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DRAFT REPORT

on discharge in respect of the implementation of the budget of the European
Banking Authority for the financial year 2016
(2017/2171(DEC))

Committee on Budgetary Control

Rapporteur: Bart Staes

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1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the budget of the European Banking Authority for the financial year 2016 (2017/2171(DEC))

The European Parliament,

- having regard to the final annual accounts of the European Banking Authority for the financial year 2016,
- having regard to the Court of Auditors' report on the annual accounts of the European Banking Authority for the financial year 2016, together with the Authority's reply¹,
- having regard to the statement of assurance² as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2016, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of ... February 2018 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2016 (00000/2018 – C8-0000/2018),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC⁴, and in particular Article 64 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁵, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Economic and Monetary Affairs (A8-0000/2018),

¹ OJ C 417, 6.12.2017, p. 87.

² OJ C 417, 6.12.2017, p. 87.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 331, 15.12.2010, p. 12.

⁵ OJ L 328, 7.12.2013, p. 42.

1. Grants the Executive Director of the European Banking Authority discharge in respect of the implementation of the Authority's budget for the financial year 2016 / Postpones its decision on granting the Executive Director of the European Banking Authority discharge in respect of the implementation of the Authority's budget for the financial year 2016;
2. Sets out its observations in the resolution below;
3. Instructs its President to forward this decision, and the resolution forming an integral part of it, to the Executive Director of the European Banking Authority, the Council, the Commission and the Court of Auditors, and to arrange for their publication in the *Official Journal of the European Union* (L series).

2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

**on the closure of the accounts of the European Banking Authority for the financial year 2016
(2017/2171(DEC))**

The European Parliament,

- having regard to the final annual accounts of the European Banking Authority for the financial year 2016,
- having regard to the Court of Auditors' report on the annual accounts of the European Banking Authority for the financial year 2016, together with the Authority's reply¹,
- having regard to the statement of assurance² as to the reliability of the accounts and the legality and regularity of the underlying transactions provided by the Court of Auditors for the financial year 2016, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of ... February 2018 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2016 (00000/2018 – C8-0000/2018),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC⁴, and in particular Article 64 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁵, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Economic and Monetary Affairs (A8-0000/2018),

¹ OJ C 417, 6.12.2017, p. 87.

² OJ C 417, 6.12.2017, p. 87.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 331, 15.12.2010, p. 12.

⁵ OJ L 328, 7.12.2013, p. 42.

1. Approves the closure of the accounts of the European Banking Authority for the financial year 2016 / Postpones the closure of the accounts of the European Banking Authority for the financial year 2016;
2. Instructs its President to forward this decision to the Executive Director of the European Banking Authority, the Council, the Commission and the Court of Auditors, and to arrange for its publication in the *Official Journal of the European Union* (L series).

3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Banking Authority for the financial year 2016

(2017/2171(DEC))

The European Parliament,

- having regard to its decision on discharge in respect of the implementation of the budget of the European Banking Authority for the financial year 2016,
 - having regard to Rule 94 of and Annex IV to its Rules of Procedure,
 - having regard to the report of the Committee on Budgetary Control and the opinion of the Committee on Economic and Monetary Affairs (A8-0000/2018),
- A. whereas, in the context of the discharge procedure, the discharge authority stresses the particular importance of further strengthening the democratic legitimacy of the Union institutions by improving transparency and accountability, and implementing the concept of performance-based budgeting and good governance of human resources;
- B. whereas, according to its statement of revenue and expenditure¹, the final budget of the European Banking Authority (the ‘Authority’) for the financial year 2016 was EUR 36 491 378, representing an increase of 9,19 % compared to 2015; whereas the Authority is financed by a contribution from the Union (EUR 14 071 959, representing 40 %), and contributions from national supervisory authorities of the Member States and observers (EUR 22 419 419, representing 60 %);
- C. whereas the Court of Auditors (the ‘Court’), in its report on the annual accounts of the European Banking Authority for the financial year 2016 (the ‘Court’s report’) has stated that it has obtained reasonable assurances that the Authority’s annual accounts for the financial year 2016 are reliable and that the underlying transactions are legal and regular;

Follow-up of 2012, 2013 and 2014 discharges

1. Notes that, with regard to one comment made in the Court's 2012 report regarding the education contribution, which was marked as "ongoing" in the Court’s 2013 and 2014 reports, corrective actions were taken by the Authority and contracts were signed with 26 schools attended by children of staff members, and negotiations with further 4 schools are ongoing;

Budget and financial management

2. Acknowledges that the budget monitoring efforts during the financial year 2016 resulted in a budget implementation rate of 96,76 %, representing a decrease of 2,58 % compared to 2015, and that the rate of execution of payment appropriations was 88,67 %, representing a decrease of 1,03 %; acknowledges from the Authority that this

¹ O.J. C 24, 24.01.2017, p.1

continued high rate of execution is due to good budget planning and monitoring;

3. Notes that, due to the increase in the value of the Euro against the British Pound in 2016, the Authority requested a decreasing amending budget of EUR 1 572 000;

Commitments and carryovers

4. Welcomes the fact that the Authority further reduced the overall rate of committed appropriations carried over from 10 % in 2015 to 8% in 2016, at its lowest level ever in the context of a 9% increase in total budget between the two years;
5. Points out that carryovers are often partly or fully justified by the multiannual nature of the agencies' operational programmes and do not necessarily indicate weaknesses in budget planning and implementation nor are they always at odds with the budgetary principle of annuality, in particular if they are planned in advance by the Authority and communicated to the Court;

Transfers

6. Notes from the Authority's final accounts that it executed 34 budgetary transfers during the year 2016; observes that the limit of 10 % referred to in the Article 27 of the Authority's Financial Regulation was never exceeded; notes with satisfaction that the level and nature of transfers in the year 2016 remained within the limits of the financial rules;

Procurement and staff policy

7. Welcomes the fact that, of the 1164 invoices paid by the Authority in 2016, only 13 (0,9%) were paid late, and for the third year in a row the Authority paid zero late payment interest;
8. Notes from the Establishment plan that 126 posts (out of 127 posts authorised under the Union budget) were occupied on 31 December 2016, compared to 118 in 2015; notes that the staff of the Authority consists of 50,3 % females and 49,7 % males; observes with satisfaction that the breakdown of the staff by gender is becoming more balanced compared to previous years;
9. Notes that, on average, each member of the Authority's staff was on sick leave for 7,45 days in 2016; observes with satisfaction that the Authority organised well-being activities, such as health and safety sessions and annual medical examinations;
10. Notes that the political uncertainty that arose from the United Kingdom's referendum of 23 June 2016 negatively impacted on the Authority's recruitment plans; calls on the Authority to report to the discharge authority on future developments in their recruitment plans;
11. Notes that the Authority does not use any official vehicles;

Prevention and management of conflicts of interests, transparency and democracy

12. Notes with satisfaction that the Authority has in place a conflict of interest policy for

staff, as well as a specific policy applicable to members of the Board of Supervisors and Management Board;

13. Notes that 17 reported cases of conflicts of interest were reported; notes that they concerned two types of situations: either holding of shares, or former employment; notes moreover that in the case of holding of shares in institutions, all staff members who so reported had acquired them before joining the Authority and were asked to disinvest; acknowledges that a screening of those situations has taken place again in 2017 and confirmed that, in all cases, the shares have been sold; notes that in the case of previous employment of staff, three cases were investigated in 2016, and it was decided to put in place measures whereby the concerned staff would not be involved in cases concerning the competent authorities from where they were on unpaid leave;
14. Welcomes the fact that the declarations of interests and the curriculum vitae of members of the Board of Supervisors and Management Board, as well as of the Authority's Chairperson, Executive Director and Directors, are published on the Authority's website;
15. Notes that the process of the publication of the minutes of the Board of Supervisors is being reviewed in such a way that the minutes are approved by written procedure and published before the subsequent meeting; calls on the Authority to report to the discharge authority once the process for publication of the minutes is approved;
16. Notes with satisfaction that the Authority has in place ethics guidelines, which aim to ensure that its staff acts with independence, impartiality, objectivity, loyalty and in a transparent way;
17. Welcomes the introduction of a public meeting register, which serves the purpose of enhancing the transparency of the Authority's activities by reporting the meetings that the Authority's staff have with external stakeholders, and its availability on the Authority's website;
18. Notes with satisfaction that the Authority has developed an anti-fraud strategy for the period 2015–2017; notes that an anti-fraud team, which coordinates the implementation of that strategy consists of the ethics officer and three other members from among the staff, including legal experts and provides mandatory training sessions to all staff members; observes that a risk assessment exercise involving all the Authority's units and departments has been performed to identify fraud risks and estimate how frequent and how severe risk events in these areas could be; calls on the Authority to report to the discharge authority on the outcome of this exercise;
19. Observes that the Authority has adopted an internal whistleblowing policy and implemented a secure whistleblowing channel for its staff;

Performance-Based Budgeting (PBB)

20. Welcomes the three main achievements and successes identified by the Authority in 2016, namely:
 - it successfully developed the Single Rulebook for banking in the Union, by

producing 12 Guidelines, 7 Final Draft Implementing Technical Standards and 15 Final Draft Regulatory Technical Standards;

- it successfully monitored various aspects of the Single Rulebook, including Additional Tier 1 instruments of own funds, remuneration practices and significant risk transfers in securitisations;
- it made significant progress in ensuring consistency of supervisory reviews, evaluations and supervisory measures across Member States, where its report on supervisory convergence, highlighted progress in the convergence of risk assessment practices following the implementation of the Authority Supervisory Review and Evaluation Process Guidelines and the establishment and operation of the Single Supervisory Mechanism;

Internal audit

21. Notes that, in February 2016, the European Commission's Internal Audit Service (IAS) performed a full risk assessment of all processes of the Authority (administrative, financial, operational and IT) to serve as a basis for the preparation of the new Strategic Internal Audit Plan covering the period of 2017–2019; notes moreover that in November 2016, the first audit on Supervisory Convergence – Colleges and training took place; calls on the Authority to report to the discharge authority on the outcomes of these audits;
22. Notes that, in September 2016, IAS conducted a follow-up desk review on the outstanding recommendations from the 2013 audit; welcomes the fact that the remaining recommendations have been adequately and effectively implemented and have been closed; notes that during 2016, no critical recommendations were issued or closed and on 1 January 2017 there was no open critical recommendation;

Other Comments

23. Notes with satisfaction that in 2016 the Authority was engaged in various activities to lower the environmental footprint;
24. Notes that the Court issued an emphasis of matter paragraph for the two London-based agencies, concerning the United Kingdom's decision to withdraw from the Union; notes that, in view of the decision on the future location of the Authority, it has disclosed as contingent liabilities in the Financial Statements its residual EUR 14 000 000 cost related to the office lease contract (assuming its cancellation by the end of 2020) and the fact that other potential cost associated with a removal, such as, for example, the relocation of staff together with their families, cannot yet be estimated; notes furthermore that a future decrease in the Authority's revenue resulting from the United Kingdom's decision to withdraw from the Union is possible; calls on the Authority to report to the discharge authority on the costs of the relocation;
25. Notes that the Authority signed a 12-year-lease with an end date of 8 December 2026 and that, under normal contractual conditions, there is a liability to pay the full rent for the entire period; observes, however, that the Authority has negotiated a break-out clause at the midway point of the contract, meaning that if the clause is exercised, the

Authority would be relieved of the obligation to pay the rent for the final six years; notes however that the Authority has the obligation to repay half of the incentive (16 months rent) it had received at the beginning of the contract and which was based on the full 12 years term of the contract (32 months rent free) and that the re-instatement of the building to the initial condition has to be performed by the end of the occupancy, regardless of when the tenant leaves;

26. Observes with satisfaction that the Commission is keeping the Authority updated on the developments related to the United Kingdom's decision to withdraw from the Union which affect the Authority;

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27. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of ... 2018¹ on the performance, financial management and control of the agencies.

¹ Texts adopted of that date, P8_TA-PROV(2018)0000.