

**COMMISSION DECISION****of 18 March 2019****on the participation of the National Regulatory Authority of Kosovo (\*) in the Body of European Regulators for Electronic Communications**

(2019/C 115/09)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Whereas:

- (1) Article 17(1) of the Treaty on European Union lists the powers of the Commission and provides that the Commission is to promote the general interest of the Union and take appropriate initiatives to that end, exercise coordinating, executive and management functions, as laid down in the Treaties, and ensure the Union's external representation, with the exception of the common foreign and security policy and other cases provided for in the Treaties.
- (2) Pursuant to Article 35(2) of Regulation (EU) 2018/1971 of the European Parliament and of the Council <sup>(1)</sup>, the Board of Regulators, the working groups and the Management Board are to be open to the participation of regulatory authorities of third countries with primary responsibility in the field of electronic communications, where those third countries have entered into agreements with the Union to that effect. It also provides that under the relevant provisions of those agreements working arrangements are to be developed specifying, in particular, the nature, extent and manner in which the regulatory authorities of the third countries concerned will participate without the right to vote in the work of the Body of European Regulators for Electronic Communications ('BEREC') and of the BEREC Office, including provisions relating to participation in the initiatives carried out by BEREC, financial contributions and staff to the BEREC Office.
- (3) Pursuant to Article 111 of the Stabilisation and Association Agreement between the European Communities and their Member States, of the one part, and the Republic of Kosovo (\*), of the other part <sup>(2)</sup>, cooperation on electronic communications is to primarily focus on priority areas related to the EU acquis in this field. The Parties are to strengthen in particular, cooperation in the area of electronic communications networks and electronic communications services, paying particular attention to ensuring and strengthening the independence of the relevant regulatory authorities. The Union and Kosovo have therefore entered into an agreement within the meaning of Article 35(2) of Regulation (EU) 2018/1971.
- (4) The participation of the regulatory authority of Kosovo in BEREC and the BEREC Office is fully consistent with the Western Balkans strategy <sup>(3)</sup>, which calls for actions to develop the digital society, including the deployment of broadband and the lowering of roaming costs, and to align those countries' laws with the Union legislation. As indicated in the Digital Agenda for the Western Balkans <sup>(4)</sup>, a closer relationship between the Union and Western Balkans National Regulatory Authorities ('NRAs') should help bring regulatory practice in the region closer to the practice in the Union.
- (5) Given the interest of the Union in strengthening cooperation with Kosovo and fostering the adoption by Kosovo of the Union regulatory regime for electronic communications, it is appropriate to establish the working arrangements for the participation of the regulatory authority of Kosovo in the Board of Regulators and working groups of BEREC and the Management Board of the BEREC Office,

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(\*) This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence.

(1) 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 (OJ L 321, 17.12.2018, p. 1).

(2) Stabilisation and Association Agreement between the European Union and the European Atomic Energy Community, of the one part, and Kosovo (\*), of the other part (OJ L 71, 16.3.2016, p. 3).

(3) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A credible enlargement perspective for and enhanced EU engagement with the Western Balkans (COM(2018) 65 final, 6.2.2018).

(4) SWD(2018) 360 final, Commission Staff Working Document, Measures in support of a Digital Agenda for the Western Balkans.

HAS DECIDED AS FOLLOWS:

*Article 1*

The national regulatory authority of Kosovo with primary responsibility for overseeing the day-to-day operation of the markets for electronic communications networks and services may participate in the Board of Regulators and Working Groups of the Body of European Regulators for Electronic Communications ('BEREC') and the Management Board of the BEREC Office.

The Terms of Reference for the participation of the national regulatory authority of Kosovo are set out in the Annex.

*Article 2*

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 18 March 2019.

*For the Commission*

Mariya GABRIEL

*Member of the Commission*

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## ANNEX

**TERMS OF REFERENCE****1. Participation in the BEREC Board of Regulators**

1. The national regulatory authority ('NRA') of Kosovo (\*) may participate in the work of the BEREC Board of Regulators (BoR).
2. The NRA of Kosovo shall appoint a representative to participate in the deliberations of the BoR from among the head of the NRA, a member of its collegiate body or the replacement of either of them.
3. The NRA of Kosovo shall also appoint an alternate, who shall replace the representative in their absence. The alternate shall be appointed from among the head of the NRA, a member of its collegiate body, the replacement of either of them, or the staff of the NRA.
4. The representative of the NRA of Kosovo and the alternate shall be appointed in light of their knowledge in the field of electronic communications, taking into account relevant managerial, administrative and budgetary skills. In order to ensure a maximum benefit from their participation the NRA shall make efforts to limit the turnover of its representatives and, where possible, also of its alternates.
5. The participant of the NRA of Kosovo shall have the right to express an opinion in all discussions, whether they are held in a meeting of the BEREC BoR or by any other means. Such opinion shall be duly recorded in the minutes, according to the rules and working practices of the BoR.
6. The name of the representative of the NRA of Kosovo and of the alternate shall be included in the list of members of the BoR published in accordance with Article 7(5) of Regulation (EU) 2018/1971 of the European Parliament and of the Council (1).
7. When participating in the works of the BoR, the representative of the NRA of Kosovo and the alternate shall neither seek nor take instructions from any government, institution, person or body.

**2. Participation in the Working Groups**

1. The NRA of Kosovo may nominate experts to participate in the Working Groups of BEREC.
2. Such experts may participate in all activities of the Working Groups, according to the rules and working practices of BEREC. They may express an opinion in all exchanges, whether they are held in a meeting of the Working Groups or by any other means.

**3. Participation in the Management Board of the BEREC Office**

1. The NRA of Kosovo may participate in the work of the Management Board of the BEREC Office (MB).
2. The NRA of Kosovo shall appoint the person appointed as representative in the BoR to participate in the works of the MB or a person other than the representative in the BoR from among the head of the NRA, a member of its collegiate body or the replacement of either of them.
3. The NRA of Kosovo shall also appoint as alternate the person appointed as alternate of the representative in the BoR or another person, from among the head of NRA, a member of its collegiate body, the replacement of either of them, or the staff of NRA, who shall replace the representative in their absence.
4. The participant of the NRA of Kosovo shall have the right to express an opinion in all discussions, whether they are held in a meeting of the BEREC MB or by any other means. Such opinion shall be duly recorded in the minutes, according to the rules and working practices of the MB.
5. The name of the representative of the NRA of Kosovo and of the alternate shall be included in the list of members of the MB published in accordance with Article 15(4) of Regulation (EU) 2018/1971.

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(1) 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 (OJ L 321, 17.12.2018, p. 1).

6. When participating in the works of the MB, the representative of the NRA of Kosovo and the alternate shall neither seek nor take instructions from any government, institution, person or body.

#### 4. Declarations of Interest

1. The representatives of the NRA of Kosovo to the BoR and the MB and their alternates shall each make a written declaration indicating their commitments and the absence or presence of any direct or indirect interests that might be considered to prejudice their independence.

These declarations shall be made at the time of taking up responsibilities and shall be published. They shall be accurate and complete, and shall be updated where there is a risk of there being any direct or indirect interest that might be considered to prejudice the independence of the person making the declaration.

#### 5. Staffing

The BEREC Office may make use of staff from Kosovo, including seconded national experts and other staff not employed by the BEREC Office, pursuant to a decision to be issued by the MB.

#### 6. Financial contribution of the NRA of Kosovo to the BEREC Office

1. The financial contribution to the budget of BEREC Office to be paid by the NRA of Kosovo in order to participate in BEREC, represents the full cost of its participation in accordance with points 1, 2 and 3 of this Annex. The amounts will be determined in accordance with point 6.2 below.
2. The financial contribution to be paid by the NRA of Kosovo, according to point 6.1, shall cover the following costs:
  - Costs for reimbursement of travel expenses of the NRA representatives for BEREC meetings, according to the reimbursement rules of BEREC.
  - Administrative costs relating to the above reimbursements for travel expenses, amounting to a maximum of 3 % of the amounts paid as reimbursements for travel expenses.
  - Administrative costs relating to the overall participation of the NRA in the works of BEREC.

The amount of the financial contribution shall be determined by BEREC, taking into account, inter alia, the anticipated missions for the upcoming year and the actual missions and reimbursements for the past year(s).

3. The contribution of the NRA will be implemented in accordance with the financial rules of the BEREC Office, adopted pursuant to Article 29 of Regulation (EU) 2018/1971.
4. Travel costs and subsistence costs incurred by representatives and experts of the NRA of Kosovo for the purposes of taking part in the work of BEREC and the BEREC Office, including related meetings, shall be reimbursed by the BEREC Office according to the rules stipulated in the BEREC Office Management Committee Decision concerning the reimbursement of travel, subsistence and other expenses incurred in the course of journeys made by persons not employed by the BEREC Office <sup>(2)</sup>.
5. After the entry into force of this Decision and at the beginning of each following year, the BEREC Office shall send to the NRA a call for funds corresponding to its contribution to the Agency under this Decision.
6. This contribution shall be expressed in EUR and paid into a EUR bank account of the BEREC Office.
7. The NRA of Kosovo shall pay its contribution according to the call for funds for its own part within 30 days after the call for funds is sent by the BEREC Office.
8. Any delay in the payment of the contribution shall give rise to the payment of interest by the NRA on the outstanding amount as from the due date. The interest rate corresponds to the rate applied by the European Central Bank on the due date for its operations in EUR, increased by 1,5 percentage points.

<sup>(2)</sup> BEREC Office MC Decision concerning the reimbursement of travel, subsistence and other expenses incurred in the course of journeys made by persons not employed by the BEREC Office and repealing the previous Management Committee Decision No MC/2013/05 of 6 June 2013 (MC/2015/13).

**7. Detailed working arrangements**

1. The BoR and the MB shall specify the detailed working arrangements for the participation of the NRA of Kosovo, where needed, in accordance with Regulation (EU) 2018/1971 and the present Terms of Reference.
  2. The NRA of Kosovo may participate in the work of BEREC, including the BoR and the Working Groups, and in the MB from the day of entry into force of this Decision, irrespectively of the finalisation of the detailed working arrangements of point 7.1 above.
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