



Plenary sitting

A8-0143/2017

31.3.2017

REPORT

on discharge in respect of the implementation of the budget of the Office of the
Body of European Regulators for Electronic Communications for the financial
year 2015
(2016/2190(DEC))

Committee on Budgetary Control

Rapporteur: Inés Ayala Sender

CONTENTS

	Page
1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION	3
2. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION	5
3. MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION	7
INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE	11
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE.....	12

1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on discharge in respect of the implementation of the budget of the Office of the Body of European Regulators for Electronic Communications for the financial year 2015 (2016/2190(DEC))

The European Parliament,

- having regard to the final annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2015,
- having regard to the Court of Auditors' report on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2015, together with the Office's reply¹,
- having regard to the statement of assurance² 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 2015, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 21 February 2017 on discharge to be given to the Management Committee of the Office of the Body of European Regulators for Electronic Communications in respect of the implementation of the budget for the financial year 2015 (05873/2017 – C8-0076/2017),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office⁴, and in particular Article 13 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁵, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,

¹ OJ C 449, 1.12.2016, p. 22.

² OJ C 449, 1.12.2016, p. 22.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 337, 18.12.2009, p. 1.

⁵ OJ L 328, 7.12.2013, p. 42.

- having regard to the report of the Committee on Budgetary Control (A8-0143/2017),
- 1. Grants the Management Committee of the Office of the Body of European Regulators for Electronic Communications discharge in respect of the implementation of the Body's budget for the financial year 2015;
- 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 Management Committee of the Office of the Body of European Regulators for Electronic Communications, 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 Office of the Body of European Regulators for Electronic Communications for the financial year 2015 (2016/2190(DEC))

The European Parliament,

- having regard to the final annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2015,
- having regard to the Court of Auditors' report on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2015, together with the Office's reply¹,
- having regard to the statement of assurance² 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 2015, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 21 February 2017 on discharge to be given to the Management Committee of the Office of the Body of European Regulators for Electronic Communications in respect of the implementation of the budget for the financial year 2015 (05873/2017 – C8-0076/2017),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002³, and in particular Article 208 thereof,
- having regard to Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office⁴, and in particular Article 13 thereof,
- having regard to Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council⁵, and in particular Article 108 thereof,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,

¹ OJ C 449, 1.12.2016, p. 22.

² OJ C 449, 1.12.2016, p. 22.

³ OJ L 298, 26.10.2012, p. 1.

⁴ OJ L 337, 18.12.2009, p. 1.

⁵ OJ L 328, 7.12.2013, p. 42.

- having regard to the report of the Committee on Budgetary Control (A8-0143/2017),
- 1. Approves the closure of the accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2015;
- 2. Instructs its President to forward this decision to the Management Committee of the Office of the Body of European Regulators for Electronic Communications, 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 Office of the Body of European Regulators for Electronic Communications for the financial year 2015 (2016/2190(DEC))

The European Parliament,

- having regard to its decision on discharge in respect of the implementation of the budget of the Office of the Body of European Regulators for Electronic Communications for the financial year 2015,
- having regard to Rule 94 of and Annex IV to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control (A8-0143/2017),
- A. whereas, according to its financial statements, the final budget of the Office of the Body of European Regulators for Electronic Communications (the “Office”) for the financial year 2015 was EUR 4 017 244, representing a decrease of 3,5 % compared to 2014,
- B. whereas, according to its financial statements, the overall contribution of the Union to the budget of the Office for 2015 amounted to EUR 3 498 143, representing a decrease of 3,31 % compared to 2014,
- C. whereas the Court of Auditors (the “Court”), in its report on the annual accounts of the Office for the financial year 2015 (“the Court's report”), stated that it had obtained reasonable assurances that the Office’s annual accounts for the financial year 2015 were reliable and that the underlying transactions were legal and regular,
- D. whereas in the context of the discharge procedure, the discharge authority stresses the particular importance of further strengthening the democratic legitimacy of the Union institutions by improving transparency and accountability, implementing the concept of performance based budgeting and good governance of human resources,

Follow-up of 2014 discharge

1. Acknowledges that the Office:
 - requests all members of the Management Committee, the Administrative Manager and staff to submit annual declarations of interests, and makes those declarations public on its website, in order to prevent conflicts of interest;
 - managed to implement fully Internal Control Standards (ICS) No 6 on ‘Risk Management’ and No 12 on ‘Information and Communication’; acknowledges that, consequently, the Commission’s Internal Audit Service (IAS) closed its two recommendations which remained open after the 2014 follow-up on the limited review of the implementation of the ICS;

Budget and financial management

2. Notes that budget monitoring efforts during the financial year 2015 resulted in a budget implementation rate of 95,65 %, representing a decrease of 2,26 % compared to the year 2014; notes that the payment appropriations execution rate was at 80,31 %, representing an increase of 4,65 % compared to 2014;
3. Notes that, according to the Court's report, the level of detail of the budgetary implementation report differs from those provided by most other agencies; notes that the Office has outsourced the role of accounting officer to the Commission's accounting officer and that the different level of detail is based on the practices of the Commission's reporting; acknowledges that the Office is willing to follow any budget guidelines for the reporting in the next financial year provided that such guidelines are issued; calls on the Court and the EU Agencies Network to provide common reporting guidelines based on best practices from the decentralised agencies;
4. Note that the Office corrected the 2015 and 2016 budgets with regard to the provisions for contributions that did not materialise from national regulatory authorities from the European Free Trade Association (EFTA) in 2014; acknowledges that the EFTA agreement is negotiated between the Commission and countries concerned and thus the Office cannot influence the negotiations;

Commitments and carryovers

5. Notes that, according to the Court's report, the level of committed appropriations carried over for Title II were high at EUR 134 228, i.e. 44 %, compared to EUR 91 757, i.e. 40 % in 2014; notes that those carry-overs are mainly related to the delivery of services that go beyond 2015 and do not necessarily indicate weaknesses in budgetary planning;

Transfers

6. Notes with satisfaction that the number of budgetary transfers was reduced to 17 in 2015, compared to 37 in 2014; notes, moreover, that there was no change in total expenditure in Title I (staff costs), Title II (administrative expenditure) was reduced by 33 % and Title III (operational expenditure) was increased by 13 %; acknowledges that the changes in the structure of the initial budget are smaller than in 2014;

Procurement and recruitment procedures

7. Notes that, according to the Court's report, the Office underestimated its needs for the professional event organisation services; observes that the four-year framework contract, which was signed in 2013, reached its maximum amount in December 2014; notes that the Office's underestimate stemmed from unexpected changes in the organisation of its final plenary meeting for 2014; is of the opinion that the Office should establish a modus operandi with its members and observers for those meetings in order to prevent such a situation from recurring; points out that a procurement procedure to sign a new framework contract was launched in August 2015, and that the Office in the meantime continued to procure these services using purchase orders and low-value contracts (negotiated procedures); agrees with the Court that an open procurement procedure should have been used, in which all interested economic partners are entitled to submit a tender; notes that in 2016 the Office revised its existing

procurement rules with a view to streamlining the process, including by using eTendering; welcomes the fact that the Office has already taken steps to improve its procurement rules and has launched an open tender procedure which resulted in the conclusion of a multiple framework contract in cascade with three companies from January 2016;

8. Notes that the number of posts was reduced from 27 at the end of 2014 to 26 at the end of 2015; notes that the Office undertook additional tasks resulting in an additional workload, which added to the difficulties in recruitment caused by the turnover of expert staff; acknowledges that the Office managed to maintain a sustainable operation and achieved a balance in the distribution of the workload among its staff;

Prevention and management of conflicts of interests and transparency

9. Notes that the Office maintained the public register of BEREC/BEREC Office documents on a daily basis; notes with satisfaction that the Office established special sections dedicated to the policy on conflict of interest and a new section of the website for speeches by the Chair;
10. Notes that the Office included a sub-chapter in its annual report, relating to the transparency, accountability and integrity; notes that its annual report is in compliance with the Commission Guidelines which do not provide for a standard chapter on transparency, accountability and integrity;
11. Welcomes the fact that the Office has actively participated in the work of the Inter-Agency Legal Network working group on anti-fraud; notes with satisfaction that this cooperation resulted in the adoption of the Office's anti-fraud strategy in February 2017;
12. Notes that the Office expects to conclude its internal rules on whistleblowing in the first half of 2017 and has already sent its draft policy to the European Data Protection Supervisor (EDPS) for prior checking; calls on the Agency to adopt an internal whistleblowing policy which will foster a culture of transparency and accountability in the workplace, regularly inform and train employees on their duties and rights, ensure protection of whistleblowers from reprisal, follow up the substance of whistleblowers' alerts in a timely manner and put in place a channel for anonymous internal reporting; calls on the Agency to publish annual reports on the number of whistleblower cases and the follow-up received and to provide them to the discharge authority; asks the Office to report to the discharge authority on the establishment and implementation of its whistleblowing rules;

Internal controls

13. Acknowledges that the last two out of the 18 IAS recommendations on the implementation of the ICS were closed in 2015, resulting in the completion of the ICS implementation; recognises that keeping a high level of compliance with the ICS generates a high administrative burden for the Office, given the small size of the Office and the fact that the ICS framework in general was not designed for small organisations;
14. Acknowledges that no critical risks were identified according to the risk self-assessment

exercise; notes that the outcome report of the risk assessment contained a list of several significant risks; notes that the Office prepared a risk register containing the most significant risks identified during the risk assessment and action plans for addressing those risks;

Internal audit

15. Notes with satisfaction that the results of the audit by the IAS concluded that the audited processes are fit for purpose and are managed and organised in an effective and efficient manner; acknowledges however the observation by the IAS on room for further improvement in a number of specific areas; notes that in order to address the recommendations by the IAS, the Office developed an action plan and that the implementation of the action plan is planned for 2016;

Other issues

16. Notes that a draft regulation was issued by the Commission in September 2016 in which the Commission proposes to turn the Office into a fully fledged Agency with expanded responsibilities; underlines that any reforms implemented upon the conclusion of the legislative process must ensure maximum efficiency and cost-effectiveness, as well as the highest possible level of transparency and protection against conflicts of interest, and should serve to further facilitate added value to the Union's regulatory system for electronic communications;

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17. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of [xx xxxx 2017]¹ [on the performance, financial management and control of the agencies].).

¹ Texts adopted of that date, P[8_TA(-PROV)(2017)0000].

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	22.3.2017
Result of final vote	+: 19 -: 5 0: 0
Members present for the final vote	Inés Ayala Sender, Dennis de Jong, Martina Dlabajová, Luke Ming Flanagan, Ingeborg Gräßle, Cătălin Sorin Ivan, Jean-François Jalkh, Bogusław Liberadzki, Monica Macovei, Notis Marias, José Ignacio Salafranca Sánchez-Neyra, Petri Sarvamaa, Claudia Schmidt, Bart Staes, Hannu Takkula, Derek Vaughan, Joachim Zeller
Substitutes present for the final vote	Richard Ashworth, Gerben-Jan Gerbrandy, Benedek Jávor, Karin Kadenbach, Patricija Šulin
Substitutes under Rule 200(2) present for the final vote	Jens Geier, Piernicola Pedicini

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

19	+
ALDE	Martina Dlabajová, Gerben-Jan Gerbrandy, Hannu Takkula
GUE/NGL	Luke Ming Flanagan, Dennis de Jong
PPE	Ingeborg Gräßle, José Ignacio Salafranca Sánchez-Neyra, Petri Sarvamaa, Claudia Schmidt, Joachim Zeller, Patricija Šulin
S&D	Inés Ayala Sender, Jens Geier, Cătălin Sorin Ivan, Karin Kadenbach, Bogusław Liberadzki, Derek Vaughan
VERTS/ALE	Benedek Jávor, Bart Staes

5	-
ECR	Richard Ashworth, Monica Macovei, Notis Marias
EFDD	Piernicola Pedicini
ENF	Jean-François Jalkh

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention