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## TEXTS ADOPTED

*Provisional edition*

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### **P8\_TA-PROV(2018)0135**

#### **Discharge 2016: Office of the Body of European Regulators for Electronic Communications (BEREC)**

##### **1. European Parliament decision of 18 April 2018 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 reply<sup>1</sup>,
- having regard to the statement of assurance<sup>2</sup> 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 20 February 2018 on discharge to be given to the Office in respect of the implementation of the budget for the financial year 2016 (05941/2018 – C8-0085/2018),
- 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 1605/2002<sup>3</sup>, 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

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<sup>1</sup> OJ C 417, 6.12.2017, p. 31

<sup>2</sup> OJ C 417, 6.12.2017, p. 31

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

Electronic Communications (BEREC) and the Office<sup>1</sup>, 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 Council<sup>2</sup>, and in particular Article 108 thereof,
  - 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 (A8-0069/2018),
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;
  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).

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<sup>1</sup> OJ L 337, 18.12.2009, p. 1.

<sup>2</sup> OJ L 328, 7.12.2013, p. 42.

## **2. European Parliament decision of 18 April 2018 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 reply<sup>1</sup>,
  - having regard to the statement of assurance<sup>2</sup> 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 20 February 2018 on discharge to be given to the Office in respect of the implementation of the budget for the financial year 2016 (05941/2018 – C8-0085/2018),
  - 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 1605/2002<sup>3</sup>, 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 Office<sup>4</sup>, 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 Council<sup>5</sup>, and in particular Article 108 thereof,
  - 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 (A8-0069/2018),
1. Approves the closure of the accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2016;

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<sup>1</sup> OJ C 417, 6.12.2017, p. 31.

<sup>2</sup> OJ C 417, 6.12.2017, p. 31.

<sup>3</sup> OJ L 298, 26.10.2012, p. 1.

<sup>4</sup> OJ L 337, 18.12.2009, p. 1.

<sup>5</sup> OJ L 328, 7.12.2013, p. 42.

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. European Parliament resolution of 18 April 2018 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 the report of the Court of Auditors on the rapid case review on the implementation of the 5 % reduction of staff posts published on 21 December 2017,
  - 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 (A8-0069/2018),
- A. whereas in the context of the discharge procedure, the discharge authority wishes to stress the particular importance of further strengthening of the democratic legitimacy of the Union institutions by improving transparency and accountability, and implementing the concept of the performance-based budgeting and good governance of human resources;
- B. whereas, according to its statement of revenue and expenditure<sup>1</sup>, 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 the Office’s entire budget derived from the Union budget for 2016;
- C. whereas the Court of Auditors (the ‘Court’), in its report on the Office’s annual accounts for the financial year 2016 (the ‘Court’s report’), states that it has 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 that, according to the Court’s report, in March 2016, the Office launched a procurement procedure with the aim to sign a single 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 stated that the choice of the school lies with the parents; observes that, consequently, the FWC for EUR 400 000, which was signed in July 2016, is based on contradicting concepts, causing legal uncertainty to the Office and the schools; notes moreover, that a FWC was unnecessary in this case; welcomes the Office’s reply stating that in future it will use direct service agreements with the schools, without procurement;

***Budget and financial management***

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<sup>1</sup> 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 that, according to the Court's report, the Office signed a EUR 60 000 contract for the provision of human resources related professional support and consultancy services in March 2016; is concerned by the fact that the procurement procedure was exclusively based on price; stresses 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 that, according to the Court's report, 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 that, according to the Office, the total carry-over of commitment and payment appropriations to 2016 amounted EUR 615 957,25; points out that EUR 44 896,19 (7,29 %) of the carried-forward appropriations were cancelled;
6. Notes that carry-overs may often be 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 Office 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 it was also requested to contribute a post to the redeployment pool of Agencies;
8. Notes with concern that the Office was negatively affected with the highest possible rate of cuts according to the Court's report on the implementation of the 5 % reduction of staff posts published on 21 December 2017, namely a cut of 12,5 %, irrespectively of the fact that Regulation (EU) 2015/2120 assigned additional tasks to the Body of European Regulators for Electronic Communications without adjusting the resources of the Office accordingly; stresses the need for adequate human resources to ensure carrying out the mandate of the Office, while maintaining its smooth day-to-day operation;
9. Observes from the Establishment plan that 14 posts (out of a total of 15 posts authorised under the Union budget) were occupied on 31 December 2016, as in 2015;
10. Notes that on 30 May 2017 the gender ratio was 42,31 % female to 57,69 % male staff; notes with concern, however, that the gender ratio of the management board was 28 %

to 72 %;

11. Notes that, according to the Court's report, in 2016, the average employment period in the Office was 2,58 years and staff turnover was high with 25 %; notes that this situation affects the Office's efficiency and presents risks for the implementation of its work programmes; acknowledges that a possible reason for the high staff turnover is the salary correction coefficient applied in 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 the actions taken or planned to mitigate the risk and to properly tackle the issue of the retention of staff;
12. Stresses that 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 two days; observes that the average number of sick days is 2,82 per member of staff in the administration and finance unit and 6,23 per member of staff in the programme management unit; calls on the Office to explain the reasons behind such a difference;
13. 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;
14. Notes with satisfaction the fact that the Office did not receive any complaints, law-suits or reported cases linked to hiring or dismissal of staff in 2016;

#### ***Prevention and management of conflicts of interests, transparency and democracy***

15. 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 training on ethical values, conflicts of interest, fraud prevention and whistleblowing;
16. Welcomes the fact that the Office included a chapter related to the transparency and accountability in its Consolidated Annual Activity Report 2016;

#### ***Main achievements***

17. Welcomes the Office's three main achievements in 2016 in support to the Body of European Regulators for Electronic Communications (BEREC), namely:
  - supporting BEREC in the adoption of 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 to the end user of electronic communication services;
  - commissioning two studies on net neutrality and mergers and acquisitions;
  - further expanding its transparency policy, including by means of the

implementation of BEREC's up-dated communication strategy and communication plan;

### ***Internal controls***

18. 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***

19. 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 three-year period;
20. 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***

21. Notes that, according to the Court's report, 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 in future evaluations;

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22. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 18 April 2018<sup>1</sup> on the performance, financial management and control of the agencies.

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<sup>1</sup> Texts adopted, P8\_TA-PROV(2018)0133.