



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts of the European Foundation for the Improvement of Living and Working Conditions (Eurofound) for the financial year 2019,

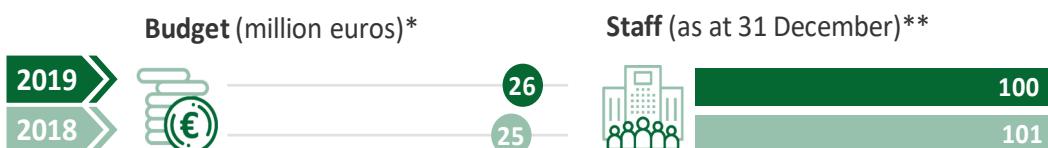
together with the Foundation's reply

Introduction

01 The European Foundation for the Improvement of Living and Working Conditions (“the Foundation”, or “Eurofound”), which is located in Dublin, was established by Council Regulation (EEC) No 1365/75¹, repealed by Regulation (EU) 2019/127 of the European Parliament and of the Council². The Foundation’s task is to contribute to the planning and establishment of better living and working conditions in the Union by increasing and disseminating knowledge which is relevant to this subject.

02 *Graph 1* presents key figures for the Foundation³.

Graph 1: Key figures for the Foundation



* 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 Foundation.

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 Foundation’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 Foundation’s management.

¹ OJ L 139, 30.5.1975, p. 1.

² OL L 30, 31.1.2019, p. 74.

³ More information on the Foundation’s competences and activities is available on its website: www.eurofound.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 Foundation which comprise the financial statements⁴ and the reports on the implementation of the budget⁵ 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 Foundation for the year ended 31 December 2019 present fairly, in all material respects, the financial position of the Foundation 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.

⁴ 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.

⁵ 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 Foundation's Financial Regulation, the Foundation's management is responsible for preparing and presenting the Foundation'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 Foundation'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 Foundation's management bears the ultimate responsibility for the legality and regularity of the transactions underlying the Foundation's accounts.

10 In preparing the accounts, the Foundation's management is responsible for assessing the Foundation's ability to continue as a going concern. It must disclose, as applicable, any matters affecting the Foundation'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 Foundation'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 Foundation 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 Foundation'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 Foundation'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 Foundation 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 Foundation'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 Foundation 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 Foundation'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 Foundation, 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.

Observations on the legality and regularity of transactions

17 In June 2019, Eurofound concluded a framework contract for a maximum amount of 170 000 euros for the supply of electricity. The contract was concluded following a negotiated procedure with a single candidate, without the prior publication of a contract notice. Eurofound justified using of such a procurement procedure on the basis that electricity is quoted and purchased on a commodity market, and therefore falls under the exceptions set out in the Financial Regulation where the open procedure can be waived⁶. However, the contractor is a retail supplier and therefore, the supply is not quoted and purchased on a commodity market and the exception was not applicable. As a result, the related contracts and the associated payments for 20 255 euros were based on an incorrect interpretation by the Agency of the Financial Regulation and thus irregular.

18 In October 2019, Eurofound launched a negotiated procedure, with an estimated budget of 140 000 euros, for a framework contract for the refurbishment of its toilet facilities. Eurofound opted to use a negotiated procedure instead of an open procedure. It justified this decision on the basis of a budget which was underestimated. Only one candidate (out of 17 invited) replied to Eurofound with a financial proposal exceeding the budget. In December 2019, based on subsequent negotiations with the only bidder, the Foundation awarded the framework contract for

⁶ Article 11.1. (f) (iii) Annex I to the Financial Regulation – Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 193, 30.7.2018, p. 1).

a value of 176 800 euros (23 % above the threshold for an open procedure)⁷. This exception was authorised appropriately by the Foundation however, this does not eliminate the fact that an open procedure should have been used. There were no payments for this contract in 2019.

Follow-up of previous years' observations

19 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



Klaus-Heiner Lehne

President

⁷ Article 175 (1) to the Financial Regulation – Regulation (EU, Euratom) 2018/1046 and Article 4 of the Directive 2014/24/EU of the European Parliament and of the Council (OJ L 94, 28.3.2014, p. 65) setting the threshold of 144 000 euros for public supply and service contracts.

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	E-procurement: by the end of 2017 the Foundation had introduced e-invoicing and e-tendering for certain procedures, but not e-submission.	Completed
2018	The Commission signed a framework contract for the acquisition of software, licences and the provision of related IT maintenance and consultancy. The framework contractor acted as an intermediary between the Foundation and suppliers that can address the Foundation's needs. The ex-ante controls performed by Eurofound were not effective, as they did not check whether the prices and uplifts charged by the framework contractor were correct. The Foundation should adapt ex-ante controls on payments under such contracts and ensure there is a competitive procedure for all procurements.	Completed

The Foundation's reply

17 Eurofound accepts the observation about the use of point 11.1(f)iii of Annex 1 of FR 2018/1046 as the justification for the negotiated procedure. The new tender has already been planned for early 2021 and will be of a competitive nature.

18 The award of the contract was based on the opinion that a repeat of the tender, using the open procedure instead of the negotiated procedure, would not lead to a more economically advantageous tender. Eurofound did a screening of the local market. It based the budget on professional advice. The contract was advertised on Eurofound's public website, the procurement mailing list of the European Commission's Representative office in Dublin and a direct invitation to 13 candidates (the minimum is five). Finally, it published a contract award notice in the Official Journal.

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