RESOLUTION (EU) 2022/1738 OF THE EUROPEAN PARLIAMENT

of 4 May 2022

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the European Banking Authority (EBA) for the financial year 2020

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 2020,

— 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 (A9-0098/2022),

A. whereas, according to its statement of revenue and expenditure ([1]), the final budget of the European Banking Authority (the 'Authority') for the financial year 2020 was EUR 46 715 822, representing an increase of 3,06 % compared to 2019; whereas the Authority is primarily financed by a contribution from the Union (EUR 17 660 140, representing 37,80 %), and contributions from national supervisory authorities of the Member States and observers (EUR 29 055 682 representing 62,20 %);

B. whereas in the context of the discharge procedure, the discharge authority wishes to stress 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;

C. whereas the Court of Auditors (the 'Court'), in its report on the annual accounts of the European Banking Authority for the financial year 2020 (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 2020 resulted in a budget implementation rate of 99,17 %, representing an increase of 1,88 % compared to 2019; notes that the rate of execution of payment appropriations was 90,36 %, representing an increase of 4,48 % compared to the previous year;

2. Notes that the Authority reported that 35 budget transfers were carried out in 2020, which included nine budget transfers between titles, with one transfer amounting to EUR 259 500 between Title II and III requiring the approval of the management board; notes that the carry-forward to 2021 of 8,9 % is a reduction from the 11,7 % of the previous year, with the 2021 carry-forward comprising 95 commitment appropriations, compared to 149 in 2019;

3. Notes the finding of the Court that the Authority did not apply the interest rate specified in the Financial Regulation to payments of 2020 contributions received late from a number of Member States' and EFTA countries' national competent authorities (NCAs); notes that the Court calculated the amount of accrued interest for 2020 as EUR 25 103; notes that the Authority decided, after consulting the Commission, to apply the late payment interest as of 2021 and informed the NCAs about this in the letters it sent to them about their 2021 contributions;

4. Welcomes that the Authority managed to definitively close its premises in the United Kingdom on 7 December 2020 complying with all legal obligations and that, as a consequence, the share of the related unused provisions active in the books at the reporting date have been reversed against revenue; reiterates its call for an audit on the move, both on the financial and operational aspects in order to draw lessons for improvement and identification of good practices that can be used across all Agencies in anticipation of making them more agile in order to respond to future challenges;

([1]) OJ C 114, 31.3.2021, p. 167.

Performance

5. Notes that the Authority continues to use certain measures as key performance indicators (KPIs) to assess the added value provided by its activities and also uses other measures to improve its budget management; welcomes that the Authority has included the targets for the KPIs in the 2020 table; notes that the Authority has upgraded its KPI framework from 2021 onwards creating more sophisticated KPIs specific to each of the strategic and annual objectives;

6. Welcomes the Authority's efforts in response to the COVID-19 crisis, alongside NCAs, the European Central Bank and other European and international organisations, in coordinating a joint effort to alleviate the immediate operational burden for banks and to mitigate its long-term effects; such as issuing frequent statements to provide guidance to stakeholders, allow leeway to reporting dates and provide policy orientations such as the guidelines on management of non-performing and forborne exposures;

7. Welcomes the Authority's preparation and monitoring of guidelines on legislative and non-legislative moratoria on loan repayments that provided guidance to banks in supporting ongoing liquidity challenges faced by the Union businesses during the COVID-19 pandemic, that clarified the application of the prudential requirements to payment moratoria and allowed banks, under certain conditions, to be able to grant payment holidays to their customers without having to reclassify, thus avoiding the classification of exposures as forborne under the definition of forbearance and or as defaulted due to distressed restructuring;

8. Notes that the Authority has arrangements in place with the European Securities and Markets Authority (ESMA) for accounting services; calls on the Authority to continue to develop its synergies with other Union agencies, and to increase cooperation and exchange of good practices, with a view to improving efficiency in fields of human resources, building management, IT services and security;

9. Emphasises the important role of the Authority in developing the Union's regulatory and practical framework for sustainability to meet the political ambition and pressing timetable of the European Green Deal; notes in that regard that the amendment introduced by Regulation (EU) 2019/2175 of the European Parliament and of the Council to Regulation (EU) No 1093/2010 that mandates the Authority to take into account sustainable business models and the integration of environmental, social and governance (ESG) related factors in the field of activities of credit institutions, financial conglomerates, investment firms, payment institutions and e-money institutions, to the extent necessary to ensure an effective and consistent application of its mandate applies from 1 January 2020; notes in that respect that the Authority has been mandated by the Commission to assess whether a dedicated prudential treatment of exposures related to assets and activities with environmental or social or both objectives would be justified, to issue guidelines for the management of ESG risks by banks, and to assess how green retail loans and green mortgages can be supported; calls upon the Authority to proceed swiftly on all the aforementioned aspects, within its mandate and within the deadlines set;

Staff policy

10. Notes that, on 31 December 2020, the establishment plan was 97,42 % implemented, with 151 temporary agents appointed out of 155 temporary agent posts authorised under the Union budget (compared to 145 authorised posts in 2019); notes that, in addition, 47 contract agents (49 authorised) and 17 seconded national experts (17 authorised) were employed by the Authority in 2020; notes that staff turnover amongst temporary agents, contract agents and seconded national experts was stable at 9,0 %;

11. Notes with satisfaction that the Authority employed staff of 28 nationalities, of whom 48,8 % are women and 51,2 % are men; regrets that 83 % of senior management are men and only 17 % are women, identical to last year; underlines that this is a persistent issue and calls on the Authority to continue its efforts to achieve gender balance at all levels of hierarchy in the future; welcomes in that regard the requirement that both genders must be represented on selection panels, the active encouragement of female applicants for all managerial positions, specific training sessions for female staff who wish to prepare for a managerial career, and more flexible working arrangements; reminds the Authority that in the selection of candidates, competences, knowledge and experience are important, as well as the geographical and gender balance among members of staff;

12. Welcomes the decision of the Authority to extend the deadline for staff to claim back costs and allowances related to their move from the United Kingdom to France, which was initially set at one year from when the Authority ceased its operations in London, due to the measures taken by many Member States in response to the COVID-19 pandemic, which significantly impacted citizens' mobility;

13. Notes the observation from the Court's 2019 report that the Authority has never adjusted estimation-based pension contributions to actual figures, or made plans to do so, and that NCAs' contributions were never adjusted to match the actual figures; notes that the Authority has made plans to address that matter; notes the Court's observation for the financial year 2020 that progress on that matter is ongoing; calls upon the Authority to proceed with that matter swiftly;

14. Encourages the Authority to pursue the development of a long term Human Resources policy framework which addresses work-life balance, lifelong guidance and career development, gender balance, teleworking, geographical balance and the recruitment and integration of people with disabilities;

Procurement

15. Notes that the Authority completed six procurement procedures in 2020, two of which were tenders, with three other Agencies (ESMA, European Insurance and Occupational Pensions Authority and Single Resolution Board) participating alongside the Authority, and that the Authority cancelled one contract after award, due to the COVID-19 pandemic; further notes that the Authority participated in 33 inter-agency procurement procedures led by the Commission as well as other agencies;

16. Notes with concern the observations of the Court that certain procurement procedures of the Authority contravened the Financial Regulation, in particular those related to the signing of a short-term banking agreement with a bank; notes that in that case, the Authority significantly underestimated the contract's value, resulting in the Authority using the wrong type of procurement procedure; further notes that the Authority initiated the procedure for signing a new contract for banking services only one week before the expiry of the previous one, exceptionally launching a negotiated procedure without prior publication with only one potential contractor, without providing justification for doing so; deplores the Court's observation that the potential contractor's offer did not meet the Authority's expectations, resulting in the Authority requesting offers from other tenderers, without setting out any criteria for selecting the best offer, nor carrying out any proper evaluation of the offers it received, but accepting the original offer instead; notes that the signed contract included the charge of a negative interest rate on the Authority's deposited funds with the amount paid from January to August 2020 being EUR 38 430, instead of the estimated EUR 11 808; notes the legal evaluation of the Court, concluding that under point 14 of Annex I to the Financial Regulation, based on the actual amount of negative interest paid, the tender procedure to apply should have been the one for low-value contracts, with a minimum of three offers that should have been sought from the outset and the Court's subsequent conclusion that the procurement procedure and the associated payments are deemed irregular;

17. Notes the Court's observation that in another procurement procedure for legal services, with a value of EUR 31 000, the Authority provided inadequate information to justify the reasons for which it chose to use a negotiated procedure without prior publication of a contract notice and that the documentation lacked an adequate audit trail; notes that the Authority did not properly substantiate the use of this exceptional procedure, either in advance or in the award notice itself as required under point 30.3 of Annex I to the Financial Regulation;

18. Is concerned about the number of irregularities, delayed and inadequate tender procedures and lack of diligence displayed by the Authority with regard to the procurement rules, which resulted in elevated costs borne by the Authority; calls on the Authority to improve the identified shortcomings and report to the discharge authority about any corrective actions undertaken;

Prevention and management of conflicts of interest, and transparency

19. Regrets that in 2020, the Ombudsman had to open an inquiry into the Authority for a revolving-doors situation involving a senior official of the Authority, whereby maladministration was established; notes that, following the conclusion of that inquiry, the Authority has implemented all of the Ombudsman's recommendations; calls on the Authority to adopt a robust ethical framework in order to prevent conflicts of interest, revolving doors or harassment;

20. Acknowledges 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; calls on the Authority to publish fortnightly all meetings of its staff with lobby organisations;

Internal control

21. Notes that the Authority has performed an assessment of the internal control framework, though it does not report its conclusions per principle and per component in its annual report; notes that the assessment did reveal that a set of KPIs for internal control were missing within the Authority and that an internal control approach document is being developed that will cover the years 2021 to 2024; calls on the Authority to properly assess and report on the implementation of the internal control framework, and report to the discharge authority for 2021 as a minimum the state of internal control per component;

22. Notes the Court's finding that the Authority has not formally updated its business continuity plan since 2017, with an updated draft plan ready in June 2019 when the Authority's headquarters moved from London to Paris; notes however that this draft plan, though used for the Authority's response to the COVID-19 pandemic, was not formally approved nor updated by the Authority's senior management in order to address the move to the new headquarters, or the recent experience of the COVID-19 pandemic; notes the Court's conclusion that this delay constitutes an internal weakness in the Authority's procedures;

23. Urges the Authority to undertake actions aiming to fix the identified shortcomings and weaknesses in the Authority's internal control systems; calls upon the Authority to keep the discharge authority informed about the progress made;

24. Notes that the Authority has in place an up-to-date anti-fraud strategy that was adopted in January 2019; notes however that the Authority delayed its fraud risk assessment, in 2019 due to the move from London, and again in 2020 due to the COVID-19 pandemic, and that the fraud risk assessment was scheduled for the first quarter of 2021; calls on the Authority to perform the assessment and feed the results into the action plan of the anti-fraud strategy; calls on the Authority to report to the discharge authority on the results of the assessment and on how it has been taken into account;

COVID response and business continuity

25. Observes that the COVID-19 crisis led to a sudden reorganisation of the Authority's working arrangements with the initial focus on maintaining business continuity in the short and medium term; notes that the Authority devised a COVID-19 readiness plan aimed at demonstrating the Authority's active monitoring of the pandemic and its capability to provide clear guidance and measures aimed at protecting the wellbeing of its staff and the continuity of its operations, through, among other measures, the Crisis Response Team which supported the crisis management activities and the implementation of the plan; welcomes the Authority's emphasis on ensuring the safety of staff, while limiting the impact of the COVID-19 crisis on its core mission and activities; notes that the Authority has assessed the measures taken through an audit carried out by an external audit company and calls on the Authority to share the insights gained and the lessons learned with other Union agencies through the EU Agencies Network;

26. Notes that the Authority, due to COVID-19 pandemic, revised its recruitment procedures to recruit and integrate new staff remotely; notes that the Authority organised a large number of wellbeing sessions to support staff and managers during the pandemic and that also language training and other training was organised online;

Other comments

27. Welcomes the actions taken in the framework of the Authority's application of the Eco-Management and Audit Scheme (EMAS) and encourages the Authority to finalise the EMAS project and report to the discharge authority on the EMAS registration of the Authority; welcomes that the Authority has approved the scope of the scheme to include all of the Authority's products and activities;

28. Invites the Authority to continuously strengthen its efforts to reduce its environmental footprint, by stepping up its efforts to introduce a sustainable and paperless working environment, to consider more carbon-neutral sources of energy, including photovoltaic panels, and to modernise its office building to meet the zero emission standard;

29. Recalls the importance for the Authority to develop greater visibility in the media and on the Internet in order to raise awareness of its activities;

30. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 4 May 2022 ([2]) on the performance, financial management and control of the agencies.

([2]) Texts adopted, P9_TA(2022)0196.