

REPORT

on the annual accounts of the Office of the Body of European Regulators for Electronic Communications for the financial year 2014 together with the Office's reply

(2015/C 409/03)

INTRODUCTION

1. The Office of the Body of European Regulators for Electronic Communications (hereinafter 'the Office'), which is located in Riga, was established by Regulation (EC) No 1211/2009 of the European Parliament and of the Council ⁽¹⁾. 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 ⁽²⁾.

INFORMATION IN SUPPORT OF THE STATEMENT OF ASSURANCE

2. The audit approach taken by the Court comprises analytical audit procedures, direct testing of transactions and an assessment of key controls of the Office's supervisory and control systems. This is supplemented by evidence provided by the work of other auditors and an analysis of management representations.

STATEMENT OF ASSURANCE

3. Pursuant to the provisions of Article 287 of the Treaty on the Functioning of the European Union (TFEU), the Court has audited:

- (a) the annual accounts of the Office, which comprise the financial statements ⁽³⁾ and the reports on the implementation of the budget ⁽⁴⁾ for the financial year ended 31 December 2014; and
- (b) the legality and regularity of the transactions underlying those accounts.

The management's responsibility

4. The management is responsible for the preparation and fair presentation of the annual accounts of the Office and the legality and regularity of the underlying transactions ⁽⁵⁾:

- (a) The management's responsibilities in respect of the Office's annual accounts include designing, implementing and maintaining an internal control system relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies on the basis of the accounting rules adopted by the Commission's accounting officer ⁽⁶⁾; making accounting estimates that are reasonable in the circumstances. The Administrative Manager approves the annual accounts of the Office after its accounting officer has prepared them on the basis of all available information and established a note to accompany the accounts in which he declares, inter alia, that he has reasonable assurance that they present a true and fair view of the financial position of the Office in all material respects.
- (b) The management's responsibilities in respect of the legality and regularity of the underlying transactions and compliance with the principle of sound financial management consist of designing, implementing and maintaining an effective and efficient internal control system comprising adequate supervision and appropriate measures to prevent irregularities and fraud and, if necessary, legal proceedings to recover funds wrongly paid or used.

⁽¹⁾ OJ L 337, 18.12.2009, p. 1.

⁽²⁾ *Annex II* summarises the Office's competences and activities. It is presented for information purposes.

⁽³⁾ These include the balance sheet and the statement of financial performance, the cash flow table, the statement of changes in net assets and a summary of the significant accounting policies and other explanatory notes.

⁽⁴⁾ These comprise the budgetary outturn account and the annex to the budgetary outturn account.

⁽⁵⁾ Articles 39 and 50 of Commission Delegated Regulation (EU) No 1271/2013 (OJ L 328, 7.12.2013, p. 42).

⁽⁶⁾ The accounting rules adopted by the Commission's accounting officer are derived from the International Public Sector Accounting Standards (IPSAS) issued by the International Federation of Accountants or, where relevant, the International Accounting Standards (IAS)/International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board.

The auditor's responsibility

5. The Court's responsibility is, on the basis of its audit, to provide the European Parliament and the Council ⁽⁷⁾ with a statement of assurance as to the reliability of the annual accounts and the legality and regularity of the underlying transactions. The Court conducts its audit in accordance with the IFAC International Standards on Auditing and Codes of Ethics and the INTOSAI International Standards of Supreme Audit Institutions. These standards require the Court to plan and perform the audit to obtain reasonable assurance as to whether the annual accounts of the Office are free from material misstatement and the transactions underlying them are legal and regular.

6. The audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the accounts and the legality and regularity of the underlying transactions. The procedures selected depend on the auditor's judgement, which is based on an assessment of the risks of material misstatement of the accounts and material non-compliance by the underlying transactions with the requirements in the legal framework of the European Union, whether due to fraud or error. In assessing these risks, the auditor considers any internal controls relevant to the preparation and fair presentation of the accounts, as well as the supervisory and control systems that are implemented to ensure the legality and regularity of underlying transactions, and designs audit procedures that are appropriate in the circumstances. The audit also entails evaluating the appropriateness of accounting policies, the reasonableness of accounting estimates and the overall presentation of the accounts. In preparing this report and Statement of Assurance, the Court considered the audit work of the independent external auditor performed on the Office's accounts as stipulated in Article 208(4) of the EU Financial Regulation ⁽⁸⁾.

7. The Court considers that the audit evidence obtained is sufficient and appropriate to provide a basis for its statement of assurance.

Opinion on the reliability of the accounts

8. In the Court's opinion, the Office's annual accounts present fairly, in all material respects, its financial position as at 31 December 2014 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.

Opinion on the legality and regularity of the transactions underlying the accounts

9. In the Court's opinion, the transactions underlying the annual accounts for the year ended 31 December 2014 are legal and regular in all material respects.

10. The comments which follow do not call the Court's opinions into question.

COMMENTS ON BUDGETARY MANAGEMENT

11. The overall level of committed appropriations improved to 98 % (2013: 87 %). However, the level of committed appropriations carried over increased to 0,9 million euro, i.e. 23 % (2013: 0,5 million euro, 13 %), particularly in relation to operational activities (Title III) such as ongoing studies on electronic communications.

12. The large number of budget transfers changed the structure of the initial budget considerably: Title I (staff costs) was reduced by 17 %, Title II (administrative expenditure) was reduced by 44 % and Title III (operational expenditure) was increased by 60 %, mainly in order to finance ongoing studies (paragraph 11).

13. The 2014 budget provision for contributions from EFTA's ⁽⁹⁾ national regulatory authorities having observer status at BEREC did not materialise in the absence of agreements with EFTA countries.

⁽⁷⁾ Article 107 of Regulation (EU) No 1271/2013.

⁽⁸⁾ Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 298, 26.10.2012, p. 1).

⁽⁹⁾ European Free Trade Association

FOLLOW-UP OF PREVIOUS YEARS' COMMENTS

14. An overview of the corrective actions taken in response to the Court's comments from the previous years is provided in *Annex I*.

This Report was adopted by Chamber IV, headed by Mr Milan Martin CVIKL, Member of the Court of Auditors, in Luxembourg at its meeting of 8 September 2015.

For the Court of Auditors
Vítor Manuel da SILVA CALDEIRA
President

ANNEX I

Follow-up of previous years' comments

| Year | Court's comment | Status of corrective action (Completed/Ongoing/Outstanding/N/A) |
|------|--|--|
| 2011 | The Office had not yet adopted and implemented all the internal control standards. | Completed (adoption) Ongoing (implementation) |
| 2012 | The Office had 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). | Completed |
| 2012 | Some 101 000 euro, 45 % of the committed appropriations carried over from 2011, were cancelled. Appropriations for 2012 of 545 000 euro, 17 % of total 2012 appropriations, were not used and also had to be cancelled. The level of carry-overs of committed appropriations to 2013 was high at 611 000 euro or 19 % of the total. This indicates difficulties in the planning and/or implementation of the Office's activities. 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. | N/A |
| 2013 | Budget implementation rates improved considerably, which indicates better planning and more timely implementation of activities. Although the level of cancelled carry-overs from 2012 is still relatively high at 28 % (2012: 45 %), carry-overs of committed appropriations decreased to 461 983 euro or 13 % (2012: 611 223 euro or 19 %). Carry-overs were mostly related to contracts signed in the second half of 2013 for planned activities in 2013 and 2014. | N/A |
| 2013 | Of the 1 183 reimbursements for experts made in 2013, 1 078 were late. Where payments were late, they were overdue by an average delay of 78 days in the first half of 2013 as compared with 33 days in the second half of 2013. | Ongoing |

ANNEX II

Office of the Body of European Regulators for Electronic Communications (Riga)

Competences and activities

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| <p>Areas of Union competence deriving from the Treaty <i>(Article 114 of the Treaty on the Functioning of the European Union)</i></p> | <p>Approximation of laws in the field of electronic communications.</p> |
| <p>Competences of the Office <i>(Regulation (EC) No 1211/2009 of the European Parliament and of the Council)</i></p> | <p>The Office's powers as defined in Regulation (EC) No 1211/2009 of the European Parliament and of the Council.</p> <p>The Office referred to in Article 6 shall provide administrative and professional support services to BEREC.</p> <p>It shall perform its functions under the guidance of the Board of Regulators.</p> |
| <p>Governance</p> | <p>The Office has a Management Committee and an Administrative Manager. They share all administrative and financial responsibilities, including the management of staff.</p> <p>However, the Management Committee has sole responsibility for the appointment of staff (Article 7(4)).</p> <p>The Board of Regulators provides guidance on the services and products specified below in the section 'Products and services in 2014'.</p> |
| <p>Resources made available to the Office in 2014 (2013)</p> | <p>Final Budget: 4 162 874,00 euro (3 557 218,93 euro) (amended budget and including internal assigned revenue)</p> <p>Staff as at 31 December: 24 (25)</p> |
| <p>Products and services in 2014</p> | <p>Under the guidance of the Board of Regulators, the Office provided the following services:</p> <ul style="list-style-type: none"> — professional and administrative support services to BEREC, — collection of information from NRAs and exchange and transmission of information, — dissemination of regulatory best practices among NRAs within the EU and to third parties, — assistance to the Chair in the preparation of the work of the Board of Regulators and the Management Committee of the Office, — support to the Expert Working Groups set up by the Board of Regulators. |

Source: Annex supplied by the Office.

THE OFFICE'S REPLY

11. The BEREC Office takes note of the budgetary management comment on committed appropriations improvement to 98 % compared to 2013: 87 %. The 2014 budget was drafted in 2012 where the BEREC Office was in its early phase of the budget management. Since then, tools are being used to improve the regular monitoring that has led to a better planning.

The BEREC Office acknowledges the high relevance of the matter brought forward by the Court's observation regarding the level of committed appropriations carried over increased to 0,9 million euro, i.e. 23 % (2013: 0,5 million euro, 13 %), particularly in relation to operational activities (Title III) such as ongoing studies on electronic communications. This was due to significant requests by the Management Committee to launch operational projects (Net Neutrality study, approximately 390 000 euro, BEREC-Net of 105 000 euro, sectoral studies of approximately more than 260 000 euro). Also, the significant management changes delayed an early implementation of the abovementioned projects, as a new Administrative Manager was appointed in April 2014, and a new Head of the Programme Management Unit appointed in August 2014.

The BEREC Office has set as target to reduce the level of committed appropriations carried over in 2015.

12. The BEREC Office understands the high importance of the matter brought forward by the Court's observation regarding the large number of budget transfers changed the structure of the initial budget considerably: Title I (staff costs) was reduced by 17 %, Title II (administrative expenditure) was reduced by 44 % and Title III (operational expenditure) was increased by 60 %, mainly in order to finance ongoing studies. The Office is working continuously to improve an activity-based planning system that could lead to further reduction of budget transfers.

13. The BEREC Office takes note of the comment, that the 2014 budget provision for contributions from EFTA's ⁽¹⁾ national regulatory authorities having observer status at BEREC, did not materialise in the absence of agreements with EFTA countries. Consequently, the 2015 budget has been corrected accordingly. However, the EFTA agreement is negotiated between the Commission and countries concerned and the BEREC Office does not have power to influence the negotiations and agreement signing process.

⁽¹⁾ European Free Trade Association