

Decision MB/2020/09
of the Management Board of the Agency for Support for
BEREC on the non-application of the Commission Decision on
the maximum duration for the recourse to non-permanent staff
in the Commission services

The Management Board,

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

Having regard to the Staff Regulations of Officials ('Staff Regulations') and the Conditions of Employment of Other Servants ('CEOS') of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 110(2) of the Staff Regulations,

Having regard to 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')², amending Regulation (EU) 2015/2120 and repealing Regulation (EC) No 1211/2009 ,

Having regard to the Rules of Procedures of the Management Board of the BEREC Office and in particular Article 2 thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations (Decision C(2019) 6929 of 25.9.2019),

After consulting the Staff Committee,

Whereas:

- (1) On 26 September 2014 Communication C(2014) 6543 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and in particular Point 2.B thereof, was adopted.
- (2) On 30 September 2019, the Commission informed the BEREC Office that it had adopted Decision of 5 April 2019 amending Commission Decision C(2004)1597/6 on the maximum duration for the recourse to non-permanent staff in the Commission services- C(2019)2548³. The amendment limits the scope of the Decision by excluding

¹ OJ L 56, 4.3.1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013, OJ L 287, 29.10.2013, p. 15.

² OJ L 321, 17.12.2018, p. 1–35

³ Amended by Commission Decisions C(2011)7071 of 5 October 2011 and C(2013)9028 of 16 December 2013.

time served as seconded national experts from the calculation of the seven-year maximum duration spent working in the Commission services.

- (3) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 2 shall apply by analogy to the BEREC Office. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.
- (4) In the BEREC Office, all temporary staff other than those referred to in Article 2(a) of the CEOS are those referred to in Article 2(f) of the CEOS and all contract staff are the ones referred to in Article 3(a) of the CEOS.
- (5) In the BEREC Office, the temporary agent referred to in Article 2(a) of the CEOS is exclusively the head of the Agency (whose contract duration is governed by act establishing the Agency). As regards the majority of temporary staff in the Agency, namely those referred to in Article 2(f) of the CEOS, as well as the unique category of contract staff employed in the Agency, namely those referred to in Article 3(a) of the CEOS, they do not fall under the scope of this Commission Decision. Therefore, this Commission Decision is not adapted to the actual situation of the BEREC Office.
- (6) The maximum duration for recourse to seconded national experts is regulated by Decision MB (2020) 03 of the Management Board of the Agency for Support for BEREC on the secondment to the BEREC Office of national experts and national experts in professional training. Therefore, Commission Decision C(2019)2548 is not applicable de facto.
- (7) Taking into account the different structure of the staff employed in agencies from that of the Commission, on 26 May 2016 the Commission gave agencies its ex ante agreement to the non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services (C(2016)2421).
- (8) Commission Decision C(2019)2548 does not introduce a modification that could make applicable to the BEREC Office the Decision on the maximum duration for the recourse to non-permanent staff in the Commission services.
- (9) Therefore, the Commission Decision C(2019)2548 should not apply to the BEREC Office,

Has decided as follows:

Article 1

Commission Decision of 5 April 2019 amending Commission Decision C(2004)1597/6 of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services shall not apply to the BEREC Office.

Article 2

This Decision shall take effect on the day following that of its adoption.

Done on 12 June 2020.

For the Management Board

A handwritten signature in black ink, appearing to read 'Dan Sjöblom', with a stylized flourish extending to the right.

Dan Sjöblom

Chairperson