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*Plenary sitting*

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**A9-0110/2023**

3.4.2023

# REPORT

on discharge in respect of the implementation of the budget of the European  
Banking Authority for the financial year 2021  
(2022/2099(DEC))

Committee on Budgetary Control

Rapporteur: Alin Mituța

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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 2021  
(2022/2099(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Banking Authority for the financial year 2021,
- having regard to the Court of Auditors' annual report on EU agencies for the financial year 2021, together with the agencies' replies<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> 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 2021, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2023 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2021 (06248/2023 – C9-0081/2023),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012<sup>3</sup>, and in particular Article 70 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/EC<sup>4</sup>, and in particular Article 64 thereof,
- having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>5</sup>, and in particular Article 105 thereof,

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<sup>1</sup> OJ C 412, 27.10.2022, p. 12.

<sup>2</sup> OJ C 412, 27.10.2022, p. 12.

<sup>3</sup> OJ L 193, 30.7.2018, p. 1.

<sup>4</sup> OJ L 331, 15.12.2010, p. 12.

<sup>5</sup> OJ L 122, 10.5.2019, p. 1.

- having regard to Rule 100 of and Annex V to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control (A9-0110/2023),
- 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 2021;
- 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 2021  
(2022/2099(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the European Banking Authority for the financial year 2021,
- having regard to the Court of Auditors' annual report on EU agencies for the financial year 2021, together with the agencies' replies<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> 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 2021, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2023 on discharge to be given to the Authority in respect of the implementation of the budget for the financial year 2021 (06248/2023 – C9-0081/2023),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012<sup>3</sup>, and in particular Article 70 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/EC<sup>4</sup>, and in particular Article 64 thereof,
- having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>5</sup>, and in particular Article 105 thereof,
- having regard to Rule 100 of and Annex V to its Rules of Procedure,

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<sup>1</sup> OJ C 412, 27.10.2022, p. 12.

<sup>2</sup> OJ C 412, 27.10.2022, p. 12.

<sup>3</sup> OJ L 193, 30.7.2018, p. 1.

<sup>4</sup> OJ L 331, 15.12.2010, p. 12.

<sup>5</sup> OJ L 122, 10.5.2019, p. 1.

- having regard to the report of the Committee on Budgetary Control (A9-0110/2023),
- 1. Approves the closure of the accounts of the European Banking Authority for the financial year 2021;
- 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 2021  
(2022/2099(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 2021,
  - having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A9-0110/2023),
- A. whereas, according to its statement of revenue and expenditure<sup>1</sup>, the final budget of the European Banking Authority (the ‘Authority’) for the financial year 2021 was EUR 49 132 610; whereas the Authority is primarily financed by a contribution from the Union (EUR 18 506 940), and contributions from national supervisory authorities of the Member States and observers (EUR 30 625 670);
- B. whereas the Court of Auditors (the ‘Court’), in its report on the annual accounts of the European Banking Authority for the financial year 2021 (the ‘Court’s report’), states that it has obtained reasonable assurance that the Authority’s annual accounts are reliable and that the underlying transactions are legal and regular;

#### ***Budget and financial management***

1. Notes with satisfaction that the budget monitoring efforts during the financial year 2021 resulted in a budget implementation rate of current year commitment appropriations of 98,51 %, representing a decrease of 0,66 % compared to 2020; further notes that the rate of execution of current year payment appropriation was 83,99 % representing a decrease of 6,37 % compared to 2020;

#### ***Performance***

2. Notes that the Authority continues to use certain measures as key performance indicators to assess the added value provided by its activities and other measures to improve its budget management; notes that Authority executed 91 % of its work programme, which included 21 % of additional tasks not initially foreseen in the planning;
3. Welcomes that the Authority has continued in 2021 to develop its synergies with the European Securities and Markets Authority, by providing accounting staff, and with the European Insurance and Occupational Pensions Authority by way of a shared information technology security function; also notes that the Authority participates in many inter-institutional procedures, with the result that in 2021, 90% of 143 framework

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<sup>1</sup> OJ C 112, 8.3.2022, p. 28

contracts were procured by other EU entities;

4. Is aware that the Authority continued to monitor the implementation of the Basel III regulatory framework and decided to make the Basel III monitoring exercise mandatory as of December 2021; notes that it carried out its biennial Union-wide stress test exercise, which was key in assessing the resilience of financial institutions to adverse market developments, particularly relevant in 2021 in the context of the COVID-19 crisis;
5. Underlines that the Authority finalised its resolvability guidelines; those guidelines represent a significant step in complementing the Union legal framework in the field of resolution based on international standards and leveraging on Union best practises;
6. Welcomes that in 2021 the Authority underwent meaningful organisational changes to reflect the shifting priorities of its mandate and work programme, with a new grouping of tasks and activities within core units and departments; notes that in particular the reorganisation saw the creation of new units to reflect the growing importance of topics such as digital finance, environmental, social and governance reporting and transparency, and anti-money laundering;

#### ***Staff policy***

7. Notes that, on 31 December 2021, the establishment plan was 94,44 % implemented, with 153 temporary agents appointed out of 162 temporary agent posts authorised under the Union budget (compared to 145 authorised posts in 2020); notes that, in addition, 49 contract agents (50 authorised) and 20 seconded national experts (19 authorised plus 7 cost-free seconded national experts) worked for the Authority in 2021; notes that staff turnover amongst temporary agents, contract agents and seconded national experts has increased slightly to 12 % due to a number of seconded national experts coming to the end of their secondments (9 % in 2020);
8. Notes with satisfaction that the Authority employed staff of 28 nationalities, of whom 48,4 % are women and 51,6 % are men; is aware that at senior management level women accounted for 42,9% as of June 2022; welcomes that improvement in gender equality at senior management level; welcomes the introduction of new team leader roles to help prepare the next generation of leaders and notes that 41,7 % of those roles are held by women;
9. Is aware that the Authority has put in place a policy on protecting the dignity of the person and preventing psychological and sexual harassment; notes that staff and managers undertook training on the prevention of sexual and psychological harassment and that four new confidential counsellors were appointed in 2021; also notes that the confidential counsellors held two awareness sessions for staff in 2021 about their role and the Authority's policy on the prevention of harassment; notes that following the investigation of one harassment case raised by a member of staff in 2020, the case was closed in 2021 with no evidence supporting the allegation after independent assessment;

#### ***Procurement***

10. Acknowledges that, in 2021, the Authority completed three procurement procedures above the directive threshold and four calls for tenders in the form of negotiated



procedures above EUR 15 000; further notes that the Authority increased its cooperation on procurement with the other European Supervisory Authorities and with Union agencies located in France;

11. Is concerned about the Court's observation that the Authority sought to obtain access to banks' debt and capital market data and concluded that the services it required could only be provided by two specific economic operators; notes that the Authority therefore entered into two separate negotiated procedures, for contracts worth EUR 100 000 and EUR 43 800, without the prior publication of a contract notice in accordance with point 11.1 (b) (ii) and (iii) of Annex I to the Financial Regulation; notes with concern that in both cases, the Authority failed to follow all the necessary procedural steps required by point 16 of Annex I to the Financial Regulation, such as sending an invitation to tender and drawing up tender specifications; calls on the Authority to ensure that all procurement procedures follow the procedural steps set out in the Financial Regulation, including those where the services being procured can only be provided by a single, unique economic operator;
12. Welcomes that the Authority has fully adopted and implemented e-procurement procedures; notes it is fully operating with the software suite made available by the Commission: e-Notices, e-Tendering, e-Submission, MyWorkplace, and Public Procurement Management Tool; commends that the procurement team has 100% paperless working processes and uses Advanced Qualified Signature and Qualified Electronic Signature software to obtain approvals and signatures from both internal and external counterparties in procurement and contractual documents;

#### ***Prevention and management of conflicts of interest, and transparency***

13. Underlines that under the Rules of Procedure of the board of supervisors, members of the board of supervisors who have a conflict of interest may not take part in the board of supervisors' discussions or vote on the matter in question; notes, however, that until June 2022, a member could remain present in the meeting if nobody objected; is concerned that this created a risk to the board of supervisors' independence; insists that the Authority takes the necessary steps to avoid any suspicion of conflict of interest and welcomes the steps taken by the Authority to strengthen the independence of members of the board of supervisors, management board and certain committees of the board of supervisors by ensuring that members with a conflict of interest do not attend discussions or voting on agenda items on which they are conflicted;
14. Notes with concern that in the Court's Special Report No 13/2021 "EU efforts to fight money laundering in the banking sector are fragmented and implementation is insufficient", the Court found that Authority's staff carried out thorough investigations of potential breaches of Union law, but the Court found written evidence of attempts to lobby panel members during the period when the panel was deliberating on a potential recommendation; also notes that in the end the board of supervisors rejected the draft recommendation; reiterates its call on the Authority to reinforce the rules to guarantee the independence of panel members during their deliberations and report to the discharge authority on the actions taken on this matter;
15. Notes that the Authority discloses all staff meetings with external private sector stakeholders and it does it fortnightly for the Chairperson (pursuant to Article 49a of

Regulation (EU) No 1093/2010) and this is applied in the same way to the Executive Director (whereas Article 52a requires meetings of the Executive Director to be made public but does not specify how soon after they are held); notes that in the meetings of other staff with private sector stakeholders, disclosure is done on a quarterly basis;

16. Recalls that the Authority has a conflict of interest policy for staff, and a specific policy for members of the board of supervisors and the management board; notes that both policies require the annual declaration of any interest that creates a conflict with respect to activities falling under the Authority's scope of action and that have been conducted during the previous two years (as regards the boards) or the previous five years (for all staff); welcomes that both policies impose an obligation to declare situations of conflicts of interest not covered by the annual declarations, as unaddressed conflict-of-interest situations may compromise the enforcement of high ethical standards;
17. Acknowledges that on 29 September 2020, the European Ombudsman opened an inquiry concerning the refusal of the European Insurance and Occupational Pensions Authority to grant public access to the voting results and related reasoning concerning the decision of its board of supervisors on a draft regulatory technical standard on packaged retail and insurance-based investment products; underlines that the Authority also adopts such technical standards on the basis of the same procedures as European Insurance and Occupational Pensions Authority; notes that the Authority's board of supervisors decided on 29 May 2021 to adopt amendments to its own rules of procedure to provide for the inclusion of any vote on the adoption of draft regulatory or implementing standards in the records of board of supervisors meetings;
18. Insists on the need to put in place systematic rules on transparency, incompatibilities, conflict of interests, illegal lobbying and revolving doors; calls on the Authority to strengthen its internal control mechanisms, including the setting up of an internal anticorruption mechanism;

### ***Internal control***

19. Notes with concern that the Court found internal control weaknesses affecting recruitment procedures, including that the Authority did not establish in one procedure the minimum number of points that the candidates had to gain in order to be shortlisted before examining their applications which undermined the principles of transparency and equal treatment; urges the Authority to correct that shortcoming and to improve its recruitment procedures;
20. Is equally concerned that in another procedure the selection had been established by a series of e-mails rather than by a single nomination decision, so there was no complete audit trail for all the nominations; acknowledges, however, that following the audit, the Authority provided documentation to show that it had changed its processes;
21. Welcomes the reinforcement of the legal unit in January 2021 expanding its scope to cover all legal and compliance matters, including ethics, data protection, anti-fraud, risk management, whistleblowing and access to documents in addition to its traditional support to policy work; also notes that in 2021 a fraud risk assessment was conducted and a implementation plan was put in place; calls on the Authority to keep the discharge authority informed on the follow-up on the implementation of actions to further mitigate fraud risks;

22. Notes that the report on Self-Assessment of Internal Control Framework for year 2020 was approved by the Executive Director in December 2021; also notes that in 2021 the Authority awarded a contract to Deloitte for support and advice in enhancing the compatibility of the Authority's current risk management programme with the COSO Enterprise Risk Management Framework; further notes that the Internal Audit Service ran an in-depth risk assessment of the Authority in 2021 which resulted in a Strategic Internal Audit Plan covering the period from 2022 to 2024; calls on the Authority to keep the discharge authority informed about the result of those external assessments and the progress made and the implementation of the internal control framework;

### ***Digitalisation and green transition***

23. Notes that the implementation of a collaboration platform has reduced email exchanges and created processes that are more efficient; is also aware of the implementation of an e-recruitment tool in 2022, automation of Interactive Single Rulebook and the use of electronic workflow tools in the area of finance and human resources are other ongoing initiatives;
24. Notes with concern that in 2021, the Authority was one of thousands of organisations that were subjects of a state actor's cyberattack exploring zero day vulnerability in Microsoft Exchange; acknowledges the Authority's reaction, stopping the breach, re-securing and fully restoring the service; encourages the Authority to work in close cooperation with European Union Agency for Cybersecurity (ENISA) and Computer Emergency Response Team for the EU Institutions, bodies and agencies (CERT-EU) to carry out regular risk assessments of its information technology infrastructure and to ensure regular audits and tests are carried out on its cyber defences; suggests to offer regularly updated cybersecurity-related training programmes to all members of staff, including management, within the Authority;
25. Recalls the importance of increasing the digitalisation of the Authority in terms of internal operation and management but also in order to speed up the digitalisation of procedures; stresses the need for the Authority to continue to be proactive in this regard in order to avoid a digital gap between the agencies; draws attention, however, to the need to take all the necessary security measures to avoid any risk to the online security of the information processed;
26. Highlights that the Authority set up key environmental indicators with concrete objectives to demonstrate the efficiency and effectiveness of its environmental management system; welcomes that in 2021 the Authority completed key milestones in its journey towards Eco-Management and Audit Scheme (EMAS) certification which was obtained in August 2022;
27. Notes with appreciation from the follow-up to 2020 discharge that the Authority procures since 2021 all electricity from solar and wind sources; is aware of the Authority's goal to reduce meetings in its premises by 50% and to equally reduce staff missions to decrease its carbon footprint;

### ***Business continuity along crisis***

28. Notes that during COVID-19 period the Authority supported teleworking through a wide range of measures (various trainings on self-management skills, mindfulness

sessions, wellbeing and sense of belonging activities, respect of the right to disconnect, financial contribution in home offices, development of collaborative tools/social network so that everyone can be heard and informed, staff survey, etc.) that contributed to develop staff autonomy, to increase productivity for certain type of work, to improve technology skills, to further tailor internal communication, to save commuting time, etc.; encourages the Agency to put the lessons learned regarding remote and hybrid working methods into practice, in order to better organise meetings and events that could be carried out more efficiently remotely than in-person in the future; recalls that the Agency achieved favourable results in terms of participation in hybrid events;

***Other comments***

29. Calls on the Authority to continue to develop its synergies (for instance human resources, building management, information technology services and security) and to reinforce its cooperation, its exchange of good practices and its discussions regarding areas of mutual interest with other Union agencies with a view to improving efficiency;

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30. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of [...] <sup>2</sup> on the performance, financial management and control of the agencies.

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<sup>2</sup> Texts adopted, P9\_TA(2023)0000.

## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	22.3.2023
<b>Result of final vote</b>	+: 21 -: 1 0: 1
<b>Members present for the final vote</b>	Gilles Boyer, Olivier Chastel, Caterina Chinnici, Ilana Cicurel, José Manuel Fernandes, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Jean-François Jalkh, Joachim Kuhs, Claudiu Manda, Alin Mituța, Markus Pieper, Petri Sarvamaa, Eleni Stavrou, Angelika Winzig, Lara Wolters, Tomáš Zdechovský
<b>Substitutes present for the final vote</b>	Maria Grapini, Viola von Cramon-Taubadel
<b>Substitutes under Rule 209(7) present for the final vote</b>	Isabel Benjumea Benjumea, Claude Gruffat, Anne-Sophie Pelletier

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

21	+
PPE	Isabel Benjumea Benjumea, José Manuel Fernandes, Monika Hohlmeier, Markus Pieper, Petri Sarvamaa, Eleni Stavrou, Angelika Winzig, Tomáš Zdechovský
Renew	Gilles Boyer, Olivier Chastel, Ilana Cicurel, Alin Mituța
S&D	Caterina Chinnici, Isabel García Muñoz, Maria Grapini, Claudiu Manda, Lara Wolters
The Left	Anne-Sophie Pelletier
Verts/ALE	Daniel Freund, Claude Gruffat, Viola von Cramon-Taubadel

1	-
ID	Joachim Kuhs

1	0
ID	Jean-François Jalkh

Key to symbols:

+ : in favour

- : against

0 : abstention