>Building on the lessons learned from implementation of the Executive Director's Decision 2022/125, a disclaimer was included in a new decision (2022/166) to the effect that thresholds would be applicable 15 days following the decision's entry into force. Following the adoption of Decision 2022/166, we found no further delays in implementing the ceilings in the IT system.</p>	Closed

European Border and Coast Guard Agency (Frontex)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		Frontex's registry of exceptions and non-compliance events.		
18	2022	In one recruitment procedure, we found that the selection committee had aggregated its members' individual assessments instead of applying a consensual method as required by Frontex's internal rules. Furthermore, there were no clear standards or instructions for selection committee members on how to assess individual selection criteria. Finally, although the chair of the selection committee declared a direct hierarchical relationship with the recruited person, we found no evidence that anything was done 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.	In 2022 and 2023 Frontex brought its internal scoring/evaluation procedure into line with the ECA's recent observations on recruitment. However, we have no evidence of a change of approach regarding how Frontex deals with a declared conflict of interest.	Closed as regards scoring and evaluation procedure Open as regards conflict of interest

European Border and Coast Guard Agency (Frontex)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
19	2022	<p>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 in relation to the EU economy. However, the agreements with these countries, which serve as a legal basis for calculating their contributions, are unclear and open to divergent interpretations.</p> <p>We consider Frontex's interpretation to be flawed, because it has led to the Schengen associated countries contributing around €3.5 million (7 %) less to Frontex's budget than the size of their economies, in relation to the EU economy, would dictate. This disproportionality is caused by the fact that Frontex calculates the contribution of each Schengen associated country by dividing the size of the country's economy by the combined size of the EU economy and the economies of all the associated countries, and then multiplying the resulting 'contribution ratio' by the EU budget subsidy for Frontex (omitting the budget share of the Schengen associated countries).</p>	<p>Frontex continues to use the same approach to calculating the contributions of the Schengen associated countries.</p>	<p>Open</p>

Frontex's reply

3.30.9. Frontex notes that its practices adhere to the principle of annuality and that the levels of carry-overs are a result of the Agency's operational cycle, which spans February of year N to January of year N+1. This aligns with grant agreements and payment cycles, leading to a significant number of payments occurring after January of year N+1. Additionally, many contracts require reserving funds and making legal commitments months in advance to secure complex services like aerial surveillance. Frontex acknowledges the need to improve C8 cancellation rates and decrease the level of unused funds. The Agency is also exploring the potential benefits and implementation of differentiated appropriations but for specific situations (e.g., acquisition of heavy technical equipment involving long and complex supply chains).

3.30.10. The Agency believes it is important to emphasize that in 2023 the Agency has improved in relation to previous years. Internal controls have been enhanced via appropriate reporting and timely communication to all business entities and authorising officers. The efforts are continuous, and improvements are expected also in 2024.



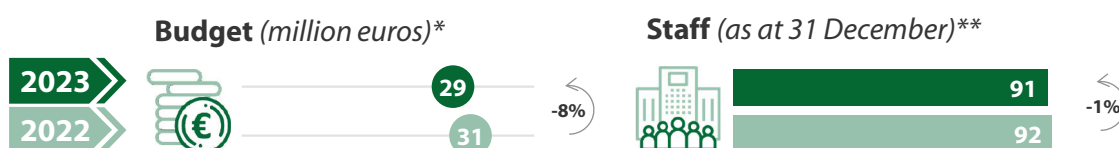
Agencies funded under MFF heading 5 – Security and Defence

3.31. European Union Agency for Law Enforcement Training (CEPOL)

Introduction

3.31.1. The European Union Agency for Law Enforcement Training (CEPOL), located in Budapest, was established by [Regulation \(EU\) 2015/2219](#). CEPOL succeeded and replaced the European Police College, established in 2005. CEPOL's task is to bring together national police training institutes in the member states to provide training sessions for senior police agents, based on common standards. [Figure 3.31.1](#) presents key figures for CEPOL¹⁰⁷.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of CEPOL for the 2022 and 2023 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 370 forms an integral part of the opinion.

¹⁰⁷ More information on CEPOL's role and activities is available on its website: www.cepol.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 statements¹⁰⁸ and the reports on the implementation of CEPOL's budget¹⁰⁹ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, CEPOL's financial position as at 31 December 2023, 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.

¹⁰⁸ 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.

¹⁰⁹ 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 CEPOL's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

Opinion on the legality and regularity of payments underlying the accounts

3.31.6. In our opinion, the payments underlying CEPOL's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

Observations on the legality and regularity of transactions

3.31.8. In our [2022 report](#) on EU agencies (paragraph 3.31.8) we established that the amounts paid under framework contract of €1.1 million for educational editorial services could not be reconciled with the services provided. Some categories of task did not reflect the nature 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 concluded that all payments under this framework contract, are irregular. In 2023, CEPOL paid €85 thousand under this contract.

Observations on management and control systems

3.31.9. When auditing 11 payments under a framework contract for travel and event organisation services, we noted that CEPOL monitored contract consumption at the level of payments rather than budgetary commitments. This approach does not comply with Article 111 of the EU Financial Regulation. It creates a risk that the total value of signed legal commitments, which are based on budgetary commitments and oblige CEPOL to make payments in the future, will exceed the framework contract ceiling.

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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2021	During the evaluation process of a procurement procedure, CEPOL emphasised a criterion that was not clearly presented in the tender specifications. This created the risk of bidders being treated unequally.	The framework contract expired in August 2023.	Closed
2	2022	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 email. 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 be given 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.	CEPOL has introduced corrective measures by giving formal authorisation to staff to place request for services and removing interim staff from the financial workflow.	Closed

European Union Agency for Law Enforcement Training (CEPOL)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
3	2022	<p>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 task did not reflect the nature of actual work performed, and for some categories, the amount of work paid for did not correspond to the amount actually done.</p> <p>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 €152.7 thousand, are irregular.</p>	<p>The framework contract expired in August 2023. In 2023 CEPOL made payments under the framework contract amounting to €85 thousand, which are irregular (see paragraph 3.31.8).</p>	Open

CEPOL's reply

3.31.8. Following ECA finding in 2022, CEPOL chose not to renew the relevant FWC contract, which consequently expired in August 2023. The tender specifications for the next contract have been built around on-line training product development services, instead of an editorial service focused contract, to avoid repetition of similar issues.

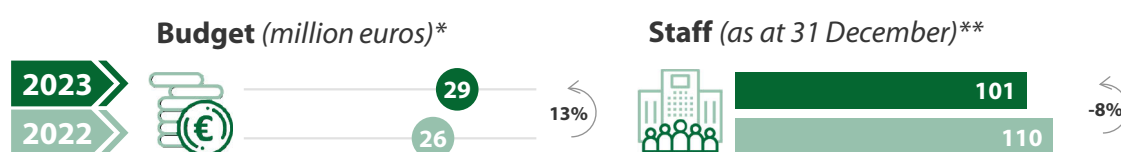
3.31.9. We agree with ECA comment that monitoring based solely on payments is insufficient. Nevertheless, given that the current consumption rate stands at 50% halfway through the contract's implementation, we assess that there is no immediate risk of overconsumption. Recognizing the importance of enhancing our monitoring practices to mitigate any potential risks effectively, we have already implemented a strengthened system. This new system includes a monthly report that combines both payment monitoring and the open amount (RAL) of the FWC commitments to ensure comprehensive oversight and proactive management.

3.32. European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)

Introduction

3.32.1. The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), located in Lisbon, was established by Council Regulation (EEC) No 302/93, subsequently repealed and replaced by Regulation (EC) No 1920/2006. The EMCDDA supports EU and national evidence-based policies by providing factual, objective, reliable and comparable information on drugs and drug addiction. *Figure 3.32.1* presents key figures for the EMCDDA¹¹⁰. In 2024, it was superseded by the European Union Drugs Agency (EUDA), established by Regulation (EU) 2023/1322, which assumed all of the EMCDDA's responsibilities and legal commitments, in addition to new tasks relating to limiting the availability of drugs in the EU.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of the EMCDDA for the 2022 and 2023 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 370 forms an integral part of the opinion.

¹¹⁰ More information on the EMCDDA's role and activities is available on its website: 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 (EMCDDA), which comprise the financial statements¹¹¹ and the reports on the implementation of the EMCDDA's budget¹¹² for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the EMCDDA's financial position as at 31 December 2023, 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.

¹¹¹ 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.

¹¹² 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 EMCDDA's accounts for the year ended 31 December 2023 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 EMCDDA's accounts for the year ended 31 December 2023 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 audited an open procurement procedure for the provision of travel agency services with a maximum duration of four years and an estimated value of €1.8 million. We found that the financial capacity required from the tenderers (yearly turnover above €2 million) exceeded two times the estimated annual contract value (€900 thousand), which is the maximum allowed by point 19.1 of Annex I to the Financial Regulation. Excessive financial capacity requirements may dissuade potential bidders from participating in a tender procedure.

3.32.9. We found shortcomings in a negotiated procedure for the purchase of two vehicles with an estimated value of €100 thousand. First the EMCDDA did not publish a list of contracts on its website in breach of point 3 of Annex I to the Financial Regulation, which undermines the principle of transparency. Secondly, the members of the opening and evaluation committees did not sign a declaration of absence of conflict of interest, in breach of Article 150 of the Financial Regulation, which creates some legal and reputational risk for the EMCDDA.

Observations on budgetary management

3.32.10. In our [2022 report](#) (paragraph 3.32.9), we noted that the legal commitments for a maintenance contract were not covered by budgetary commitments. Similarly, for 2023 we note that the budgetary commitment for rental costs under the lease agreement with the EMCDDA's landlord does not cover the legal commitment in full. The part not covered by the budgetary commitment relates to the sharing and sub-letting of certain areas of the leased premises with two other entities. These appear in the accounts as off-budget operations. However, under Article 73 of the EMCDDA financial regulation, all costs relating to the lease agreement should be covered by a budgetary commitment. Likewise, any revenue or repayments received from sharing or sub-letting premises should be booked as internal assigned revenue. The total amount affected in 2023 by these budgetary management issues was €208 thousand.

3.32.11. In 2023 the EMCDDA processed 1 573 payment requests, of which 164 (10 %) were paid outside the legal deadline. However, no late payment interest was charged. For comparison, in 2022 the EMCDDA processed 1 595 payment requests, of which 107 (7 %), were paid late, leading to a total of €374 in late payment interest.

Follow-up of previous years' observations

3.32.12. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	The EMCDDA's budgetary management system flagged 7 % of budgetary payments as late payments. However, most of the flagged payments were not actually late. This discrepancy was caused by incorrect parametrisation and/or incorrect data input regarding the due dates of payments or the reception of documents entailing a payment obligation.	In 2023, we have noted improvements in the parametrisation of grant payments.	Closed
2	2022	The legal commitment for one contract concluded in May 2021 and worth €75 thousand had not been preceded by a budgetary commitment for the same amount. The same situation arose again in 2022, when renewal of the same contract worth €75 thousand was not fully covered by a budgetary commitment.	The EMCDDA took measures at the end of 2023, which are expected to remedy the situation in the 2024 financial year. The same situation persisted into 2023. The EMCDDA plans to remedy this matter in 2024.	Open

The EMCDDA's reply

3.32.8. The EUDA acknowledges the over prudential approach taken with the definition of the referred requirement and the risk for dissuasion that this may entail, even if in the case at stake the latter did not appear occurring.

3.32.9. The EUDA publishes on this website, by 30 June of each year, low/middle value contracts and specific contracts awarded in year N-1. Due to time constraints affecting the signature of the referred contract, this was not published in 2023, but only in 2024. According to the referred Article 150 and to the other relevant provisions, the appointment of the referred committees is not mandatory and can be waived for contracts whose value is lower than the thresholds referred to by these rules. This was indeed the case in the procedure at stake. In this context, the members of the committee were in any case submitted to the obligation to avoid conflict of interest, according to the relevant rules and independently from the referred declaration, even if the latter is a measure to better ensure the prevention of this risk.

3.32.10. Pursuant to the agreements in place for the sharing of the costs/expenditure relating to the shared use of some areas of the EUDA premises, the EUDA had to bear just a part of the total referred cost/expenditure. In this context, the cost/expenditure to be borne by the EUDA relied on corresponding budgetary commitments, whilst the remaining cost (to be shared/borne by the two other concerned Parties) relied on accounting operations for balancing-out applied according to the relevant rules. This solution has been implemented according to the agreements in force to maximise the efficient use of the limited budget resources available. As indicated in the follow up to the referred ECA's 2022 observation, the EUDA was able, at the end of 2023 and within the context of its 2024 budget, to ensure the full budget booking of the referred commitment/expenditure and revenue operations.

3.32.11. In almost all referred cases (except 6 out of 164) the late interest generated/calculated was lower than EUR 200. According to the relevant rules this late interest has to/can be paid only upon request by the relevant creditor. No such requests were presented. Following the actions successfully taken to tackle some problems of parametrisation of the ABAC system detected in 2022, the EUDA has adopted/planned further measures to ensure: Specific checking of the correctness of data input/entry into ABAC and Periodical reporting to monitor/detect possible late payments and allow for the necessary remedial/ prudential measures.

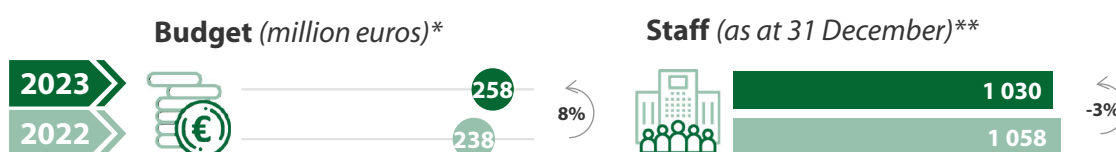
3.33. European Union Agency for Law Enforcement Cooperation (Europol)

Introduction

3.33.1. The European Union Agency for Law Enforcement Cooperation (Europol), located in The Hague, was established by Council Decision (2009/371/JHA), subsequently 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 Europol¹¹³.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of Europol for the 2022 and 2023 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 370 forms an integral part of the opinion.

¹¹³ More information on Europol's role and activities is available on its website: 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 statements¹¹⁴ and the reports on the implementation of Europol's budget¹¹⁵ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, Europol's financial position as at 31 December 2023, 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.

¹¹⁴ 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.

¹¹⁵ 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 Europol's accounts for the year ended 31 December 2023 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 Europol's accounts for the year ended 31 December 2023 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. In our 2022 report (paragraph 3.33.9), we concluded that Europol had irregularly reimbursed VAT through grants whose beneficiaries (such as police forces) were public authorities governed by public law and engaging in activities in that capacity. In 2023, Europol paid a grant of €2.4 million, including VAT and a 7 % provision for associated overheads, to fund the activities of a national police force in a member state. However, under Article 186(4)(c) of the Financial Regulation the grants should not have included VAT, because the beneficiary was a public authority governed by public law and acting in that capacity. We conclude, therefore, that €230.8 thousand of the grant, corresponding to the ineligible VAT and the related portion of overheads, was irregular.

At our request, Europol identified other grants through which VAT was reimbursed for similar activities in 2023, leading to an additional €49.1 thousand in irregular payments.

Follow-up of previous years' observations

3.33.9. 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

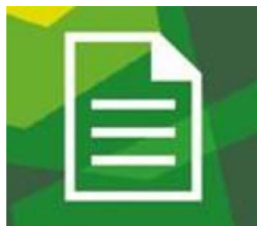
Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	Between 2020 and 2022, Europol paid the daily subsistence allowance to three Dutch nationals employed as seconded national experts. Europol is located in the Netherlands, and its internal rules do not entitle Dutch seconded national experts to this allowance.	After re-examining its internal controls on the establishment and review of financial entitlements and the financial verification of established amounts, Europol introduced further preventive measures. No Dutch seconded national experts received a subsistence allowance in 2023.	Closed
2	2022	In 2022, Europol paid grants to fund the activities of national police forces, including an element to reimburse VAT. Under Article 186(4)(c) of the Financial Regulation the grants should not have included VAT, because the beneficiaries were public authorities governed by public law and acting in that capacity.	<p>Between 1 November 2023 and the end of the grants, VAT was no longer an eligible cost. As a transitional measure, Europol continued to accept and reimburse VAT for activities under an ongoing procurement procedure and covered by purchase orders issued no later than 30 October 2023.</p> <p>VAT is not an eligible cost under any grant calls issued after 1 November 2023.</p> <p>In 2023, the total amount of irregular VAT reimbursements was €280 thousand (see paragraph 3.33.8).</p>	Open

Europol's reply

3.33.8. In relation to the ECA's observations on the eligibility of VAT, 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 in the respective operational grants initiated by Europol.

This notwithstanding, as a follow-up to the ECA's observations on the financial year 2022 which were published in October 2023, Europol decided that VAT will no longer be considered as an eligible cost for new operational grants initiated as of 1 November 2023. Accordingly, Europol reimburses expensed VAT for operational grants that were ongoing by 31 October 2023.

In the financial year 2023, the corresponding VAT amounts reimbursed in operational grants came to 279,900 Euros (rounded) in total, as per the information presented in the ECA's observations following Europol's disclosure during the audit by the ECA.



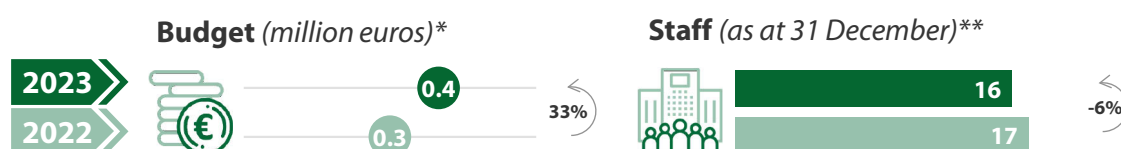
Agencies funded under MFF heading 7 – European Public Administration

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](#), subsequently 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 ¹¹⁶.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

The increase in ESA's 2023 budget is linked to the implementation of an IT project (Nuclear Observatory and ESA Management of Information) and to the service level agreement with the Translation Centre of the European Communities for the provision of accounting services to ESA – both requiring additional funds in 2023.

Source: Annual accounts of ESA for the 2022 and 2023 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 [370](#) forms an integral part of the opinion.

¹¹⁶ 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 statements¹¹⁷ and the reports on the implementation of ESA's budget¹¹⁸ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, ESA's financial position as at 31 December 2023, 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.

¹¹⁷ 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.

¹¹⁸ The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

Euratom Supply Agency (ESA)

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 ESA's accounts for the year ended 31 December 2023 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 ESA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

Follow-up of previous years' observations

3.34.7. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	ESA systematically awards low-value contracts (below €15 thousand) 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.	In 2023 ESA revised its procedures and introduced a new template for low-value contracts covering both an evaluation report and an award decision. However, we still found two similar cases in early 2023, prior to the introduction of the new template.	Open

Euratom Supply Agency (ESA)

ESA's reply

3.34.7. The Euratom Supply Agency takes note of European Court of Auditors's observations which refer indeed to cases which were prior to the introduction of the new procedures.



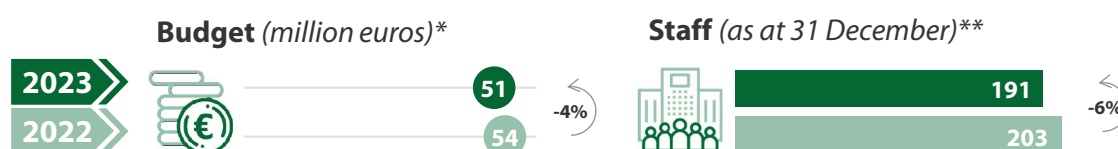
Self-financed Agencies

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 (CdT), 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, as its budget is funded from fees charged to its customers. [Figure 3.35.1](#) presents key figures for the CdT¹¹⁹.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of the CdT for the 2022 and 2023 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 370 forms an integral part of the opinion.

¹¹⁹ More information on the CdT's role and activities is available on its website: 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 (CdT), which comprise the financial statements¹²⁰ and the reports on the implementation of the CdT's budget¹²¹ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the CdT's financial position as at 31 December 2023, 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

3.35.5. We draw attention to the Explanatory Note attached to the financial statements, which indicates that the CdT's negative economic outcome of €0.7 million is the result of a general decline in operating revenue by €2.3 million (5 %) compared to 2022, linked to the drop in invoiced pages by 7 %, from 577 900 in 2022 to 537 772 in 2023. This was coupled with a marginal rise in overall expenses of €0.6 million (2 %) compared to 2022 (mainly in relation to building-related charges and depreciation).

¹²⁰ 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.

¹²¹ The reports on the implementation of the budget comprise the reports, which aggregate all budgetary operations, and the explanatory notes.

Translation Centre for the Bodies of the European Union (CdT)

We also draw attention to Note B.6 to the financial statements on ‘Reserves and prefinancing fund’, which was created in 2011 to offset fluctuations in business volume from clients and to help CdT ensure budget and price stability, which peaked at €15.6 million in 2014, subsequently dropped to €10.3 million in 2022 and €8.9 million in 2023 (14 % decrease in 2023 and 43 % decrease since 2014).

Management's evaluation of the events and conditions and management's plans to mitigate these matters are also described in the Explanatory Note. Our opinion is not modified with respect to this matter.

Legality and regularity of the transactions underlying the accounts

Revenue

Opinion on the legality and regularity of revenue underlying the accounts

3.35.6. In our opinion, the revenue underlying the CdT's accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Payments

Opinion on the legality and regularity of payments underlying the accounts

3.35.7. In our opinion, the payments underlying the CdT's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

Observations on the legality and regularity of transactions

3.35.9. For the past three years, the CdT has signed 40 low-value contracts for maintenance services with the same provider, for a total of €56.7 thousand. Considering the similar nature of the contracted services and the fact that their total value exceeded €15 thousand, the CdT should not have used a direct award procedure. Instead it should have launched a competitive procedure based on an estimate of future costs. As a result, all payments under these contracts, which amounted to €25.8 thousand in 2023, were irregular.

3.35.10. In our [2022 report](#) (paragraph 3.35.8), we concluded that two contracts which the CdT awarded as the outcome of a negotiated procedure were irregular, because the CdT did not substantiate the reason it cited – extreme urgency – for using such a procedure. As a

Translation Centre for the Bodies of the European Union (CdT)

result, all subsequent payments under these contracts were irregular. In 2023, only one of the two contracts led to payments, for a total of €17.3 thousand.

3.35.11. In our [2022 report](#) (paragraph 3.35.9), we found that, with regard to a procurement procedure for the provision of translation services, the CdT had not monitored the consumption of the ceiling either at the level of the individual framework contracts or at that of the whole procedure. As a result, by the end of 2022, the CdT had paid an irregular amount of €705 thousand in excess of the ceiling. In 2023, the CdT made irregular payments in excess of the ceiling in relation to two procurement procedures, for a total amount of €257.2 thousand.

Follow-up of previous years' observations

3.35.12. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA 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 extreme urgency.	The contracts concerned expired in 2022.	Closed
2	2022	Weaknesses in two procurement procedures: contracts signed without prior publication of a contract notice. Insufficient justification of extreme urgency.	Both contracts expired at the end of 2022, but one of them led to a payment in 2023 (see paragraph 3.35.10).	Open
3	2022	Payments under framework contracts exceeded the ceiling for individual framework contracts or for the procedure as a whole.	In 2023 there were further payments in excess of the framework contract ceiling (see paragraph 3.35.11).	Open
4	2022	Insufficiently defined selection criteria in three procurement procedures.	The CdT updated its templates in March 2022 to address the weaknesses identified.	Closed

Translation Centre for the Bodies of the European Union (CdT)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
5	2022	The CdT did not monitor its financial ceilings for individual procedures and framework contracts for translations. This was a critical weakness in the CdT's management and control systems.	Despite a new CdT procedure for monitoring framework contract ceilings, there were further payments in excess of the applicable ceiling in 2023 (see paragraph 3.35.11).	Open

The CdT's reply

3.35.9. The Centre will organise simplified competitive procedures for its ordering of maintenance service exceeding EUR 1 000.

3.35.10. These 2023 payments this observation refers to, were made to honour the legal and budgetary commitments concluded during the previous years, as described by the Court. The Centre decided not to resort to these specific procedures anymore unless it is really necessary and duly justified.

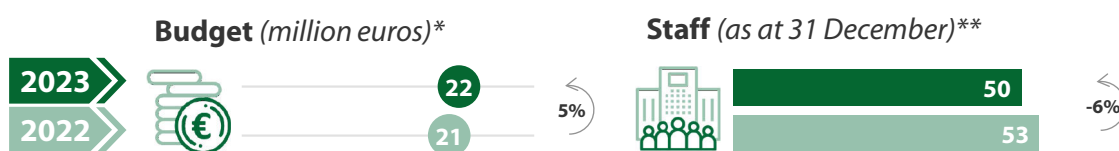
3.35.11. Following the 2022 findings, the Centre established in June 2023, an automatic daily BO report to follow the consumption of each framework contract vis-à-vis their respective ceiling. The irregular amount found in 2023 concerns payments made between 1 January to 31 March 2023, which is before the full monitoring system was put in place.

3.36. Community Plant Variety Office (CPVO)

Introduction

3.36.1. The Community Plant Variety Office (CPVO), located in Angers, was created by Council Regulation (EC) No 2100/94. Its main task is to register and examine applications for the granting 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 CPVO¹²².

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of the CPVO for the 2022 and 2023 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 370 forms an integral part of the opinion.

¹²² More information on the CPVO's role and activities is available on its website: 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 (CPVO), which comprise the financial statements¹²³ and the reports on the implementation of the CPVO's budget¹²⁴ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the CPVO's financial position as at 31 December 2023, 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.

¹²³ 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.

¹²⁴ 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 CPVO's accounts for the year ended 31 December 2023 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 CPVO's accounts for the year ended 31 December 2023 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. On 15 November 2022, the CPVO signed two contracts of a similar nature for information security services, for a total of €339.3 thousand (one contract was for €142.9 thousand and the other for €196.3 thousand). The two contracts were awarded to the same provider, using the cascade mechanism. The underlying framework contract allowed the use of this award mechanism for contracts up to €200 thousand. Considering the similar nature of the contracted services and the fact that their total value exceeded €200 thousand, the CPVO's decision to treat these contracts as two separate ones and to use the cascade mechanism instead of the re-opening of competition mechanism contravened Article 160 of the Financial Regulation, which prohibits the splitting of contracts in such situations. As a result, all payments under these two contracts, which amounted to €339.3 thousand in 2023, were irregular.

3.36.9. In our [2021 report](#) (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 this contract for a total of €54.7 thousand in 2023 were irregular.

Community Plant Variety Office (CPVO)

Observations on budgetary management

3.36.10. The CPVO budget for 2023 and its two amending budgets were not published in the Official Journal of the European Union after their adoption. This contravenes Article 31 of the CPVO's financial regulation and the principle of transparency it establishes.

Follow-up of previous years' observations

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

Community Plant Variety Office (CPVO)

Annex – Follow-up of previous years' observations

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2014	Although the CPVO became operational in 1995, no headquarters agreement has yet been signed with the host member state.	On 13 February 2024, CPVO's Administrative Council approved the text of the agreement that is currently pending signature by the French Government.	Open
2	2016	The CPVO's founding Regulation does not require periodic external performance evaluations.	An update of CPVO's founding Regulation is not foreseen in the near future.	Open
3	2021	Procurement procedure for security services (which concluded with a contract of €249.6 thousand) 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.	The CPVO made payments under this contract in 2023 (see paragraph 3.36.9). We also found similar issues in our 2022 audit (paragraph 3.36.8). The contract expired in December 2023 and a new contract entered into force on 1 January 2024.	Open
4	2022	We found a lack of clarity and excessive turnover requirements in tender specifications, which did	The CPVO formalised new templates and guidelines to evaluate tenderers' financial capacity.	Closed

Community Plant Variety Office (CPVO)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		not affect the final outcome of a procurement procedure for IT services		
5	2022	The President of the CPVO took up duties without issuing new delegations of his power as authorising officer. For an extended period, the CPVO's budget was therefore implemented on the basis of outdated delegations.	By the end of 2022, the CPVO's President formalised a procedure for staff members on the establishment of sub-delegations. In 2023, the CPVO's Administrative Council modified the guidelines on the procedure to replace the CPVO's President.	Closed
6	2022	For two grants (amounting to €469 thousand) funding research projects, we detected weaknesses in the criteria used to evaluate the projects, the <i>ex ante</i> and <i>ex post</i> checks on the reality and eligibility of the activities, and the required supporting documentation for the final payment.	In 2023, the CPVO's President adopted a new procedure related to grants. No grants were awarded in 2023.	Open

Community Plant Variety Office (CPVO)

CPVO's reply

3.36.8. The CPVO takes note of the Court's observation. The CPVO acknowledges that a more robust procurement procedure needs to be put in place, as well as awareness actions and trainings for staff involved in contract management. The CPVO commits itself to paying particular attention to this.

3.36.9. The CPVO took note of the observations of the Court. The contract expired in December 2023 and a new contract entered into force on 1 January 2024.

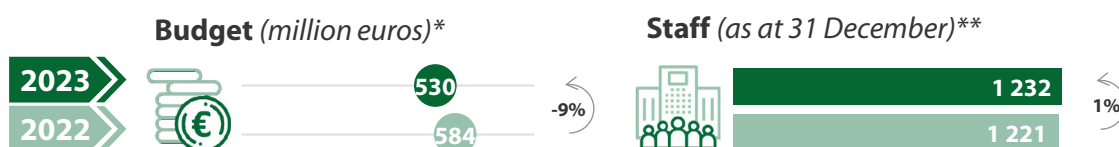
3.36.10. The CPVO took note of the observations of the Court and assured the prompt publication of the budget in the OJ in the future. The CPVO 2023 budget and two amending budgets were published on the CPVO website on 24 November 2022, 30 June 2023 and 13 December 2023 respectively. The dispatch for publication of the budget and the two rectifying budgets in the OJ was sent on 15, 16 and 23 April 2024, respectively and the publication in the OJ took place on 31 May 2024.

3.37. European Union Intellectual Property Office (EUIPO)

Introduction

3.37.1. The European Union Intellectual Property Office (EUIPO), located in Alicante, was established by [Regulation \(EU\) 2017/1001](#). EUIPO succeeded and replaced 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 EUIPO¹²⁵.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EUIPO for the 2022 and 2023 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 [370](#) forms an integral part of the opinion.

¹²⁵ More information on EUIPO’s role and activities is available on its website: 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 statements¹²⁶ and the reports on the implementation of EUIPO's budget¹²⁷ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EUIPO's financial position as at 31 December 2023, 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.

¹²⁶ 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.

¹²⁷ 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 EUIPO's accounts for the year ended 31 December 2023 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 EUIPO's accounts for the year ended 31 December 2023 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. In our [2022 report](#) (paragraph 3.37.8), we concluded that a contract for travel agency services was irregular because it was awarded through a negotiated procedure without prior publication of a contract notice, with no proper justification of the alleged extreme urgency. As a result, all the subsequent payments under this contract – for a total of €2.7 million in 2023 – were irregular.

Observations on management and control systems

3.37.9. The tender specifications of an open procedure for the provision of IT services included award criteria based on price (30 %) and quality (70 %). However, the formula used for the price criterion, which included an additional coefficient, resulted in an effective weighting of the price criterion at significantly below 30 %. The 30 % price weighting is the minimum recommended in the Commission guidelines (Point 4.3.1.12 of Vade-mecum on public procurement in the Commission). However, in this case, it did not affect the outcome of the procedure.

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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA 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.	The contract expired and was replaced by a new contract for cleaning services in May 2022.	Closed
2	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>	With the approval of the EUIPO Budget Committee, the situation persisted in the 2023 accounts. Consequently the payment of €9.9 million made to the European School in Alicante in 2023 is presented under Title 4 instead of Title 1.	Open

European Union Intellectual Property Office (EUIPO)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
3	2022	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. We consider that the use of such procedure was not justified. EUIPO did not make any payments under this contract in 2022.	EUIPO made payments under this contract in 2023 (see paragraph 3.37.8). The contract came to an end in September 2023.	Open

EUIPO's reply

3.37.8. EUIPO already replied to ECA's 2022 report (paragraph 3.37.8) that due to the exceptional circumstance of non-renewal by the two contractors in cascade, EUIPO considered the best solution to be a negotiated procedure without prior publication of a contract notice. A Framework contract with a new service provider was signed in September 2023.

3.37.9. EUIPO has made sure that the formula that was used in this isolated case will not be used anymore in any of its future procurement procedures. As acknowledged by the ECA, the formula used in this specific procedure did not affect the outcome of the procedure.

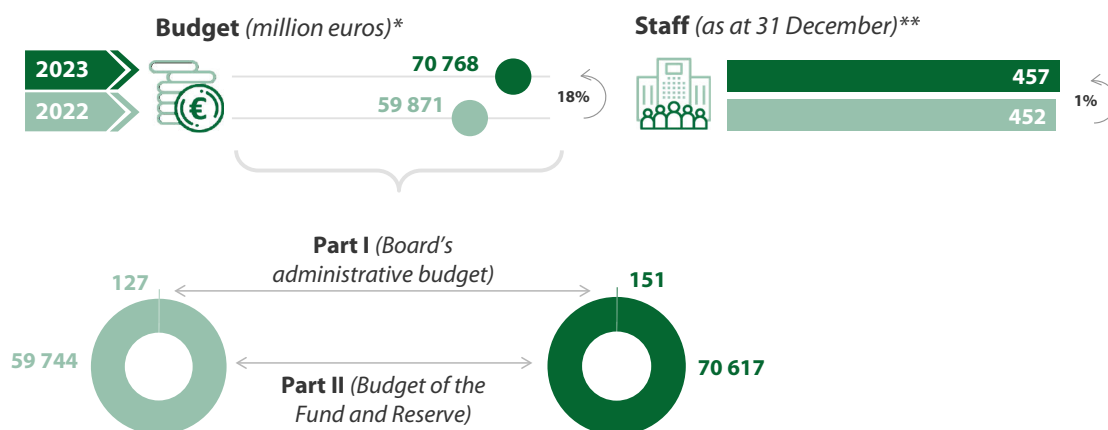
3.38. Single Resolution Board (SRB)

Introduction

3.38.1. The Single Resolution Board (SRB), located in Brussels, was established by [Regulation \(EU\) No 806/2014](#) on the Single Resolution Mechanism ([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 administrating 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 SRB¹²⁸.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of the SRB for the 2022 and 2023 financial years; staff figures provided by the SRB.

¹²⁸ More information on the SRB’s role and activities is available on its website: <https://www.srb.europa.eu>.

Single Resolution Board (SRB)

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 370 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 (SRB), which comprise the financial statements¹²⁹ and the reports on the implementation of the SRB's budget¹³⁰ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, the SRB's financial position as at 31 December 2023, 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.

¹²⁹ 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.

¹³⁰ The reports on the implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

Single Resolution Board (SRB)

Emphasis of matter

3.38.6. We draw attention to note 7.E “Provision for risks and liabilities”, which describes and measures potential financial exposures as a result of the latest judgments of the General Court in relation to the *ex ante* contributions and the annual target level, amounting to €2.77 billion, and to note 8.L. “Disclosures on appeals and legal cases” of the SRB’s accounts, which describes administrative appeals and judicial proceedings brought against the SRB before the General Court or the Court of Justice of the European Union.

We also draw attention to note 8.R. “Events after the reporting period”, which explains that the initial period of the Single Resolution Fund has come to an end and the target level has been reached. Therefore in 2024, no regular annual contributions will be collected from the institutions falling in the scope of the Single Resolution Fund unless required by specific circumstances or resolution activities involving the use of the Single Resolution Fund.

Our opinion is not qualified in these matters.]

Other matter

3.38.7. Our legal mandate includes two reporting obligations with regard to the SRB. On the one hand, Article 287 of the [Treaty on the Functioning of the European Union](#) requires us to issue “a statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions”, which we do in this specific annual report on the SRB. On the other hand, Article 92(4) of the [SRM Regulation](#) imposes on us an obligation to “report on any contingent liabilities (whether for the Board, the Council, the Commission or otherwise) arising as a result of the performance by the Board, the Council and the Commission of their tasks under this Regulation”. We meet this latter reporting obligation in the Appendix to this specific annual report on the SRB. What we report in the Appendix does not call into question our audit opinion expressed here.

Legality and regularity of the transactions underlying the accounts

Revenue

Opinion on the legality and regularity of revenue underlying the accounts

3.38.8. In our opinion, the revenue underlying SRB’s accounts for the year ended 31 December 2023 is legal and regular in all material respects.

Single Resolution Board (SRB)

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 the SRM Regulation, agreed-upon procedures by auditors are mandatory from 2023. 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. 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. The SRB has significantly improved transparency within the limits imposed by its obligation to observe the confidentiality of the institutions' business secrets, and to meet the standards of reasoning and transparency set by the European Court of Justice (case C-584/20 P¹³¹) We noted that – like for the calculation of the 2022 contributions – for the calculation of the 2023 contributions, the 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's 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 2023 *ex ante* contribution. We note that since 2022, the consultation has also covered the impact of adjustments in the data initially submitted by the credit institutions. This additional step in the contribution calculation process has increased the SRB's transparency towards institutions.

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

3.38.10. In our opinion, the payments underlying the SRB's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

¹³¹ Judgment of 15 of July, Commission/ Landesbank Baden Wurttemberg and CRU (C 584/20 P).

Single Resolution Board (SRB)

Observations on management and control systems

3.38.12. In April 2023 the SRB adopted a roadmap to update its business continuity management system which needed to be overhauled. However, this work is only scheduled to be completed by February 2025.

We found that the following key elements are currently outstanding:

- revised business impact analysis clearly defining the recovery time objectives and recovery point objectives for critical IT applications;
- updated business continuity policy and communication plan;
- introduction of monitoring controls over business continuity arrangements of key third parties, such as the European Commission.

Pending the overhaul, the SRB's business continuity management system is not in line with the requirements of principle 10 of the SRB's internal control framework and of Article 28 of the SRB's financial regulation. This constitutes an internal control weakness and exposes the SRB to potential reputational, legal, financial and operational risks in the event of a disruption or disaster.

3.38.13. Article 15 of the Commission [Delegated Regulation 2016/451](#) requires the SRB to comply with the principles of sound financial management and risk management. In particular, it obliges the SRB to apply multiple risk measures for each type of risk, to avoid overreliance on any single risk measure and to supplement regular risk measurement by stress tests and scenario analysis in order to identify high-risk areas and evaluate the combined effects of financial shocks. During our audit, we found that the SRB does not fully comply with these requirements. Shortcomings such as absence of *ad hoc* stress testing, in particular during a banking crisis, insufficient risk metrics and risk monitoring tools constrained the SRB's capacity to ensure the preservation of the Fund's capital and liquidity, and to respond timely to any breaches of investment policy. These shortcomings undermined the capacity of the SRB's risk management function to carry out an independent monitoring of the investment portfolio.

Follow-up of previous years' observations

3.38.14. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status ECA observation (Open / Closed)
1	2020	In the case of a national central bank that has been assigned both the role of investment manager and custodian for the Single Resolution Fund, 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.	In October 2023, the SRB's internal audit function carried out a 2-day visit to the investment manager/custodian where the SRB verified that the national central bank has an adequate and effective organisational and administrative arrangement in place in order to mitigate a potential conflict of interest.	Closed
2	2022	The SRB signed a specific contract with a contractor for a 12-month duration ending in October 2021. In April 2022, the SRB received a final payment invoice amounted to €87.3 thousand for services rendered beyond the period of the contract and for which the ECA deemed this amount as irregular.	After this exception, the SRB provided further training on finance, procurement, and contract management to all relevant SRB's units. Moreover, the SRB reminded contract managers of the relevant financial rules, including the applicable use of the exception and non-compliance report.	Closed

Single Resolution Board (SRB)

Appendix to the SRB specific annual report, reporting on the SRM contingent liabilities of the SRB

Reporting

(pursuant to Article 92 (4) Regulation (EU) No 806/2014)

**On any contingent liabilities arising as a result of
the performance by the Single Resolution Board,
of its tasks under this Regulation for the 2023
financial year**

Together with the replies of the SRB

Introduction

Legal basis

- (1) Article 92(4) of the single resolution mechanism (SRM) [Regulation](#) requires us to “report on any contingent liabilities (whether for the SRB, the Council, the Commission or otherwise) arising as a result of the performance by the SRB, the Council and the Commission of their tasks under this Regulation”. This appendix covers the SRM contingent liabilities of the SRB. The contingent liabilities of the Commission and of the Council are covered in the annual report on the implementation of the EU budget for the 2023 financial year.

Contingent liabilities: definition and recognition criteria

- (2) A contingent liability is defined as follows:
- a possible obligation that arises from past events and of which the existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the European Union;
 - or a present obligation that arises from past events but is not recognised because it is not probable that an outflow of economic resources embodying economic benefits or service potential will be required to settle the obligation, or because the amount of the obligation cannot be measured with sufficient reliability.
- (3) To determine if a contingent liability needs to be disclosed or a provision recognised, the probability of an outflow of economic resources (in general, of cash) must be assessed. If a future outflow of resources is:
- probable, a provision needs to be recognised;
 - possible, a contingent liability needs to be disclosed;
 - remote, no disclosure is necessary.

Single Resolution Board (SRB)

Background information on contingent liabilities related to the Single Resolution Mechanism

- (4) In the context of the performance of their tasks under the [SRM regulation](#), the SRB, the Council and the Commission can incur contingent liabilities linked to ongoing legal proceedings (before EU or national courts) in relation to:
- **their resolution and non-resolution decisions¹³²** – both a decision to apply and not to apply resolution tools can be challenged before a court;
 - **the no-creditor-worse-off principle** – to safeguard fundamental property rights, the [SRM Regulation](#) provides that no creditor shall be left worse off under resolution than they would be under normal insolvency proceedings. Based on that principle, any creditors who would have received better treatment under normal insolvency proceedings must be compensated by the Single Resolution Fund (SRF). To assess the treatment of creditors and shareholders, a valuation of difference in treatment must be conducted.
- (5) In addition, the SRB can have contingent liabilities linked to ongoing legal proceedings before EU courts in relation to its calculation and collection of:
- **banks' administrative contributions towards the SRB's operating costs;**
 - **banks' contributions to the Single Resolution Fund (the SRF).**

¹³² In its judgment of 18 June 2024 (case [C-551/22 P](#)), the Court of Justice found that only the Commission's endorsement decisions can be challenged before the EU Courts.

Observations

Contingent liabilities of the SRB

- (6) **Table 1** shows the number of SRM-related legal proceedings affecting the SRB and the related contingent liabilities, amounting to €158.3 million, disclosed in the SRB's accounts.

Table 1 – SRM-related legal proceedings affecting the SRB and the related contingent liabilities

Cases related to	Number of cases before EU courts	Number of cases before national courts or under administrative proceedings	Related contingent liabilities disclosed in the SRB's accounts (in € million)
Resolution and non-resolution decisions	113	336	0
<i>Resolution of Banco Popular Español S.A. (BPE)</i>	102	333	0
<i>Non-resolution of ABLV</i>	3	0	0
<i>Resolution of Sberbank d.d. and Sberbank banka d.d. and non-resolution of Sberbank Europe AG</i>	8	3	0
No creditor worse off decision for BPE	0	0	0
Ex ante contributions	126	99	158.3
Administrative contributions	0	0	0
TOTAL	239	435	158.3

Source: The SRB's 2023 accounts.

- (7) There were 102 EU-level judicial cases pending in relation to Banco Popular Español S.A. (BPE) by mid-2024. Five appeals¹³³ had been brought against four of the General Court's rulings of 1 June 2022, which had confirmed the legality of the resolution decision and

¹³³ Cases C-448/22 P, C-535/22 P, C-539/22 P, C-541/22 P and Case C-551/22 P. In this last case, the Court of Justice delivered its judgment on 18 June 2024, see footnote 131.

Single Resolution Board (SRB)

rejected the action for damages. One of those appeals was withdrawn¹³⁴ in September 2023. There were also four new damages claims¹³⁵ against the SRB, which are stayed until the final ruling on the four pending appeals. Furthermore, 333 national administrative proceedings and court cases concerning the resolution of *Banco Popular Español S.A.* are still pending. Also, in the context of this resolution, the SRB is the defendant in an appeal lodged by the European Data Protection Supervisor¹³⁶ (EDPS) against the judgment of the General Court¹³⁷ of 26 April 2023 annulling the (revised) EDPS decision of 24 June 2020. There are also three judicial cases¹³⁸ pending before the EU courts concerning the non-resolution of ABLV.

- (8) The Single Resolution Board adopted resolution schemes regarding Sberbank d.d and Sberbank Banka d.d. and a non-resolution decision regarding Sberbank Europe AG on 1 March 2022. The former shareholders of these institutions and their parent institution in Russia then brought eight legal actions¹³⁹ before the General Court. On 10 October 2023, the General Court declared inadmissible the three cases¹⁴⁰ lodged by the shareholder of Sberbank Europe. An appeal has been made to the Court of Justice¹⁴¹ against those orders. On 19 October 2023, the General Court rejected, by orders, the applications to intervene from the shareholder of Sberbank Europe in the cases lodged by that bank. An appeal against those orders was also brought before the Court of Justice, but were dismissed as unfounded¹⁴². By mid-2024, three national administrative and court proceedings regarding the resolution of Sberbank entities were pending.
- (9) The Single Resolution Board did not disclose contingent liabilities regarding any resolution or non-resolution decisions, as it considers the associated risk remote. The SRB disclosed the nature of the contingent liabilities associated with the related national cases but is not in a position to quantify the possible financial effect.
- (10) The Single Resolution Board collects *ex ante* contributions to the Single Resolution Fund from banks. These contributions can be used to support bank resolutions. At the end of 2023, 126 court cases against decisions on *ex ante* contributions were pending before

¹³⁴ Case C-539/22 P.

¹³⁵ Cases T-294/22, T-474/22, T-475/22 and T-477/22.

¹³⁶ Case C-413/23 P.

¹³⁷ Case T-557/20.

¹³⁸ Cases C-602/22 P, T-71/23 and T-430/23.

¹³⁹ Cases T-450/22, T-523/22, T-524/22, T-525/22, T-526/22, T-527/22, T-571/22 and T-572/22.

¹⁴⁰ Cases T-525/22, T-526/22 and T-527/22.

¹⁴¹ Cases C-791/23 P, C-792/23 P and C-793/23 P.

¹⁴² See Orders of the Vice-President of the Court of 22 March 2024 in Cases C-676/23 p (I), C-690/23 P (I) and C-693/23 P (I).

Single Resolution Board (SRB)

the General Court of the EU as compared to 86 cases in the previous year. The Single Resolution Board disclosed contingent liabilities of €158.3 million for 12 cases, compared to €1.9 billion for 47 cases in 2022. The large decrease in value of the contingent liabilities is mainly due to the provisioning of amounts which in the previous year were disclosed as contingent liabilities, but now are included in the €2.77 billion non-current provision for risks and liabilities (see paragraph 3.38.6).

- (11) The Board also disclosed contingent liabilities of €1.2 million in relation to 18 cases for applicants' legal costs, which the Court of Justice of the European Union could require the SRB to bear. For comparison, the amount for 2022 was €4.6 million (for 72 cases). The decrease is predominantly due to the reclassification of cases. For 102 cases, the SRB recognised provisions for applicants' legal costs in line with the developments in the court proceedings, amounting to €6.4 million.
- (12) Due to the absence of necessary data points, contingent liabilities were not disclosed for eight ¹⁴³ legal cases related to *ex ante* contributions, because the SRB could not reliably assess the difference between the contribution amounts received and the potential revised amounts. For those cases for which the risk was assessed as possible, but the SRB felt unable to quantify the potential financial exposure, it disclosed their nature and the reason why the amounts at risk could not be reliably estimated.
- (13) Because national courts do not have the competence to annul *ex ante* contribution decisions, the SRB did not disclose contingent liabilities regarding national legal proceedings pending against *ex ante* contribution decisions, as it considers the risk of an economic outflow remote.

¹⁴³ (Cases : T-444/20, T-445/20, T-446/20, T-447/20, T-448/20, T-449/20, T-402/21, T-405/22).

Single Resolution Board (SRB)

SRB's reply

3.38.6. The SRB emphasizes that this provisioning was applied as a purely precautionary measure and notwithstanding the fact that the judgment is not final and the SRB sees strong grounds that it will be overturned in an appeal before the Court of Justice.

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 SRB 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 verification steps SRB also performs ex-post checks.

3.38.13. The SRB welcomes ECA's observation. SRB stresses that an independent risk management function was established in September 2023 and since then significant progress was made in improving the investment risk management capacity. For example, the introduction of an additional risk metric (Expected Shortfall) in its risk monitoring or the initiation of an IT project to further improve its risk tooling. The SRB furthermore highlights that it performs regular stress tests in line with Delegated Regulation 2016/451.

10. The SRB would like to refer to its reply to paragraph 3.38.6

11. The SRB would like to refer to its reply to paragraph 3.38.6

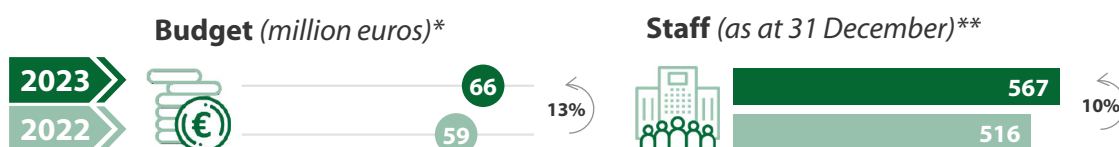
European Commission Executive Agencies

3.39. European Climate Infrastructure and Environment Executive Agency (CINEA)

Introduction

3.39.1. The European Climate, Infrastructure and Environment Executive Agency (CINEA), located in Brussels, was established by Commission [Implementing Decision \(EU\) 2021/173](#), which will remain applicable until 31 December 2028. CINEA succeeded and replaced the Innovation and Networks Executive Agency (INEA), established in 2013 as a 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 CINEA¹⁴⁴.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of CINEA for the 2022 and 2023 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 [370](#) forms an integral part of the opinion.

¹⁴⁴ More information on CINEA’s role and activities is available on its website: 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 statements¹⁴⁵ and the reports on the implementation of CINEA's budget¹⁴⁶ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, CINEA's financial position as at 31 December 2023, 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

3.39.5. We draw attention to the introductory part of CINEA's 2023 annual accounts, which describes the implementation of SUMMA, a new budgetary, accounting and financial system, as a pilot for the development of the system for the European Commission. Our opinion is not qualified in respect of this matter.

¹⁴⁵ 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.

¹⁴⁶ 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

3.39.6. In our opinion, the revenue underlying CINEA's accounts for the year ended 31 December 2023 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 CINEA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

Follow-up of previous years' observations

3.39.8. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	<p>CINEA's SUMMA user management system is managed by DG BUDG, which is responsible for granting and removing SUMMA users' rights on the basis of information provided by CINEA. The fact that CINEA does not yet directly manage access rights, as it did for the predecessor system, may mean a risk that the user roles in SUMMA will not be correctly assigned and updated, in line with Article 36(3)(a) of the Financial Regulation.</p> <p>CINEA's manual of financial procedures has not yet been updated to reflect the workflows and language used in SUMMA.</p> <p>The accounting officer's report on the validation of SUMMA contained details of an incident in which, in January 2023, an initiating agent had introduced a budgetary amendment for December 2022 which had changed the budgetary outturn for the year, even though the</p>	<p>DG BUDG was still in charge of granting and removing access rights in 2023.</p> <p>Locally, CINEA continued to manage access rights, including them in its annual independent validations and making other checks to ensure that any inconsistencies were detected in good time and steps were taken to resolve them.</p> <p>CINEA updated and adapted its manual of financial procedures in 2023.</p> <p>We we identified no data integrity incidents in 2023.</p>	<p>Open as regards user management</p> <p>Closed as regards manual of financial procedures and data integrity</p>

European Climate Infrastructure and Environment Executive Agency (CINEA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
		<p>2022 budget year should no longer have been open for amendment.</p> <p>We also identified two incidents of inconsistencies (involving the artificial splitting of payments) affecting budgetary reporting. These demonstrate the need to ensure that the controls built into SUMMA can safeguard data integrity.</p>		

European Climate Infrastructure and Environment Executive Agency (CINEA)

CINEA's reply

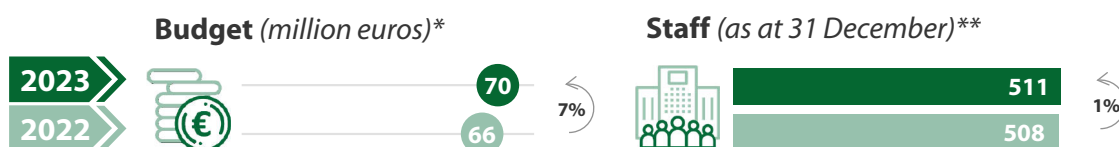
The Agency has taken note of the ECA's report.

3.40. European Education and Culture Executive Agency (EACEA)

Introduction

3.40.1. The European Education and Culture Executive Agency (EACEA), located in Brussels, was established by Commission [Implementing Decision \(EU\) 2021/173](#), which will remain applicable until 31 December 2028. EACEA succeeded and replaced the Education, Audiovisual and Culture Executive Agency, established in 2005. EACEA focuses 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 EACEA¹⁴⁷.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EACEA for the 2022 and 2023 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 [370](#) forms an integral part of the opinion.

¹⁴⁷ 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 statements¹⁴⁸ and the reports on the implementation of EACEA's budget¹⁴⁹ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EACEA's financial position as at 31 December 2023, 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.

¹⁴⁸ 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.

¹⁴⁹ 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 EACEA's accounts for the year ended 31 December 2023 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 EACEA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

Follow-up of previous years' observations

3.40.7. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA 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 overall carry-over rate in 2023 was 8 %.	Closed

European Education and Culture Executive Agency (EACEA)

EACEA's reply

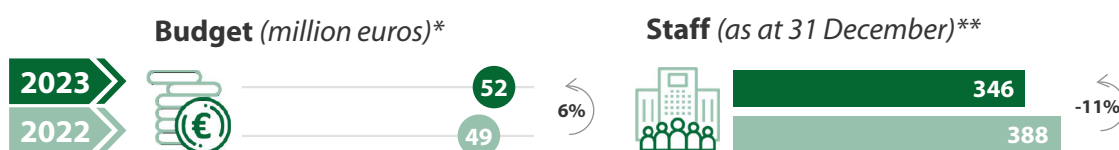
The Agency has taken note of the Court's report.

3.41. European Innovation Council and SMEs Executive Agency (EISMEA)

Introduction

3.41.1. The European Innovation Council and SME Executive Agency (EISMEA), located in Brussels, was established by Commission [Implementing Decision \(EU\) 2021/173](#), which will remain applicable until 31 December 2028. EISMEA succeeded and replaced the Executive Agency for Small and Medium-sized Enterprises (EASME), established in 2013, and is a 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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of EISMEA for the 2022 and 2023 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 [370](#) 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 statements¹⁵⁰ and the reports on the implementation of EISMEA's budget¹⁵¹ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, EISMEA's financial position as at 31 December 2023, 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.

¹⁵⁰ 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.

¹⁵¹ 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 EISMEA's accounts for the year ended 31 December 2023 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 EISMEA's accounts for the year ended 31 December 2023 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. On 15 September 2023 EISMEA moved to new premises in the North Light building (SB34) in Brussels, without a formal legal agreement with the OIB. There was an oral agreement between the parties, which was supported by an exchange of emails and communications between the OIB and EISMEA. By not having a formal agreement, EISMEA assumed multiple risks related not only to financial aspects, but also to staff safety and security. At the time of our audit, the formal legal agreement for the provision of services to EISMEA in the SB34 building had not yet been signed.

Furthermore, on 21 December 2023, EISMEA paid €418.5 thousand for the balance of the services provided by the OIB, related to the COV2 building in 2022, based on calculations provided by the OIB in December 2023, without the OIB issuing the corresponding debit note. This does not comply with Articles 97 – 102 of the EU Financial Regulation and shows a significant deficiency in EISMEA's management and control systems.

We noted that EISMEA had not recorded these deviations in the registry of exceptions.

3.41.9. Several members of EISMEA staff authorised mission travel orders without a formal delegation from the responsible authorising officer. This happened for 62 % of all

European Innovation Council and SMEs Executive Agency (EISMEA)

mission orders signed in 2023. This contravenes Article 73 of the Financial Regulation and Articles 4(a) and 4(b) of the “EISMEA internal guidelines for missions”.

Follow-up of previous years' observations

3.41.10. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2019	<p>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.</p>	<p>EISMEA implemented measures to mitigate the issue:</p> <ul style="list-style-type: none"> (a) specific training for authorising officers, staff and newcomers; (b) responsible authorising officers are required to follow up and report on the implementation of corrective actions related to deviations through an internal follow-up twice a year, which is duly checked by the internal control team; and (c) EISMEA management is regularly reminded about the occurrences of deviations, through semestrial overview reports. <p>Only two similar situations (legal commitment without having the corresponding budgetary commitment in place) have been reported for</p>	Closed

European Innovation Council and SMEs Executive Agency (EISMEA)

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
			2023 (item 18 for €138 thousand and item 22 for €500).	
2	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 in EISMEA's internal controls. This could expose EISMEA to financial, legal and reputational risks.	Although only two minor (<€700 together) similar cases were included in the registry exceptions and non-compliance events for 2023, we have identified additional non-compliance events not recorded in this registry (see paragraph 3.41.8).	Open
3	2022	In 2022, we found internal control weaknesses in the implementation of a digital communication services contract of €80.5 thousand. The invoices for the three interim payments were not accompanied by activity reports as stipulated in the specific contract. There were significant delays in the receipt of invoices resulting in final payments being made before the interim payments.	The specific contract expired in March 2022.	Closed

EISMEA's reply

3.41.8. EISMEA agrees with the observation of the ECA. However, while it is confirmed that there was no signed agreement with OIB, there was an agreement, which was based on exchange of written communication, but this was not formalised in a signed service level agreement (SLA) before the move. The same situation (lack of signed SLA before the move) applies to another Executive Agency which moved to the SB34 building in 2023.

In relation with the balance of the services provided by the OIB, EISMEA proceeded with the payment without receiving the corresponding Debit Note in order to maximise the budget execution and use C8 appropriations from the 2022 committed budget, instead of using the 2024 C1 appropriations. This should have been recorded in the registry of exception.

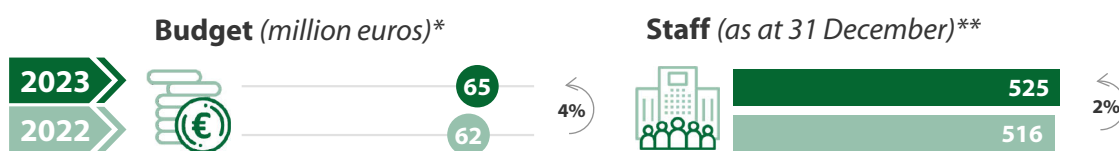
3.41.9. EISMEA agrees with the observation of the ECA. Since 2024, EISMEA has taken actions to formalise the delegation procedures in MIPS and the “Internal Guidelines for missions” have been updated accordingly.

3.42. European Research Council Executive Agency (ERCEA)

Introduction

3.42.1. The European Research Council Executive Agency (ERCEA), located in Brussels, was established by Commission Decision 2008/37/EC, subsequently repealed and most recently replaced by Commission Implementing Decision (EU) 2021/173, which will remain applicable until 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 ERCEA¹⁵².

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of ERCEA for the 2022 and 2023 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 370 forms an integral part of the opinion.

¹⁵² 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 statements¹⁵³ and the reports on the implementation of ERCEA's budget¹⁵⁴ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, ERCEA's financial position as at 31 December 2023, 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.

¹⁵³ 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.

¹⁵⁴ 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 ERCEA's accounts for the year ended 31 December 2023 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 ERCEA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

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

Observations on management and control systems

3.42.8. In 2023, ERCEA renewed the lease with the owner of its premises in Brussels for an estimated amount of €16.1 million over 5 years. The Director's decision to sign the renewal was taken in the face of the explicit objection of a majority of the five members of the ERCEA steering committee.

The Director did not consider this objection binding because this majority was formed by the three members from the Commission whilst the steering committee's rules of procedure require that a majority must include at least one of the two members that are not Commission officials.

We note that those rules of procedure are incompatible with Article 8(6) of Council Regulation (EC) No 58/2003, pursuant to which decisions of the steering committee are to be adopted by a simple majority of its members. This incompatibility of the two norms entails an irregularity because a lower rank norm (the rules of procedure) cannot overrule a higher rank norm (the Council Regulation).

As the legality of the rules of procedure had not been contested before, the Director presumed that the Steering Committee had not taken a valid decision to oppose the renewal of the lease.

European Research Council Executive Agency (ERCEA)

However, the Commission had made clear that it opposed the renewal of the lease. This position was taken up by the three members of the steering committee appointed by the Commission. The decision to ignore this opposition ran counter to the spirit of Regulation No 58/2003, in particular Recitals 9-12 and Articles 1, 7(1), 9(3) and 13(1), (2) & (4) thereof, according to which the Commission must be able closely to circumscribe the action of each executive agency and maintain real control over its operation, and in particular its governing bodies.

While ERCEA managed to negotiate a lower rent for its premises, we note that the Commission had made available to ERCEA vacant premises in the same building for which a lease contract was on going.

ERCEA's reply

3.42.8. ERCEA takes note of the Court's opinion that the ERCEA Steering Committee's Rules of Procedure are currently not compatible with the Regulation 58/2003. The ERCEA Director is ready to raise the issue of the said rules with the Steering Committee with a view to ensuring this compatibility while reflecting both the ERC's specific governance and the ERCEA Steering Committee's decision not to adopt any measure against the opposition of the two members from the ERC Scientific Council.

ERCEA considers that, in the absence of a specific requirement in the legal framework concerning the Steering Committee's prior approval of a decision by the Agency's Director with regard to the extension of a usufruct contract, the Agency's Director complied with the applicable legal and regulatory framework by keeping the ERCEA Steering Committee duly informed.

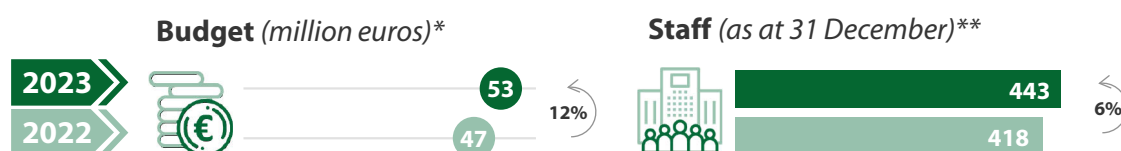
The Scientific Council and ERCEA considered that the option to move to the lower floors was not sufficiently detailed.

3.43. European Health and Digital Executive Agency (HaDEA)

Introduction

3.43.1. The European Health and Digital Executive Agency (HaDEA), located in Brussels, was established by Commission [Implementing Decision \(EU\) 2021/173](#), which will remain applicable until 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 HaDEA¹⁵⁵.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of HaDEA for the 2022 and 2023 financial years; staff figures provided by HaDEA.

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 370 forms an integral part of the opinion.

¹⁵⁵ 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 statements¹⁵⁶ and the reports on the implementation of HaDEA's budget¹⁵⁷ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, HaDEA's financial position as at 31 December 2023, 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.

¹⁵⁶ 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.

¹⁵⁷ 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 HaDEA's accounts for the year ended 31 December 2023 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 HaDEA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

Follow-up of previous years' observations

3.43.7. 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

Number	Year of ECA observation	ECA observation (summary)	Corrective action taken and other relevant developments (summary)	Status of ECA observation (Open / Closed)
1	2022	We found weaknesses in four out of six audited low-value procurement procedures (below €15 thousand). 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.	HaDEA has started to use the Public Procurement Management Tool, part of the e-procurement IT platform, which supports the planning, preparation and monitoring of all types of procurement procedures. This allowed HaDEA to address many of the issues identified in our observation, but in 2023 we still found unclear contract subject descriptions.	Open

European Health and Digital Executive Agency (HaDEA)

HaDEA's reply

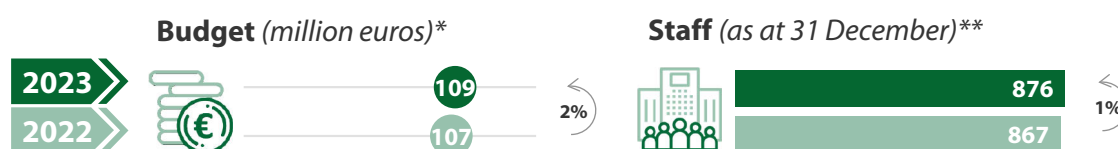
The Agency has taken note of the ECA's report.

3.44. European Research Executive Agency (REA)

Introduction

3.44.1. The European Research Executive Agency (REA), located in Brussels, was established by Commission [Implementing Decision \(EU\) 2021/173](#), which will remain applicable until 31 December 2028. REA succeeded and replaced the Research Executive Agency, established in 2007. It supports the EU’s research and innovation policy by managing projects supported by the Horizon Europe framework programme and its predecessor Horizon 2020. REA also manages the Research Fund for Coal and Steel and promotional measures for agricultural products. [Figure 3.44.1](#) presents key figures for REA¹⁵⁸.

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 staff, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Annual accounts of REA for the 2022 and 2023 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 [370](#) forms an integral part of the opinion.

¹⁵⁸ More information on REA’s role and activities is available on its website: 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 statements¹⁵⁹ and the reports on the implementation of REA's budget¹⁶⁰ for the financial year ended 31 December 2023, 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 2023 present fairly, in all material respects, REA's financial position as at 31 December 2023, 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.

¹⁵⁹ 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.

¹⁶⁰ 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 REA's accounts for the year ended 31 December 2023 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 REA's accounts for the year ended 31 December 2023 are legal and regular in all material respects.

European Research Executive Agency (REA)

REA's reply

The Agency has taken note of the ECA'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 17 September 2024.

For the Court of Auditors



Tony Murphy
President

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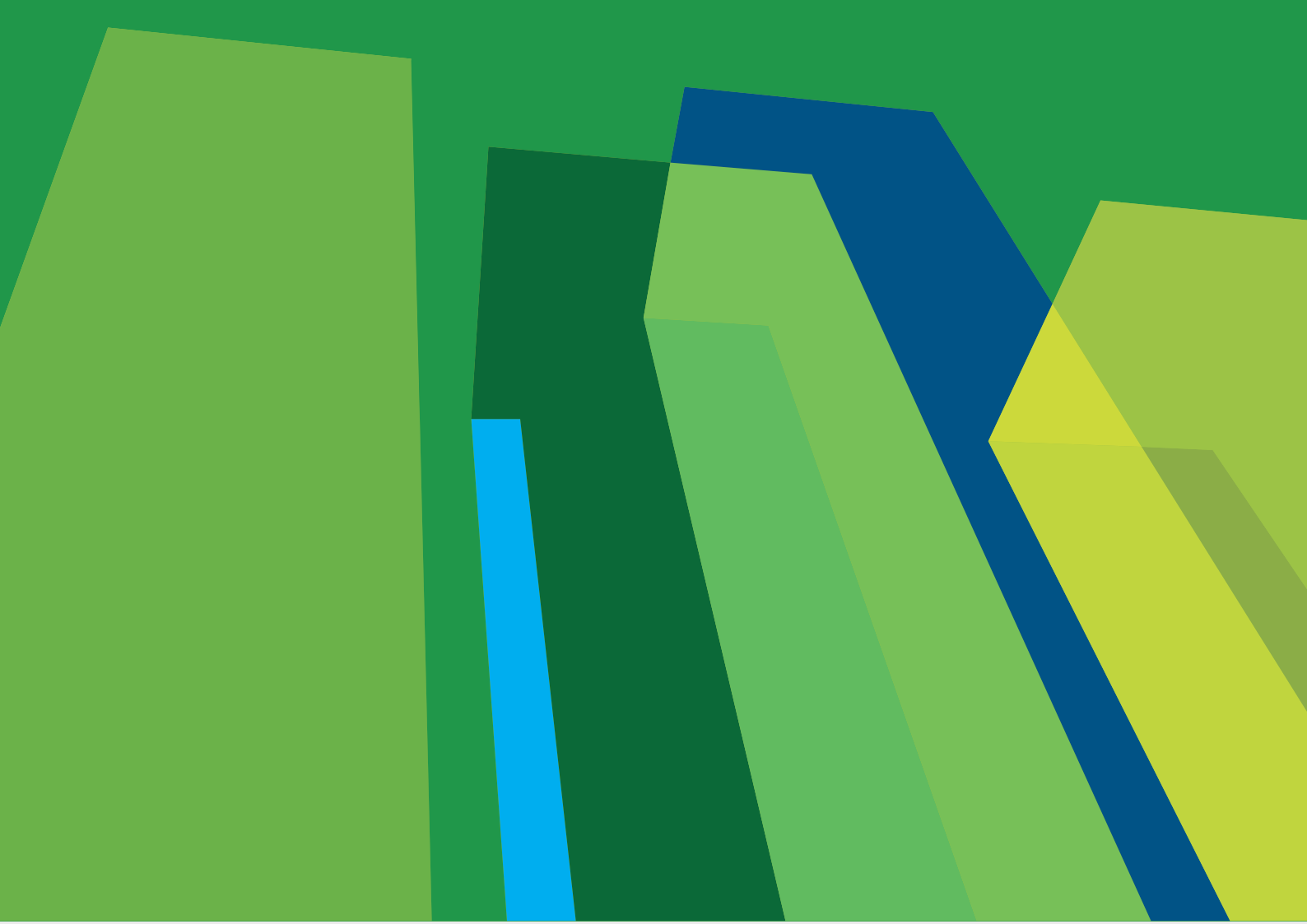
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