

Riga, 30 August 2018

Dr Ingeborg GRÄSSLE
Member of the European Parliament
Chair of Budgetary Control Committee

Subject: *Submission of the BEREC Office follow up report on Discharge 2016*

Your reference: *EP Decision P8_TA-PROV(2018)0135 of 18 April 2018 on budgetary discharge 2016 for the BEREC Office*

Dear Mrs Grässle,

I would like to address you in relation to the 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 ('the BEREC Office') for the financial year 2016 (2017/2175(DEC)).

In compliance with the provisions of Article 110 (1) of the BEREC Office Financial Regulation the BEREC Office has undertaken all appropriate steps to act on the observations accompanying the European Parliament discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council of the European Union, as presented in the Annex.

The BEREC Office has acknowledged the great relevance of the comments received from the European Parliament and has given utmost importance to the actions which would remedy the indicated shortcomings. However, I would like to emphasise that some of the issues identified are outside the influence of the Agency and should be addressed jointly by the European Commission, the European Parliament and the Council, such as the need for ensuring adequate resources to the Agency to fulfil its mandate and to ensure its smooth day-to-day operation. I trust that the European Parliament and the Council, with the assistance of the Commission, will address this matter during the forthcoming discussions on the Draft Budgets 2019 and 2020 and the next multiannual financial framework in line with the high priority given to the digital single market, innovation and digitisation.



I hope the information provided will serve as a proper follow-up of the observations of the European Parliament. I remain at your disposal in case of any further need for additional information.

Yours sincerely,

(e-signed)

László IGNECZI
Administrative Manager

BEREC Office follow up report on discharge 2016
EP Decision P8_TA-PROV(2018)0135 of 18 April 2018 on budgetary discharge 2016 for BEREC Office

Observation of the Discharge Authority	Response and measures taken by the Agency	Status/Reference
<p>1. 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 %; 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;</p>	<p>Since 2017 the BEREC Office replaced the FWCs with direct service agreements.</p>	<p>Closed</p>

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<p>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;</p>	<p>The EFTA contributions were not envisaged in the budget of 2014.¹</p> <p>These contributions will be considered only after the respective agreements between the EU and the EFTA countries will be concluded.</p>	<p>Closed</p>
<p>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;</p>	<p>The reduction of 2 posts in the BEREC Office establishment plan (from 16 to 14 posts) in combination with the additional assignments to BEREC via Regulation (EU) 2015/2120 (TSM Regulation) has led to a significant increase in the workload for the BEREC Office staff, which has been identified as a risk factor for carrying out the mandate of the Office, while maintaining its smooth day-to-day operation.</p> <p>To partially mitigate this risk the BEREC Office has externalised as much as possible technical and administrative tasks.</p> <p>To further release internal capacity and to increase its efficiency the BEREC Office joins any interinstitutional provision of service of interest to the Agency, either offered by the Commission services or by other agencies.</p> <p>However, with the new tasks assigned to the BEREC Office via the recently agreed new BEREC Regulation, which substantially enlarges the current Agency's mandate, the BEREC Office will need additional human and financial resources.</p>	<p>On-going</p>

¹ [Statement of revenue and expenditure of the BEREC for the financial year 2014](#)
[Statement of revenue and expenditure of the BEREC Office for the financial year 2014 — Amending Budget No 1](#)

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	It is expected that this need will be properly addressed during the budgetary procedure for the adoption of the EU Budget 2019.	
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;	The BEREC Office is half of the size of the next small agencies and never reached the critical mass of staff and competencies as stipulated in point 31 of the inter-institutional agreement on budgetary disciplines. It is expected that this issue will be properly addressed during the budgetary procedure for the adoption of the EU Budget 2019.	On-going
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 %;	<p>According to the BEREC Regulation “The Management Committee shall be composed of one member per Member State who shall be the head or nominated high level representative of the independent NRA established in each Member State with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services, and one member representing the Commission”.</p> <p>The BEREC Office has no influence on the Member States in their choice of heads of their NRAs.</p>	<p>Closed</p> <p>Article 7 (1) of 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</p>
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;	The BEREC Office management is regularly analysing the reasons for the staff turnover and trying to address them, as far as possible, as some of the reasons for the turnover,	<p>On-going</p> <p>CAAR 2017 – MC (18) 55</p>

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<p>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;</p>	<p>such as the correction co-efficient, are outside the influence of the Agency.</p> <p>The analysis and the measures taken to mitigate the risk are regularly reported to the Management Committee and have been included in section 2.4 of the Consolidated Annual Activity Report (CAAR) for 2017.</p> <p>These include, among others:</p> <ul style="list-style-type: none"> - raising the issue of the correction co-efficient in all relevant meetings and fora; - developing measures for improving the living conditions for the staff in the host member state, including by working with the local authorities, trying to address difficulties for the staff in obtaining access to public or commercial services, etc.; - providing access to international schooling in the absence of European school; - trying to eliminate the restrictions in the access to kindergarten for BEREC Office staff children; - addressing the heavy workload by externalising technical and administrative tasks, and others; <p>In the beginning of 2018 the Management Committee adopted an action plan for social welfare measures, whose implementation has started.</p> <p>However, any measures oriented towards retaining the staff would have only mid- and long-term impact on the staff turnover and therefore as a first mitigating measure the BEREC Office must be prepared to fill in immediately any post, which becomes vacant. Therefore, as requested by the Management Committee, in 2017 the BEREC Office</p>	<p>Decision MC/2018/04 on social welfare measures</p>

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	continued the enlargement of the existing reserve lists, which has proved to be a successful formula for a 'fast-track' recruitment of staff for posts, which become vacant.	
<p>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;</p>	<p>The BEREK Office has its headquarters in Riga, where the meteorological conditions during the winter season are quite harsh.</p> <p>Some staff members have reported that the low temperature in some of the offices may have negative influence on their health. To mitigate this risk the BEREK Office requested the property manager to install additional air conditioners and heaters and to improve the insulation of the windows, where needed, including in the Programme Management Unit (PM). These projects are on-going and are expected to lead to improvement of the working conditions.</p> <p>It should also be pointed out that due to the small number of staff in the BEREK Office, a longer individual sick leave has a large impact on the overall averages for the Units and the Agency as a whole.</p> <p>During 2016 11 staff members in the PM took sick leave, one of whom had 38 days of sick leave. This number is an outlier and influences the average, which would otherwise be lower (3.05 for 10 staff members) and very close to the average of 2.82 in the Administration and Finance Unit.</p>	On-going
<p>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</p>	<p>The BEREK Office is motivated to develop a culture in which psychological and sexual harassment, like other forms of violence in the workplace, are considered unacceptable and are neither tolerated nor ignored. Therefore trainings on such topics are regularly organised for the staff. In 2018 a two day training event on "Respect</p>	Closed

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and suggests to regularly organise training and information session on the matter;	and Dignity at Workplace” was organised for all the staff. Staff is also regularly invited to enrol in online trainings on the related topics. All new comers are provided with training materials on ethical values and prevention of harassment.	
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;	In accordance with Article 110 of the Staff Regulations, the BEREC Office is currently in the process of adopting the implementing rules on whistleblowing prepared by the Commission as well as the corresponding data protection policy. These documents will be adopted by the end of 2018.	Closed