



Protection level **LIMITED BASIC**

2019-284

From: Executive Director

To: Management Board

Prev. Doc:

Subject Amendment 1-2019 to the budget of the Agency

eu-LISA **LIMITED BASIC**

European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice
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Protection level	LIMITED BASIC
Releasable to	Management Board

Amendment 1-2019 to the budget of the Agency

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Dear Members of the Management Board,

The Agency's 2019 budget includes appropriations:

- a) For the development of new systems (EURODAC Recast¹, Dublin Allocation²), whose utilisation is conditional on the adoption of the respective legal basis;
- b) For the development of EES, ETIAS, Interoperability, SIS recasts and ECRIS whose legal basis was adopted, but for which the utilisation of budget is not required at this stage, as the required procurement is ongoing.
- c) Payment appropriations received during the EU budgetary procedure establishing the Agency's budget, but which were not requested by the Agency.

The present amending budget proposal aims at addressing the three issues highlighted above.

1. Background

The Agency and DG HOME started exchanging information since the summer, in order to perform a joint assessment of the budget, which cannot be used by the Agency in 2019. In parallel, DG HOME completed the transfer of contracts and budgetary commitments for the VIS communication infrastructure. The present proposal for the amending budget is in line with the consultations held with DG HOME.

The amending budget proposal was presented in the meetings of the Management Board's Audit, Compliance, Finance Committee (ACFC) of 29 October 2019.

¹ Subject to the adoption of the regulation of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of [Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person], for identifying an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes (recast) (COM(2016) 272 final).

² Subject to the adoption of the regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) (COM(2016) 270 final).

2. Scope of the amendment proposal

The proposal for the amending budget is composed of three main items:

SUMMARY OF AMENDING BUDGET N.1-2019 (in EURO)		
	Commitment appropriations	Payment appropriations
a) Budget for new systems, for which the legal basis has not been adopted	6,003,000	4,323,000
b) Budget for SIS recast, Interoperability, ECRIS, ETIAS and EES	2,286,000	38,205,100
c) Payment appropriations received during the budgetary procedure		23,522,500
TOTAL	8,289,000	66,050,600

In the sections below, each item is described in detail:

a) Budget for new systems, for which the legal basis has not been adopted

The rationale of the present proposal duly considers that the adoption date and actual content of the legal basis are a mandatory pre-condition for the use, within the limits and requirements of the financial rules, of the appropriations foreseen in the 2019 budget for Eurodac recast and Dublin Allocation.

As of today, the co-legislator adopted none of the above-mentioned legal basis. This calls into question the planning assumptions contained in the Legislative Financial Statements prepared by the European Commission, where significant budgetary resources were assumed to be employed by the Agency already in 2019.

It follows that the following appropriations cannot be used in 2019 and shall be returned to the general budget of the EU:

Budgetary Title	System / Task	2019 Commitment appropriations	2019 Payment appropriations
A01	EURODAC recast	268,000	268,000
A01 Total		268,000	268,000
B03	EURODAC recast	5,600,000	3,920,000
	Dublin Allocation	135,000	135,000
B03 Total		5,735,000	4,055,000
Grand Total		6,003,000	4,323,000

b) Budget for SIS recasts, Interoperability, ECRIS, ETIAS and EES

For EES, SIS recasts, Interoperability, ECRIS and ETIAS, as reported to the Management Board since 2017, payment appropriations will not be required in 2019, due to the fact that the already launched procurement of the development of main components, including the biometric one, will not result in deliverables to be paid in 2019.

In addition, for Interoperability and ECRIS, commitment and payment appropriations in Titles 1 and 2 (staff and running costs) will be partially returned due to the late adoption of the legal basis, whereby any resulting costs -for example, recruitment expenditure- will be absorbed by the regular budget. It follows that the following appropriations will not be required in 2019 and shall be returned to the general budget of the EU:

Budgetary Title	System / Task	2019 Commitment appropriations	2019 Payment appropriations
A01	Interoperability	2,006,000	2,006,000
	ECRIS	280,000	280,000
A01 Total		2,286,000	2,286,000
B03	Interoperability		1,688,000
	SIS recast		299,600
	EES		23,522,500
	ETIAS		6,643,000
	ECRIS		3,766,000
B03 Total		-	35,919,100
Grand Total		2,286,000	38,205,100

c) Additional payment appropriations received during the budgetary procedure establishing the Agency's voted budget 2019

During the budgetary process for the 2019 budget, payment appropriations amounting to EUR 23,522,500 were added to the initial request of the Agency's estimates. This amount was not required in 2019 and therefore will be returned to the EU general budget.

3. Approach to commitment appropriations related to ETIAS, EES, Interoperability and ECRIS

This section is to inform the Management Board on the planned use of commitment appropriations which will not be used in 2019, which are not included in the present amending budget, but which the Agency intends to preserve for use in the following financial years.

Either considering the progress of the implementation of EES (specific contracts to be signed in 2019) and for ETIAS (technical specifications in the drafting phase) or the status of the implementing acts for SIS recasts, ECRIS and Interoperability, in order to preserve the appropriations, the Agency shall operate global commitments (L1) in 2019, or – depending on requirements- propose to the Management Board to authorise their carry forward by decision as per Article 12(3) of the Agency's financial regulation.

Budgetary Title	System / Task	2019 Commitment appropriations
B03	Interoperability	2,818,000
	SIS recast	2,498,000
	EES	144,325,000
	ETIAS	11,023,000
	ECRIS	3,766,000
B03 Total		164,430,000

This course of action will prevent the loss of substantial commitment appropriations which are essential to the execution of the tasks contained in the legal proposals under discussion. This desirable outcome would rely on a significant carry-forward of appropriations to the 2020 financial year, which will originate the risks highlighted in the next section.

4. Risks

As a result of the budgetary planning contained in the Legislative Financial Statements for EES, ETIAS, SIS II recasts, Interoperability, Eurodac recast, and Dublin allocation, the majority of the operational budget 2019 was subordinated to the adoption of the legal basis for new tasks, or tasks for which the legal basis was adopted but the implementing acts were still outstanding. This resulted in a significant risk as the date of adoption of the legal basis was uncertain and outside the control of the Agency.

Due to these circumstances, the following risks materialise:

- The majority of the budget to be implemented in 2019 will result from new tenders. This will put a significant strain on the procurement and operational process, with an extant risk on sound financial management;
- 2019 appropriations, subject to global commitments carried forward to the next financial year will need to be converted into individual commitments by the end of 2020, or be otherwise lost. This will carry the same risks of the point above. A partial mitigation to this risk will be the carry forward by Management Board decision;
- In 2020, as priority for use will be given to appropriations carried forward from 2019, there is a risk that the need for very significant carry forward of 2020 budget appropriations to 2021 will materialise again. Potentially, this scenario may repeat itself in subsequent budgetary years.

The factor limiting the overall risk is a timely adoption of the legal basis allowing for the use of budgetary resources as closely as possible to what was initially planned by the

European Commission in the multi-year perspective of the Legislative Financial Statements supporting the adoption of new tasks.

In summary, the risk of losing budget indispensable for the delivery of the new tasks assigned to the Agency can be mitigated by the carry forward of appropriations from 2019 to 2020, and between subsequent financial years. The volume and scope of these carry forwards, together with the limitations on their use under the financial rules, may have a negative effect on the activity planning and implementation.

5. The amendment proposal

Based on the above, the Agency proposes an amendment of the 2019 budget consisting of:

- a) the return to the EU general budget of payment appropriations earmarked for the operational expenditure of the Entry Exit System and SIS recasts, as the conditions for their use are certain not to be met by the end of 2019;
- b) the return to the EU budget of administrative appropriations (commitment and payment appropriations) and operational appropriations (payment appropriations) related to Interoperability and ECRIS, as the conditions for their use are certain not to be met by the end of 2019;
- c) the return to the EU budget of administrative appropriations (commitment and payment appropriations) and operational appropriations (payment appropriations) related to Eurodac recast, as the conditions for their use are certain not to be met by the end of 2019;
- d) the return to the EU budget of payment appropriations related to Dublin Allocation, as the conditions for their use are certain not to be met by the end of 2019;
- e) the return to the EU budget of payment appropriations received during the budgetary procedure establishing the Agency's voted budget 2019 in addition to the requested amounts by the Agency, as these appropriations are not required to fulfil existing legal obligation.

The financial details of the points above are presented in Annex I.

- f) in addition to the above substantial points, the amendment proposal reflects the revenue received from the Associated Countries.³ For the purpose of budgetary accounting accuracy, this revenue is now included in the present amendment proposal as a technical adjustment.

Article 45 (8) of Regulation (EC) No 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the operational management of large-scale IT systems in the area of freedom, security and justice foresees that any modification to the budget shall follow the same procedure followed for the adoption of the Agency's budget. The establishment plan is not affected by the present amendment proposal.

Article 34 of the Agency's Financial Regulation (2019-198 REV 1) foresees that any amendment of the budget shall be the subject of an amending budget adopted by the same procedure as the initial budget of the Agency.

Therefore, I hereby request the Management Board to adopt the following decision:

The Management Board decides to amend the 2019 budget of the Agency in accordance with the proposal described in document 2019-284 "Annex II: Proposal for amending budget n. 1-2019".

The Management Board takes note and supports either the adoption by the Agency of global commitments required or the carry-forward by decision of commitment appropriations for the fulfilment of the new tasks related to implementation of EES, Interoperability, SIS Recasts, ECRIS and ETIAS regulation, in order to preserve the budgetary appropriations from the consequences of the timeline of the adoption of the corresponding legal basis.

Annexes: Annex I – Summary of proposal for amending budget n.1-2019
 Annex II - Proposal for amending budget n. 1-2019

³ In the initial 2019 budget, this revenue was indicated pour memoire as the recovery process was still in progress. The corresponding revenue is listed in Section A – item 3, while the expenditure is listed in section B.2 of Annex II.