

Annex

**Report from the Agency for Support for BEREC (BEREC Office)
on the observations of the European Parliament (EP) in its resolution of 26 March 2019 forming an integral part of the decision on
discharge in respect of the implementation of the budget of the BEREC Office for the financial year 2017 ([2018/2206\(DEC\)](#))**

Observation of the Discharge Authority	Response and measures taken by the Agency	Status/Reference
2. Notes from the Court's report that the Office requested translations from the Translation Centre for the Bodies of the European Union (CdT) for four calls for expression of interest for the establishment of staff reserve lists; notes that, taking into account that the establishment plan was already fulfilled, the Court concluded that that request for translation was not justified; notes that, according to the Office's reply, the request was made because the Office's management committee requested the establishment of reserve lists for 75 % of job profiles with the aim of keeping the vacancy rate below 15 % in order to mitigate risks related to high staff turnover;	<p>As pointed out in item 13 of the EP Resolution the BEREC Office has been affected by a high staff turnover, which poses risk to the implementation of the Agency work programme. This has been registered as the most significant risk in the risk register of the Agency. As part of the mitigation techniques, the management committee requested the establishment of reserve lists for 75 % of all job profiles with the aim of keeping the vacancy rate below 15 %.</p> <p>This strategy has proved to be appropriate in the event when the Agency needs to fill in vacant posts within very short period of time. For example, in 2019 following resignations of key staff members the Agency managed to fill in vacant posts with candidates from existing reserve lists without any gap or with a gap of 2 ½ months. Additionally, following the establishment of new posts to address the new Agency mandate defined in Regulation (EU) 2018/1971 the BEREC Office managed to ensure fast track recruitment of 3 additional new staff members from the existing reserve lists.</p> <p>The recruitment of staff for posts, for which there are no reserve lists has proved to be more time consuming and will be possible only in the second half of 2019.</p>	N/A
6. Notes with concern that the Office does not share resources with other Agencies; calls on the Office to explore further possibilities to share services and report to the discharge authority on the steps taken in that regard;	<p>The BEREC Office, due to its small size and missing capacities, is extremely interested in sharing resources with other Agencies of the EU. However, due to limitations in their own resources the other Agencies are frequently not able to provide services to the BEREC Office.</p> <p>For example in 2014 the BEREC Office signed a service level (SLA) with ENISA for sharing resources in the field of internal controls. Due to lack of</p>	N/A

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	<p>capacity on the side the ENISA, the sharing of resources was delivered to a lower extend compared to the parameters of the SLA; however, this was still very useful for the BEREC Office. The BEREC Office still makes full use of a SLA with ENISA for the provision of IT off-site back-up services.</p> <p>In 2018 the BEREC Office started a joint project for sharing IT infrastructure with several joint undertakings. The SLA was signed in 2019 and its implementation will start in the second half of 2019.</p>	
<p>7. Notes that the Office has outsourced its accounting services to the Commission; notes with concern from the Court's report, however, that while those events caused significant modifications to the Office's procedures and accounting system, it has not been re-validated since 2013; notes the Office's reply to the effect that the validation approach is in progress; calls on the Office to inform the discharge authority about the developments in that regard;</p>	<p>The European Commission Accounting Officer, who is also the BEREC Office Accounting Officer, launched the validation of the local accounting system in June 2018 and finalised it in December 2018.</p>	<p>Finalised</p>
<p>10. Notes with concern that the Office was negatively affected with the highest possible rate of cut of 12.5%, according to the ECA report on the implementation of the 5% reduction of staff posts, published on 21 December 2017, although the Regulation (EU) 2015/2120 assigned additional tasks to the Office;</p>	<p>The BEREC Office shares the concerns of the EP, in particular, in the light of its new, enhanced mandate.</p> <p>The BEREC Office since its establishment has missing capacities in the field of internal controls, security, business continuity, facility management and data protection, which further exposed at risk the delivery of its mandate in line with the European Commission requirements for security, protection of sensitive and classified information and internal controls.</p> <p>Consequently, the Management Board requested the establishment of 12 additional establishment plan posts as of 2020 to address its missing capacities and to provide sufficient resources for implementation of the Agency's mandate in the field of electronic communications market regulation.</p> <p>The European Commission in its draft budget for 2020 has disregarded the request of the Management Board, which, if approved by the Budgetary Authority, will further deepen the negative impact of the lack of sufficient resources for the implementation of the Agency's mandate and of its work</p>	<p>N/A</p>

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	programme.	
<p>11. Regrets the gender imbalance within the Office's management board members, with 24 out of 29 being male, 5 being female; asks in this regard the Commission and the Member States to take into account the importance of ensuring gender balance when presenting their nominations for members of the Board;</p>	<p>The BEREC Office Management Board is composed of the Heads of the national regulatory authorities with main responsibility for the day-to-day management of the markets for electronic communication. Therefore, the Agency has no means to influence on the national decisions of the Member States.</p> <p>However, the members of the Selection Panels for staff are always briefed to pay attention to the gender balance of the candidates invited to interviews and consequently the Agency has managed to achieve even gender balance of its staff (52% female and 48% male on 31 December 2018), with an even gender balance in middle management positions (50% female and 50% male).</p>	N/A
<p>13. Notes with concern that in 2017 the average employment period in the Office was only 2,7 years which is reflected in a high staff turnover; understands that the Office struggles to attract professionals, inter alia because of the low salary correction coefficient of the host country (74,9 %); expresses its concern that the reduction of the posts authorised under the Union budget in recent years together with the additional tasks acquired has increased the workload of the Office's staff; points out that this situation may pose risks to the implementation of its work programmes; acknowledges that the management is continuously working on the introduction of mitigation measures and calls on the Office to report to the discharge authority on the progress made in this regard;</p>	<p>In addition to the explanations already provided points 2 and 10 the BEREC Office would like to inform the Discharge Authority that it constantly works towards improving the employment conditions for its staff with the objective to retain the highly qualified personnel.</p> <p>In 2018, following a decision of its management body, the Agency started the implementation of an action plan for social welfare, which includes, among others, discounts for canteens and sport facilities negotiated by a contractor of the BEREC Office (without any budgetary impact on the Agency's budget), establishment of lists of English speaking doctors for the provision of healthcare to the staff and their family members, support for kindergarten in specific cases (if the staff cannot be ensured with access for their depended children under the conditions available to the Latvian citizens), legal support to the staff for private matters and others.</p> <p>However, the impact of these measures has to be assessed jointly with the negative impact of the low correction coefficient on staff remunerations applied for Latvia.</p> <p>Further possibilities for improving the working and living conditions for the staff will be sought during the work on the joint project with the Latvian authorities aiming at the conclusion of a new Headquarters Agreement.</p>	Ongoing

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<p>14. Notes from the Court's report that by the end of 2017 the Office had not yet implemented all of the tools launched by the Commission aimed to introduce a single solution for the electronic exchange of information with third parties participating in public procurement procedures (e-procurement); notes that, according to the Office's reply, it plans to implement these by the end of 2018; calls on the Office to report to the discharge authority on the progress made in that field;</p>	<p>On 18 December 2018, Memorandum of Understanding ('MoU') on e-PRIOR between BEREC Office and the Directorate-General for Informatics of the European Commission (DG DIGIT) was signed. Following the signature of the MoU in Q1 2019, DG DIGIT deployed an e-Submission module of e-PRIOR (Electronic Submission of Tenders by the Economic Operators to the Contracting Authorities) for BEREC Office, thus introducing a single solution for the electronic exchange of information with third parties participating in public procurement procedures organized by BEREC Office.</p>	<p>Finalised</p>
<p>15. Notes the Office's existing measures and ongoing efforts to secure transparency and prevention and management of conflicts of interests; points out with concern, however, that it does not publish the CVs of the board members on its website; calls on the Office to report to the discharge authority on the measures taken in this regard;</p>	<p>In order to comply with Art.42 paragraph 3 of the new founding Regulation (Regulation (EU) 2018/1971), the Management Board has started a review of its existing policy laying down rules for the prevention and management of conflicts of interests.</p> <p>Taking into account the EP recommendation, the draft of the revised policy envisages an obligation for the members of the Management Board to submit with their declaration of interest their CVs, which will be published on the BEREC website.</p> <p>The new policy will be submitted for adoption by the Management Board in the beginning of October 2019.</p>	<p>Ongoing</p>
<p>16. Regrets that the Office did not have internal rules on whistleblowing in place on 31 December 2017; notes however that the Office plans to adopt these by the end of 2018; calls on the Office to report to the discharge authority on their implementation;</p>	<p>With its decision MC/2018/11 of 7 December 2018 the management body of the BEREC Office adopted Guidelines on whistleblowing which are published on the BEREC website, at the following link: https://berec.europa.eu/eng/document_register/subject_matter/berec_office/others/8301-guidelines-on-whistleblowing-of-the-berec-office</p> <p>The Guidelines are in force from 8 December 2018 and are applied in the day-to-day work of the Agency.</p>	<p>Finalised</p>
<p>18. Notes that, unlike most other Agencies, the Office did not carry out a comprehensive analysis of the likely impact of the United Kingdom's decision to withdraw from the European Union on its organisation, operations and accounts; invites the Office to consider undertaking</p>	<p>The BEREC Office carried out an analysis of the likely BREXIT impact and identified the necessary mitigating steps.</p> <p>At the BEREC Office there are no staff members with sole UK citizenship, therefore there are no risks related to HR issues.</p>	<p>Finalised</p>

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such an analysis and report to the discharge authority on the measures taken in that regard;	<p>No budget related risks have been identified.</p> <p>The risks that may follow Brexit are the following:</p> <ul style="list-style-type: none"> • The risk that members of the British NRA Ofcom still receive information, either via e-mail or via access to the BEREC intranet (BERECnet). To mitigate this risk, the IT team of BEREC Office has been instructed to prepare a quick cleaning of mailing list, exploders and lists of access rights to BERECnet once the Brexit becomes effective. The IT team is ready to do this cleaning within a couple of hours after being informed about the date and time Brexit becomes effective. • The risk that members of Ofcom still attend BEREC meetings after Brexit becomes effective. This risk is limited to meetings taking place shortly after the Brexit and invitation have been sent out before the Brexit. To mitigate this risk, the staff members of the Office that are in charge of organizing the relevant meetings have been instructed to contact the invited Ofcom members and withdraw the invitation. 	

Riga, 26 August 2019