



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts of the European Food Safety Authority (EFSA) for the financial year 2019,

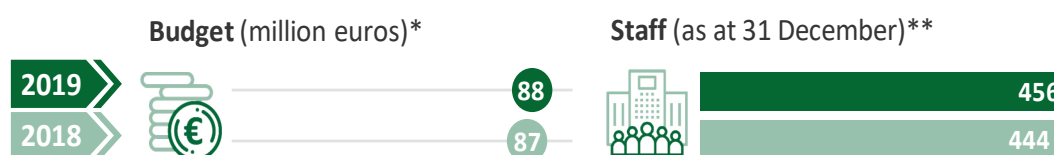
together with the Authority's reply

Introduction

01 The European Food Safety Authority (“the Authority”, or “EFSA”), which is located in Parma, was established by Regulation (EC) No 178/2002 of the European Parliament and of the Council¹. The Authority’s main tasks are to supply the scientific information needed for Union legislation to be drawn up concerning food and food safety, to collect and analyse data that allow risks to be identified and monitored, and to provide independent information on these risks.

02 *Graph 1* presents key figures for the Authority ².

Graph 1: Key figures for the Authority



* Budget figures are based on the total payment appropriations available during the financial year.

** “Staff” includes EU officials, EU temporary agents, EU contract staff and seconded national experts, but excludes interim workers and consultants.

Source: Consolidated annual accounts of the European Union for the financial year 2018 and Provisional consolidated annual accounts of the European Union Financial year 2019; Staff figures provided by the Authority.

Information in support of the statement of assurance

03 The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Authority’s supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of information provided by the Authority’s management.

¹ OJ L 31, 1.2.2002, p. 1.

² More information on the Authority competences and activities is available on its website: www.efsa.europa.eu.

The Court's statement of assurance provided to the European Parliament and the Council – Independent auditor's report

Opinion

04 We have audited:

- (a) the accounts of the Authority which comprise the financial statements³ and the reports on the implementation of the budget⁴ for the financial year ended 31 December 2019 and
- (b) the legality and regularity of the transactions underlying those accounts

as required by Article 287 of the Treaty on the Functioning of the European Union (TFEU).

Reliability of the accounts

Opinion on the reliability of the accounts

05 In our opinion, the accounts of the Authority for the year ended 31 December 2019 present fairly, in all material respects, the financial position of the Authority at 31 December 2019, the results of its operations, its cash flows, and the changes in net assets for the year then ended, in accordance with its Financial Regulation and with accounting rules adopted by the Commission's accounting officer. These are based on internationally accepted accounting standards for the public sector.

³ The financial statements comprise the balance sheet, the statement of financial performance, the cash flow statement, the statement of changes in net assets and a summary of significant accounting policies and other explanatory notes.

⁴ The reports on implementation of the budget comprise the reports which aggregate all budgetary operations and the explanatory notes.

Legality and regularity of the transactions underlying the accounts

Revenue

Opinion on the legality and regularity of revenue underlying the accounts

06 In our opinion, revenue underlying the accounts for the year ended 31 December 2019 is legal and regular in all material respects.

Payments

Opinion on the legality and regularity of payments underlying the accounts

07 In our opinion, payments underlying the accounts for the year ended 31 December 2019 are legal and regular in all material respects.

Basis for opinions

08 We conducted our audit in accordance with the IFAC International Standards on Auditing (ISAs) and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions (ISSAIs). Our responsibilities under those standards are further described in the 'Auditor's responsibilities' section of our report. We are independent, in accordance with the Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants (IESBA Code) and with the ethical requirements that are relevant to our audit, and we have fulfilled our other ethical responsibilities in accordance with these requirements and the IESBA Code. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Responsibilities of management and those charged with governance

09 In accordance with Articles 310 to 325 of the TFEU and the Authority's Financial Regulation, the Authority's management is responsible for preparing and presenting the Authority's accounts on the basis of internationally accepted accounting standards for the public sector and for the legality and regularity of the transactions underlying them. This includes the design, implementation and maintenance of internal controls relevant to the preparation and presentation of

financial statements that are free from material misstatement, whether due to fraud or error. The Authority's management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements comply with the official requirements which govern those statements. The Authority's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the Authority's accounts.

10 In preparing the accounts, the Authority's management is responsible for assessing the Authority's ability to continue as a going concern. It must disclose, as applicable, any matters affecting the Authority's status as a going concern, and use the going concern basis of accounting, unless management either intends to liquidate the entity or to cease operations, or has no realistic alternative but to do so.

11 Those charged with governance are responsible for overseeing the Authority's financial reporting process.

The auditor's responsibilities for the audit of the accounts and underlying transactions

12 Our objectives are to obtain reasonable assurance about whether the accounts of the Authority are free from material misstatement and the transactions underlying them are legal and regular, and to provide, on the basis of our audit, the European Parliament and the Council or the other respective discharge authorities with statements of assurance as to the reliability of the Authority's accounts and the legality and regularity of the transactions underlying them. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit will always detect a material misstatement or non-compliance when it exists. These can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these accounts.

13 For revenue, we verify subsidies received from the Commission or cooperating countries and assess the Authority's procedures for collecting fees and other income, if any.

14 For expenditure, we examine payment transactions when expenditure has been incurred, recorded and accepted. This examination covers all categories of payments (including those made for the purchase of assets) other than advances at the point they are made. Advance payments are examined when the recipient of funds provides justification for their proper use and the Authority accepts the justification by clearing the advance payment, whether in the same year or later.

15 In accordance with the ISAs and ISSAIs, we exercise our professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the accounts and of material non-compliance of the underlying transactions with the requirements of the legal framework of the European Union, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement or non-compliance resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the overriding of internal controls.
- Obtain an understanding of internal controls relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the internal controls.
- Evaluate the appropriateness of the accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Authority's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the accounts or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause an entity to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the accounts, including the disclosures, and whether the accounts represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the Authority to express an opinion on the accounts and transactions underlying them. We are responsible for the direction, supervision and performance of the audit. We remain solely responsible for our audit opinion.
- Considered the audit work of the independent external auditor performed on the Authority's accounts as stipulated in Article 70(6) of the EU Financial Regulation, where applicable.

We communicate with the management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal controls that we identify during our audit. From the matters on which we communicated with the Authority, we determine those matters that were of most significance in the audit of the accounts of the current period and are therefore the key audit matters. We describe these matters in our auditor's report unless law or regulation precludes public disclosure about the matter or when, in extremely rare circumstances, we determine that a matter should not be communicated in our report because the adverse consequences of doing so would reasonably be expected to outweigh the public interest benefits of such communication.

16 The observations which follow do not call the Court's opinion into question.

Observation on the legality and regularity of transactions

17 In March 2019, EFSA launched a procurement procedure for services of a competent doctor in view of the conclusion of a framework contract with an estimated total value of 700 000 euros. The invitation to tender and the technical specifications were published only in Italian. However, the contract notice did not provide for the tenderer the possibility to request the technical specifications in any other EU language. The working language of EFSA is English. Despite this, the technical specification required the tenderer to make available a medical doctor with a linguistic capability in Italian corresponding to an advanced level, while in English only to an upper intermediate level. They also required to make available a nurse with a linguistic capability in Italian corresponding to an advanced level, while in English only corresponding to an intermediate level. The Authority only received one offer from a company established in Italy, which had been also the contractor in the preceding framework contract for medical services.

The fact that the technical specifications were only published in Italian, created an unjustified obstacle to the opening up of procurement to competition.

Considering that the working language of the Authority is English, the requirement for the level of English for the doctor and the nurse should have been set at the same level in order to fulfil the use for which the contract is intended by the contracting authority.

This weakness does not affect the legality and regularity of the underlying payments.

Follow-up of previous years' observations

18 An overview of the action taken in response to the Court's observations from previous years is provided in the **Annex**.

This Report was adopted by Chamber IV, headed by Mr Alex Brenninkmeijer, Member of the Court of Auditors, in Luxembourg on 22 September 2020.

For the Court of Auditors

A handwritten signature in black ink, appearing to read 'K-H Le', written in a cursive style.

Klaus-Heiner Lehne

President

Annex - Follow-up of previous years' observations

Year	Court's observations	Action taken to respond to Court's observations (Completed / Ongoing / Outstanding / N/A)
2017	There is a need to strengthen the accounting officer's independence by making him directly responsible to the Authority's Director (administrative) and Management Board (functional).	Outstanding

THE AUTHORITY'S REPLY

1. The Authority acknowledges receipt of the clean audit report of the Court of Auditors and EFSA welcomes the unqualified audit opinions on the reliability of the accounts and the legality and regularity of the transactions underlying the accounts.

17. English is the working language of EFSA and therefore all documents issued by the Authority are in English. This is also applicable for tendering and contractual documents except for procedures and proceedings regarding services, supplies or works for which the knowledge of Italian language is essential for the provision of the services to be provided. This was the case for the selection procedure for the services of a Medical Adviser as demonstrated in the procurement documents. The contract notice for this procedure was published in the Official Journal and offers could be submitted in all official languages. Also, the fact that the language requirements in this selection procedure were more strict for Italian than English is due to the technical nature of the duties to be performed in Italian (e.g. analysis lab results, contacts with Italian competent Authorities). To avoid potential similar concerns in the future, the EFSA procurement team will introduce a note to the file setting the justification when a call is not launched in English. This step will also be included in the grants and procurement guide.

18. To ensure the independence of the accounting officer, the formal requirement set by the EFSA Financial Regulations is translated into the following EFSA reality: The EFSA Management Board appointed the current accounting officer in 2008. The accounting officer reports to the Head of the Bus Department and to ensure the functional independence of the accounting officer in the performance appraisal workflow, the Head of BuS Department is the reporting officer and the Chair of the Audit Committee the Countersigning officer. The accounting officer may at any time be suspended temporarily or definitely from his duties by the Management Board.

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