RESOLUTION (EU) 2020/1918 OF THE EUROPEAN PARLIAMENT

of 14 May 2020

with observations forming an integral part of the decision on discharge in respect of the implementation of the budget of the Agency for Support for BEREC (before 20 December 2018: Office of the Body of European Regulators for Electronic Communications) for the financial year 2018

THE EUROPEAN PARLIAMENT,

— having regard to its decision on discharge in respect of the implementation of the budget of the Agency for Support for BEREC for the financial year 2018,

— having regard to Rule 100 of and Annex V to its Rules of Procedure,

— having regard to the report of the Committee on Budgetary Control (A9-0050/2020),

A. whereas, according to its statement of revenue and expenditure [1], the final budget of the Agency for Support for BEREC (the 'Agency') for the financial year 2018 was EUR 4 331 000, representing an increase of 2,00 % compared to 2017, whereas the budget of the Agency derives entirely from the Union budget [2];

B. whereas the Court of Auditors (the 'Court'), in its report on the Agency's annual accounts for the financial year 2018 (the 'Court's report'), states that it has obtained reasonable assurances that the Agency's annual accounts were reliable and that the underlying transactions were legal and regular;

Budget and financial management

1. Notes that budget monitoring efforts during the financial year 2018 resulted in a budget implementation rate of 99,85 %, representing a decrease of 0,09 % compared to 2017; notes that the payment appropriations execution rate was 82,68 %, representing a decrease of 4,24 % compared to 2017;

2. Notes with concern that the Agency has been affected by a high staff turnover, which poses risk to the implementation of the Agency's work programme; notes that as part of mitigation techniques, the management committee requested the establishment of reserve list for 75 % of all job profiles with the aim of keeping the vacancy rate below 15 %; notes that, in addition, following the establishment of new posts to address the new Agency mandate established in Regulation (EU) 2018/1971, the Agency managed to ensure fast track recruitment of three additional new staff members from the existing reserve lists;

Performance

3. Notes that the Agency uses several types of measures as key performance indicators to assess the added value provided by its activities and to improve its budget management;

4. Acknowledges the fact that the Agency has been provided with improved IT support including the use of specialised information and communications technology and IT security services;

5. Notes with concern that the Agency does not share resources with other agencies due to its limited own resources; notes, however, that in 2014 the Agency signed a service level agreement with ENISA for sharing resources in the field of internal controls; notes that that agreement was terminated by ENISA from 1 January 2020 as a result of changes in the structure of ENISA due to its expanded new mandate; notes with satisfaction that the Agency started a joint project for sharing IT infrastructure and other IT projects with several joint undertakings and other Union agencies; welcomes that initiative and urges the Agency to further explore possible ways of outsourcing its tasks and collaborating on overlapping tasks with other Union institutions and bodies;

[1] OJ C 108, 22.3.2018, p. 157.
[2] OJ C 108, 22.3.2018, p. 158.

6. Notes from the Court's report that in 2018 the Agency launched a call for tender to conclude a framework contract which was awarded without requesting any explanation from the winning tenderer for the potentially abnormally low tender; acknowledges the Agency's reply that until 2018 it did not have separate guidance on abnormally low tender prices, but notes with satisfaction that the Agency introduced the definition of abnormally low tender price in its internal procurement manual; calls on the Agency to request the reasons for abnormally low tenders and analyse them in order to ensure the sustainability of potentially abnormally low tenders;

7. Encourages the Agency to pursue the digitalisation of its services;

Staff policy

8. Notes that, on 31 December 2018, the establishment plan was 100 % executed, with 14 temporary agents appointed out of 14 temporary agents authorised under the Union budget (compared to 14 authorised posts in 2017); notes that, in addition, 9 contract agents and 4 seconded national experts were working for the Agency in 2018;

9. Notes with concern that the Agency is dependent on external resources and on one company, which creates a risk to business continuity; notes with concern that the Agency does not possess the critical mass of staff and competence; calls the Commission to present appropriate resource allocation to the budgetary authority;

10. Notes with satisfaction that at the end of 2018 gender balance was almost achieved at staff level (52 % women and 48 % men) and was achieved in middle management positions (50 % women and 50 % men), and notes that a good geographical balance was achieved, with the Agency employing staff from 13 Member States; is concerned, however, that gender balance was not achieved among the members of the management board, with only 5 women among the 28 members; asks in this regard the Commission and the Member States to take into account the importance of ensuring gender balance when presenting their nominations for members of the management board;

11. Notes with concern that in 2017 the average employment period in the Agency was only 2,7 years which is reflected in a high staff turnover; understands that the Agency struggles to attract professionals, inter alia because of the low salary correction coefficient of the host country (74,9 %); stresses that the high staff turnover highlights possible problems with the Agency's revolving door policy; calls on the Agency to re-evaluate its revolving policy; expresses its concern that the reduction of the posts authorised under the Union budget in recent years together with the additional tasks acquired have increased the workload of the Agency's staff; points out that this situation may pose risks to the implementation of its work programmes; observes that the Agency works towards improving the employment conditions for its staff, and that in 2018 the Agency started the implementation of an action plan for social welfare; calls on the Agency to find further possibilities for improving the working and living conditions for the staff with the Latvian authorities aiming to conclude a new headquarters agreement;

12. notes with concern from the Court's report that on 4 May 2018 the Agency signed a framework contract with one company for the provision of clerical and secretarial support services for a duration of four years for a maximum amount of EUR 433 000 (2018 payments: EUR 27 655) and that from June 2018 on average 4 of that company's staff were working at the Agency in addition to its own 27 employees; stresses that the use of this service contract for the provision of labour does not comply with the Union's social and employment rules and exposes the Agency to legal and reputational risks; calls on the Agency to redress the situation and report back to the discharge authority;

13. Notes that the Agency signed a framework contract with one company for the provision of clerical and secretarial support services, but recalls that the loan of staff can take place only by means of contracts with authorised temporary work agencies and in accordance with Directive 2008/104/EC of the European Parliament and of the Council ([3]), and with specific rules adopted by the Member States; notes with concern that the use of this service contract does not comply with the Union's social and employment rules; takes note of the Agency's reply that following an open tender procedure, it concluded a framework contract for the provision of clerical and secretarial support services, guaranteed over the duration of the contract, which is different from the use of interim workers; notes that according to the tender specifications of the framework contract, which are annexed to it, the contractor is required to comply with the applicable Union and national legal framework;

Procurement

14. Notes from the Court's report that by the end of 2017 the Agency had introduced e-tendering for certain procedures, but had not yet implemented e-invoicing and e-submission; notes from the Agency's reply that following the signature, in 2018, of a Memorandum of Understanding on e-PRIOR between the Agency and the Commission's Directorate-General for Informatics, an e-submission module of e-PRIOR was deployed for the Agency;

Prevention and management of conflicts of interests and transparency

15. Notes the Agency's existing measures on and ongoing efforts to secure transparency and the prevention and management of conflicts of interests; points out with concern, however, that it does not publish the CVs of the board members on its website; notes that the management board has started a review of its existing policy laying down rules for the prevention and management of conflicts of interests which envisages an obligation for its members to submit with their declaration of interest their CVs, which will be published on the Agency's website;

Internal controls

16. Recognises that the Agency finally adopted its guidelines on whistleblowing on 7 December 2018;

17. Notes that in 2018 the Agency undertook an internal exercise to assess its internal control systems, concluding that they have been effectively implemented;

18. Notes that in 2018 the Commission's internal audit service issued an audit report on "Planning, Budgeting, Monitoring of Activities and Reporting in the Office", which was followed by a corrective action plan;

Other comments

19. Notes that the Agency has carried out an analysis of the likely impact of the United Kingdom's decision to withdraw from the Union and identified the necessary mitigating steps; notes that the Agency has no members of staff with only UK citizenship and that there is therefore no risk related to human resources issues;

20. Calls on the Agency to focus on disseminating the results of its research to the general public, and to reach out to public via the social media and other media outlets;

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21. Refers, for other observations of a cross-cutting nature accompanying its decision on discharge, to its resolution of 14 May 2020 ([4]) on the performance, financial management and control of the agencies.

([3]) Directive 2008/104/EC of the European Parliament and of the Council of 19 November 2008 on temporary agency work (OJ L 327, 5.12.2008, p. 9).

([4]) Texts adopted, P9_TA(2020)0121.