



EUROPEAN
COURT
OF AUDITORS

Report on the annual accounts of the European Insurance and Occupational Pensions Authority (EIOPA) for the financial year 2019,

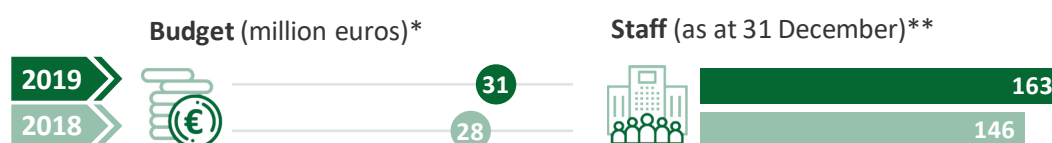
together with the Authority's reply

Introduction

01 The European Insurance and Occupational Pensions Authority (“the Authority”, or “EIOPA”), which is located in Frankfurt, was established by Regulation (EU) No 1094/2010 of the European Parliament and of the Council¹. The Authority’s task is to contribute to the establishment of high-quality common regulatory and supervisory standards and practices, to contribute to the consistent application of legally binding Union acts, to stimulate and facilitate the delegation of tasks and responsibilities among competent authorities, to monitor and assess market developments in the area of its competence and to foster the protection of policyholders, pension scheme members and beneficiaries.

02 *Graph 1* presents key figures for the Authority².

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 331, 15.12.2010, p. 48.

² More information on the Authority’s competences and activities is available on its website: www.eiopa.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, 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.

Observations on budgetary management

17 The EIOPA's budget includes contributions made by the European Commission and EFTA Members' National Competent Authorities (NCAs). The 2019 budget documents do not describe fully how the contributions from EU and EFTA Members' NCAs were calculated. In 2019, NCAs contributed 1 500 000 euros for pensions' contributions to be paid by the employer (EIOPA). This amount was based on estimated figures. The NCAs' contributions were never adjusted to match the actual figures for employer's pensions' contributions (1 261 081 euros) paid by the employer (EIOPA). Nor did we see any evidence that plans had been made to make such an adjustment.

18 In 2019, the amount of the contributions made by NCAs and the EU was reduced by 172 939 euros. This was because, in 2017, EIOPA had a budgetary surplus. In 2017, the EU had covered 37,16 % of the contributions, and the NCAs 62,84 %. The same ratio was used in 2019. But the surplus from 2017 was divided differently: by a ratio of 40 % and 60 %. As a result, the NCAs paid 4 911 euros more than they should have done, and the EU paid 4 911 euros less.

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

A handwritten signature in black ink, appearing to read 'k-h se', 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	The Authority publishes vacancy notices on its own website and on social media, but not on the website of the European Personnel Selection Office (EPSO).	Completed
2018	Interim workers should work under the same working conditions as workers employed directly by the user undertaking. The Authority should analyse the working conditions of its interim workers and ensure they are in line with European and national labour law.	<i>The ECA takes account of the existence of a pending case before the CJEU, addressing several questions concerning the application of Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work to EU agencies. Since the reply to those questions by the CJEU may have an impact on the ECA's position as regards the use of interim workers by the Authority, the ECA refrains from making follow-up on observations from previous years concerning this matter, until the CJEU rendered its ruling in that case.</i>
2018	EIOPA applied award criteria that consisted mostly of non-competitive price elements for one procurement procedure on the provision of interim workers. There was no evidence that the procurement procedure led to the award of the best value for money contract. The Authority should use award criteria that focus on competitive price elements.	N/A

The Agency's reply

17 EIOPA's founding regulation (Article 62) determines the funding key for the European Union (EU) and the National Competent Authorities (NCA) contributions. The distribution per NCA is calculated according to a weighting. The EFTA contributions are calculated on top of the NCA calculations according to a defined weighting factor. The calculations of the pension contributions represent a percentage of the predicted salaries. The distribution per NCA and EFTA state is calculated according to a weighting factor. The exact calculation methods for the contributions is explained in the recovery order letter to the NCA and EFTA states.

The actual pension figures are only known in December and the remaining time until the year-end is not sufficient to prepare a budget amendment¹.

EIOPA will include a more detailed short explanation on the calculation methods applied for EU, NCA and EFTA states contributions in future SPDs.

18 EIOPA's founding regulation determines the funding key for the EU (40%) and the NCAs (60%). Whereas the NCAs' financing of the employer's contribution to the EU Pensions Scheme (60%) enters the EIOPA budget, as determined by the Staff Regulations, the EU proportion (40%) does not figure in EIOPA's budget. This dilutes the funding key and therefore, in 2017 and 2019, the total percentage for the recovery from the NCA's was greater than that of the EU. EIOPA reimbursed the full budgetary surplus 2017 to the EU. The EU paid it back to EIOPA in 2019 and applied the original funding key 40/60 for the redistribution to the EU and the NCAs. This created the slight imbalance challenged by the Court. ECA's observation does not imply that any legal provisions were breached but rather suggests that a slightly different approach should have been applied.

¹ DG BUDG note Ares(2016)2772696

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