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*Plenary sitting*

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**A9-0129/2023**

5.4.2023

# REPORT

on discharge in respect of the implementation of the budget of the Agency for Support for BEREC (BEREC Office) for the financial year 2021 (2022/2093(DEC))

Committee on Budgetary Control

Rapporteur: Katalin Cseh

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## 1. PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

**on discharge in respect of the implementation of the budget of the Agency for Support for BEREC (BEREC Office) for the financial year 2021 (2022/2093(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the Agency for Support for BEREC (BEREC Office) for the financial year 2021,
- having regard to the Court of Auditors' annual report on EU agencies for the financial year 2021, together with the agencies' replies<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 2021, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2023 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2021 (06248/2023 – C9-0075/2023),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012<sup>3</sup>, and in particular Article 70 thereof,
- having regard to Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009<sup>4</sup>, and in particular Article 28 thereof,
- having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>5</sup>, and in particular Article 105 thereof,

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<sup>1</sup> OJ C 412, 27.10.2022, p. 12.

<sup>2</sup> OJ C 412, 27.10.2022, p. 12.

<sup>3</sup> OJ L 193, 30.7.2018, p. 1.

<sup>4</sup> OJ L 321, 17.12.2018, p. 1.

<sup>5</sup> OJ L 122, 10.5.2019, p. 1.

- having regard to Rule 100 of and Annex V to its Rules of Procedure,
- having regard to the report of the Committee on Budgetary Control (A9-0129/2023),
- 1. Grants the Director of the Agency for Support for BEREC (BEREC Office) discharge in respect of the implementation of the Agency's budget for the financial year 2021;
- 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 Director of the Agency for Support for BEREC (BEREC Office), 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 Agency for Support for BEREC (BEREC Office)  
for the financial year 2021  
(2022/2093(DEC))**

*The European Parliament,*

- having regard to the final annual accounts of the Agency for Support for BEREC (BEREC Office) for the financial year 2021,
- having regard to the Court of Auditors' annual report on EU agencies for the financial year 2021, together with the agencies' replies<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 2021, pursuant to Article 287 of the Treaty on the Functioning of the European Union,
- having regard to the Council's recommendation of 28 February 2023 on discharge to be given to the Agency in respect of the implementation of the budget for the financial year 2021 (06248/2023 – C9-0075/2023),
- having regard to Article 319 of the Treaty on the Functioning of the European Union,
- having regard to Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012<sup>3</sup>, and in particular Article 70 thereof,
- having regard to Regulation (EU) 2018/1971 of the European Parliament and of the Council of 11 December 2018 establishing the Body of European Regulators for Electronic Communications (BEREC) and the Agency for Support for BEREC (BEREC Office), amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009<sup>4</sup>, and in particular Article 28 thereof,
- having regard to Commission Delegated Regulation (EU) 2019/715 of 18 December 2018 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council<sup>5</sup>, and in particular Article 105 thereof,

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<sup>1</sup> OJ C 412, 27.10.2022, p. 12.

<sup>2</sup> OJ C 412, 27.10.2022, p. 12.

<sup>3</sup> OJ L 193, 30.7.2018, p. 1.

<sup>4</sup> OJ L 321, 17.12.2018, p. 1.

<sup>5</sup> OJ L 122, 10.5.2019, p. 1.

- having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A9-0129/2023),
1. Approves the closure of the accounts of the Agency for Support for BEREC (BEREC Office) for the financial year 2021;
  2. Instructs its President to forward this decision to the Director of the Agency for Support for BEREC (BEREC Office), 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 Agency for Support for BEREC (BEREC Office) for the financial year 2021 (2022/2093(DEC))**

*The European Parliament,*

- having regard to its decision on discharge in respect of the implementation of the budget of the Agency for Support for BEREC (BEREC Office) for the financial year 2021,
  - having regard to Rule 100 of and Annex V to its Rules of Procedure,
  - having regard to the report of the Committee on Budgetary Control (A9-0129/2023),
- A. whereas, according to its statement of revenue and expenditure<sup>1</sup>, the final adopted budget of the Agency for Support for BEREC (the ‘Agency’) for the financial year 2021 was EUR 7 341 357, representing an increase of 1,49 % compared to 2020, which mainly represents an increase in staff expenditure; whereas the budget of the Agency derives mainly from the Union budget and third-country contributions; whereas additional revenues to the 2021 adopted budget were provided by third-country contributions, carried over from previous years, and administrative operations credits;
- B. whereas the Court of Auditors (the ‘Court’), in its report on the Agency’s annual accounts for the financial year 2021 (the ‘Court’s report’), states that the Court has obtained reasonable assurances that the Agency’s annual accounts are reliable and that the underlying transactions are legal and regular;

#### ***Budget and financial management***

1. Notes with appreciation that budget monitoring efforts during the financial year 2021 resulted in a budget implementation rate of 99,97 % for the commitment appropriations of the final adopted budget for the year, representing an increase of 0,89 % compared to 2020; welcomes the fact that the budget implementation rate is the highest one of the last five years, and is within the threshold of above 95 % established by the management board; notes that the current year’s payment appropriations execution rate was 69,33 %, representing an increase of 8,19 % compared to 2020 but below the rates in 2017 and 2019 due to carry overs related to the launch of a high number of specific projects that were intended to be finalised in 2022;
2. Notes that the Court found, for the financial year 2019, that a procurement procedure for legal services was irregular and as a result the subsequent payments made based on this framework contract are irregular, and that in 2021, the associated payments amounted to EUR 4 444;

#### ***Performance***

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<sup>1</sup> OJ C 141, 29.3.2022, p. 146.

3. Notes that the Agency uses key performance indicators (KPIs) to assess the results achieved in respect of its objectives, including on budget management, gender balance and personal data protection; welcomes the fact that one of those KPIs sets a time limit for access to documents processed of 15 working days; notes that KPIs on the information and communications technology (ICT) system are in place and regrets that the signature of an information technology (IT) consultancy contract in support of the development of 'BEREC ICT strategy 2022-2025' had to be postponed to 2022 due to the contract unavailability of such services; appreciates that the KPIs were fulfilled and the fact that the Agency has drawn attention to measures that can improve the efficiency and effectiveness of the Agency's work; however recommends that the Agency takes note of the KPIs that have not yet been achieved or that are lagging behind;
4. Notes that the Agency delivered two studies for BEREC in 2021, namely, the 'Study on consumer behaviour toward digital platforms as means of communication' and the "Study on post-COVID measures to close the digital divide", and part of one on reducing the environmental footprint of the BEREC and Agency, with its final report due in 2022, for which three specific contracts were signed in 2021;

### *Staff policy*

5. Notes that on 31 December 2021, the establishment plan was 93,75 % implemented, with 15 temporary agents appointed out of 16 temporary agents authorised under the Union budget (the same number of authorised posts as in 2020); notes that, in addition, 21 contract agents, 9 seconded national experts and 8 interim staff and consultants worked for the Agency in 2021;
6. Notes with concern the lack of gender balance within the Agency's leadership; notes the gender distribution within the Agency's senior and middle management members, with three out of four being men (75 %); further notes the gender distribution within the Agency's management board, with 21 out of 28 being men (75 %); however, takes note of the fact that at the end of 2021 gender balance was achieved overall within the staff, with 52 % female and 48 % male; calls on the Agency to take concrete measures to improved gender balance at all levels of hierarchy as soon as possible and report back to the discharge authority;
7. Notes with concern from the follow-up to 2020 discharge that since no Union institution or body was found to share the internal control coordinator capacity, the Agency decided to hire an interim worker for 3,5 months to perform that function; notes, furthermore, that the Agency was notified on the Commission's intention to terminate the provision of accounting services offering the Agency to consider sharing an accounting officer with another agency, and that the Agency considers that internalisation of accounting is not feasible in the short term; calls on the Agency to report any developments in that regard to the discharge authority; is concerned that a related risk of reduced efficiency, quality of results and loss of know-how was registered in the Agency's risk register in 2022; notes that the Agency is working on mitigation measures; calls on the Agency to report any developments in that regard to the discharge authority;
8. Notes that, according to the follow-up to previous year's discharge observations, the Agency has implemented measures, such as a new headquarters' agreement with the

host Member State to extend benefits for the Agency's staff, to address the difficulties in attracting and retaining professionals; notes, furthermore, that the Agency reorganised the use of its limited establishment plan post in order to ensure that the minimum mandatory capacities are ensured;

9. Recalls the importance of developing a long-term human resources (HR) policy on work-life balance, lifelong guidance and the offering of specific training possibilities for career development, gender balance at all staff levels, teleworking, the right to disconnect, the enhancement of a geographical balance to have an appropriate representation from all Member States, and the recruitment and integration of people with disabilities as well as ensuring that they are treated equally and that their opportunities are widely promoted;
10. Recalls that procedural deficiencies in recruitment procedures undermine the principles of transparency and equal treatment; requests that the Agency improves its internal recruitment procedure to clarify evaluation processes and vacancy notices.

### ***Procurement***

11. Points out that the Agency uses since 2019 a centralised procurement model and that since February 2022 it also uses the Commission's public procurement management tool to further streamline its public procurement processes;
12. Notes with concern that, according to the Court's report, in one procurement procedure for IT services, the Agency requested an offer from a contractor without specifying in advance which services were required, hindering the effectiveness, efficiency and economy of operations, and that, in addition, it did not perform *ex ante* checks on prices to the specific contracts under the underlying framework contract; notes the Agency's reply that it will improve the documentation of all steps of the process leading to the approval of the statement of work and that it will change its internal procedure to include a proper documentation of checks of all prices for future specific contracts; calls on the Agency to report any developments in that regard to the discharge authority;
13. Recalls the importance, for all procurement procedure, to ensure fair competition between tenderers and to procure goods and services at the best price, respecting the principles of transparency, proportionality, equal treatment and non-discrimination; Notes with concern the Court's observation regarding the public procurement weaknesses are increasing and remain the largest source of irregular payments for most of agencies;

### ***Prevention and management of conflicts of interest and transparency***

14. Notes that the Agency publishes on its website almost all the CVs and declarations of conflicts interest of its management board; calls on the Agency to improve its efforts for transparency in that regard;
15. Notes with concern that the Court found that the selection committee in a recruitment procedure had not established how points would be awarded for each selection criterion before examining the applications and that the chair of the selection committee had declared a professional conflict of interest in connection with two candidates working under his supervision, and yet the final evaluation report did not describe how this

conflict of interest had been addressed; notes the Agency's reply that it is preparing new internal templates for selection procedures and that it adopted internal rules on documenting compliance with the decision of the authority authorised to conclude the contracts of employment; calls on the Agency to improve and ensure transparency and to properly document during selection procedures, and to report any developments in that regard to the discharge authority;

16. Notes that the revised policy for managing and preventing conflicts of interest was adopted by the management board in 2019 to include the evaluation of conflicts of interest and mitigation measures imposed in the event of potential or confirmed conflict of interest of the members of the management board; insists on the need to put in place more systematic rules on transparency, incompatibilities, conflict of interest, illegal lobbying and revolving doors, and, if needed, to update its policy on conflicts of interest; calls on the Agency to strengthen its internal control mechanisms, including the setting up of an internal anticorruption mechanism;

### ***Internal control***

17. Notes that following the Commission's internal audit service (IAS) full risk assessment at the Agency to establish its strategic internal audit plan for the period 2021-2023 in 2020, the IAS has not identified critical risks, and that, at the beginning of 2021, the IAS closed all opened recommendations stemming from previous audits; acknowledges that from October to December 2021 an interim internal control coordinator performed an assessment of efficiency and effectiveness of the internal control system in the Agency, thereby showing that the costs related to the controls in the Agency are in line with the benefits; notes that the assessment of the compliance with the internal control framework requirements concluded that the Agency is overall compliant as much as possible without staff specifically hired for internal controls; calls on the Agency to report any developments regarding the internal control function to the discharge authority;
18. Notes, from the Agency's follow-up report to the observations to the discharge authority's 2020 discharge, that the Commission terminates the provision of accounting services to the Agency in 2023 and that the Agency, with its current 16 establishment plan posts, is not able to internalise the mandatory accounting officer duties; calls the Commission and the Agency to allocate the necessary resources to ensure the continuity in this key domain and report back to the discharge authority;
19. Recalls the importance of strengthening management and control systems to ensure the proper functioning of the Agency; strongly insists on the requirement of an effective management and control systems to avoid potential cases of conflict of interest, missing *ex ante* or *ex post* controls, inadequate management of budgetary and legal commitments, and failures to report issues in the register of exceptions.

### ***Digitalisation and the green transition***

20. Notes that in 2020 the Agency established an expert networking group on sustainability; notes the participation of the Agency in the inter-institutional procurement procedure for 'Consultancy and management of greenhouse gas emissions offsets' of the European Union Intellectual Property Office (EUIPO), concluded in June 2022; welcomes the fact that the multiannual greening action plan for the Agency includes a commitment for a

CO<sub>2</sub> reduction glide-path; further notes that new rules have been proposed to reduce travel and related emissions;

21. Notes that the Agency started in 2021 a project of workshops to define a strategic roadmap for the future digital workplace projects on technologies and way of working, and a data protection impact assessment and IT security plan for Microsoft Office services and possible cloud migration strategies; invites the Agency to inform the discharge authority of the implementation of those projects; notes, furthermore, that the Agency allocated a number of operational costs linked to maintenance costs for the general authorisation data base and the database on the numbering resources with a right of extraterritorial use within the Union, in accordance with Directive (EU) 2018/1972<sup>2</sup>;
22. Notes that, according to the follow-up to the 2020 discharge observations, the Agency has not yet started the development of a cybersecurity policy in relation to the future regulation of information security in the institutions, bodies, offices and agencies of the Union and Regulation (EU) 2019/881<sup>3</sup>; welcomes, however, the Agency's collaboration with CERT-EU (the Computer Emergency Response Team for the Union institutions, bodies and agencies), and with third party IT security solution provider; calls on the Agency to speed up the development of the cybersecurity policy; notes, moreover, that the expert networking group of ICT experts produced a report on 'Cybersecurity threats with a focus on phishing attacks' with the aim of assessing the cybersecurity practices adopted among national regulatory authorities;
23. Encourages the Agency to work in close cooperation with ENISA (the European Union Agency for Cybersecurity); suggests offering regularly updated cybersecurity-related training programmes to all staff members within the Agency; calls on the Agency to develop its cybersecurity policy more quickly, deliver it before 31 December 2023 and report back to the discharge authority;
24. Recalls the importance of increasing the digitalisation of the Agency in terms of internal operation and management but also in order to speed up the digitalisation of procedures; stresses the need for the Agency to continue to be proactive in this regard in order to avoid a digital gap as regards other agencies; draws attention, however, to the need to take all the necessary security measures to avoid any risk to the online security of the information processed;

### ***Business continuity along crisis***

25. Acknowledges the Agency's efforts to support the BEREC working groups, including in organising meetings and workshops; notes that in 2021 almost all meetings of the BEREC working groups were virtual; encourages the Agency to put the lessons learned regarding remote and hybrid working methods into practice, in order to better organise meetings and events that could be carried out more efficiently remotely than in-person in the future; recalls that in total 490 virtual working group meetings took place in 2021

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<sup>2</sup> Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36).

<sup>3</sup> Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act) (OJ L 151, 7.6.2019, p. 15).

and that those meetings helped to gather more than 10 000 participants;

26. Notes the study on post-COVID measures to close the digital divide whose conclusions were included in the ‘BEREC Report on the COVID-19 crisis – lessons learned regarding communications networks for a resilient society’;
27. Notes, in particular, the service level agreement with the Commission services for the use of the Commission’s IT tool advance gateway to meeting; further notes that the expert networking group of ICT experts worked to finalise a report on audio-video conference and digital meeting solutions and another on smart office solutions;

#### ***Other comments***

28. Acknowledges the Agency’s efforts in raising awareness of its own and BEREC’s mission among Union citizens in the host Member State, and, in particular, the Agency’s participation in Union representation initiatives; notes, moreover, the workshops on the Agency’s and BEREC’s new visual identity and on the BEREC’s website design and contents; notes the implementation of the activities provided for the Agency in the BEREC annual communication plan, including the organisation of BEREC public events and stakeholder forums in Latvia; calls on the Agency to keep working on increasing the visibility of the Agency, especially in the host Member State;
29. Welcomes the Agency’s established synergies with the EUIPO for a new corporate website content management system, for the ICT operations of corporate website, and for the possible migration of additional ICT systems of the Agency to the EUIPO’s datacentres;
30. Calls on the Agency to continue to develop synergies, for example with regard to HR, building management, IT services and security, and to reinforce cooperation, exchanges of good practices and discussions regarding areas of mutual interest with other Union agencies, with a view to improving efficiency;  

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31. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of [...] 2023 <sup>4</sup> on the performance, financial management and control of the agencies.

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<sup>4</sup> Texts adopted, P9\_TA(2023)0000.

## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	22.3.2023
<b>Result of final vote</b>	+ : 21 - : 1 0 : 1
<b>Members present for the final vote</b>	Gilles Boyer, Olivier Chastel, Caterina Chinnici, Ilana Cicurel, Corina Crețu, José Manuel Fernandes, Daniel Freund, Isabel García Muñoz, Monika Hohlmeier, Jean-François Jalkh, Joachim Kuhs, Claudiu Manda, Alin Mituța, Markus Pieper, Petri Sarvamaa, Eleni Stavrou, Angelika Winzig, Lara Wolters
<b>Substitutes present for the final vote</b>	Maria Grapini, Viola von Cramon-Taubadel
<b>Substitutes under Rule 209(7) present for the final vote</b>	Isabel Benjumea Benjumea, Claude Gruffat, Anne-Sophie Pelletier

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

21	+
PPE	Isabel Benjumea Benjumea, José Manuel Fernandes, Monika Hohlmeier, Markus Pieper, Petri Sarvamaa, Eleni Stavrou, Angelika Winzig
Renew	Gilles Boyer, Olivier Chastel, Ilana Cicurel, Alin Mituța
S&D	Caterina Chinnici, Corina Crețu, Isabel García Muñoz, Maria Grapini, Claudiu Manda, Lara Wolters
The Left	Anne-Sophie Pelletier
Verts/ALE	Daniel Freund, Claude Gruffat, Viola von Cramon-Taubadel

1	-
ID	Joachim Kuhs

1	0
ID	Jean-François Jalkh

Key to symbols:

+ : in favour

- : against

0 : abstention