



TEXTS ADOPTED

Provisional edition

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Discharge 2016: European Banking Authority (EBA)

1. European Parliament decision of 18 April 2018 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 20 February 2018 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2016 (05941/2018 – C8-0081/2018),
- 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,

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.

- 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 Council¹, 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 (A8-0067/2018),
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;
 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).

¹ OJ L 328, 7.12.2013, p. 42.

2. European Parliament decision of 18 April 2018 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 20 February 2018 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2016 (05941/2018 – C8-0081/2018),
 - 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 (A8-0067/2018),
1. Approves 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

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.

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. European Parliament resolution of 18 April 2018 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 (A8-0067/2018),
- 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 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 members of staff, 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 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;

¹ OJ C 24, 24.1.2017, p.1.

Commitments and carry-overs

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, its lowest level ever in the context of a 9 % increase in total budget between the two years;
5. Points out that carry-overs 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 that, according to the Authority's final accounts, it executed 34 budgetary transfers during 2016; observes that the limit of 10 % referred to in 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 that, according to the Authority's establishment plan, 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 well balanced; regrets, however, the composition of the management board, with six people of all the same gender;
9. Notes that, on average, each member of the Authority's staff was on sick leave for 7,45 days in 2016; observes that the Authority spent 800 GBP (+ VAT) per person on well-being activities, such as health and safety sessions and annual medical examinations;
10. Notes that the political uncertainty that has arisen 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 cases of conflicts of interest were reported; notes that those cases concerned two types of situations, the holding of shares and former employment; also

notes that all members of staff who reported holding shares in institutions had acquired them before joining the Authority and were asked to divest themselves of those shares; acknowledges that a screening of those situations has taken place again in 2017 and confirmed that, in all cases, the shares had 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 staff concerned 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 CVs 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 the 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 the availability of that register 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;
20. Expresses the need to establish an independent disclosure, advice and referral body with sufficient budgetary resources, in order to help whistleblowers use the right channels to disclose their information on possible irregularities affecting the financial interests of the Union, while protecting their confidentiality and offering needed support and advice;

Main achievements

21. Welcomes the three main achievements and successes identified by the Authority in 2016, namely:
 - the successful development of 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;

- the successful monitoring of various aspects of the single rulebook, including Additional Tier 1 instruments of own funds, remuneration practices and significant risk transfers in securitisations;
- 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's Supervisory Review and Evaluation Process Guidelines and the establishment and operation of the Single Supervisory Mechanism;

Internal audit

22. Notes that, in February 2016, the 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 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;
23. Notes that, in September 2016, the 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

24. Notes with satisfaction that in 2016 the Authority was engaged in various activities to lower the environmental footprint;
25. 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 its future location, the Authority has disclosed as contingent liabilities in its financial statements the 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 costs associated with relocation, such as 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;
26. 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 - equivalent to EUR 3 246 216) 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;
recommends that lessons should be learned from this experience in the negotiation of all future rental contracts;

27. 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; observes that the functioning of the Authority must be ensured during the transition period;
28. Welcomes the fact that, in the interests of business continuity, the city hosting the new headquarters of the Authority has been selected within a reasonable period of time; points out that Parliament will play its part to the full in putting that decision into practice;
29. Stresses that, while making sure that all assignments resulting from the regulatory framework laid down by Parliament and the Council are carried out in full and within deadline, the Authority should carefully adhere to the tasks, should not go beyond the mandate assigned to it by Parliament and the Council and should pay particular attention to the principle of proportionality, so as to optimise the use of resources and to achieve the objectives mandated to it by Parliament and the Council;
30. Points to the central role of the Authority in ensuring better oversight of the Union financial system to ensure financial stability, the necessary transparency and greater security for the Union financial market, in particular by coordinating supervision between national supervisory authorities, by cooperating where necessary with institutions responsible for international supervision, as well as by overseeing the consistent application of the Union law; emphasises that such cooperation should be based on an atmosphere of trust; underlines the role of the Authority in contributing to and promoting convergent supervisory practices at a high-level in the area of consumer protection;
31. Notes that, as the Authority's workload is increasingly shifting from regulatory tasks to enforcing and applying the Union law, the Authority's budget and manpower should be reallocated internally; regards it as essential that the Authority have sufficient resources to carry out its assignments in full, including dealing with any additional workload necessitated by those assignments, whilst ensuring an appropriate level of prioritisation as regards resource allocation and budgetary efficiency; in addition, points out that any increase in the Authority's workload may be dealt with internally through the reallocation of budgetary resources or manpower, provided that such reallocation does not impair the full exercise by the Authority of its mandate and ensures the Authority's independence in the performance of its supervisory tasks;
32. Underlines that the resources made available to the Authority should be used in accordance with clear priorities and with a clear focus on the mandate in order to achieve the desired objectives efficiently; notes the need to properly assess the Authority's work on a regular basis in an effort to effectively, transparently and credibly make use of its resources;
33. Expects the Authority to provide Parliament and the Council with up-to-date and comprehensive information about its work on a regular basis, in particular in connection with the establishment of binding technical standards, opinions and rules, in order to

exhibit transparency to Union citizens and to demonstrate its priority to protect consumers;

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34. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 18 April 2018¹ on the performance, financial management and control of the agencies.

¹ Texts adopted, P8_TA-PROV(2018)0133.