

**Seat Agreement
between
the Office of the Body of European Regulators for
Electronic Communications
and the
Government of the Republic of Latvia**

The Office of the Body of European Regulators for Electronic Communications “BEREC Office” and the Government of the Republic of Latvia (“the Government”), hereinafter referred to together as “the Parties”;

Having regard to Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009 (OJ 18 December 2009, L 337/1) establishing the Body of European Regulators for Electronic Communications (BEREC) and the Office, hereinafter referred to as “the BEREC Regulation”;

Having regard to the Protocol on the Privileges and Immunities of the European Union, hereinafter referred to as “the Protocol”;

Having regard to the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the European Union’s institutions for the purpose of the application of those Staff Regulations and Conditions of Employment;

Whereas:

1. The Decision of the Representatives of the Governments of the Member States of 31 May 2010 provides that the BEREC Office shall have its seat in Riga, Latvia (2010/349/EU);
2. Article 23 of the BEREC Regulation specifies that the Protocol shall apply to the BEREC Office and its staff;
3. Article 10 of the BEREC Regulation specifies that the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities and the rules adopted jointly by the European Union’s institutions for the purpose of the application of those Staff Regulations and Conditions of Employment shall be applicable to the staff of the BEREC Office, including to the Administrative Manager;

4. Article 10 (4) of the BEREC Regulation specifies that national experts may be seconded to the BEREC Office on a temporary basis and for a maximum of three years;
5. Further administrative provisions are needed for the implementation of certain Articles of the Protocol and for additional matters;

Have agreed as follows:

Article 1
Definitions

1. For the purposes of this Agreement and of the application of the Protocol to relations between the BEREC Office and the Government, the following definitions shall apply:
 - (a) all references to the European Union in the Protocol shall be read as references to the BEREC Office;
 - (b) all references to the officials and other servants of the European Union shall be read as references to the staff of the BEREC Office;
 - (c) with the exceptions of Articles 6, 12, 14 and 15 of the Protocol, references to the Council and the Commission therein shall be read as references to the Administrative Manager of the BEREC Office;
 - (d) staff of the BEREC Office shall mean the personnel employed directly by the BEREC Office pursuant to Article 10 (1) of the BEREC Regulation, and in particular, temporary agents and contract agents;
 - (e) seconded experts shall mean persons seconded to the BEREC Office by the Member States, National Regulatory Authorities or other employers pursuant to article 10 (4) of the BEREC Regulation;
2. For the purposes of this Agreement, the seat of the BEREC Office is understood as the buildings, installations and land used by the BEREC Office in Riga for its official business including in particular the office premises and its archives.

Article 2
Legal Capacity

The BEREC Office is a European Union body and has legal personality in accordance with Article 6 of the BEREC Regulation. It shall enjoy the widest possible legal capacity accorded to legal persons under the law of Republic of Latvia. It may, in particular, have the capacity to contract, acquire and dispose of movable and immovable property and be party to legal proceedings.

Article 3

Contribution by the Government

1. The Government will provide full institutional support for the work of the BEREC Office.
2. The building and installations used by the BEREC Office will be described in a Memorandum of Understanding between the BEREC Office and the Government, subject to the agreement of the budgetary authority. The Memorandum of Understanding will include the requirements, conditions and specifications to which the premises should respond as well as the conditions for the occupation by the BEREC Office.
3. Upon the request of the BEREC Office the Government will provide administrative support in terms of manpower to organise the local procurement procedures for and at the expense of the BEREC Office buying office equipment, including in particular the communication infrastructure (IT and ICT equipment), the office furniture and possible contracts with external security personnel, as appropriate.

Article 4

Inviolability and Immunity

1. The seat of the BEREC Office, irrespective of ownership, shall be inviolable in accordance with Articles 1 and 2 of the Protocol, except insofar as in any particular case the BEREC Office has expressly waived this inviolability. The seat of the BEREC Office shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the BEREC Office, wherever located and whomsoever held, shall not be subject to any administrative or legal measure of constraint, whether by executive, administrative, judicial or legislative action, without the authorisation of the Court of Justice of the European Union.
2. No official of the authorities of the Republic of Latvia shall enter the premises of the BEREC Office without prior approval of the Administrative Manager of the BEREC Office or his/her authorised representative. Such approval shall be presumed in case of fire or other disasters which could constitute a danger for public health and safety.
3. The archives of the BEREC Office, its official correspondence and any document pertaining to it or being under its possession and intended for its official use shall be inviolable.
4. The Government shall take all appropriate steps to ensure the protection of the seat of the BEREC Office. Upon request by the Administrative Manager of the BEREC Office, the Government shall supply the necessary support for the maintenance of order within the premises.

Article 5

Facilitations for communication

1. The BEREC Office shall enjoy, in respect of its official communications, treatment no less favourable than that accorded by the Government to any other government including its diplomatic missions or to other intergovernmental organizations in the matter of priorities, tariffs and charges on mail, cablegrams, telephotos, telephone, telegraph, telex and other communications.
2. The Government shall secure the inviolability of the official communications and correspondence to and from the BEREC Office and shall not apply any censorship to such communications and correspondence.
3. The BEREC Office shall have the right to use codes and to dispatch and receive correspondence and other official materials by courier or in sealed bags which shall have the same privileges and immunities as diplomatic couriers and bags.

Article 6

Security of the BEREC Office

1. The BEREC Office shall be responsible for the security and the maintenance of order at its seat. It shall also be responsible for compliance with the European Union law and the law of the Republic of Latvia that are applicable to it, subject to the Protocol and this Agreement.
2. For the purpose of exercising the responsibility incumbent upon it by virtue of paragraph 1, the BEREC Office shall take all measures it deems necessary and shall, in particular, issue internal rules which are binding for all staff working at the agency and all visitors. It may prohibit access to its seat by persons considered undesirable and may have such persons removed from its seat.
3. The carrying and use of firearms or other security equipment at the Seat shall be subject to the law of the Republic of Latvia.

Article 7

Public services

1. To the extent requested by the Administrative Manager of the BEREC Office, the Government shall ensure that the BEREC Office is supplied with the public services necessary for performing its functions with the same priority as those of essential agencies of the Government. In case of any interruption or threatened interruption of any such services, the appropriate authorities of the Republic of Latvia shall consider the needs of the BEREC Office as being of equal importance as those of essential agencies of the Government and shall take steps accordingly to ensure that the work of the BEREC Office is not prejudiced.

2. Public services for the purpose of this provision include, but are not limited to, electricity, water, sewerage, fire protection, refuse collection, gas, post and electronic communications.

Article 8

Tax exemptions

1. The BEREC Office, its assets, revenues and other property shall be exempt from all direct taxes.
2. The BEREC Office shall be exempt from all national, regional and municipal excise duties, sales charges and other taxes on the supply of goods and services to the BEREC Office when it is making substantial purchases¹ for official use of movable and immovable property or services including in particular direct and indirect taxes on information communication services and on the consumption of electricity and gas or any other type of fuel consumed with regard to heating and cooling the BEREC Office's office premises.
3. Tax restitution procedure: Exemption from value added tax, excise duty and other indirect taxes is provided by means of a tax refund, in accordance with the procedural rules foreseen for the Representation of the European Union.

Article 9

Imports and exports

1. The BEREC Office is exempt from customs duties and from any other taxes, prohibitions or restrictions on goods of any kind which it imports or exports in the exercise of its official business.
2. Goods imported with exemption from taxes and duties under the provisions of this agreement cannot be transferred to third parties, either for a consideration or free, without prior agreement of the authorities of the Republic of Latvia.

Article 10

BEREC Office vehicles

1. The BEREC Office is exempt from any duties and any import restrictions on vehicles intended for the official use of the BEREC Office and on spare parts for the same.
2. The BEREC Office also benefits from exemption from vehicle exploitation tax for these vehicles which are registered under a special series. Fuel and lubricants required for the said vehicles may be imported free of customs duties and taxes. The BEREC Office may freely dispose of these vehicles five

¹ The notion of substantial purchases concerns any amount above 125 LVL.

years after they are imported, without any prohibition or restriction, and without any customs or other duty.

Article 11

Staff of the BEREC Office

1. In accordance with Article 23 of the BEREC Regulation, Articles 11 to 15 and 17 of the Protocol shall apply to the staff of the BEREC Office, including the Administrative Manager. **In conformity with and in addition to the privileges and immunities granted by the above mentioned provisions**, the following provisions shall apply to the staff of the BEREC Office:
 - a. Salaries, wages and emoluments paid by the BEREC Office, as well as retirement, invalidity and survivor's pensions paid by the European Union shall be exempt from national taxes.
 - b. The tax authorities shall refund the value added tax included in the price of articles listed in Annex A, including a vehicle for personal use, acquired by the staff of the BEREC Office in the market of the Republic of Latvia within one year from taking up their post in the Republic of Latvia, in accordance with the relevant rules foreseen for the reimbursement of the value added tax to resident officials of international organisations in the Republic of Latvia, provided they are not nationals of and permanent residents in the Republic of Latvia. The price including value added tax of a single article is not less than 35 LVL.
 - c. Staff of the BEREC Office shall have the right to import from their last country of residence or from the country of which they are nationals, free of duty and without prohibitions or restrictions, in respect of initial establishment, within two years of taking up their appointments within the BEREC Office and in maximum two shipments, furniture and personal effects, including vehicles purchased under market conditions in the country in question.
 - d. Staff of the BEREC Office shall be entitled to export, after the date of cessation of functions at the BEREC Office, without prohibitions or restrictions, personal and household effects, including vehicles they use and which are in their possession.
2. The staff of the BEREC Office shall be exempt from all compulsory contributions to the social security organisations of the Republic of Latvia. Consequently, they shall not be covered by the social security regulations of the Republic of Latvia, unless they voluntarily join the Social Security System of the Republic of Latvia.
3. The provisions of paragraph 2 of this Article shall apply, mutatis mutandis, to the members of the family forming part of the household of the Administrative Manager or the staff of the BEREC Office, unless they are employed in the Republic of Latvia by an employer other than the BEREC Office or receive social security benefits from the Republic of Latvia.
4. The Government will guarantee staff of the BEREC Office immunity from the jurisdiction of the Republic of Latvia as regards acts carried out by them in

their official capacity, including their spoken and written statements. The immunity shall continue after cessation of their functions.

5. In addition to the privileges and immunities specified in the preceding paragraphs, the Administrative Manager and the members of his/her family forming part of his/her household, provided they are not nationals of the Republic of Latvia or have not held permanent residence status before being employed by the BEREC Office, shall be accorded, in the Republic of Latvia, the privileges and immunities, exemptions and facilities accorded to the heads of diplomatic missions and the members of their family in accordance with the Vienna Convention on Diplomatic Relations of 18 April 1961. This applies also to persons fulfilling the functions of Administrative Manager on a temporary basis for a period of at least two months.

Article 12

Seconded experts

1. As regards seconded experts, the following provisions apply:
 - a. Any emoluments, allowances and other payments that are paid by the BEREC Office shall be exempt from national taxes.
 - b. The tax authorities shall refund the value added tax included in the price of articles listed in Annex A, including a vehicle for personal use, acquired by the seconded experts of the BEREC Office in the market of the Republic of Latvia within one year from taking up their post in the Republic of Latvia, in accordance with the relevant rules foreseen for the reimbursement of the value added tax to resident officials of international organisations in the Republic of Latvia, provided they are not nationals of and permanent residents in the Republic of Latvia. The price including value added tax of a single article is not less than 35 LVL.
 - c. Seconded experts shall have the right to import from their last country of residence or from the country of which they are nationals, free of duty and without prohibitions or restrictions, in respect of initial establishment, within two years of taking up their appointments within the BEREC Office and in maximum two shipments, furniture and personal effects, including vehicles purchased under market conditions in the country in question.
 - d. Seconded experts shall be entitled to export, after the date of cessation of functions at the Agency, without prohibitions or restrictions, personal and household effects, including vehicles they use and which are in their possession.
2. Salaries, wages, emoluments, allowances and other payments that are paid by the organization that seconded these persons to the BEREC Office, where this organization is located outside the Republic of Latvia, shall be covered by the relevant double-taxation treaty.
3. For as long as they remain covered by the social security system in the country from which they are seconded to the BEREC Office, the seconded experts shall be exempt from all compulsory contributions to the social security organisations in the Republic of Latvia. Consequently, during that time they

shall not be covered by the social security regulations of the Republic of Latvia unless they voluntarily join the Social Security System of the Republic of Latvia.

4. The provisions of paragraph 3 of this Article shall apply, *mutatis mutandis*, to the members of the family forming part of the household of the seconded experts, unless they are employed in the Republic of Latvia by an employer other than the BEREC Office or receive social security benefits from the Republic of Latvia.
5. The Government will guarantee seconded experts immunity from the jurisdiction of the Republic of Latvia as regards acts carried out by them in their official capacity, including their spoken and written statements. The immunity shall continue after cessation of their functions.

Article 13

Entry and stay

1. The Government shall take all appropriate measures to facilitate the entry into, stay in and exit from its territory to the following persons, irrespective of their nationality:
 - a. The Administrative Manager, the staff of the BEREC Office and seconded experts
 - b. The members of the family forming part of the household of any person included in a, as well as
 - c. Any experts invited by the BEREC Office.
2. Visa, when needed by the persons referred to in paragraph 1, shall be granted as promptly as possible. The BEREC Office shall notify the Ministry of Foreign Affairs of the Republic of Latvia via diplomatic channels about visa applications prior to lodging them at the respective consulates of the Republic of Latvia.
3. The Administrative Manager, the staff of the BEREC Office and seconded experts, as well as the members of their family forming part of their household shall be exempt from immigration restrictions and formalities for the registration of aliens.
4. The Ministry of Foreign Affairs of the Republic of Latvia shall issue long-term visa to family members of the Administrative Manager, of the staff of the BEREC Office or of seconded experts, who are not nationals of the Member States of the European Union or nationals of Iceland, Liechtenstein, Norway or Switzerland.

Article 14

Employment

1. Members of the family forming part of the household of the Administrative Manager, of the staff of the BEREC Office as well as of the seconded experts shall enjoy access to the labour market without requiring a work permit, while in the Republic of Latvia and for the duration of the employment of the

Administrative Manager, the given staff or seconded expert with the BEREC Office in the Republic of Latvia.

2. Persons mentioned in paragraph 1 who obtain gainful employment in the Republic of Latvia shall enjoy no immunity from criminal, civil or administrative jurisdiction with respect to matters arising in the course of or in connection with such employment.

Article 15

Prevention of abuses

1. The privileges and immunities granted under the provisions of this Agreement are conferred in the interest of the BEREC Office and not for the personal benefit of the individuals themselves. It is the duty of the BEREC Office and all persons enjoying such privileges and immunities to observe in all other respects the laws and regulations of the Republic of Latvia.
2. The BEREC Office shall cooperate at all times with the appropriate authorities of the Republic of Latvia to facilitate proper administration of justice.
3. Upon reasoned request of the Government, the Administrative Manager shall waive the immunity of the staff of the BEREC Office and the seconded experts in all cases where such immunity would impede the course of justice, and where it can be waived without prejudice to the interests of the BEREC Office and the European Union.
4. Upon reasoned request of the Government, the Management Committee of the BEREC office shall waive the immunity of the Administrative Manager or one of its members in all cases where such immunity would impede the course of justice, and where it can be waived without prejudice to the interests of the BEREC Office and the European Union.

Article 16

Notification of appointments, identity cards

1. The BEREC Office shall inform the Ministry of Foreign Affairs of the Republic of Latvia when the Administrative Manager, a member of the staff of the BEREC Office or a seconded expert takes up or relinquishes his/her duties. Each year, the BEREC Office shall send a list of the names and addresses of the Administrative Manager, the members of the staff of the BEREC Office as well as the seconded experts to the Ministry of Foreign Affairs of the Republic of Latvia.
2. The Ministry of Foreign Affairs of the Republic of Latvia shall issue to the Administrative Manager, the staff of the BEREC Office as well as the seconded experts, and to the members of their family forming part of their household, provided they are not nationals of or permanent residents in the

Republic of Latvia, special identity cards certifying the position and status of the person.

3. BEREC Office shall return the identity cards of departing members of the BEREC Office and their family members to the State Protocol within a week of their final departure from the Republic of Latvia or the termination of their functions. The State protocol may delay the issuance of identity cards to a newcomer until the predecessors and members of their family forming part of the household have returned their identity cards.

Article 17

Social Security

1. The BEREC Office shall be exempt from all kind of compulsory contributions to social security schemes in the Republic of Latvia in respect of the Administrative Manager, the staff of the BEREC Office as well as the seconded experts.
2. The Administrative Manager and the staff of the BEREC Office shall have the social security coverage according to the Regulations and Rules applicable to officials and other servants of the European Union.

Article 18

Schooling

1. The Government undertakes to its utmost efforts jointly with the BEREC Office to find the best solution possible for schooling for the children of the BEREC Office staff. Ministry of Education and Science of the Republic of Latvia shall act as a focal point to provide additional information and shall address the reasoned questions with regard to schooling in the Republic of Latvia if requested by the BEREC Office.
2. The Government shall facilitate that the existing private and public international schools in Riga also offer European schooling to children of the BEREC Office staff in English, French and German and that the children of the BEREC Office staff get priority access to it.

Article 19

Settlement of Disputes

All disputes between the BEREC Office and the Government relating to the application of this Agreement should, where possible, be settled amicably by direct negotiations. In the event of failure to settle a dispute amicably, the dispute shall be referred to the Court of Justice of the European Union by the BEREC Office or by the Government, after having given the other party two months notice in advance of its intention of referring the matter to the said Court of Justice.

Article 20
Final Provisions

1. This Agreement shall enter into force on the 30th day following the date on which the BEREC Office and the Government have notified each other of the completion of the procedures required, for each of them, to be bound by it. Articles 8, 11 and 12 shall apply as from 1st October 2010.
2. This Agreement shall remain in force until the completion of the winding up of the BEREC Office, unless agreed otherwise by the BEREC Office and the Government.
3. This Agreement may be amended by mutual consent of the BEREC Office and the Government. Such amendments shall enter into force in accordance with paragraph 1 of the present Article.
4. Either party can denounce this Agreement at any time with twenty four months notice by means of written notification to the other party.

Signed at Riga, on 24th February 2011 in English and Latvian, both texts being equally authentic.

On behalf of the Office of the
Board of European Regulators
for Electronic communications

On behalf of the
Government of the Republic of
Latvia

(s)

(s)

Chris Fonteijn
Chairman of the Management
Committee

Uldis Augulis
Minister of Transport

(s)

Ando Rehema
Administrative Manager

Annex A
Reimbursement of Value Added Tax for Articles Acquired by the Staff and the
Seconded Experts of the BEREC Office

List of articles covered by the exemption of value added tax for the personal use in the Republic of Latvia of a member of the staff and the seconded experts of the BEREC Office

1. Vehicles:
 - 1.1. motor-cars of all types;
 - 1.2. motor cycles, mopeds, bicycles.

2. Interior decoration objects (for example: furniture, carpets, curtains, curtain rods, blinds, table cloths, plates and dishes, table and wall clocks).

3. Office equipment (for example: computers, computer parts and computer accessories, printers and their spare parts, scanners, copiers and their spare parts, calculators, telephones and fax machines).

4. Household appliances:
 - 4.1. electrical appliances (for example: washing machines, mangles, irons, sewing-machines, dishwashers, freezers, refrigerators, heaters, cleaning equipment, fans, humidifiers, air conditioners, stoves, ovens, mixers, coffee grinders, coffee machines, grills, roasters, toasters, projectors, lamps etc.);
 - 4.2. audio and video equipment (for example: radio sets, tape-recorders, acoustic equipment, amplifiers, loudspeakers, microphones, television sets, video recorders, video cameras, antennas).