

24 February 2014

NOTE TO THE FILE

Subject: Draft Report on the discharge in respect of the implementation of the budget of the Body of European Regulators for Electronic Communications for the financial year 2012, 2013/2241(DEC)

Rapporteur: Mr Petri Sarvamaa

This note has been prepared with reference to the discussion of the Draft Report on the discharge of the implementation of the budget of the Body of European Regulators for Electronic Communications (BEREC Office) for the financial year 2012 during the European Parliament Committee on Budgetary Control (CONT) meeting on 18 February 2014 and with reference to the explanatory Note from the European Commission Directorate-General for Communications Networks, Content and Technology (DG CONNECT) from 19 February 2014, Ares(2014)408738.

The purpose of the current note is to provide the CONT Committee with a detailed and updated overview of the status of all the relevant activities undertaken by the BEREC Office in order to address the observations of the European Court of Auditors (ECA). The intention of the BEREC Office therefore is to complement the information already provided by the European Commission.

Whereas:

Pursuant to the provisions of Article 287 of the Treaty (TFEU), on the 4-8 February 2013, the ECA conducted its annual audit, in the premises of the BEREC Office, on the BEREC Office 2012 accounts.

The Preliminary Observations of the ECA with a view to a final report on the annual accounts of the BEREC Office for the year 2012 were sent to the BEREC Office on 25 March 2013.

Upon request of its Management Committee the BEREC Office prepared a plan of activities to be undertaken in order to address the ECA observations.

A special Task Force of the Management Committee was set up in September 2013 in order to support the BEREC Office with its administrative tasks and to closely monitor the progress with addressing the observations of the ECA.

The Administrative Manager of the BEREC Office has regularly reported the status of the activities to the Management Committee and to its Task Force.

The BEREC Office received the Final Report from the ECA on 6 November.

In the Court's opinion, the Office's annual accounts present fairly, in all material respects, its financial position as at 31 December 2012 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer.

Further, in the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2012 are legal and regular in all material respects.

Despite of the positive assurances provided by the ECA on the reliability of the accounts and on the legality and regularity of the transactions, the Court of Auditors provided further comments, observations and made recommendations for further improvement of the BEREC Office administrative practices in critical functional areas. The BEREC Office has appreciated the valuable observations made by the ECA and has taken the utmost account of these comments in its corrective activities in 2013.

The BEREC Office was granted its autonomy on 12 September 2011 and by December 2011 when making decisions about the carry-forwards into 2012 had only two months of detailed budgetary data to rely on. The recruitments were ongoing with administrative and financial roles not yet fully covered.

The financial year 2012 was the BEREC Office's first year of operations, with the recruitments or replacements of the critical positions still in progress and with the definition of all of its procedures ongoing. The 12 months of budgetary management gave valuable experience, which enabled to improve the forecasts as compared to the year 2011 and to gradually improve the quality of financial management. As indicated by the ECA, the results of the year 2012 however had several areas for improvement. These experiences of the first financial year together with the observations of the ECA have been taken into consideration in 2013.

The BEREC Office wants to bring to the attention of the European Parliament the following progress in its accounting, budgetary and financial management practices, the implementation of the Internal Control Standards and the implementation of improved procedures in areas like recruitment, procurement, exceptions and assets management:

Comments on the reliability of accounts

1. Regrets that the Body's accounting system was still not validated by its accounting officer; calls on the Body to address this issue and to inform the discharge authority on the state of play regarding steps to be taken by 1 September 2014;

[Comment BEREC Office on the progress: the accounting system has been validated in 2013](#)

Comments on the legality and regularity of transactions

2. Regrets that the committed appropriations carried over, amounting to EUR 61 500 (10 % of the total committed appropriations carried over), did not correspond to legal commitments and were thus irregular; calls on the Body to take steps in order to avoid such situations in the future and to report on the steps to be taken by 1 September 2014;

Comment BEREC Office on the progress: the comments of the ECA about the irregularities with carry-overs were analysed in 2012 in respect to 2011 performance and the results improved. However, the issues with carry-forwards in the end of 2012 were of different nature and largely due to the lack of experience of the available staff with the year-end closure activities. Due to the resignation of critical staff in financial and accounting roles in the 3rd and 4th quarters of 2012 the year-end closure was managed largely with the back-up staff brought in as support from the operational functions. The learnings from both 2011 and 2012 were addressed in 2013 by specifying the financial procedures (incl. year-end carry-forwards) and by providing additional refresher trainings to all financial actors incl. the back-ups. Extra attention was paid throughout the 2013 to the correct opening of financial and legal commitments. Also, extra care was taken in the end of 2013 in order to de-commit any appropriations not executed (RAL) in a timely manner.

Comments on budget and financial management

3. Notes with concern that budget monitoring efforts during the financial year 2012 resulted in a budget implementation rate of 63,4 % and that the payment appropriations execution rate was 66,16 %;

Comment BEREC Office on the progress: after the ECA audit for the financial year 2013 between 10- 14 February 2014 the BEREC Office has finalised its Provisional Accounts for 2013 and these are signed by the Accounting and Authorising Officers providing their assurance in respect to the data for the financial year 2013 and preparedness for the adoption by the Management Committee and for the submission to the Commission Accounting Officer.

The results of the Provisional Accounts for 2013 show the following improved performance as a result of measures taken in 2013:

- the budget implementation (commitment appropriations) in 2013 - **89,55 %**;
- execution of payment appropriations in 2013 - **76,57 %**.

Commitments and carryovers

4. Regrets that some EUR 101 000 (45 % of the committed appropriations carried over from 2011) were cancelled; expresses concern that appropriations of EUR 545 000 (17 % of the total 2012 appropriations) were not used and had to be cancelled; regrets that the level of carry-overs of committed appropriations to 2013 was high at EUR 611 000 (19% of the total); believes that this indicates difficulties in the planning and/or implementation of the Body's activities, as the carry-overs for 2012 were mostly related to delayed recruitments and the absence of an effective policy to ensure the timely presentation and reimbursement of mission costs claimed by experts; calls on the Body to address the situation and to report to the discharge authority on the steps taken by 1 September 2014;

Comment BEREC Office on the progress: The measures taken in terms of the improved procedures and additional allocation of staff are referred to in the note of DG CONNECT (Financial and Accounting Manuals, refresher trainings, nomination of an additional role of a Budget Assistant).

The results in 2013 as to the signed Provisional Accounts 2013 show following improvements both for commitments and carry-overs:

- de-commitment of the committed appropriations carried over from 2012 to 2013 - **28% in 2013 vs. 45% in 2012;**
- appropriations not used in 2013 - **15% in 2013 vs. 17% in 2012;**
- carry-over of commitment appropriations from 2013 to 2014 - EUR 461,983 (**13% in 2013 vs. 19% in 2012**).

Carry-over of commitments from year 2011 to 2012 unfortunately can not be compared with 2012 and 2013, because the BEREC Office was responsible for managing its budget only in 4th quarter of 2011 after being granted the autonomy.

Procurement and recruitment procedures

6. Notes with concern that there is considerable room for improvement regarding the preparation, execution and documentation of procurement procedures; notes in particular that award procedures did not give sufficient attention to the price-quality ratio and that general award criteria had not been broken down further into sub criteria to allow a clear and comparable evaluation of the offers;

Comment BEREC Office on the progress: The BEREC Office procurement procedure was adopted in July 2012, taking among others into consideration the comments of the ECA during its 2011 audit in May 2012. For example the formula for calculating the final results of the tenders was corrected immediately in June 2012 after the ECA audit. However, the corrections in the middle of 2012 could not redo the performance in the 1st half of 2012. The status in the 1st half of 2012, despite the corrections since June and July 2012, was naturally reflected in the ECA audit for the whole year 2012. Further, the proper implementation of the procurement procedure in the 2nd half of 2012 was hampered by the resignation of critical staff in financial and accounting roles in the 3rd and 4th quarters of 2012 (same roles involved in the year-end closure activities as referred to under item 2 above). The procurements were managed with the back-up staff brought in as support from other functions. The further improvement areas as pointed out by the ECA during its 2012 audit were addressed in 2013 by:

- a) further specifying the procedure and including the descriptions of it together with the procurement check-lists in the Financial Manual;
- b) nominating the new role of a Procurement Officer in August 2013;
- c) decentralising the responsibility for procurement between the larger number of staff members and providing relevant training in 2013 to all the team members potentially being involved in the procurements.

7. Regrets that the recruitment procedures examined showed significant shortcomings affecting transparency, namely that questions for written tests and interviews were set after the applications had been examined by the selection board, no threshold scores were set for admission to written tests and interviews and for inclusion in the list of suitable candidates, and nominations and changes in the composition of the selection board were not approved by the appointing authority;

Comment BEREC Office on the progress: As with the procurement, the comments of ECA during its 2011 audit in May 2012 were immediately taken into consideration (e.g. the approval by the Appointing Authority of the composition of the Selection Committee). However, the corrections since June and July 2012 could not redo the performance in the 1st half of year 2012, which was reflected in the ECA observations. As pointed out in the note of DG CONNECT, in 2013 the recruitment procedure has further been specified and strictly followed.

8. Notes with concern that while most of the Body's staff have an administrative or support function and do not travel, they have all been provided with a mobile phone with a monthly limit up to EUR 50; expresses concern that there are no controls to monitor private use;

Comment BEREC Office on the progress: the usage of the mobile phones was monitored from the moment of the distribution of the handsets to the staff members. The appropriate telecommunications policy was developed based on the principles of the ECA relevant policy. The policy was introduced in July 2013 and further updated in January 2014.

9. Regrets that the Body does not have a treasury policy; notes that as a result, at the end of 2012, all cash held by the Body (EUR 1 600 000) was held in one bank, which has a BBB credit rating;

Comment BEREC Office on the progress: the treasury policy is applicable from July 2013. The contract with the new bank was signed in July 2013. ING Belgium has A credit rating and is used by the Commission in Brussels. Since then the BEREC Office gradually moved its cash to ING. Immediately after the signature of the contract, 2013 the biggest amount (1.5MEUR) was transferred in August and the remaining amount in November 2013.

As of 31 December.2013, the BEREC Office has only EUR 1.000 left in the bank with a BBB rating (UniCredit) used in 2012 (UniCredit).

The available cash of the BEREC Office at the moment is as follows:

- approximately EUR 500.000 in ING
- approximately EUR 1.000 in UniCredit.

10. Calls on the Body to report on the actions taken to remedy the aforementioned outstanding issues concerning procurement and recruitment procedures by 1 September 2014;

Internal audit

11. Deplores the fact that there are a number of outstanding issues as regards the internal controls, namely that:
- the Office has not yet implemented the Internal Control Standards on 'Objectives and performance indicators' (ICS 5), 'Process and procedures' (ICS 8), 'Document management' (ICS 11) and 'Information and Communication' (ICS 12),

Comment BEREC Office on the progress: ongoing based on the multi-annual implementation plan over 2013-2015, which has been agreed with the Internal Audit Service (IAS). The following progress in 2013 has been made in respect to the observations from the ECA:

'Objectives and performance indicators': Activity Based costing and budgeting model (ABB) was developed with the external support in July 2013. The introduction of the new budgeting principle included the review of the objectives and the performance indicators of the annual Work Programme. The definition of objectives was revised and the performance indicators were better aligned with the specific objectives of the Work Programme activities.

'Process and procedures' (ICS 8): The processes for the financial management, accounting, assets management, procurement, recruitment have been newly defined or further specified and documented as described in the sections above. The inventory of the procedures, which involve the processing of personal data was approved in July 2013.

'Document management' (ICS 11): The initial document management policy, which was adopted in 2012, has been reviewed as specified in the IAS implementation plan and the updated version will be adopted at the beginning of 2014.

'Information and Communication' (ICS 12): The required IT Security policies were introduced in October 2013.

- there is no procedure related to the registration and disposal of fixed assets and no physical inventory has been performed,

Comment BEREC Office on the progress: implemented in July/September 2013

- procedures concerning the establishment, approval and recording of exceptions and deviations from policies and procedures have not been implemented;

Comment BEREC Office on the progress: register of exceptions and deviations was established in June 2012. Further, the procedure for the establishment, approval and recording of the exceptions was adopted in June 2013

Ando Rehema

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