2017 discharge: Office of the Body of European Regulators for Electronic Communications (BEREC Office)

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PURPOSE: presentation of the EU Court of Auditors' report on the annual accounts of the Office of the Body of European Regulators for Electronic Communications (BEREC) for the year 2017, together with the Office's reply.

CONTENT: the Court of Auditors carried out the audit on the annual accounts of the Office of the Body of European Regulators for Electronic Communications (BEREC).

In brief, the Office's main task is to provide professional and administrative support services to the Body of European Regulators for Electronic Communications (BEREC) and, under the guidance of the Board of Regulators, to collect and analyse information on electronic communications and to disseminate among National Regulatory Authorities regulatory best practices such as common approaches, methodologies or guidelines on the implementation of the EU regulatory framework.

Statement of assurance and reliability of the accounts

The Court considered that:

- the Office's annual accounts present fairly, in all material respects, its financial position as at 31 December 2017 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;

- the transactions underlying the annual accounts for the year ended 31 December 2017 are legal and regular in all material respects.

The report also makes a series of observations on the budgetary and financial management of the Office, accompanied by the latter's response. The main observations may be summarised as follows:

The Court's observations

Budgetary management

In December 2017, the Office signed both legal and budgetary commitments of EUR 20 000 for a training planned for the end of March 2018. The financing of 2018 activities from the 2017 budget is in contradiction with the budgetary principle of annuality.

Financial management and performance

In August 2015, the Office launched a call for tender to conclude a four-year multiple framework service contract in cascade with an estimated market volume of EUR 3 million for the organisation and planning of events such as meetings, workshops, conferences, etc. The award criteria did not attach sufficient weight to the price element. Furthermore, the potential event costs were not covered by the competitive procedure, but only the tenderer's management fee. The procurement procedure, therefore, did not ensure

adequate competition on price and the contract may not represent the most economically advantageous offer.

Agencies should introduce a single solution for the electronic exchange and storage of information with third parties participating in public procurement procedures (e-procurement). As the same requirement exists for all EU Institutions, the Commission is developing a comprehensive IT solution covering all phases of public procurement procedures. The Commission launched tools for electronic invoicing (e-invoicing), for the electronic publication of documents related to contract notices (e-tendering) and for the electronic submission of tenders (e-submission). By the end of 2017, the Office had introduced e-tendering for certain procedures, but not e-invoicing and e-submission.

On 29 March 2017 the United Kingdom (UK) notified the European Council of its decision to withdraw from the European Union (Brexit). Unlike most of the other agencies, the Office did not carry out a comprehensive analysis of the likely Brexit impact on its organisation, operations and accounts.

The Office's replies

Budgetary management

The choice of a framework contract was made in 2015. At that time a 'cost-plus-fixed-fee contract' was considered as compliant with the Financial Regulation since several cost-plus-fixed-fee contracts were and are still currently used by other EU institutions (e.g. travel agency or banking services).

Due to the specificities of the BEREC operation a large part of the expenses related to BEREC events covered by the BEREC Office are related to reimbursement of experts, mainly to public bodies established in the EU Member States (e.g. national regulatory authorities — NRAs). It should therefore be noted that the contractor has no influence on this type of expenditure. Further to the comments and valuable exchange of views with ECA, in the relaunch of the procurement the BEREC Office will consider also other types of framework contracts, which did not exist under the legal framework in force in 2015.

Financial management and performance

Currently the Agency does not employ UK nationals, who might be affected. The impact on the Agency workload could be assessed only after the final decision on the relations between the EU and the UK. Having in mind the fact that the BEREC Office budgets and staffing were not amended when Croatia joined the EU to address the additional expenditure and workload and considering the small budget of the BEREC Office, similar approach could be expected with the Brexit.

Lastly, the Court of Auditors' report contained a summary of the Office's key figures in 2017:

Budget

EUR 4 million.

Staff

27 including officials, temporary and contract staff and seconded national experts.