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DRAFT 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 2016
(2017/2175(DEC))

Committee on Budgetary Control

Rapporteur: Bart Staes

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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 2016 (2017/2175(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 2016,
- 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 2016, 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 2016, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of ... February 2018 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 2016 (00000/2018 – C8-0000/2018),
- 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 417, 6.12.2017, p. 31

² OJ C 417, 6.12.2017, p. 31

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 (A8-0000/2018),
- 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 2016 / Postpones its decision on granting 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 2016;
- 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 2016 (2017/2175(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 2016,
- 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 2016, 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 2016, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of ... February 2018 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 2016 (00000/2018 – C8-0000/2018),
- 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 417, 6.12.2017, p. 31.

² OJ C 417, 6.12.2017, p. 31.

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 (A8-0000/2018),
- 1. Approves the closure of the accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2016 / Postpones the closure of the accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2016;
- 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 2016 (2017/2175(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 2016,
 - 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 (A8-0000/2018),
- A. whereas in the context of the discharge procedure, Parliament wishes to stresses the special importance of further strengthening of the democratic legitimacy of the EU institutions through improving on transparency and accountability, implementing the concept of the Performance Based Budgeting and good governance of human resources;
- B. whereas, according to its statement of revenue and expenditure¹, the final budget of the Office of the Body of European Regulators for Electronic Communications (the “Office”) for the financial year 2016 was EUR 4 246 000, representing an increase of 5,69 % compared to 2015, whereas, whereas the entire budget of the Office derives from the Union budget for 2016;
- C. whereas the Court of Auditors (the “Court”), in its report on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2016 (the “Court's report”), stated that it had obtained reasonable assurances that the Office’s annual accounts were reliable and that the underlying transactions were legal and regular;

Comments on the legality and regularity of transactions

1. Notes from the Court’s report that, in March 2016, the Office launched a procurement procedure with the aim to sign one framework contract (FWC) with the two existing international schools in Riga for the children of its staff; notes that while the technical specifications of the tender state that the Office would establish one multiple framework contract in cascade with two economic operators, the award criteria state that the choice of the school is with the parents; observes that consequently, the EUR 400 000 framework contract signed in July 2016 is based on contradicting concepts, causing legal uncertainty to the Office and the schools; notes moreover, that in this specific case a FWC was unnecessary; welcomes the Office’s reply stating that in future it will use direct service agreements with the schools without procurement;

Budget and financial management

¹ OJ C 113, 30.03.2016, p.159

2. Notes that budget monitoring efforts during the financial year 2016 resulted in a budget implementation rate of 96,20%, representing an increase of 0,55% compared to the year 2015; notes that the payment appropriations execution rate was at 77,19%, representing a decrease of 3,12% compared to 2015;
3. Notes from the Court's report that in March 2016 the Office signed a EUR 60 000 contract for the provision of human resources related professional support and consultancy services; is concerned by the fact that the procurement procedure was exclusively based on price; acknowledges that the engagement of a consultant without considering competence and expertise as award criteria does not ensure best value for money; welcomes the Office's reaction to terminate the FWC and to put in place a different strategy to obtain the necessary services;
4. Notes from the Court's report that the 2014 budget provision for contributions from the European Free Trade Association's (EFTA) national regulatory authorities having observer status at the Office did not materialise in the absence of agreements with EFTA countries;

Commitments and carry-overs

5. Notes from the Office that the total carryover of commitment and payment appropriations to 2016 amounted EUR 615 957,25; acknowledges that EUR 44 896,19 (7,29%) of the carried-forward appropriations were cancelled;
6. Notes that carry-overs are often partly or fully justified by the multiannual nature of the agencies' operational programmes, do not necessarily indicate weaknesses in budget planning and implementation and are not always at odds with the budgetary principle of annuality, in particular if they are planned in advance by the Centre and communicated to the Court;

Staff policy

7. Notes that at the end of 2016, the Office employed 27 staff members (including Temporary agents, Contract agents and Seconded national experts); notes that following the cut implemented in 2015, when the number of posts was reduced by one the Office had to implement an additional cut, as the Office was also requested to contribute one post to the redeployment pool of Agencies;
8. Observes from the Establishment plan that 14 posts (out of 15 posts authorised under the Union budget) were occupied on 31 December 2016, as it was in 2015;
9. Notes with appreciation that by the number of all posts occupied on 30 May 2017 gender balance has been met since the ratio is 42,31 % female to 57,69 % male;
10. Notes from the Court's report that in 2016, the average employment period in the Office was 2,58 years and staff turnover was high with 25 %; takes note that this situation affects the Office's efficiency and poses risks to the implementation of its work programmes; acknowledges that a possible reason is the salary correction coefficient applied for the host state (73 % as at 1 July 2016); notes that the Office recognises that the high staff turnover is a risk factor, which has been recorded in the risk register as a

significant risk and the management is continuously working on the introduction of mitigation techniques; calls on the Office to report to the discharge authority on actions taken or planned to mitigate the risk and to properly tackle the issue of the retention of staff;

11. Stresses that the work-life balance should be part of the staff policy of the Office; stresses that the budget spent on well-being activities amounts to approximately EUR 827,60 corresponding to 2 days; observes that the average number of sick leave is 2,82 days/staff for the Administration and Finance Unit and 6,23 days/staff for the Programme Management Unit; calls on the Office to explain the reasons behind such a difference;
12. Appreciates the fact that the Office adopted new implementing rules on the policy on protecting dignity of the person and preventing harassment; supports the training session organised to increase the awareness of the staff and suggests to regularly organise training and information session on the matter;
13. Appreciates the fact that the Agency did not receive any complaints, law-suits or reported cases linked to hiring or firing of staff in 2016;

Prevention and management of conflicts of interests, transparency and democracy

14. Notes that a draft internal whistleblowing policy has been developed and notified to the European Data Protection Supervisor as required by the provisions of Regulation (EC) 45/2001; notes with appreciation that the Office organised an in-house trainings on ethical values, conflict of interest, fraud prevention and whistleblowing;
15. Welcomes the fact that the Office included a chapter related to the transparency and accountability in its Consolidated Annual Activity Report 2016;

Performance-based budgeting

16. Welcomes the three main achievements and successes identified by the Office in 2016, namely:
 - it adopted the Guidelines on net neutrality, including in processing the unprecedented high number of contributions (close to 500 000) received during the public consultation held in the period from 6 June to 18 July 2016 and in the field of roaming, thus bringing further benefits for the end user of electronic communication services;
 - it commissioned two studies on net neutrality and mergers and acquisitions;
 - it further expanded its transparency policy, including by the adoption of an updated communication strategy and communication plan;

Internal controls

17. Acknowledges that the Office's efforts to achieve full compliance with the Internal Control Standards (ICS) framework continued in 2015 and at the beginning of 2016 the Internal Audit Service (IAS) closed all recommendations on the implementation of the

ICSs; appreciates that in 2016 the Office commissioned an independent consultant to undertake an ICS assessment which was performed in November and December 2016; welcomes the fact that the independent consultant concluded that in general the ICSs are effectively implemented;

Internal audit

18. Notes, that the IAS performed a full risk assessment exercise covering the Office's major processes, both operational - according to its mission - and administrative - to support the operational tasks; notes that based on the results of the risk-assessment and considering the current risk profile of the Office, the IAS lowered its number of audit missions for the future and intends to perform one or two assurance engagements in the 3-year period;
19. Notes with satisfaction that by the end of 2016, the Office had taken all the necessary steps and submitted replies for all the open recommendations deriving from 2015 audit mission and consequently, the IAS auditors recommended the closure of the open items;

Other Comments

20. Notes from the Court's report that the Office should, together with the Commission, consider commissioning a periodical external performance evaluation at least every five years, as is the case for most of the other Agencies; notes with appreciation that the Office is ready to cooperate with the Commission for future evaluations;

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21. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of ... 2018¹ on the performance, financial management and control of the agencies.

¹ Texts adopted of that date, P8_TA-PROV(2018)0000.