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In accordance with Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community (OJ L 43, 15.2.1983, p. 1), as amended by Regulation (EC, Euratom) No 1700/2003 of 22 September 2003 (OJ L 243, 27.9.2003, p. 1), this file is open to the public. Where necessary, classified documents in this file have been declassified in conformity with Article 5 of the aforementioned regulation.

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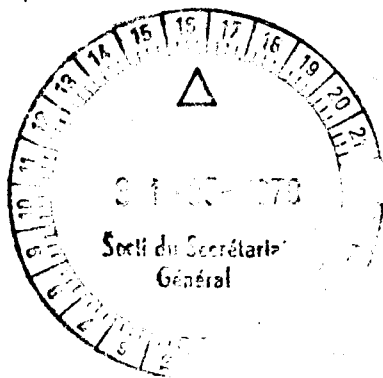
COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 248 final

Brussels, 28th May 1979

PROPOSAL FOR A REGULATION
AMENDING THE STAFF REGULATIONS OF OFFICIALS
AND THE CONDITIONS OF EMPLOYMENT OF OTHER SERVANTS
OF THE EUROPEAN COMMUNITIES

(presented by the Commission to the Council)



EXPLANATORY MEMORANDUM

I. The basic purpose of the attached proposal for revision of the Staff Regulations is to improve a number of the provisions concerning family and social security matters and to make good a number of omissions in these areas. In addition, it has become apparent that the provisions governing secondment should be broadened to enable Community officials to be seconded at their own request to organizations devoted to furthering the Community's interests. Lastly, experience has revealed the need to make certain technical amendments to a number of existing provisions.

II. Proposed amendments to family and social provisions

1. Extending the maximum period allowed for leave on personal grounds (Article 40 of the Staff Regulations)

Leave on personal grounds is currently limited to a maximum of one year. It may, however, be renewed twice, each time for a further period of one year.

The intention now is to extend the maximum entitlement to leave on personal grounds to ten years in three specific cases: where the official is bringing up a young child or a handicapped child and where the official is married to another Community official or member of Community staff who is assigned to a place of employment some distance away from that of his or her spouse.

This amendment is designed to ease the administrative position of officials faced by particularly inconvenient family or social problems.

2. Introduction of three-quarters time working (Articles 55a, 59a and 68a and Annex IVa to the Staff Regulations)

As the Staff Regulations stand an official may be authorized to work half-time in exceptional circumstances if he applies giving reasons.

It is proposed that the existing rules governing part-time work be altered by introducing the possibility of three-quarters time work. This would give added flexibility as officials who for family reasons do not wish to work full-time would not have to go so far as working only half-time.

The arrangements regarding remuneration and leave are altered accordingly.

3. Fraction of earnings that may be assigned or attached
(Article 62 of the Staff Regulations)

In view of the sometimes considerable degree in which legislation differs between Member States with regard to the assignment or attachment of salaries and pensions it is essential that the Staff Regulations specify the fraction of the remuneration or pension that may be assigned or attached so as to ensure that Community officials are treated alike regardless of their place of employment. This also applies to the allowances paid under Article 50 of the Staff Regulations or under the rules governing termination of service. This constitutes an extremely important measure of protection for officials and their families.

4. Family allowances
(Article 67 of the Staff Regulations and Articles 1, 2 and 3 of Annex VII)

At present the family allowances comprise:

- the household allowance equal to 5% of the basic salary or Bfrs 2 869 per month whichever is the greater;
- the dependent child allowance of Bfrs 3 696 per child and per month;
- the education allowance equal to the actual education costs incurred by the official up a maximum of Bfrs 3 302 per month for each dependent child.

With a view to simplifying and rationalizing this system it is proposed that the fixed amount for each allowance be replaced by a reference to the basic salary for a particular grade and step.

This technique has already been adopted by the Council, during the third round of Staff Regulations revisions (Regulation No 912/78 of 2 May 1978), in connection with the ceiling referred to at Article 1(3) of Annex VII.

The minimum household allowance could be set at 5% of the basic monthly salary of an official in the fourth step of Grade B3, which at current rates would amount to Bfrs 3 451.

It would also seem advisable to raise the maximum rate of education allowance to equal the dependent child allowance, the latter being set per child and per month at 14% of the basic monthly salary of an official in the first step of Grade D4, which at current rates would come to Bfrs 4 548.

It is also proposed that provision be made in certain circumstances for paying the family allowances to a person other than the official when custody of the dependent child is awarded by law or by court order to another person.

5. Social security - Sickness insurance cover
(Article 72 of the Staff Regulations)

The rate of reimbursement referred to in Article 72(1) was set at 80% with effect from 1 January 1962 in order to reflect the national legislation in force in each of the six Member States at that time.

Scrutiny of the legislation now in force in five of the Member States has revealed that insured persons are not generally required to make any contribution at all towards the cost of medical care.

Judging by past experience with the medical insurance scheme the reimbursement rate should be raised to 90% for certain types of treatment and to 100% for check-ups to detect serious illnesses and for confinements. It is also proposed that in certain circumstances the divorced spouse of an official, children who are no longer the official's dependents and persons who cease to be treated as dependent children may continue to be covered against risk of sickness for a period of one year. A similar measure offering temporary extension of social security cover to officials leaving the service has already been introduced into the Staff Regulations.

It is also proposed that the terms on which the system of special reimbursement becomes operative be improved. This would benefit the lowest paid officials in particular, depending on their family situation.

Lastly, in order to avoid double reimbursement of the same expenses, it is proposed that the obligation to declare reimbursements due from other sources be so broadened that all expenses reimbursed or due to be reimbursed by another sickness insurance scheme are taken into account.

6. Responsibility for the cost of transporting the body in the event of death
(Article 75 of the Staff Regulations)

As they stand, the Staff Regulations require the institution to bear the costs involved in transporting the body of a deceased official to his place of origin.

It is proposed that this provision be extended to an official's spouse, dependent children or other dependents living as part of the official's household.

7. Travel expenses
(Article 8(4) of Annex VII)

An official whose place of employment and/or place of origin is outside Europe is entitled once in each calendar year, subject to the submission of supporting documents, to repayment of travel expenses to his or her place of origin. It is proposed that this allowance be made available also to the official's spouse and dependents living elsewhere than at the official's place of employment.

III. Proposed amendments to the rules governing secondment at the official's own request

The definition of an official on secondment given in Article 37(1)(b) includes one who has at his own request been placed at the disposal of another of the institutions of the European Communities.

There are a number of Community officials working in organizations devoted to furthering the Community's interests, such as the European University Institute in Florence, which are not institutions within the meaning of the Treaty. Such officials are therefore obliged to resign from the Communities or take leave on personal grounds for a maximum of three years. The secondment in the interest of the service provided for in the Staff Regulations cannot be applied in all cases. Leave on personal grounds does not offer a satisfactory solution since it is limited by the Staff Regulations to a maximum of three years.

It is therefore proposed that officials be allowed to be seconded at their own request to organizations devoted to furthering the Community's interests. The Community institutions would have to agree on a list of such organizations, after hearing the Opinion of the Staff Regulations Committee. This solution would work equally well for organizations other than the Florence University Institute, such as the Centre for the Development of Vocational Training in Berlin and the Foundation for the Improvement of Living and Working Conditions in Dublin.

Article 39(d) of the Staff Regulations will have to be adjusted to avoid duplicating the official's pension rights.

IV. Technical alterations to specific provisions

1. Secondment and leave on personal grounds
(Articles 37 and 40 of the Staff Regulations)

It is proposed that it be made clear that only established officials may be seconded or take leave on personal grounds. Owing to a lack of precision the existing text implies that a probationer official may apply to be seconded to another Community institution or granted leave on personal grounds.

2. Education allowance
(Article 3 of Annex VII to the Staff Regulations)

In view of the proposal for a new fourth paragraph to this Article, the circumstances in which the maximum allowance is doubled must be altered to allow for cases where a person other than the official has custody of the child for whom the education allowance is paid. In such cases the 50 km referred to in the third paragraph, which applies to normal cases where the official has charge of the child, must be calculated from the place of residence of the person having custody of the child instead of the official's place of employment.

3. Travel expenses
(Article 7(2) of Annex VII)

Under the Staff Regulations in their present form, the official is entitled on certain conditions to reimbursement of the cost of travel by air in the class immediately below luxury class or first class on taking up his appointment, on termination of service or on any transfer involving a change in the place where he is employed.

It is proposed that reimbursement of the cost of the journey in the class used be authorized if the journey is made in particularly tiring conditions.

4. Retirement pension

(Article 11(2) of Annex VIII to the Staff Regulations)

The current rules governing the repayment of pension rights allow the official, when established in the service of the Communities, to pay the Community either the actuarial equivalent of retirement pension rights acquired by him prior to recruitment or the sums repaid to him in exchange therefor. This provision should be altered in order that pension rights acquired outside the Communities during secondment on request under the second indent of Article 37(1)(b) or during a period of leave on personal grounds taken under Article 40 may also be taken into account when the official returns to his original institution.

Proposal for a Regulation
amending the Staff Regulations of Officials
and the Conditions of Employment of Other Servants
of the European Communities

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing a Single Council and a Single Commission of the European Communities, and in particular Article 24 thereof,

Having regard to the proposal from the Commission, submitted after consulting the Staff Regulations Committee,

Having regard to the Opinion of the European Parliament,

Having regard to the Opinion of the Court of Justice,

Whereas Article 2 and Article 3 of Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968¹, as last amended by Council Regulation (Euratom, ECSC, EEC) No 3085/78 of 21 December 1978², lay down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities respectively; whereas it is for the Council, acting by a qualified majority on a proposal from the Commission and after consulting the other institutions concerned, to amend the Staff Regulations and the Conditions of Employment;

Whereas experience gained in applying the said Staff Regulations and the said Conditions of Employment has shown that certain of their provisions should be amended, particularly with regard to family affairs and social security,

HAS ADOPTED THIS REGULATION:

¹ OJ No L 56, 4 March 1968, p. 1.

² OJ No L 369, 29 December 1978, p. 6.

Article 1

In Article 37(1) of the Staff Regulations the words "is one who" are replaced by the words "is an established official who".

Article 2

Item (b) of Article 37(1) of the Staff Regulations is replaced by the following:

"(b) has at his own request:

- been placed at the disposal of another of the institutions of the European Communities, or
- been placed at the disposal of an organization devoted to furthering the Community's interests and included on a list to be drawn up by agreement between the institutions of the Communities after consulting the Staff Regulations Committee."

Article 3

A second subparagraph is added to Article 39(d) of the Staff Regulations as follows:

"However, an official on secondment under the second indent of Article 37(1)(b) who acquires pension rights in the organization to which he is seconded shall cease to be affiliated to the pension scheme in his original institution for the duration of his secondment."

Article 4

Article 40 of the Staff Regulations is amended as follows:

1. In paragraph 1, the word "established" is inserted before the word "official".

2. A third subparagraph is added to paragraph 2 as follows:

"If, however, an official applies for such leave in order to be able:

- to bring up a child who is under five years old and considered as a dependent of the official within the meaning of Article 2(2) of Annex VII, or

- to bring up a dependent child so considered who suffers from a serious mental or physical handicap and for that reason requires constant care or supervision, or
- to accompany his or her spouse, the latter also being an official or other servant of the Communities required in the course of his or her duties to establish his or her habitual residence at such a distance from the place of employment of the applicant official that the establishment of their conjugal home in such a place would inconvenience the applicant official in the performance of his or her duties,

leave may be extended annually for a maximum of ten years so long as the official continues to satisfy the foregoing conditions."

3. The words after the semi-colon to the end of the sentence in the second paragraph of Article 40(3) are replaced by the following:

"the contributions shall be calculated by reference to the basic salary attaching to the official's grade and step."

Article 5

Article 55a of the Staff Regulations is amended as follows:

1. In the first paragraph the words "or three-quarters time" are inserted after the words "work half-time".
2. In the second paragraph the words "or three-quarters time" are inserted after the words "work half-time" and the words "or three-quarters of" are inserted before the words "the normal working time".

Article 6

Article 59a of the Staff Regulations is amended to read as follows:

"The annual leave of an official who is authorized to work half-time or three-quarters time shall, so long as he is so authorized, be curtailed by one half or one quarter. Portions of days to be deducted shall be disregarded."

Article 7

A fourth and a fifth paragraph are added to Article 62 of the Staff Regulations as follows:

"The fraction of an official's remuneration that may be assigned or attached shall be calculated on the basis of the remuneration paid to the official, less allowances. Assignment or attachment may not have the effect of reducing such remuneration below 70% of the basic salary of an official in the first step of Grade D4, weighted for the country in which he works.

This provision shall also apply to retirement, survivor's or invalidity pensions, allowances paid under Article 50 of the Staff Regulations and allowances paid under Article 5 of Regulation (EEC, Euratom, ECSC) No 259/68 or Article 3 of Regulation (Euratom, ECSC, EEC) No 2530/72 or of Regulation (ECSC, EEC, Euratom) No 1543/73.

The weighting to be applied in such cases shall be that applying to the country of residence of the person entitled to the pensions or allowances."

Article 8

Article 67 of the Staff Regulations is amended as follows:

1. Subparagraphs 1(a) and (b) are deleted and replaced by the following:

- "(a) household allowance;
- (b) dependent child allowance."

2. A fourth paragraph shall be added to the Article as follows:

"4. Where, by virtue of Articles 1, 2 and 3 of Annex VII, such family allowances are paid to a person other than the official, these allowances shall be paid in the currency of the country in which that person is resident, calculated where applicable on the basis of the exchange rates referred to in the second paragraph of Article 63. They shall be subject to the weighting for the country in question or, in the absence of such a weighting, the weighting for Belgium.

Paragraphs 2 and 3 shall apply by analogy where family allowances are paid to such a person."

Article 9

At Article 68a of the Staff Regulations, the words "or three-quarters time" are inserted after the word "half-time".

Article 10

Article 72 of the Staff Regulations is amended as follows:

1. Paragraph 1 is replaced by the following:

"An official, his spouse, if he or she is not eligible to receive benefits of similar nature and similar value under other provisions laid down by law or regulation, his children and other dependents within the meaning of Article 2 of Annex VII are insured against sickness up to 80% of the expenditure incurred subject to rules drawn up by agreement between the institutions of the Communities after consulting the Staff Regulations Committee. This rate shall be raised to 90% for surgery visits and home calls, surgical operations, hospitalization, pharmaceutical products, radiology, analyses, laboratory tests and prostheses (other than dental prostheses) on medical prescription; the rates shall be raised to 100% in cases of tuberculosis, poliomyelitis, cancer, mental illness and other illnesses recognized by the appointing authority as of comparable seriousness, for check-ups to detect serious illnesses and for confinements. However, reimbursement at 100% shall not apply in the event of an occupational disease or of an accident to which Article 73 applies.

One third of the contribution required to meet such insurance shall be charged to the official but so that the amount charged to him shall not exceed 2% of his basic salary.

2. The following paragraph 1b shall be inserted after paragraph 1a:

"1b. Where the divorced spouse of an official, a child who ceases to be an official's dependent or a person who ceases to be treated as a dependent child within the meaning of Article 2 of Annex VII to the Staff Regulations can provide evidence that he or she cannot be covered by any other public scheme of sickness insurance he or she may, not later than one month after the divorce or the loss of status of dependent child or of person treated as dependent child, apply to continue for a maximum of one year to be insured against sickness as provided for in paragraph 1. For this one-year period, which shall commence on the day of the decree of divorce or of the loss of status of dependent child or of person treated as a dependent child, no contribution shall be required to maintain the insurance cover for persons thus entitled."

3. In the first subparagraph of paragraph 2 the words "in the preceding paragraph" are deleted and replaced with the words "in paragraph 1".

4. In paragraph 3, the word "half" is replaced by the words "one quarter of".

5. The first subparagraph in paragraph 4 is replaced by the following subparagraph:

"Persons entitled to the foregoing benefits shall declare the amount of any reimbursements paid or due to be paid under any other sickness insurance scheme provided for by law or regulation for themselves or for persons covered by their insurance."

Article 11

Article 75 of the Staff Regulations is replaced by the following:

"In the event of the death of an official, an official's spouse or dependent child, or of any other dependent person within the meaning of Article 2 of Annex VII who lived as part of the official's household, the institution shall reimburse the costs involved in transporting the body from the place of death to the official's place of origin".

Article 12

Annex IVa to the Staff Regulations is amended as follows:

1. The title of the Annex is amended to read "Half-time or three-quarters time work".

2. The first sentence in the first paragraph of Article 3 is replaced by the following:

"An official shall be entitled, during the period for which he is authorized to work half-time, to 50% of his remuneration and, during the period for which he is authorized to work three-quarters time, to 75% of his remuneration."

Article 13

Article 1 of Annex VII to the Staff Regulations is amended as follows:

1. Paragraph 1 is replaced by the following:

"1. The household allowance shall be 5% of the official's basic monthly salary or 5% of the basic monthly salary of an official in step 4 of Grade B3, whichever is the greater."

2. A fifth paragraph is added to Article 1 as follows:

"5. If the official is entitled to the household allowance only by virtue of paragraph 2(b) and a person other than the official has by law or by court order been given custody of all his dependent children within the meaning of Articles 2(2) and (3) below, the household allowance shall be paid to that other person.

This provision shall also apply in the case of dependent children who have reached their majority if such children have their normal residence with the other parent. If, however, the official's children are in the care of several different persons, the household allowance shall continue to be paid to the official. If the person eligible by virtue of the previous subparagraph to receive the household allowance paid in the official's name is also eligible to receive this allowance by reason of his or her own status as official or other member of staff, that person shall receive the higher of the two allowances, notwithstanding the provisions of paragraph 4, should it apply."

Article 14

Article 2 of Annex VII to the Staff Regulations is amended as follows:

1. Paragraph 1 is replaced by the following:

"1. An official with one or more dependent children shall be entitled, subject to the conditions set out in paragraphs 2 and 3, to an allowance equal to 14% of the basic monthly salary of an official in the first step of Grade D4 per month for each dependent child."

2. A paragraph 7 is added to Article 2 as follows:

"7. If custody of the dependent child within the meaning of paragraphs 2 and 3 has been entrusted by law or by court order to another person, the dependent child allowance shall be paid to that person."

Article 15

Article 3 of Annex VII to the Staff Regulations is amended as follows:

1. In the first paragraph, the words "up to a maximum of BFR 3 302 per month" are replaced by the words "up to a maximum per month equal to 14% of the basic monthly salary of an official in the first step of Grade D4".

2. A fourth paragraph is added to Article 3 as follows:

"If custody of the child in respect of whom the education allowance is paid has been entrusted by law or by court order to another person, the education allowance shall be paid to that person. In such case, the distance of at least 50 km referred to in the preceding paragraph shall be calculated from the place of residence of the person having custody of the child."

Article 16

The following sentence is added to the second subparagraph of Article 7(2) of Annex VII to the Staff Regulations:

"Subject to the conditions laid down in the third subparagraph of Article 12(2), the official may be authorized to receive reimbursement of the cost of the journey in the class used, on production of tickets."

Article 17

Article 8(4) of Annex VII to the Staff Regulations is amended as follows:

1. In the second sentence, after the words "shall be entitled", the following words are inserted: "for himself and, if he is entitled to receive the household allowance, for his wife and other dependents within the meaning of Article 2 above".

2. A second subparagraph is added as follows:

"However, if the persons referred to in the preceding subparagraph do not live with the official at his place of employment, they shall be entitled once in each calendar year, subject to the submission of supporting documents, to repayment of travel expenses from the place of origin to the place of employment, or to repayment of travel expenses to another place not exceeding the cost of the former journey."

Article 18

A third paragraph is added to Article 11 of Annex VIII to the Staff Regulations as follows:

"3. Paragraph 2 shall also apply to an official who is reinstated after a period of secondment under the second indent of Article 37(1)(b) of the Staff Regulations and to an official who is reinstated following expiry of a period of leave on personal grounds under Article 40 of the Staff Regulations."

FINAL PROVISION

Article 19

This Regulation shall enter into force on the day following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President