

Explanatory Memorandum
to the Decision of the Management Committee of the Office of the
Body of European Regulators for Electronic Communications
(BEREC Office) on the non-application of the Commission Decision
on the maximum duration for the recourse to non-permanent staff
in the Commission services
(MC/2016/10)

7 October 2016

The BEREC Office is an Agency of the EU, established with the objective of providing administrative and professional support to the Body of European Regulators for Electronic Communications (BEREC). BEREC contributes to the development and better functioning of the internal market for electronic communications networks and services. BEREC and the BEREC Office were established by Regulation (EC) No 1211/2009 of the European Parliament and of the Council of 25 November 2009.

On 17 December 2013, the Commission informed the BEREC Office that it adopted Decision C(2013)9028 of 16 December 2013 amending the Commission Decision of 28 April 2004 on the maximum duration for the recourse to non-permanent staff in the Commission services.

Pursuant to Article 110(2) of the Staff Regulations the staff implementing rules adopted by the Commission apply by analogy to the BEREC Office. However, by way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules.

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. The majority of temporary staff in the Agency, namely those referred to in Article 2(f) of the CEOS, do not fall under the scope of Commission Decision C(2013)9028. The same applies to the unique category of contract staff employed in the Agency, namely those referred to in Article 3(a) of the CEOS. Commission Decision C(2013)9028 is therefore not adapted to the BEREC Office reality.

Taking into account the way the BEREC Office operates, it is not appropriate to set a maximum duration of recourse to non-permanent staff, because such a rule could be detrimental to the functioning of the Agency. The Commission has given its ex ante agreement to the non-application of Decision C(2013)9028 to the BEREC Office.

Consequently, at its [28th Plenary Meeting \(7 October 2016, Vilnius\)](#), the BEREC Office Management Committee took a Decision to opt out from the Commission Decision mentioned above, which should not apply to the BEREC Office.