

BEREC Office ref. № D 2013-11-25 AF/mc

Riga, 25 November 2013

Ms Emily O'Reilly
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Subject: *reply to your letter of 12 August 2013 with title "own-initiative inquiry OI/4/2013/CK concerning the EU agencies". This initiative was meant to examine the different practices adopted by the EU agencies regarding the issue of disclosure of the names of Selection Board members. This issue has to be analysed in the framework of a correct balance between Openness and legitimate needs of Confidentiality in the work of Selection Boards.*

Dear Ms O'Reilly,

The BEREC Office would like to reply to your enquiry with a short description of the internal rules and of our practices in the framework of the EU regulatory agencies.

In that respect the BEREC Office would like to inform you that, in the area of the recruitment processes, the BEREC Office applies (see Annex(es) I, II, III and IV):

- A MC (Management Committee) Decision 10(37) of 2010 on the appointment of the Administrative Manager (Annex I);
- A MC Decision 10(25) on the secondment of National Experts (Annex II);
- A MC Decision 10(24) on the recruitment of Contract Agents (Annex III);
- A MC Decision 10(23) on the recruitment of Temporary Agents (Annex IV);

Openness vs confidentiality:

The issue of how the names of the members of the selection panels have to be treated in case of requests from applicants was not handled, in 2010, by the drafters of those four MC Decisions. Therefore, in case of requests coming from applicants about the disclosure of personal details (names) of the Selection Board members, the BEREC Office, in the absence of detailed internal rules on the matter, applies, by default, the Regulation 45/2001 setting the general framework on Privacy Law amongst EU Institutions and agencies.

Current situation

From the date of establishment of the BEREC Office (Regulation of Parliament and Council of December 2009 which entered into force in January 2010) until today, the BEREC Office has not registered any request to access the names of the members of the Selection Panels. Additionally to the fact of being a very young organization, the BEREC Office is also a very small structure with 16 TA, 8 SNE, 3 CA and the Administrative Manager, making a total of 28 headcounts. Furthermore, most of the recruitment procedures were executed under the umbrella of the Parent DG (DG Connect). Only since September 2011, the BEREC Office has been financially autonomous.

Practice

Should the BEREK Office receive a request to disclose the names of the members of the Selection Boards by a qualified applicant, as a matter of practice, the BEREK Office will treat the request in the following way: the BEREK Office will ask, in writing, each member of the Selection Boards whether he/she has any objection to the disclosure of his/her name and will act accordingly.

Further to this approach, the BEREK Office would like to inform you that, at the beginning of each recruitment session, all members of the Selection Boards introduce themselves to the applicants with indication of name and function within the Office. Also the Staff Committee member and the Secretary to the Board qualify themselves to each applicant.

This has been the practice even though this practice has not yet been translated into an internal instruction.

Consequently, taking into account the reasoning presented above, the BEREK Office believes to having been putting in place a reasonable balance between the principles of Openness and the needs to respect Confidentiality.

However, the BEREK Office is eager to follow up the legislative developments. If the legislator shows the need to strengthen the implementation of the principles of Openness over the principles of Confidentiality, the BEREK Office is ready to develop new internal practices.

Replies to your questions

In order to directly reply your queries, the BEREK Office informs you that:

- The names of Selection Board members are disclosed to the candidates only at the moment of the interview;
- The names of Selection Board members are not published *by default*;
- The names of Selection Board members are made available to qualified applicants upon request only if the Selection Board member does not oppose this request;
- Not having the agency adopted (yet) a proactive policy on disclosing/publishing the names of Selection Board members, the BEREK Office has not yet adopted a policy in order to ensure compliance with the data protection requirements.

As mentioned above, the BEREK Office welcomes any guideline on the matter and is ready to comply with the needs to increase the level of Openness and Transparency while ensuring compliance with the Data Protection requirements.

Yours sincerely,

Ando REHEMAA
Administrative Manager

DECISION

OF THE MANAGEMENT COMMITTEE OF THE BODY OF EUROPEAN REGULATORS FOR ELECTRONIC COMMUNICATIONS (BEREC) ON THE APPOINTING OF THE ADMINISTRATIVE MANAGER OF THE BEREC OFFICE

THE MANAGEMENT COMMITTEE OF BEREC,

Having regard to the Staff Regulations of officials of the European Communities (hereinafter "SR") and the Conditions of employment of other servants of those Communities (hereinafter "CEOS") as laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68

Having regard to the Council and European Parliament Regulation (EC) No 1211/2009 of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (hereinafter "BEREC") and the BEREC Office (hereinafter the "Office") and in particular Article 7.2 and Article 8 thereof,

Whereas:

- (1) The Management Committee should appoint the Administrative Manager of the Office.
- (2) The appointment of the Administrative Manager has to be done following an open competition, on the basis of merit and skills and experience relevant to electronic communications networks and services.
- (3) The Selection Committee set up for this specific competition transmitted to the Management Committee a short list of the four most suitable candidates for this position.
- (4) The Management Committee conducted interviews with the shortlisted candidates and selected one candidate for appointment as Administrative Manager at its Plenary meeting on 28 May 2010.
- (5) The selected candidate was invited for a hearing at the Committee on Industry, Research and Energy of the European Parliament on 24 June 2010
- (6) On 14 July 2010, the Chair of the Committee on Industry, Research and Energy of the European Parliament informed BEREC that following the hearing held the candidate selected had been considered adequate to be appointed as Administrative Manager of the Office.
- (7) On the basis of all relevant information, the outcome of the selection procedure and the results of the hearing at the European Parliament, the Management Committee wishes to appoint the applicant who meets best all the requirements to the position of the Administrative Manager.

HAS ADOPTED THIS DECISION:

Article 1

Mr. Ando Rehema is hereby appointed Administrative Manager for a period of three years.

Article 2

This decision shall enter into force on the date of its adoption.

Done in Amsterdam, on 30 September 2010.

For the Management Committee

Chairperson of the Management Committee

Decision by the Management Committee of the Body of European Regulators for Electronic Communications (BEREC)

on the secondment to the BEREC Office of national experts and national experts in professional training

The MANAGEMENT COMMITTEE,

Having regard to the Council and European Parliament Regulation (EC) n° 1211/2009 of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (hereinafter "BEREC") and the BEREC Office, and in particular Article 10 thereof.

Whereas:

(1) Seconded national experts (hereinafter "SNEs") should enable the BEREC Office to benefit from the high level of their professional knowledge and experience, in particular in areas where such expertise is not readily available.

(2) It is highly desirable to foster the exchange of professional experience in, and knowledge of, European policies by temporarily assigning experts from the administrations of the Member States to the BEREC Office, even for short periods. For the same reason, steps should also be taken to facilitate the use of experts drawn from the administrations of Member States of the European Free Trade Area (hereinafter "EFTA"), candidate countries that have reached an agreement with the BEREC Office on personnel matters, and public intergovernmental organisations (hereinafter "IGOs").

(3) In order to ensure that the BEREC Office's independence is not compromised by private interests, it should be stipulated that SNEs must come from a national, regional or local public administration or an IGO. The secondment of an SNE by an employer other than a national, regional or local public administration or an IGO should be authorised only on a case-by-case basis, once it has been ascertained that the SNE's employer is part of the public sector or is an independent university or research organisation that does not seek to make profits for redistribution.

(4) In order to avoid any conflict of interests, the rights and obligations of SNEs, as set out in this Decision, should ensure that they carry out their duties solely in the interests of the European Union and BEREC Office.

(5) In view of their special status, it should be stipulated that SNEs acting alone will not exercise any of the responsibilities that belong to the BEREC Office by virtue of the powers conferred upon it, unless specially empowered to do so in writing by the Vice-Chair of the Management Committee.

(6) In view of the importance of training officials of the Member States – and, where appropriate, of EFTA countries, candidate countries and IGOs – in Community policies and the Commission and BEREC Office's working methods, a specific legal and administrative framework for the induction and professional training of these officials, to be known as national experts in professional training (hereinafter "NEPTs"), should be set up.

(7) The Permanent Representations of the European Union Member States and the National Regulatory Authorities play a crucial role in implementing these Rules and should therefore enjoy a particularly close working relationship with the BEREC Office.

HAS ADOPTED THIS DECISION:

TITLE I

SECONDED NATIONAL EXPERTS

Chapter I

Article 1

Scope and definitions

1. These Rules shall apply to national experts seconded to the BEREC Office.

SNEs are staff employed by a national, regional or local public administration or IGOs, who are seconded to the BEREC Office so that it can use their expertise in a particular field.

For the purposes of this Decision, the public administration means all State administrative services at central, federal and regional level, comprising ministries, government and parliament services, the courts, central banks, and the administrative services of local authorities, as well as the decentralised administrative services of the State and of such authorities, such as national regulatory authorities (NRAs).

The persons covered by these Rules must have worked for their employer on a permanent or contract basis for at least 12 months before their secondment and shall remain in the service of that employer throughout the period of secondment.

The SNE's employer shall thus undertake to continue to pay his salary, to maintain his administrative status (permanent official or contract staff member) throughout the period of secondment and to inform the BEREC Office of any change in the SNE's situation in this regard. The SNE's employer shall also continue to be responsible for all his social rights, particularly social security and pension. The termination of or change in the SNE's administrative status (permanent official or contract staff member) may lead to the termination of his secondment by the Vice Chair of the Management Committee, without notice, in accordance with Article 10(2)(c).

2. Notwithstanding the second subparagraph of paragraph 1, the Vice Chair of the Management Committee, on a case-by-case basis, authorises the secondment of an SNE from an employer other than a public administration or an IGO if the interests of the BEREC Office warrant bringing in specific expertise as a temporary measure, provided that the SNE's employer:

- is an independent university or research organisation which does not set out to make profits for redistribution; or
- is in fact part of the public sector.

For the purposes of this Decision, to qualify as being part of the public sector the SNE's employer must meet all the following conditions:

- it must be attached to a public administration, as defined in paragraph 1, and specifically it must

have been created by legislation or regulation;

– its resources must come primarily from public funding;

– any activities in which it competes against other private or public entities on the market must represent less than half of its activities.

The BEREC Office shall, if necessary, clarify the arrangements for implementing the different criteria and communicate them to the Permanent Representations of the EU Member States, the EFTA Secretariat, the Countries associated with a Community programme by a Council Decision, the NRAs, members of the Management Committee, and the IGOs concerned.

3. An SNE must be a national of an EU Member State or EFTA Member State or a country with which the Council has decided to open accession negotiations and which has concluded a specific agreement with the BEREC Office on staff secondments.

4. When a secondment is being planned, the BEREC Office shall ensure the geographical and gender balance and compliance with the principle of equal opportunities, in accordance with the principles set out in Article 1(d) and Article 27 of the Staff Regulations.

The BEREC Office shall monitor compliance and, in the event of a serious imbalance at BEREC Office level, shall take the necessary corrective measures to ensure balanced representation of SNEs.

5. Any reference in these Rules to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice-versa, unless the context clearly indicates otherwise.

Article 2

Cost-free seconded national experts

1. For the purposes of this Decision, “cost-free SNEs” means SNEs for whom the BEREC Office does not pay any of the allowances provided for in Chapters III or cover any of the expenses provided for in this Decision, other than those related to the performance of their duties during their secondment.

2. Cost-free SNEs may be seconded from the public administration, as defined in Article 1(1), of an EU Member State or EFTA Member State or a country with which the Council has decided to open accession negotiations and which has concluded a specific agreement with the BEREC Office on staff secondments, or from an IGO, as part of an agreement and/or exchange programme with the BEREC Office.

3. In addition, the Vice Chair of the Management Committee of the BEREC Office may authorise the secondment of cost-free SNEs on a case-by-case basis, taking into consideration their place of origin, and the geographical balance and the work to be carried out.

Article 3

Selection procedure

1. SNEs shall be selected according to an open and transparent procedure, the practical details of which shall be decided by the Vice Chair of the Management Committee.

2. Before the secondment, the BEREC Office must have been authorised to use SNEs under the Annual Strategy Plan / Preliminary Draft Budget procedure (APS/PDB).

3. Applications shall be forwarded by the Permanent Representations, by the EFTA Secretariat, by the diplomatic missions of the non-member countries whose nationals are eligible for the secondment, by the NRAs and by the administrations of the IGOs.

4. The secondment shall be authorised by the Vice Chair of the Management Committee and effected by an exchange of letters between that Vice-Chair of that Committee and the Permanent Representation of the Member States, or the EFTA Secretariat, the diplomatic missions of the non-member countries whose nationals are eligible for the secondment, the NRAs or the IGOs concerned.

Article 4

Period of secondment

1. The initial period of secondment may not be less than six months or more than three years. It may be renewed once or more, up to a total period not exceeding three years.
2. The initial duration of the secondment shall be specified in the exchange of letters referred to in Article 3(4). Any extension of the period of secondment shall be the subject of a new exchange of letters.

Article 5

Place of secondment

SNEs are seconded to the location of the BEREC Office.

Article 6

Tasks

1. SNEs shall assist the temporary staff of BEREC Office. They may not perform middle or senior management duties, even when deputising for their immediate superior.
2. An SNE shall take part in missions or external meetings only as part of a delegation led by a temporary staff member or, if on his own, as an observer or for information purposes.

In all other cases, by way of derogation from paragraph 2, the Administrative Manager may give a specific mandate to the SNE to participate on his own in one or more missions or external meetings, after having ensured that there is no potential conflict of interest.

In such cases the Administrative Manager shall give the SNE clear and specific written instructions on the position to be adopted during the missions or meetings in question.

3. Under no circumstances may an SNE on his own represent the BEREC Office with a view to entering into commitments, whether financial or otherwise, or negotiating on its behalf.

An SNE may, however, represent the BEREC Office in legal proceedings as co-agent with a temporary agent.

4. The BEREC Office shall remain solely responsible for approving the results of any tasks performed by an SNE and for signing any official documents arising from them.
5. The BEREC Office, the SNE's employer and the SNE must ensure that there is no conflict of interest in relation to the SNE's duties while seconded to the BEREC Office.

For this purpose, the Vice Chair of the Management Committee shall inform the SNE and his employer before the start of the secondment about the intended duties and ask them to confirm in writing that they do not know of any reason why the SNE should not be assigned to those duties.

The employer and the SNE shall also undertake to inform the Vice Chair of the Management Committee of any change of circumstances during the secondment which could give rise to any such conflict.

The BEREC Office shall keep a copy of all such exchanges of correspondence in its records and shall hand it over to the Administrative Manager on request.

Where the Vice Chair of the Management Committee considers that the nature of its activities requires particular security precautions, security clearance shall be obtained prior to recruitment.

Failure on the part of the SNE to comply with his obligations arising from paragraphs 2, 3 or 5 shall entitle the Vice Chair of the Management Committee, if he/she sees fit, to terminate the secondment of the SNE pursuant to Article 10(2)(c).

Article 7

Rights and obligations

1. During the period of secondment:

a) The SNE shall carry out his duties and conduct himself solely with the interests of the European Union and the BEREC Office in mind. He shall neither seek nor take instructions from any government, authority, organisation or person outside the BEREC Office. He shall carry out the duties assigned to him objectively, impartially and in keeping with his duties of loyalty to the European Union and the BEREC Office.

b) An SNE wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside the European Union and the BEREC Office shall be subject to the Commission's rules on prior authorisation for officials¹. The BEREC Office shall consult the SNE's employer before issuing an authorisation.

c) The SNE shall refrain from any action or behaviour which might reflect adversely upon his position and from any form of psychological or sexual harassment².

d) The SNE shall not, in the performance of his duties, deal with a matter in which, directly or indirectly, he has any personal interests such as to impair his independence, and, in particular, family and financial interests. If he has occasion in the performance of his duties to deal with such a matter, he shall immediately inform the Vice Chair of the Management Committee, who will take any appropriate measure and may, in particular, relieve the SNE of responsibility in this matter.

The SNE may neither keep nor acquire, either directly or indirectly, in undertakings which are subject to the authority of the BEREC Office or which have dealings with the BEREC Office, any interests of such kind or magnitude as might impair his independence in the performance of his duties.

The SNE shall declare any gainful activity performed in a professional capacity by his spouse, as defined by the Staff Regulations.

e) The SNE shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public.

¹ Article 12b of the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.

² Article 12a of the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.

f) The SNE has the right to freedom of expression, with due regard for the principles of loyalty and impartiality.

The SNE who intends to publish or cause to be published, whether alone or with others, any text on a matter relating to the work of the European Union or the BEREC Office shall inform the Vice Chair of the Management Committee in advance. Where the Vice Chair of the Management Committee is able to demonstrate that the publication is liable seriously to prejudice the legitimate interests of the European Union or the BEREC Office, he shall inform the SNE of his decision in writing within 30 working days of receipt of the information. If no such decision is notified within the specified period, the Vice Chair of the Management Committee shall be deemed to have had no objections.

g) All rights in any work done by the SNE in the performance of his duties shall be the property of the BEREC Office.

h) The SNE shall reside at the place of secondment or at no greater distance therefrom as is compatible with the proper performance of his activities.

i) Based on his professional knowledge and experience, the SNE shall assist and tender advice to the superiors in the BEREC Office to whom he is assigned and shall be responsible to his superiors for performance of the tasks entrusted to him.

2. Failure to comply with any of the provisions of paragraph 1 during the period of secondment shall entitle the BEREC Office, if it sees fit, to terminate the SNE's secondment pursuant to Article 10(2)(c).

3. At the end of the secondment the SNE shall continue to have a duty of loyalty to the European Union and the BEREC Office and be bound by the obligation to act with integrity and discretion in the exercise of new duties assigned to him and in accepting certain posts or advantages.

Article 8

Professional experience and knowledge of languages

1. To qualify for secondment to the BEREC Office a national expert must have at least three years' experience of administrative, legal, scientific, technical, advisory or supervisory functions which can be regarded as equivalent to those of function groups AD or AST – this latter function group being taken into consideration only for highly specialised job profiles – as defined in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities.

2. The SNE must produce evidence of a thorough knowledge of one of the European Union's languages and a satisfactory knowledge of another European Union language to the extent necessary for the performance of his duties.

Article 9

Suspension of secondment

1. At the written request of the SNE or his employer, and with the latter's agreement, the Vice Chair of the Management Committee may authorise suspensions of periods of secondment and specify the terms applicable. During such suspensions:

a) the subsistence allowances referred to in Article 17 shall not be payable;

b) the travel expenses referred to in Article 19 shall be payable only if the suspension is at the Commission's request.

2. The period of suspension shall not be counted in the period of secondment as defined in Article 4.

Article 10

Termination of periods of secondment

1. Subject to paragraph 2, the expert's secondment may be terminated at the request of the Vice Chair of the Management Committee or the SNE's employer, subject to three months' notice, or at the SNE's request, subject to the same period of notice and with the agreement of the BEREC Office and the SNE's employer.

2. In exceptional circumstances the secondment may be terminated without notice:

a) by the SNE's employer, if the employer's essential interests so require;

b) by the BEREC Office and the employer acting jointly, at the request of the SNE addressed to both parties, if the SNE's personal or professional interests so require;

c) by the BEREC Office in the event of failure by the SNE or his employer to respect their obligations under this Decision; the Vice Chair of the Management Committee shall immediately inform the SNE and his employer accordingly.

Chapter II

Working conditions

Article 11

Social security

1. Before the period of secondment begins, the national public administration or IGO from which the SNE is to be seconded shall certify that he will remain, throughout the period of secondment, subject to the social security legislation applicable to the public administration that employs him and is responsible for expenses incurred abroad. To this end, the SNE's employer shall provide BEREC Office with the certificate referred to in Article 11(1) of Council Regulation (EEC) No 574/72³.

2. From the day on which their secondment begins, SNEs shall be covered by the BEREC Office against the risk of accident. The BEREC Office shall provide them with a copy of the terms of this cover on the day on which they report to the appropriate department of the BEREC Office to complete the administrative formalities related to the secondment.

3. An SNE who cannot be covered by a public sickness insurance scheme may apply to have this risk insured by the BEREC Office. The SNE shall pay half the relevant insurance premium and his contribution shall be deducted monthly from the subsistence allowances referred to in Article 17.

Article 12

Working hours

1. The working hours for SNEs shall be the same as those in force at the BEREC Office.

³ OJL 74, 27.3.1972, p. 1.

2. An SNE shall serve on a full-time basis throughout the period of secondment. Following a duly justified request, the Vice Chair of the Management Committee may allow an SNE to work part time, provided the SNE's employer agrees and the arrangement is compatible with the smooth running of the BEREC Office.

Article 13

Sick leave

1. The rules in force at the BEREC Office on absence due to sickness or accident shall apply to SNEs⁴.
2. Where the period of sick leave exceeds three months or the length of time worked by the SNE, whichever is longer, the subsistence allowances referred to in Article 17 shall be automatically suspended. Sick leave may not extend beyond the duration of the secondment of the person concerned.
3. SNEs who are the victim of a work-related injury which occurs during the secondment shall continue to receive the subsistence allowances in full throughout the period during which they are unfit for work. These allowances shall not, however, be paid beyond the end of the period of secondment.

Article 14

Annual and special leave

1. With the exception of the provisions relating to grade, the rules in force at the BEREC Office on annual and special leave, applicable to officials, shall apply to SNEs⁵.
2. Leave shall be subject to prior authorisation by the immediate superior. In the event of unauthorised absence within the meaning of Article 60 of the Staff Regulations, subsistence allowances shall not be paid.
3. Upon a duly justified request from the SNE's employer, the SNE may be granted up to two days of special leave by the BEREC Office in a 12-month period to visit his employer.
4. Days of annual leave not taken by the end of the period of secondment shall be forfeited.

Article 15

Maternity leave

1. The rules in force at the BEREC Office on maternity leave shall apply to SNEs⁶. While on maternity leave the SNE shall receive the subsistence allowances referred to in Article 17.
2. Where the rules that are binding upon the SNE's employer provide for a period of maternity leave longer than that granted by BEREC Office, the secondment may, at the SNE's request, be interrupted for the period by which that leave exceeds the leave granted by BEREC Office.

A period equivalent to the break may be added to the end of the secondment if the interests of the BEREC Office warrant it.

⁴ Articles 59 and 60 of the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

⁵ Articles 57 and 59a of and Annex V to the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

⁶ Article 58 of the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.

3. An SNE may, as an alternative, apply for a break in the secondment to cover the sum of the periods allowed for maternity leave. In that case, the second subparagraph of paragraph 2 shall apply.

Article 16

Management and control

For SNEs seconded to locations other than Brussels or Luxembourg, day-to-day administrative and financial management, such as the calculation and payment of subsistence allowances and travel allowances, shall be the responsibility of the BEREC Office.

Chapter III

Allowances and expenses

Article 17

Subsistence allowances

1. An SNE shall be entitled, throughout the period of secondment, to a daily subsistence allowance and a monthly subsistence allowance.

On the date of entry into force of this Decision:

the daily subsistence allowance for Brussels and Luxembourg shall be €125.25;

the monthly subsistence allowance shall be paid in accordance with the following table:

Distance between place of origin and place of secondment (km)	Amount in €
0 – 150	0
> 150	76.74
> 300	136.42
> 500	221.71
> 800	358.14
> 1300	562.80
> 2000	673.67

2. These subsistence allowances shall be granted under the same conditions as the expatriation allowance for officials⁷.

3. In the case of cost-free SNEs, the exchange of letters referred to in Article 3(4) shall stipulate that these allowances will not be paid.

4. The subsistence allowances for SNEs seconded to an EU Member State other than Belgium or Luxembourg shall be subject to the weighting set by the Council pursuant to Article 64 of the Staff

⁷ Article 4 of Annex VII to the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.

Regulations.

5. The adjustments to remuneration adopted by the Council pursuant to Article 65 of the Staff Regulations shall apply automatically to the subsistence allowances in the month following their adoption. The BEREC Office shall be responsible for implementing this provision and shall publish the new rate for subsistence allowances on its internet site.

6. These allowances are intended to cover SNEs' living expenses in the place of secondment on a flat-rate basis and shall in no circumstances be construed as remuneration paid by the BEREC Office.

Before the secondment, the SNE's employer shall certify to the BEREC Office that during the secondment it will maintain the level of remuneration the SNE was receiving at the time of his secondment.

The SNE shall inform the Administrative Manager of any allowance similar to the subsistence allowances paid by the BEREC Office received from other sources. This amount shall be deducted from the subsistence allowances paid by the BEREC Office. Following a duly justified request from the employer, the Vice Chair of the Management Committee may decide not to make this deduction.

7. Subsistence allowances shall be payable for every day of the week, including during periods of mission, annual leave, special leave and holidays granted by the BEREC Office.

8. When the SNE starts the secondment, the first 75 days of the subsistence allowances to which he is entitled shall be advanced in the form of a lump sum, and the allowances shall not be paid during the corresponding period. This lump sum shall be paid by the 25th day of the month for SNEs starting on the first day of the same month. For SNEs starting on the 16th day of the month, this lump sum shall be paid by the 10th day of the following month. If the secondment is ended during the first 75 days, the SNE shall return the amount corresponding to the remainder of that period.

9. Subsistence allowances shall be paid no later than the 25th day of each month.

Article 18

Place of origin

1. For the purposes of this Decision, "place of origin" means the place where the SNE performed his duties for his employer at the time of his secondment. The place of secondment shall be the place where the BEREC Office is located. Both places shall be identified in the exchange of letters referred to in Article 3(4).

2. If, six months before his secondment as an SNE, a national expert already has his main residence in a place other than that in which the employer's headquarters is located, the place of origin shall be deemed to be whichever of the places is closer to the place of secondment.

Article 19

Travel expenses

1. An SNE, if not seconded on a cost-free basis, shall be entitled, for himself, to the reimbursement of the cost of his travel between his place of origin and the place of secondment, as defined in Article 18, at the beginning and end of his secondment.

2. Travel expenses shall be reimbursed in accordance with the relevant rules and conditions in force at the BEREC Office⁸.

⁸ Article 7(1) and (2) of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

3. By way of derogation from paragraph 1, an SNE who proves that he will be assigned to a place other than his place of origin at the end of the secondment shall be entitled to reimbursement of the travel expenses to that new place under the conditions laid down in paragraph 2. However, this reimbursement may not be more than the amount that would have been paid had the SNE returned to his place of origin.

4. The BEREC Office shall not reimburse any expenses referred to in the preceding paragraphs if they have been met by the employer or any other body.

Article 20

Missions and mission expenses

1. SNEs may be sent on mission subject to Article 6.

2. Mission expenses shall be reimbursed in accordance with the relevant rules and conditions in force at the BEREC Office⁹.

Article 21

Training

SNEs shall be entitled to attend training courses organised by the Commission or by the BEREC Office if the interests of the BEREC Office warrant it. The interests of the SNE, in particular with a view to his reinstatement into his original administration after the secondment, may be considered when a decision is taken on whether to allow him to attend a training course.

Article 22

Administrative provisions

SNEs shall report to the BEREC Office on the first day of secondment to complete the requisite administrative formalities. They shall take up duty on either the first or the sixteenth day of the month.

Chapter IV

Complaints

Article 23

Without prejudice to the possibilities for instituting proceedings after taking up his position, under the conditions and time limits laid down in Article 230 of the EC Treaty, any SNE may submit a complaint to the Vice Chair of the Management Committee about an act adopted by the BEREC Office under this Decision which adversely affects him, with the exception of decisions which are direct consequences of

⁹ Articles 11 and 12 of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

decisions taken by his employer.

The complaint must be lodged within two months. The period shall start to run on the date of notification of the decision to the person concerned, but in no case later than the date on which the latter received such notification. The Vice Chair of the Management Committee shall notify the person concerned of his reasoned decision within four months from the date on which the complaint was lodged. If at the end of that period no reply to the complaint has been received, this shall be deemed to constitute an implied decision rejecting it.

TITLE II

NATIONAL EXPERTS IN PROFESSIONAL TRAINING

Article 24

General provisions and definitions

1. National experts in professional training (hereinafter referred to as "NEPTs") are staff from the public administrations of EU or EFTA Member States or, depending on the places available, of countries with which the Council has decided to open accession negotiations and which have concluded a specific agreement with the BEREC Office on staff secondments, or from IGOs, who are admitted to the BEREC Office for professional training purposes.
2. The provisions of Article 1(1), (3), (4) and (5) shall apply by analogy to NEPTs.

Article 25

Purpose of the professional training

1. The purpose of the professional training is:
 - to give NEPTs experience of the BEREC Office's working methods and policies;
 - to enable them to gain practical experience and understanding of the day-to-day work of the BEREC Office and to give them the opportunity to work in a multicultural, multilingual environment;
 - to enable staff of national administrations to put into practice the knowledge they have acquired in their studies, particularly in their respective areas of responsibility.
2. For its part, the BEREC Office:
 - benefits from the input of people who can offer a new point of view and up-to date knowledge which will enrich the daily work of the institution;
 - builds up a network of people with direct experience of its procedures.

Article 26

Eligibility

1. The provisions of Article 8 on professional experience and knowledge of languages shall apply by analogy to NEPTs.
2. People who have already been seconded as an SNE or worked under an employment contract in one of

the European Union Institutions or bodies shall not be eligible for traineeships.

Article 27

Selection of candidates

1. Applications shall be forwarded by the Permanent Representations of Member States or, as the case may be, by the EFTA Secretariat, by the administrations of non-member countries, by NRAs or IGOs to the BEREC Office in accordance with the procedure and methods decided by it.

2. After consulting the service concerned and considering the situation, the BEREC Office shall decide how many NEPTs are to be admitted for each period.

Article 28

Duration of the professional training

1. The professional traineeships shall last between three and five months. The duration shall be fixed at the outset and may not be changed or extended.

An NEPT may complete only one professional traineeship.

2. The professional traineeships are organised twice a year, usually starting on the 1st or 16th of the months of March and October.

Article 29

Organisation of the professional training

Throughout the professional traineeship NEPTs shall be supervised by a training advisor. The training advisor must inform the Administrative Manager of any significant incidents during the professional traineeship (in particular absences, illness, accidents or interruption) which he knows of or has been informed of by the NEPT.

NEPTs must obey instructions given by their training advisor, or their superior in the BEREC Office.

NEPTs shall be allowed to attend meetings, unless they are restricted or confidential, to receive documentation and to participate in the activities of the department to which they are seconded.

Article 30

Suspension of the professional traineeship

At the written request of the NEPT or his employer, and with the latter's prior agreement, the Vice Chair of the Management Committee may authorise a very brief suspension of the professional traineeship or its early termination. The NEPT may return to complete the remaining period of the professional traineeship, but only up until the end of that period. Under no circumstances may the traineeship be extended.

Article 31

Working conditions and remuneration

1. The following Articles shall apply by analogy to NEPTs:

- Article 6 on tasks;
- Article 7 on rights and obligations;
- Article 11(1) and (2) on social security;
- Article 12(1) on working hours;
- Article 13 on sick leave;
- Article 15 on annual leave and special leave;
- Article 20 on missions and mission expenses.

2. NEPTs shall be regarded as cost-free SNEs within the meaning of Article 2. They shall continue to be paid by their employer without any financial compensation being paid by the BEREC Office.

The BEREC Office will accept no requests for grants or fees or the reimbursement of travel or other expenses other than the reimbursement of mission expenses incurred as part of the professional traineeship.

Article 32

Reports and certificate of attendance

NEPTs who have completed the stipulated professional training period shall complete the evaluation reports requested by the BEREC Office at the end of their traineeship. Training advisors must also complete the relevant evaluation report.

Subject to the completion of these reports, NEPTs who have completed their professional traineeships shall receive a certificate showing the dates of the professional training and the department in which it took place.

TITLE III

FINAL PROVISIONS

Article 33

The Permanent Representations, the NRAs, members of the Management Committee, the EFTA Secretariat, the IGOs and the diplomatic missions of the non-member countries concerned shall enjoy a close working relationship with BEREC Office throughout the SNEs' and NEPTs' secondment. Contacts between the SNE's and NEPT's employer for issues related to the secondment, shall be made via the Member State's Permanent Representation, the NRAs, the EFTA Secretariat, the IGOs and the diplomatic missions of the non-member countries concerned, as appropriate.

Article 34

Entry into force

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

Done on 23 December 2010

For the Management Committee

Chris Fonteijn
2010 Vice-Chair

Decision by the Management Committee of the Body of European Regulators for Electronic Communications (BEREC)

on the general implementing provisions on the procedures governing the engagement and the use of contract staff at the BEREC Office

The MANAGEMENT COMMITTEE,

Having regard to the Staff Regulations of Officials (hereinafter "SR") and the Conditions of Employment of Other Servants of the European Communities (hereafter "CEOS"), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68, and in particular to Article 82(6) of the Conditions of Employment,

Having regard to the Council and European Parliament Regulation (EC) n° 1211/2009 of 25 November 2009 establishing the Body of European regulators for Electronic Communications (hereinafter "BEREC") and the Office, and in particular Article 10 thereof.

In agreement with the European Commission pursuant to Article 110 of the Staff Regulations,

The Staff Committee of the BEREC Office, which is to be consulted pursuant to Article 110, paragraph 1, second sentence, of the Staff Regulations, has not yet been constituted and it is therefore impossible at the present to comply with the requirements of that provision. The Staff Committee will be invited to give its opinion on the relevant implementing rules when it has been constituted and due consideration will be given to any such opinion. The Management Committee is entitled in such circumstances to approve the rules forthwith.

Whereas:

- (1) Detailed rules on the employment of contract staff are desirable and contract agents should be selected by a transparent and objective procedure.
- (2) The rules contained in these implementing provisions, and in particular those on selection procedures and grading, are without prejudice to Article 2 of the Annex to the CEOS.
- (3) The grading of contract staff in function groups needs to be based on the functions to be exercised by the person concerned. It is therefore essential that detailed job descriptions are established for all functions to be filled with contract staff.
- (4) The BEREC Office may only recruit contract staff under Article 3a of the CEOS

HAS ADOPTED THE FOLLOWING PROVISIONS:

General provisions

Article 1 *Scope*

These rules shall apply to contract staff referred to in Article 3a (hereafter "AC3a") of the CEOS engaged in the BEREC Office.

Article 2 *Minimum qualifications required*

In the BEREC Office, Article 82(2) of the CEOS shall be applied as follows:

1. Engagement as a member of the contract staff shall require at least:
 - (a) in function group I, successful completion of compulsory education;
 - (b) in function group II:
 - a post-secondary education attested by a diploma, or
 - a secondary education attested by a diploma giving access to post-secondary education and appropriate professional experience of three years. The secondary education diploma giving access to post-secondary education may be replaced by a certificate of adequate professional training of not less than three years on condition that there was no similar professional training giving access to higher education at the time it was issued or,
 - successful completion of intermediate education plus two years relevant supplementary specialised training plus five years' appropriate professional experience.
 - (c) in function group III:
 - a post-secondary education attested by a diploma, or

- a secondary education attested by a diploma giving access to post-secondary education and appropriate professional experience of three years.
- (d) in function group IV: completed university studies of at least three years attested by a diploma and appropriate professional experience of at least one year.
2. Only diplomas and certificates that have been awarded in EU Member States or that are the subject of equivalence certificates issued by the authorities in the said Member States shall be taken into consideration.

Article 3
Probationary period

1. Where a member of the contract staff serves a probationary period in accordance with Article 84 of the CEOS a probationary report must be drawn up no later than one month before expiry of the probationary period.
2. The report referred to in the preceding paragraph shall be drawn up in accordance with the following procedure:
 - a) The probation supervisor shall be the temporary staff member under whose supervision the probationary contract staff member performs his/her duties.
 - b) Not less than two months before the end of the probationary period, the probation supervisor shall ask the contract staff member to draw up a self-assessment. The contract staff member shall have eight working days in which to do so. The self-assessment shall be included in the probationary report.
 - c) Not more than ten working days after the contract staff member has submitted the self-assessment, the probation supervisor and the contract staff member shall hold a formal dialogue.
 - d) If the contract staff member refuses to finalise the self-assessment within the period set, the probation supervisor may decide to hold the dialogue on the expiry of the period referred to in (b) of this paragraph.
 - e) The dialogue shall cover the ability of the contract staff member to perform his/her duties, and his/her conduct and efficiency in the service.
 - f) Not more than ten working days after the formal dialogue, the probation supervisor shall draw up the probationary report and send it to the contract staff member. The report shall indicate whether the contract staff member has shown adequate qualities to justify retention in his/her function, whether, in exceptional circumstances, the

probationary period should be extended or whether the contract staff member should be dismissed in accordance with Article 84(3) of the CEOS.

g) The contract staff member shall then have eight working days in which to make known any comments. Once this period has elapsed, the probationary report shall be closed.

h) Where the probationary report recommends dismissal or, in exceptional circumstances, the extension of the probationary period, the probation supervisor's hierarchical superior, who must belong to function group AD, shall hold a dialogue with the contract staff member within ten working days. The contract staff member may be assisted during the dialogue by another person, provided that that person is part of the BEREC Office staff.

Not more than five working days after this dialogue the probation supervisor's hierarchical superior shall deliver an opinion to the authority responsible for concluding contracts of employment.

Where the probation supervisor's hierarchical supervisor confirms the conclusions of the probationary report, the Vice Chair of the Management Committee shall obtain the opinion of the Joint Evaluation Committee as referred to in the BEREC decision on general provisions for implementing article 43 of the SR before deciding on the follow-up action in relation with the probationary period.

3. The same procedure shall apply in relation to the report referred to in Article 84(4) of the CEOS where, in the event of the obvious inadequacy of the probationary contract staff member, it is decided to draw up such a report.
4. The periods referred to in this Article shall not commence until the request or decision has been communicated to the contract staff member or, at the earliest, when the latter could, acting diligently, have become fully acquainted with the contents of and grounds for the request or decision. Where the contract staff member is prevented, on grounds of absence that are duly substantiated or for other objective reasons which he/she duly demonstrates, from using the computer system, the periods referred to in this Article which are to be observed by the contract staff member shall be increased to 20 working days. Before the period of 20 working days has expired, the contract staff member shall send his/her self-assessment or make known his/her comments to the person responsible for human resources in his/her department. Where the contract staff member fails to react, the person responsible for human resources in the department concerned shall be authorised to draw up or close the report.
5. Probationary reports shall be managed electronically. Contract staff members shall each have access to their probationary report by means of a personal secret password.

Article 4
Succession of contracts

1. The Vice-Chair of the Management Committee may engage as AC3a persons employed as AC3b in an institution only after the latter contract has expired or been terminated.

2. In this case, the contract agent AC3a must comply with the conditions set out in the CEOS and in these provisions, in particular the conditions concerning the qualifications required, and have undergone a selection procedure as laid down under Article 5 or an equivalent selection procedure undertaken by another Union institution or agency followed by an interview carried out under the provisions of Article 5(1)(c).

Article 5
Selection procedure

The BEREC Office may recruit contract staff CA3a by using the selection procedures indicated below:

1. Selection procedure using the European Communities Personnel Selection Office (EPSO) database:

(a). The BEREC Office may recruit contract staff CA3a by using EPSO's database. Candidates validated in the above-mentioned database are the ones that have successfully completed the selection procedure organized by EPSO according to Art. 5(1)(g) of the Commission Decision of 7 April 2004 C(2004)1313 on the procedures governing the engagement and the use of contract staff.

(b). A Selection Committee shall be set up by the BEREC Office, consisting of three members.

There should be one member from the human resources unit of the BEREC Office, one member from the relevant unit/service and one person designated by the Staff Committee. The member of the human resources or the member from the relevant service shall act as chairman.

(c). The Selection Committee shall invite for interview the candidates who are considered to be the most suitable ones, on the basis of the job description, from among the list of applicants already validated by EPSO. Minutes of Committee meetings shall be drawn up setting out the reasons for any decision taken.

(d) Candidates shall be informed of the outcome of the interview.

2. Where the interest of the service so requires and where no suitable candidates are available from the EPSO database, the Vice Chair of the Management Committee, at the request of the unit/service concerned, may grant an exemption from the

procedure of paragraph 1 above for the recruitment of a member of the contract staff in function group IV. In this specific case, written tests are not mandatory.

3. Where there is no current list of successful candidates or where no candidate on such a list meets the requirements for a particular vacancy and should the engagement of a member of the contract staff for replacement purposes be required either very quickly or for a short-term replacement, the following procedure shall apply:

(a). the BEREK Office shall launch the recruitment procedure by advertising vacancy notices on the BEREK Office's website for at least two weeks and optionally in local newspapers, by specifying the criteria concerning general and specific competencies and key qualifications required.

(b). The Selection Committee referred to in Article 5 (1) b of this decision shall evaluate the applications and select those matching best the profile and qualifications required as per vacancy notice.

(c). The Selection Committee shall invite for interview the selected applicants on the basis of the job description as stated in the vacancy notice. The interview shall cover: an analysis of the language abilities, personal and professional competences of each applicant. On the basis of the results of the interviews the Selection Committee will make its decision in writing by setting out the reasons for any decision taken. Minutes of Committee meetings shall be drawn up setting out the reasons for any decision taken. For function groups I and II, practical tests on general aptitudes/skills such as typing may be organized.

(e). Candidates shall be informed of the outcome of the interview.

(f). Contracts concluded following the procedure of this paragraph for a quick replacement shall not exceed six months. Contracts concluded for a short-term replacement are limited to a maximum duration linked to the maximum replacement duration caused by the single leave covered by Articles 42, 42a, 42b and Title IV "working conditions" of the Staff Regulations. Both types of contracts may only be renewed for another fixed term or for an indefinite duration if the AC3a has passed a selection procedure pursuant to paragraph 1 of the present article.

Article 6 *Duration of contracts*

1. AC3a may be engaged under their first contract for a fixed period of at least three months and not more than five years.
2. The renewal of a contract in function groups I, II, III and IV shall be for another fixed period of at least three months and not more than five years. A second renewal without

interruption leading to an indefinite-duration contract may only be granted if the first two contracts covered a total period of at least five years. In any case, the total period shall not exceed the lifetime of the BEREC Office.

3. In order to be taken into consideration with a view to the award of an indefinite duration contract the contracts concerned must follow each other uninterruptedly. A gap of six months or more between two contracts shall be regarded as an interruption.

Article 7
Grading of AC3a

1. AC3a shall be engaged:
 - (a) in function group I: in grade 1;
 - (b) in function group II:
 - in grade 4 if the person has professional experience of up to seven years;
 - in grade 5 if the person has professional experience of more than seven years;
 - (c) in function group III:
 - in grade 8 if the person has professional experience of up to seven years;
 - in grade 9 if the person has professional experience of more than seven years;
 - in grade 10 if the person has professional experience of more than fifteen years;
 - (d) in function group IV:
 - in grade 13 if the person has professional experience of up to seven years;
 - in grade 14 if the person has professional experience of more than seven years;
 - in grade 16 if the person has professional experience of more than twenty years.
2. The Vice-Chair of the Management Committee may decide to grant the grade immediately above the one determined in paragraph 1 if the function to be filled

corresponds to a competency profile where due to the labour market conditions this measure is necessary to ensure a sufficient number and quality of applications. These profiles shall be determined by decision of the Vice-Chair of the Management Committee and communicated to the units/services.

3. In order to be taken into account professional experience must have been acquired in an activity corresponding at least to the level of qualification required for the access to the function group and having a link with one of the institution's sectors of activity. It shall be taken into account from the date on which the person fulfils the minimum qualifications for engagement set out in Article 2 (including, where applicable, any professional experience required by that Article).
4. In the case of a doctorate/PhD the actual duration of the studies shall be taken into account, subject to an upper limit of three years. In the case of other qualifications the statutory duration of the studies shall be taken into account.
5. Military service and equivalent civilian service shall be regarded as professional experience.
6. For grading purposes, part-time work shall be taken into account in proportion to the stated percentage in relation to full-time work.

In the case of freelance translators the extent of the professional experience shall, subject to the period devoted to this activity, be calculated on the basis of the number of pages translated.

7. No period may be counted more than once.
8. Where AC3a are engaged in another entity without interruption as defined in Article 6(3) as contract staff under the same type of contract the following shall apply:
 - a. If hired to perform duties within the same function group the member of the contract staff shall retain the grade, step and seniority acquired in his or her grade and step;
 - b. If hired to perform duties in a higher function group the member of the contract staff shall be placed in the most favourable grade resulting from:
 - the application of the provisions under paragraphs 1 to 7 above, including the requirement that professional experience must have been acquired at least at the level of the function group concerned, and
 - the application of the rule laid down in Article 86(2) of the CEOS that the basic salary is to be maintained, choosing the grade that, taking into account the steps, constitutes the lowest grade possible.
 - c. If the person is hired to perform duties in a lower function group, paragraphs 1 to 7 above shall apply.

Article 8
Entry into force

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

Done on 23 December 2010

For the Management Committee

Chris Fonteijn
2010 Vice-Chair

**Decision by the Management Committee of the Body of European
Regulators for Electronic Communications (BEREC)**
**on the general implementing provisions on the procedure governing the
engagement and the use of Temporary agents at the BEREC Office**

The MANAGEMENT COMMITTEE,

Having regard to the Staff Regulations of Officials (hereinafter "SR") and the Conditions of Employment of Other Servants of the European Communities (hereinafter "CEOS"), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68, and in particular to Articles 2 (a) and (b) and 12 (5) of the Conditions of Employment,

Having regard to the Council and European Parliament Regulation (EC) n° 1211/2009 of 25 November 2009 establishing the Body of European Regulators for Electronic Communications (hereinafter "BEREC") and the Office, and in particular Article 10 thereof,

Having regard to the Commission Decision C(2005)5304 of 16 December 2005 concerning the guidelines on staff policy in the European Regulatory Agencies,

In agreement with the European Commission pursuant to Article 110 of the Staff Regulations,

The Staff Committee of the BEREC Office, which is to be consulted pursuant to Article 110, paragraph 1, second sentence, of the Staff Regulations, has not yet been constituted and it is therefore impossible at the present to comply with the requirements of that provision. The Staff Committee will be invited to give its opinion on the relevant implementing rules when it has been constituted and due consideration will be given to any such opinion. The Management Committee is entitled in such circumstances to approve the rules forthwith..

Whereas:

- (1) Detailed rules on the employment of temporary agents are desirable. These rules should be based on the types and the duration of tasks to be filled with temporary staff.
- (2) Temporary agents should be selected through a transparent and objective procedure.
- (3) The grading of temporary staff should correspond to the functions to be exercised.
- (4) The BEREC Office may only recruit temporary staff under Article 2a of the CEOS

Article 1

Scope

These rules shall apply to temporary staff referred to in Article 2a (hereinafter "temporary agents 2a") of the CEOS engaged in the BEREC Office, except

- the post corresponding to the Administrative Manager stated in the Council and European Parliament Regulation (EC) n° 1211/2009 of 25 November 2009 establishing the BEREC and the Office.
- heads of unit whose conditions of engagement and employment shall be carried out in line with the specific decision concerning middle management.

Article 2

Type of posts and filling of posts

1. Temporary agents 2a shall be engaged on temporary posts on long term employment for operational, administrative or technical tasks.
2. Long-term employment posts may be filled through an internal selection procedure, via the Inter-Agency Job Market (hereinafter "IAJM") or through an external selection procedure.

Article 3

Selection procedure

1. The BEREC Office shall launch the recruitment procedure by advertising vacancy notices specifying the criteria concerning general and specific competencies and key qualifications required and the possible duration of employment, the function group and grade, and the main steps of the selection procedure.

The vacancy notice shall be published for at least two weeks on the BEREC Office's Internet site, EPSO website, as well as if necessary in the international and local and specialist press. The channels of Permanent Representations of the Member States to the European Union and the NRAs' members of the Management Committee may also be used.

2. The BEREC Office shall set up a Selection Committee, which shall consist of at least three members:

Two from the BEREC Office (one member from the administration and one member from the relevant operational service) and one person designated by the Staff Committee.

One of the two members from the BEREC Office shall act as Chairman.

In specific cases, in particular for selection procedures of experts, up to two additional members may be designated from another service of the BEREC Office or from outside the European Union Institutions.

The members of the Selection Committee who are temporary agents of the BEREC Office shall be chosen from temporary agents whose function group and grade is at least equal to that of the post to be filled.

3. The Selection Committee shall evaluate applications and select those candidates meeting the eligibility criteria and matching best the selection criteria required as per vacancy notice.

The Selection Committee shall invite the selected applicants to written tests whose content shall be defined in accordance with the level and profile of the position advertised.

The written tests will contribute to assess the following components:

- general aptitudes and language abilities to the extent necessary for the performance of their duties,
- knowledge on European integration, the institutions and the Agency;
- specific competencies with reference to their profiles, assessing the quality of writing style and presentation

The above-mentioned components of these tests can be combined and tailored according to the profile of the post.

The Selection Committee shall either invite selected candidates for interview, on the basis of the results of the written tests, or interview all selected candidates. The content of the interview shall be defined in accordance with the level and profile of the position advertised. The interview may be organised for the same day as the written tests.

Minutes of Committee meetings shall be drawn up setting out the reasons for any decision taken.

The Selection Committee shall propose a short list of successful candidates to the Management Committee, which may draw up a reserve list of successful candidates. This list will be valid up to 12 months from the date of its establishment and its validity may be extended by decision of the Vice-Chair of the Management Committee.

The candidates shall be informed of the outcome of the interview and of whether they have been placed on the reserve list.

4. By derogation to paragraph (1), the vacancy notice can be published internally at a range of grades corresponding to the functions.

The post shall be reserved to temporary agents 2a of the same function group whose grade is within this range of grades and who meet the following criteria:

- being employed in BEREC Office as a temporary agent 2a on long term employment for permanent tasks as defined in Article 2;
- having been selected according to the procedure laid down in Article 3 (1) and (3) or, for staff engaged before the entry into force of this decision, having succeeded in a selection procedure equivalent to that referred to in Article 3
- possess the qualifications specified in the vacancy notice.

From the closing date of the selection procedure on, if no suitable candidates could be found in BEREK Office , the vacancy notice may be published in the Inter-Agency Job Market or externally at the most appropriate level.

5. By derogation to paragraph (1), the vacancy notice can be published in the IAJM within the agency network at a range of grades corresponding to the functions.

The post shall be reserved to temporary agents 2a of the same function group whose grade is within this range of grades and who meet the following criteria:

- being employed in a Regulatory Agency applying the Staff Regulations as a temporary agent 2a on long term employment for permanent tasks as defined in Article 2;
- having been selected according to the procedure laid down in Article 3 (1) and (3) or, for staff engaged before the entry into force of this decision, having succeeded in a selection procedure equivalent to that referred to in Article 3
- possess the qualifications specified in the vacancy notice.

From the closing date of the selection procedure on, if no suitable candidates could be found in the network of Agencies, the vacancy notice may be published externally at the most appropriate level.

6. The Vice-Chair of the Management Committee will appoint and conclude a contract with the candidate which meets best all the requirements for a particular post, after obtaining the consent of the Management Committee.

Article 4

Grading

1. Subject to paragraph 2, depending on the function and the level of tasks and within the limits authorised by the establishment plan of the BEREK Office, temporary agents 2a shall be engaged in principle at the following entry grades:

- AST 1 to AST 4 for the function group AST
- AD 5 to AD 8 for the function group AD.

2. By way of derogation from paragraph 1, in order to ensuring high-quality recruitment, if justified by an analysis of the labour market conditions in its sector of work and if the post cannot be filled at a lower grade, the BEREK Office may engage temporary agents 2a at grade AD 9, AD 10, AD 11 or, on an exceptional basis, at grade AD 12. Such recruitments shall remain annually within the limits of 20% of AD recruited per year within the BEREK Office, as defined in the current Staff Policy Plan approved by the Management Committee. This percentage may vary within the limit of an annual average of 20 % calculated over a five years rolling period. Successful candidates selected according to the procedure mentioned in Article 3 (5) shall be recruited at the grade held in their previous agency. Article 32 of the Staff Regulations and BEREK's decision concerning the criteria applicable to classification in grade and step on appointment or engagement shall apply concerning the classification in step.

3. The minimum number of years of professional experience required after the award of the qualification certifying the completion of the level of studies required as a condition of eligibility for any selection procedure is as follows:

Grade of engagement	Number of years of professional experience
AD 5	0 years
AD 6	3 years
AD 7	6 years
AD 8	9 years
AD 9/10	12 years
AD 11/12	15 years
AST 1	0 years
AST 2	1 years
AST 3	3 years
AST 4	6 years

Article 5

Duration of contracts

1. Temporary agents 2a may be engaged under their first contract for a fixed period. The contract may be renewed by the Vice-Chair of the Management Committee not more than once for another fixed period. A further renewal, awarded by decision of the Vice-Chair of the Management Committee, shall be for an indefinite period.

The total period of engagement shall not exceed the lifetime of the BEREC Office.

Article 6

Probationary Period

A member of temporary staff on long term employment shall serve a probationary period pursuant to Article 14 (1) of the CEOS, which is in proportion to the duration of his/her contract. If the duration of the contract exceeds twelve months, the probationary period shall last for the maximum of 6 months. If the duration of contract is between 6 and 12 months, the probationary period shall cover half of the duration of the contract. If the duration of contract is less than 6 months, the temporary agents may be exempted from the requirement to serve a probationary period.

Article 7

Entry into force

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

Done on 23 December 2010

For the Management Committee

Chris Fonteijn
2010 Vice-Chair