

**Explanatory Memorandum
to the Decision of the Management Committee of the Office of the
Body of European Regulators for Electronic Communications (the
BEREC Office) on general implementing provisions regarding
Article 54 of the Conditions of Employment of Other Servants of the
European Union
(MC/2016/06)**

Vienna, 3 June 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 ('the BEREC Regulation').

The BEREC Regulation refer to the Staff Regulations and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (CEOS) as the common legal framework for staff matters. The texts of these acts, however, are further detailed in implementing rules, which lay down the technical measures necessary to implement the Staff Regulations and the CEOS.

In 2014 Article 2(f) of the CEOS introduced a new category of temporary staff to be engaged mainly by the agencies of the European Union, such as the BEREC Office. Following the establishment of this new category of staff all agencies need to adopt general implementing rules, which shall apply to the classification of the temporary staff in the next higher grade ('reclassification') with the exception of those in a grade higher than AD13. To define a consistent staff policy for temporary staff the European Commission, with the assistance of a Standing Working Party, drafted a model decision for decentralised agencies and joint undertakings on the reclassification of temporary agents, which could be used as a basis for adopting the respective staff implementing rules¹.

The BEREC Office Management Committee examined the model adopted by the Commission and concluded that its use would be appropriate to the BEREC Office with some minor adjustments, which could take into account the BEREC Office specificities. Therefore the Management Committee adopted Decision MC/2016/06 on general implementing provisions regarding Article 54 of the CEOS based on the model proposed by the Commission, which broadly follows the Commission model decision.

This new Management Committee Decision enters into force on the date of its adoption (3 June 2016) and applies for the 2016 reclassification exercise.

According to the new rules in place the reclassification exercise shall be organised every year. The temporary staff may be reclassified if they satisfy all of the following conditions:

- by 31 December of the year of the reclassification exercise at the latest, they have achieved the minimum seniority in grade required by Article 54(1) of the CEOS;
- at the time of the launch of the reclassification they occupy a post which corresponds to one of the types of post set out in Annex I, Section A², or in Article 30(1) or Article 31(1) of Annex XIII³ to the Staff Regulations for the grade to which they may be reclassified;
- they have demonstrated before their first reclassification after engagement the ability to work in a third language of the EU⁴;

¹ Commission Decision C(2015) 9560 final of 16/12/2015

² Applicable to temporary staff by virtue of Article 10 of the CEOS.

³ Applicable to temporary staff by virtue of Article 1 of the Annex to the CEOS.

⁴ See Article 55(1) of the Treaty on European Union.

- they are in active employment, on parental or family leave, on leave for military service or seconded in the interests of the service on the date on which the reclassification decisions are adopted by the authority authorised to conclude contracts of employment;
- their appraisal reports have become final.

The reclassification procedure shall be based on the consideration of the comparative merits of the temporary staff eligible for reclassification. The new decision of the Management Committee also defines the procedure to be followed and introduces some provisions of transitional nature.
