

**Proposal for a Council Regulation amending the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities**

(2002/C 291 E/03)

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(Submitted by the Commission on 19 April 2002)

**EXPLANATORY MEMORANDUM**

Although the European institutions are unique by virtue of the role they play and the place they occupy on the international scene, they cannot be impervious to the changes taking place around them. The environment in which they operate has changed over the past 40 years: politically, organisationally and in terms of the day-to-day work performed. Social, economic and technological progress too has revolutionised traditional bureaucratic structures, decision-making processes and working methods.

The Commission as an organisation must keep abreast of these developments, even though the expectations of European citizens have grown and its tasks have expanded significantly. Thus, its methods of financial control and management have remained virtually unchanged while the actual number of dossiers dealt with has increased tenfold in ten years, and the Staff Regulations that govern the working conditions of its staff have not been substantially amended since they were adopted in 1967.

Recognising this situation, the European Councils in Berlin and Cologne charged Mr Prodi and the Commission with the task of reforming the Commission. The White Paper adopted on 1 March 2000 (COM(2000) 200) outlines the strategy to be followed and defines three main priorities:

- thorough modernisation of financial management, control and audit and establishment of a system based on a clear allocation of responsibilities, underpinning an obligation to be accountable;
- introduction of a new system of strategic planning involving activity-based management, the aim being to ensure constant coordination between the tasks to be carried out and the resources required;
- modernisation of staff policy in order to ensure judicious utilisation/training/management/motivation of a highly qualified staff with a view to carrying out priority tasks.

In connection with this third priority a series of policy guidelines were adopted by the Commission on 28 February 2001. On the basis of wide-ranging consultations, both internal — with departments and staff representatives — and with the other institutions, those guidelines were clarified and developed into concrete proposals.

Some of the proposals (e.g. amending the internal provisions on training policy and the staff appraisal and promotion system) can be implemented under the existing Staff Regulations. Others, however, require amendments to the Staff Regulations and the Conditions of Employment of other servants. This proposal for a Regulation sets out those amendments.

- Through the application of common rules, the Staff Regulations ensure that there is a single European civil service. Agencies should specifically be included in the scope of the Staff Regulations in order to strengthen cooperation between institutions and agencies on staff policy in the interests of the smooth running of the Communities and the efficient use of human resources.

- The Staff Regulations define all the rights and obligations of officials. Changes are required to incorporate advances and innovations in the working environment, in particular the Charter of Fundamental Rights of the European Union and the culture of service to the citizen. Those rights and obligations must be clear and easily understood and allow precise criteria to be laid down and used by the Administration as a basis for its decisions. The following points must be clarified and simplified:
  - Impartiality is a fundamental principle of public service that is recognised by the Charter of Fundamental Rights of the European Union. A better definition is needed of the obligations of officials in situations in which there might be a conflict of interests.
  - Experience gained in public or elected office can be useful for both the official and the institution, but clear rules must be laid down for members of staff seeking or attaining public office.
  - Confidentiality is another principle essential to the proper functioning and the reputation of the Communities. This implies obligations for former officials, which need to be better defined.
  - At the same time, the institutions are determined to comply with the principle of transparency of the European civil service and to pursue a policy of openness towards the public. In order to do so, the precise boundaries of professional secrecy must be mapped out.
  - Freedom of expression is a basic right of all officials. The Staff Regulations must lay down clear rules on prior authorisation for publications connected with Community policies.
- The Commission plays a leading role in the Community policy of equal opportunities in the workplace, i.e. the fight against discrimination on grounds of gender, race, religion, disability, age or sexual orientation. As an employer, it must offer its staff at least an equivalent level of protection. The Staff Regulations should be amended to ensure full compliance with that principle, for example by granting (subject to certain conditions) members of staff in a recognised partnership or a confirmed stable partnership certain advantages originally reserved for married members of staff.
- A number of amendments confirm the importance of social welfare within staff policy. The Staff Regulations is to include an explicit reference to social welfare policy. New provisions on family-related leave, in particular parental leave (which sometimes involve formal recognition of arrangements that have developed in practice), the introduction of flexible working arrangements and the introduction (subject to certain conditions) of the right to work part time will help not only to reconcile work and private life, promote equal opportunities and protect the dignity of the individual but also to increase staff motivation (and therefore productivity) and make the conditions offered to candidates for recruitment more attractive.
- New provisions will permit the problems of sexual and psychological harassment to be dealt with more effectively.
- A careers system anchored in the Staff Regulations is the best way to preserve the independence of the European civil service and incorporate different working cultures. If accompanied by a new appraisal system, more rigorous than the present one, such a career system can promote cohesion and avoid the divisiveness that undue emphasis on individual results at the expense of teamwork creates. That principle must be maintained. However, the current career structure should be reviewed to take account of profound changes in patterns of employment and work: lifelong learning has become the norm everywhere in Europe; versatility is expected as job content changes rapidly; the division into four categories based on school education has lost its relevance as the use of informatics and other technologies has become more widespread. By reorganising the careers structure and facilitating movement between categories, the proposed amendments to the Staff Regulations are aimed at improved recognition of professional experience and lifelong learning. They will ensure better correlation between performance and remuneration by offering greater incentives for good performance. Within the system of appraisal, an amendment to the Staff Regulations is necessary to create a legal framework for the appraisal of Directors and Directors-General.

- Mobility has two objectives: to satisfy the institution's requirements in terms of efficiency and organisational adjustment to a changing environment and to meet the needs of officials as regards the interest of their work, personal fulfilment and career development. Mobility can involve a change of duties within a unit or transfer to another unit, directorate or directorate-general or even outside the institution. The European institutions recognise the importance of external mobility. An amendment to the Staff Regulations is required to improve the conditions for external mobility and modernise the conditions for the granting of leave on personal grounds. A further amendment is required to create a suitable framework for the separate and transparent publication of vacant posts to be filled by transfer or by promotion/appointment.
  
- The quality of the European public administration must be maintained so as to permit it to perform its task in accordance with the Treaties. As in the past, the Staff Regulations must provide the Communities with staff of the highest calibre in terms of independence, competence, productivity and integrity, recruited on the widest possible geographical basis within the Union. This involves offering candidates sufficiently attractive pecuniary conditions. A recent study has shown that the remuneration of European officials in Brussels is comparable overall with that of expatriate officials of the Member States and with that of comparable staff in international organisations, but lower than that of staff working in multinational companies. Competition on the labour market is stiff. Steps must be taken to ensure that the situation does not deteriorate to the detriment of the European civil service. One of the proposed amendments is aimed at ensuring the competitiveness of the European institutions and maintaining the overall level of remuneration by incorporating into the Staff Regulations a standing method for the annual adjustment of salaries and so guarantee, in a manner similar to that of the Method of adjustment that expires in 2003, that the purchasing power of officials develops in parallel with that of national civil servants.
  
- Independently of the level of remuneration, amendments are required to modernise and rationalise the system of allowances. For the most part, they involve simplifying the rules and making them more transparent. In just a few cases, however, they involve the abandonment of outmoded provisions. The reimbursement of travel and mission expenses will be more in line with real costs and will be simpler to administer. The education allowance will be aligned more closely on actual expenditure. The reform of family allowances will improve the situation of families and will address in particular the problems faced by parents of young children. Weightings to be applied to that part of the salary that may be transferred to the country of origin are no longer those for the capital, but those for the country as a whole, and only in limited cases involving legal commitments.
  
- The major amendment involving pensions is the introduction into the Staff Regulations of an objective and systematic auditing procedure based on the strictest standards, the aim being to ensure the short-term and long-term actuarial balance of the scheme and enable pensions to be fully financed from the contributions of all the parties concerned. Other amendments are aimed at modernising the retirement, invalidity and survivor's pensions and, in particular, apply specific weightings, i.e. distinct from those applied to the remuneration of staff in active service, and at ensuring greater neutrality for the transfer of pension rights.
  
- The Commission must abide by its own recommendations to the Member States, particularly as regards early retirement. However, at the Commission and within the European institutions generally, the problem of early departure does not arise in the same way as it does in the Member States. At the Commission, the number of officials taking early retirement is very small, an average of only ten per year over the past ten years. The problem, therefore, is not to discourage early retirement; if anything it is almost the opposite: the European institutions' early-retirement scheme is not working. The provisions of the Staff Regulations on which it is based are over 30 years old and should be revised. The proposed amendments to the Staff Regulations are intended to modernise the scheme, bring it more closely into line with Community rules on the free movement of labour, correct certain inconsistencies and introduce more flexibility.

- Professional incompetence is not a common problem in the European institutions. Occasionally, however, some members of staff do not attain the level of performance expected of them, for a variety of reasons: lack of motivation, problems in adjusting to new tasks or working methods, etc. Procedures have been defined to detect, manage and remedy problems of professional incompetence in a preventive and positive way, the principal objective being to offer the members of staff concerned an opportunity and the means to regain an adequate level of performance. A new legal framework is proposed to deal with those officials who cannot achieve the expected level of performance.
- The new provisions to improve working conditions, job satisfaction, ways of addressing professional incompetence, and staff management will have a positive impact on absenteeism. A further amendment to the Staff Regulations is, at the same time, expected to simplify procedures for monitoring absenteeism.
- The current disciplinary arrangements have a number of shortcomings: the composition of the disciplinary board varies in each case, procedures are too lengthy, administrative procedures (in particular procedures for administrative investigations) have changed but have not been consolidated and the creation of the Anti-fraud Office (OLAF) has introduced a new dimension not covered by the Staff Regulations. Amendments to the Staff Regulations are proposed to: rationalise the way disciplinary proceedings are opened and conducted; stabilise the membership of disciplinary boards; and adjust the rules on the suspension of officials.
- The amendments provide for a new legal framework and new statutory guarantees for the legal protection of all officials who report misconduct and serious wrongdoing within the service.
- Amendments are necessary to harmonise the provisions applicable to officials in the scientific and technical services. Similarly, provisions on the staff of the Unified External Service must be adapted and clarified.
- The Conditions of Employment of other servants must be amended to harmonise them with the new provisions applicable to officials. A special amendment of the Conditions of Employment of other servants is required to improve the provisions on unemployment applicable to members of the temporary staff on termination of their service.
- One of the purposes of the Conditions of Employment of other servants is to provide a system for the replacement and support of permanent officials. The Conditions must clearly define the duties of non-permanent staff. A new type of servant needs to be introduced, namely contract staff. They will eventually replace staff in Category D and will be employed at all levels in Commission Offices and Representations, in Delegations and Agencies and in the executive agencies and other bodies created by specific legal act. After two fixed-term contracts, contract staff may be given a contract of indefinite duration. These arrangements should also make it possible to simplify the various types of contract used at present. It will continue to be possible to employ temporary staff in permanent posts.

Finally, provision is made for transitional arrangements to enable the new measures and rules to be applied gradually and to guarantee established rights.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 283 thereof,

Having regard to the Protocol on the Privileges and Immunities of the European Communities,

Having regard to the proposal presented by the Commission 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,

Having regard to the opinion of the Court of Auditors,

Whereas:

- (1) An overhaul of the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities set out in Council Regulation (EEC, Euratom, ECSC) No 259/68 <sup>(1)</sup> has become essential to adapt them to innovations in the working environment since their adoption, and to changes that have occurred in the tasks of the institutions since that time and foreseeable future changes.
- (2) The Staff Regulations and Conditions of Employment underpin the existence of a single European civil service. They are aimed at ensuring that human resources are managed as effectively as possible in a European civil service characterised in particular by competence, independence, loyalty, impartiality and permanence. They serve to maintain a high-quality European public administration that can continue to carry out its tasks in accordance with the Treaties and with the principles reaffirmed by the Charter of Fundamental Rights of the European Union,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

The Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities are amended as set out in Annex I (as regards the Staff Regulations of officials) and Annex II (as regards the Conditions of Employment of other servants).

#### *Article 2*

This Regulation shall enter into force on [ . . . ].

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

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<sup>(1)</sup> OJ L 56, 4.3.1968, p. 1.

## ANNEX I

## AMENDMENTS TO THE STAFF REGULATIONS OF OFFICIALS OF THE EUROPEAN COMMUNITIES

The Staff Regulations of officials of the European Communities are amended as follows:

1. Article 1 is replaced by the following:

*'Article 1*

These Staff Regulations shall apply to officials of the Communities.'

2. The first paragraph of the former Article 1 becomes Article 1a.
3. The following Article is inserted:

*'Article 1b*

Save as otherwise provided in these Staff Regulations,

- the Economic and Social Committee,
- the Committee of the Regions,
- the European Ombudsman,
- the European Data Protection Supervisor and
- those Community bodies to which these Staff Regulations apply under the Community acts establishing them (hereinafter "agencies")

shall, for the purposes of these Staff Regulations, be treated as institutions of the Communities.'

4. The following Article is inserted:

*'Article 1c*

Any reference in these Staff Regulations 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.'

5. The former Article 1a becomes Article 1d and is amended as follows:

- (a) Paragraph 1 is replaced by the following:

'In the application of these Staff Regulations, any discrimination shall be prohibited, in particular that based on gender, race, colour, ethnic or social origin, genetic features, language, religion, convictions, political opinions or any other opinions, membership of a national minority, wealth, birth, age, disability or sexual orientation.

For the purposes of these Staff Regulations, non-marital partnerships shall be treated as marriage provided that all the conditions listed in Article 1(2)(c) of Annex VII are fulfilled.'

- (b) In paragraph 2 the following phrase is inserted after 'women in working life':

'which shall be an essential element to be considered in the implementation of all aspects of these Staff Regulations.'

(c) The following paragraphs 4, 5 and 6 are added:

‘4. For the purposes of paragraph 1 a person has a disability if he has a physical or mental impairment that is permanent or likely to be so. The impairment shall be determined under the procedure set out in Article 33.

A person with a disability is qualified for employment if he can perform the essential functions of the job when reasonable accommodation is made.

Reasonable accommodation, in relation to the essential functions of the job, shall mean the provision or the modifying of devices, services or workplaces or the changing of practices and procedures in order to help a person with a disability to the efficient performance of his duties, provided it does not impose an undue burden on the institution.

5. In so far as the principle of equal treatment as set out above is concerned, where a person to whom these Staff Regulations apply establishes facts from which it may be presumed that there has been direct or indirect discrimination, it shall be for the institution to prove that there has been no breach of the principle of equal treatment.

6. While respecting the principle of non-discrimination and the principle of proportionality, any limitation of their application must be justified on objective and reasonable grounds and must be aimed at legitimate objectives in the general interest in the framework of staff policy. Such objectives may in particular justify stipulating a mandatory retirement age and a minimum age for drawing a retirement pension.’

6. The following Article is inserted:

*‘Article 1e*

The institutions shall pursue a social welfare policy for their officials, including retired officials, covering social assistance, social protection, the provision of social infrastructures and appropriate health and safety standards, wherever possible exceeding the minimum laid down in any applicable national provisions. This social policy shall be implemented in close co-operation with the Staff Committee, by establishing multiannual action plans. On the basis of multiannual estimates of needs, the budgetary authority shall make available appropriate means.’

7. Article 2 is amended as follows:

(a) The current text of the first paragraph becomes paragraph 1.

(b) The second and third paragraphs are deleted.

(c) The following paragraph 2 is added:

‘2. However, one or more institutions may entrust to any one of them or to an inter-institutional body the exercise of some or all of the powers conferred on the Appointing Authority.’

(7a) Article 4 is amended as follows:

In the third paragraph, ‘transfer, promotion or an internal competition’ is replaced by ‘transfer or promotion’ and ‘three European Communities’ is replaced by ‘other institutions, and/or an internal competition shall be organised’

8. Articles 5 and 6 are replaced by the following:

*'Article 5*

1. The posts covered by the Staff Regulations shall be classified, according to the nature and importance of the duties to which they relate, in an administrators' function group (hereinafter "AD") and an assistants' function group (hereinafter "AST").
2. Function group AD shall comprise twelve grades, corresponding to administrative, advisory, linguistic and scientific duties. Function group AST shall comprise eleven grades, corresponding to executive, technical and clerical duties.
3. Appointment shall require at least
  - (a) in function group AST
    - a post-secondary education diploma or
    - an advanced level of secondary education and appropriate professional experience of at least three years, or
    - equivalent professional experience.
  - (b) in function group AD
    - a university degree awarded after a course of at least three years and appropriate professional experience of at least one year or a further year of university studies beyond the third year or
    - equivalent professional experience.
4. A table showing types of posts is given in Annex I, point A. By reference to this table, each institution shall define the duties and powers attaching to each post after consulting the Staff Regulations Committee.
5. Identical conditions of recruitment and service career shall apply to all officials belonging to the same function group.

*Article 6*

1. The establishment plan appended to the section of the budget relating to each institution shall indicate the number of posts in each grade.
  2. The establishment plan shall guarantee that for each institution each year the possibilities of promotion from a given grade to the next higher grade correspond at least to the number of officials in the lower grade in active employment under Article 35(a), on secondment in the interests of the service under Article 38, on leave for military service under Article 35(e) or on parental leave or family leave under Article 35(f) on 1 January of the preceding year, multiplied by the percentage laid down in the establishment plan in Annex I, point B, for the lower grade.'
9. Article 7 is amended as follows:
- (a) In paragraph 1, 'category or service' is replaced by 'function group'.
  - (b) In the second sentence of paragraph 2, 'post in a career bracket in his category or service which is higher than his substantive career bracket' is replaced by 'post in a grade in his function group which is higher than his substantive grade'.



- (c) In the second sentence of paragraph 2, 'in the starting grade' is deleted.
- (d) In the second sentence of paragraph 2, 'career bracket' is replaced by 'grade'.
10. Article 9 is amended as follows:
- (a) In paragraph 1, point (a), the following indent is inserted after the third indent:
- '— one or more Joint Advisory Committees on professional incompetence, as appropriate for the number of officials at the places of employment;'
- (b) The second subparagraph of paragraph 2 is replaced by the following:
- 'The staff of the institution shall be notified of the list of members of these bodies.'
- (c) In paragraph 5, the point
- '(b) on dismissals for incompetence;'
- and
- 'The Committee shall ensure that the periodic reports on staff members are made in a uniform manner within any one institution.'
- are deleted.
- Point (c) becomes point (b), and the following sentence is added at the end of paragraph 5: 'It may be instructed by the Appointing Authority to ensure that the periodic reports on staff members are made in a uniform manner within the institution.'
- (d) The following paragraph is added:
- '6. The opinion of the Joint Advisory Committee on professional incompetence shall be sought for the application of Article 51.'
11. In the first paragraph of Article 10 the following sentence is inserted after the first sentence:
- 'The agencies shall be jointly represented in accordance with rules to be fixed by agreement between them and the Commission.'
- The second paragraph is replaced by the following:
- 'The Committee shall be consulted by the Commission on all proposals to revise the Staff Regulations; it shall deliver its opinion within the time set by the Commission. Before consultation, concertations on the Commission's proposals shall be held in accordance with the rules established by the Commission after negotiation with the trade unions and staff associations. In addition to the functions conferred upon the Committee by these Staff Regulations, it may put forward suggestions for revising the Staff Regulations. The Committee shall meet at the request of its President, of an institution or of the staff committee of an institution.'
- (11a) The following Article 10b is inserted:
- 'The trade unions and staff associations referred to in Article 24b shall act in the general interest of the staff without prejudice to the sphere of competence of the staff committees.'

On the basis of rules established by one or more institutions, after negotiation with the trade unions and staff associations referred to in Article 24b, such unions and associations may negotiate and conclude agreements on behalf of the staff.'

12. The following sentence is added to the first paragraph of Article 11:

'He shall carry out the duties assigned to him objectively, impartially and in keeping with his duty of loyalty to the Communities.'

13. The following Article is inserted after Article 11

*'Article 11a*

1. An official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.

2. Any official to whom it falls, in the performance of his duties, to deal with a matter referred to above shall immediately inform the Appointing Authority. The Appointing Authority shall take any appropriate measure, and may in particular relieve the official from responsibility in this matter.

3. An official may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties.'

14. Article 12 is replaced by the following:

*'Article 12*

An official shall refrain from any action or behaviour which might reflect adversely upon his position.'

15. The following Articles are inserted:

*'Article 12a*

1. Officials shall refrain from any form of psychological or sexual harassment.

2. Psychological harassment means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.

3. Sexual harassment means conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment. Sexual harassment shall be treated as discrimination based on gender, as referred to in Article 1d(1).

*Article 12b*

1. Subject to Article 15, an official wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside the Communities, shall first obtain the permission of the Appointing Authority. Permission shall be refused only if the activity or assignment in question is such as to interfere with the performance of the official's duties or is incompatible with the interests of the institution.

2. An official shall notify the Appointing Authority of any changes in a permitted outside activity or assignment, which occur after the official has sought the permission of the Appointing Authority under paragraph 1. Permission may be withdrawn if the activity or assignment no longer meets the conditions referred to in the last sentence of paragraph 1.'
16. In Article 13 'continue in his post, be transferred to another post or be required to resign' is replaced by 'continue in his post or be transferred to another post.'
17. Article 14 is deleted.
18. Article 15 is replaced by the following:

*'Article 15*

1. An official who intends to stand for public office shall notify the Appointing Authority. The Appointing Authority shall decide, in the light of the interests of the service, whether the official concerned:
- should be required to apply for leave on personal grounds, or
  - should be granted annual leave, or
  - may be authorised to discharge his duties on a part-time basis, or
  - may continue to discharge his duties as before.
2. An official elected or appointed to public office shall immediately inform the Appointing Authority. The Appointing Authority shall, having regard to the interests of the service, the importance of the office, the duties it entails and the remuneration and reimbursement of expenses incurred in carrying out those duties, take one of the foregoing decisions. If the official is required to take leave on personal grounds or is authorised to discharge his duties on a part-time basis, the period of such leave or part-time working shall correspond to the official's term of office.'
19. The second, third and fourth paragraphs of Article 16 are replaced by the following paragraph:
- 'Officials intending to engage in an occupational activity within two years of leaving the service shall inform their institution thereof. If that activity is related to the work carried out by the official during the last three years of service and could lead to a conflict with the interests of the institution, the Appointing Authority may, having regard to the interests of the service, either forbid him from undertaking it or give its approval subject to any conditions it thinks fit. The institution shall notify its decision within 30 working days of receiving the notification, after consulting the Joint Committee, which shall give its opinion within the time specified by the institution. If no decision is notified within 30 working days, it shall be deemed to be favourable.'
20. Article 17 is replaced by the following:

*'Article 17*

1. An official shall exercise the greatest discretion with regard to all facts and information not already made public or accessible to the public which come to his knowledge in the course of or in connection with the performance of his duties. He shall not in any manner whatsoever disclose any document or information which has come to his knowledge in the course of, or in connection with, the performance of his duties to any person not authorised to have access to such document or information, unless that document or information has already been made public or is accessible to the public.

2. An official shall continue to be bound by these obligations after leaving the service.'

21. The following Article is inserted:

*'Article 17a*

Without prejudice to Articles 12 and 17, an official who intends to publish or cause to be published, whether alone or with others, any matter dealing with the work of the Communities shall notify the Appointing Authority in writing in advance. The Appointing Authority may refuse permission only where it is able to demonstrate with full reasons that the matter is liable seriously to prejudice the interests of the Communities. The Appointing Authority shall notify the official of its decision within 30 working days. If no decision is notified within the specified period, authorisation shall be deemed to have been granted.'

22. Article 18 is amended as follows:

(a) The current text becomes paragraph 1.

(b) In paragraph 1 the following sentence is added:

'The Community shall have the right to acquire compulsorily the copyright in such works.'

(c) The following paragraphs are added:

'2. Any invention made by an official in the course of or in connection with the performance of his duties shall be the undisputed property of the Community. The institution may, at its own expense and on behalf of the Community, apply for and obtain patents therefor in all countries. Any invention relating to the work of the Community made by an official during the year following the expiration of his term of duty shall, unless proved otherwise, be deemed to have been made in the course of or in connection with the performance of his duties. Where inventions are the subject of patents, the name of the inventor or inventors shall be stated.

3. The institution may in appropriate cases award a bonus, the amount of which shall be determined by the institution, to an official who is the author of a patented invention.'

23. In Article 20 the following sentence is added:

'The official shall notify the Appointing Authority of his address and inform it immediately of any change of address.'

24. The last paragraph of Article 21 is deleted.

25. The following Article is inserted:

*'Article 21a*

1. An official who receives orders which he considers to be irregular or likely to give rise to serious difficulties shall inform his immediate superior, who shall, if the information is given in writing, reply in writing. Subject to paragraph 2, if the immediate superior confirms the orders and the official believes that such confirmation does not constitute a reasonable response to the grounds of his concern, the official shall refer the question in writing to the hierarchical authority immediately above. If the latter confirms the orders in writing, the official shall carry them out unless they constitute a breach of criminal law or of the relevant safety standards.

2. If the immediate superior considers that the orders must be executed promptly, the official shall carry them out unless they constitute a breach of criminal law or of the relevant safety standards. At the request of the official, the immediate superior shall be obliged to give such orders in writing.'

26. The following Articles are inserted:

*Article 22a*

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of evidence which gives rise to a presumption of the existence of illegal activity, including fraud or corruption, detrimental to the interests of the Communities, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Communities liable to result in disciplinary or, in appropriate cases, criminal proceedings, or of a failure by any other person to comply with any similar obligation he may have towards an institution, including members of institutions and any other person at the service of an institution in any manner whatsoever or carrying out services for an institution, shall without delay inform his Head of Service or Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office direct.

2. Any official receiving such information shall without delay transmit to the European Anti-Fraud Office any evidence of which he is aware from which the existence of the irregularities referred to in paragraph 1 may be presumed.

3. An official shall not suffer any adverse consequences from the institution as a result of having communicated the information referred to in paragraphs 1 and 2, provided that he acted reasonably and honestly.

4. Paragraphs 1 to 3 shall not apply, in the Court of Justice, to documents, deeds, reports, notes or information in any form whatsoever held or created in the course of proceedings in legal cases, whether pending or closed.

*Article 22b*

1. An official who further discloses information as defined in Article 22a to the President of the Commission or of the Court of Auditors or of the Council of Ministers or of the European Parliament, or to the European Ombudsman, shall not as a result suffer any adverse consequences from the institution to which he belongs provided that all of the following conditions are met:

- (a) the official honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true; and
- (b) the official has previously disclosed the same information to the European Anti-Fraud Office or to his own institution and has allowed a reasonable period of time for the Office or that institution to take appropriate action.

2. For the purposes of paragraph 1, point (b), and subject to paragraph 3, a reasonable period shall be the period which the Office or the institution, as the case may be, has indicated as being necessary to carry out the investigations and, where necessary, take appropriate action. The official shall be duly informed.

3. Paragraph 2 shall not apply where the official can demonstrate that the period or periods indicated by the Office or the institution is or are unreasonable having regard to all the circumstances of the case.

4. Paragraphs 1 to 3 shall not apply, in the Court of Justice, to documents, deeds, reports, notes or information in any form whatsoever held or created in the course of proceedings in legal cases, whether pending or closed.

*Article 22c*

The protection provided under Articles 22b is without prejudice to any personal liability which the official making the disclosure may incur under the relevant national provisions.'

27. In Article 23, 'grade A 1 to A 4' is replaced by 'grade AD 12 to AD 16'.
28. The third and fourth paragraphs of Article 24 become Article 24a.
29. The former Article 24a becomes Article 24b.
30. In the third paragraph of Article 25, 'shall at once be posted in the premises of the institution to which the official belongs and shall be published in the Monthly Staff Bulletin of the Communities' is replaced by 'shall be brought to the attention of the staff in the institution to which the official belongs.'
31. Article 26 is amended as follows:
  - (a) In the third paragraph the following is added after 'letter': 'to the last address communicated by the official.'
  - (b) In the fourth paragraph the following is inserted after 'religious views': 'or to his racial or ethnic origin or sexual orientation unless provided or approved by the official himself.'
  - (c) In the sixth paragraph 'and to take copies of them if necessary' is inserted after 'file'.
  - (d) In the seventh paragraph, 'or on a secure electronic medium' is inserted after 'administration'. At the end of the seventh paragraph 'before the Court' is deleted.
32. The following Article is inserted after Article 26:

'Officials shall have the right to acquaint themselves with their medical files, in accordance with arrangements to be laid down by the institutions.'
33. The second paragraph of Article 27 is deleted.
34. Article 29 is amended as follows:
  - (a) Points (a), (b) and (c) of paragraph 1 are replaced by the following:
    - '(a) whether the post can be filled by
      - (i) transfer or
      - (ii) promotionwithin the institution;
    - (b) whether requests for transfer have been received from officials of the same grade in other institutions, and/or whether to hold a competition internal to the institution, which shall be open only to officials and temporary staff as defined in Article 2 of the Conditions of Employment of other servants of the European Communities;

- (b) In paragraph 2, 'grade A 1 or A 2 officials' is replaced by the following:
- 'senior officials (Directors-General or their equivalent in grade AD 16 or AD 15 and Directors or their equivalent in grade AD 15 or AD 14)'
35. Article 31 is replaced by the following:
- 'Article 31*
1. Candidates selected shall be appointed to the grade of the function group set out in the notice of the competition they have passed.
2. Without prejudice to Article 29(2), officials shall be recruited only at grades AST 1 to AST 4 or AD 5 to AD 8.'
36. In Article 32, the second paragraph is replaced by:
- 'The Appointing Authority may allow additional seniority up to a maximum of 24 months to take account of his professional experience. General implementing provisions shall be adopted to give effect to this Article.'
37. The first subparagraph of Article 34(1) is replaced by the following:
- 'Officials shall serve a nine-month probationary period before they can be established.'
38. In Article 35 the following point (f) is added:
- '(f) parental leave or family leave.'
39. Article 37 is amended as follows:
- (a) In the second indent of point (a) of paragraph 1, 'or with an elected President of one of the institutions or organs of the Communities or the elected Chairman of one of the political groups in the European Parliament' is replaced by 'or the elected President of one of the institutions or organs of the Communities, or one of the political groups in the European Parliament or the Committee of the Regions, or a group in the Economic and Social Committee'.
- (b) The following paragraph is inserted before the final paragraph: 'Any official on active service or on leave on personal grounds may apply for or be offered secondment in the interests of the service.'
40. Article 39 is amended as follows:
- (a) In point (d), second subparagraph, 'the invalidity or the survivor's pension' is replaced by 'the invalidity allowance or survivor's pension'.
- (b) Point (e) becomes point (f)
- (c) The following new point is inserted:
- '(e) During the period of secondment, the official shall retain his rights to advancement to a higher step.'
- (d) In point (f) 'category or service' is replaced by 'function group'.

41. Article 40 is amended as follows:
- (a) In the second subparagraph of paragraph 2, 'two' is deleted.
  - (b) The words 'of one year each' are deleted. The following sentence is added:  
  
'Extensions may be for periods not exceeding one year.'
  - (c) The third and fourth subparagraphs of paragraph 2 are deleted.
  - (d) In the second subparagraph of paragraph 3 the first sentence is replaced by the following:  
  
'However, an official who is not engaged in a gainful activity may, not later than one month following that in which the leave on personal grounds begins, apply to continue to be covered in accordance with those Articles, provided that he bears half the cost of the contributions required to cover the risks referred to in Articles 72(1) and 73(1) for the first year of the leave on personal grounds and the full cost during the remainder of such leave. Cover in accordance with Article 73 shall be available only if cover has been obtained in accordance with Article 72. The contributions shall be calculated by reference to the official's last basic salary.'
  - (e) In point (d) of paragraph 4, 'category or service' is replaced by 'function group' and 'or placed on secondment' is inserted after 'effectively reinstated'.
42. Article 41(3) is amended as follows:
- (a) In the second subparagraph, 'category or service' is replaced by 'function group'.
  - (b) In the sixth subparagraph, 'for pensions' is inserted after 'at the rate fixed'.
43. A new Section 6 entitled 'Parental or family leave' is inserted after Article 42, and the following Articles 42a and 42b are inserted:

*'Article 42a*

An official shall be entitled to up to six months of parental leave without basic salary for every child, to be taken during the first twelve years after the birth or adoption of the child. The duration of the leave may be doubled for single parents recognised under general implementing provisions adopted by the institutions. The minimum leave taken at any one time shall not be less than one month.

During parental leave, the official's membership of the social security scheme shall continue; the acquisition of pension rights, dependent child allowance and education allowance shall be maintained. The official shall retain his post, and continue to be entitled to advancement to a higher step or promotion in grade. The leave may be taken as full-time or half-time leave. Where parental leave is taken in the form of half-time leave, the maximum period provided for in the first paragraph shall be doubled. During parental leave, the official shall be entitled to an allowance of [EUR 750] <sup>(1)</sup> per month or 50 % of such sum if on half-time leave but may not engage in any other gainful employment. The full contribution to the social security scheme provided for in Articles 72 and 73 shall be borne by the institution and calculated on the basis of the basic salary of the official. However, in the case of half-time leave this provision shall apply only to the difference between the full basic salary and the proportionally reduced basic salary. For the part of the basic salary actually received, the official's contribution shall be calculated by using the same percentages as if he were in full-time employment.

<sup>(1)</sup> See footnote 2.



The allowance shall be [EUR 1 000] <sup>(1)</sup> per month, or 50 % of such sum if the official is on half-time leave, for the single parents referred to in the first paragraph and during the first three months of parental leave where such leave is taken by the father during maternity leave or by either parent immediately after maternity leave or during or immediately after adoption leave. The above amounts shall be adapted in line with remuneration.

*Article 42b*

In the case of medically certified serious illness or handicap of an official's spouse, relative in the ascending line, relative in the descending line, brother or sister, the official shall be entitled to a period of family leave without basic salary. The total period of such leave shall not exceed nine months over the official's entire career.

The second paragraph of Article 42a shall apply'

44. Article 43 is amended as follows:

(a) In the first paragraph, 'with the exception of those in grades A1 and A2', is deleted.

(b) The following paragraph is inserted as the second paragraph:

'As of grade 4, for officials in function group AST, the report may also contain an opinion as to whether, on the basis of performance, he has the potential to carry out an administrator's function.'

45. In Article 44 the following paragraph is added:

'If an official is appointed head of unit, director or director-general in the same grade, he shall benefit from advancement by one step in that grade at the time the appointment comes into effect. This advancement shall lead to an increase in his basic monthly salary corresponding to the percentage between the first and the second step in each grade. If the increase is less or if the official at that time is already in the last step of his grade, he shall receive an increase in basic salary ensuring such increase until his next promotion comes into effect.'

46. Articles 45 and 46 are replaced by the following:

*'Article 45*

Promotion shall be by decision of the Appointing Authority in the light of Article 6(2). It shall be effected by appointment of the official to the next higher grade in the function group to which he belongs. Promotion shall be exclusively by selection from among officials who have completed a minimum of two years in their grade, after consideration of the comparative merits of the officials eligible for promotion. When considering comparative merits, the Appointing Authority may take account of the responsibilities fulfilled by them.

*Article 45a*

1. From grade 5, an official in function group AST may be transferred to function group AD within the meaning of Article 29 on condition, in particular, that he has successfully completed a set of training modules at a higher level which ensure that he has reached a level equivalent to that required under Article 5(3). The institutions shall adopt general implementing provisions for these arrangements, and in particular for training and transfer. Such provisions shall take account of career development.

2. Such transfer shall not affect the grade and step occupied by the official.

*Article 46*

An official appointed to a higher grade in accordance with Article 45 shall be placed in the initial step in that grade. However, officials in grades AD 9 to AD 13 carrying out the duties of head of unit who are appointed to a higher grade in accordance with Article 45 shall be placed in the second step of the new grade. The same arrangement shall apply to any official:

- who upon promotion is appointed director or director-general or
- who is director or director-general to whom the last sentence of the second paragraph of Article 44 applies.'

47. The following point (g) is inserted in Article 47:

'(g) termination-of-service measures;'

The former point (g) becomes point (h).

48. The following Article is inserted after Article 47:

*'Article 47a*

1. In order to deal with exceptional circumstances, in particular enlargement of the Union to admit new Member States, departmental reorganisation or redeployment of staff following a change in priorities, the Appointing Authority may decide to apply measures to terminate definitively the service of a fixed number of officials who so request, such arrangements being known as a "termination-of-service scheme".

The number of officials eligible under the scheme shall be determined and authorised by the competent budgetary authority within the framework of the budget procedure.

A termination-of-service scheme may be offered only to officials aged over 50 who have completed at least 10 years of service and who voluntarily apply for the scheme.

The officials accepted shall be selected from among the applicants on the basis of the interests of the service by the Appointing Authority after the Joint Committee has delivered an opinion.

2. Officials whose service is terminated under the scheme shall receive an allowance and be covered by the joint sickness insurance scheme as laid down in Annex IV.

During the period of entitlement to the allowance up to a maximum of six years, officials whose service is terminated under the scheme shall continue to acquire further retirement pension rights on the basis of the salary for their grade and step, provided they have, during the said period, paid the contribution provided for in the Staff Regulations on the basis of that salary, and subject to the condition that the total pension may not exceed the maximum amount laid down in the second paragraph of Article 77. For the purposes of Article 5 of Annex VIII, the said period shall be deemed to be a period of service.

Income received by an official from any new employment during this period shall be deducted from the allowance provided for in the first subparagraph if that income and the allowance together exceed the total remuneration last received by the official calculated by reference to the table of salaries applicable on the first day of the month for which the allowance is to be paid.

The fifth to ninth subparagraphs of Article 41(3) shall apply.'

49. Article 48 is amended as follows:

- (a) In the third paragraph, 'category A and the Language Service' is replaced by 'function group AD'

- (b) In the third paragraph, 'the other categories' is replaced by 'function group AST'.
50. In the first paragraph of Article 49, the reference to Article 13 is deleted.
51. Article 50 is amended as follows:
- (a) In the first paragraph the phrase 'An official holding a post in grades A 1 or A 2' is replaced by 'A senior official as defined in Article 29(2)'.  
  
[amendment which does not concern the English version]
- (b) In the third paragraph, 'who is not assigned to another post in his category or service corresponding to his grade' is deleted.
- (c) In the sixth paragraph, 'Article 9 of Annex VIII' is replaced by 'Article 8 of Annex VIII'.
52. The title of Section 4, 'Dismissal for incompetence', is replaced by 'Procedures for dealing with incompetence'.
53. Article 51 is replaced by the following:

*Article 51*

1. Each institution shall define procedures to identify, deal with and remedy cases of incompetence in a timely and positive fashion. Once these procedures have been exhausted, an official who, on the basis of consecutive career development reports, still proves incompetent in the performance of his duties may be dismissed, downgraded or classified in a lower function group at the same grade or a lower grade.

The Appointing Authority may, however, offer to classify the official in a lower grade or function group.

2. Any proposal to dismiss, downgrade or classify an official in a lower function group shall set out the reasons on which it is based and shall be communicated to the official concerned.

3. The official shall have the right to obtain his personal file and to copy all documents relating to the procedure. He shall have at least fifteen days from the date of receipt of the proposal to prepare a defence. He may be assisted by a person of his choice. The official may submit written comments. Upon request, he may be heard by the Joint Advisory Committee referred to in Article 9(6). The official may also call witnesses.

4. The institution shall be represented before the Joint Advisory Committee by an official designated for that purpose by the Appointing Authority. That official shall have the same rights as the official concerned.

5. In the light of the proposal and any written and verbal statements from the official concerned or from witnesses, the Joint Advisory Committee shall deliver by a majority a reasoned opinion stating the measure which it considers appropriate in the light of the facts established at its request. It shall forward that opinion to the Appointing Authority and to the official concerned within two months of the date on which the matter is referred to it. The chairman shall not vote on decisions of the Joint Advisory Committee, except in procedural matters and where votes are tied.

The Appointing Authority shall take a decision within two months of receipt of the Joint Advisory Committee's opinion, after hearing the official. The decision shall be substantiated. It shall indicate the date on which it takes effect.

6. An official dismissed for incompetence shall, for the period defined in paragraph 7, be entitled to a monthly dismissal allowance equal to the basic monthly salary of an official in the first step of grade 1. The official shall also be entitled during the same period to the family allowances provided for in Article 67 of the Staff Regulations. The household allowance shall be calculated on the basis of the basic monthly salary of an official in grade 1 in accordance with Article 1 of Annex VII.

The allowance shall not be paid if the official resigns after the start of the procedure referred to in paragraphs 1, 2 and 3 or if he is entitled to the immediate payment of a full pension.

7. The period during which the payments referred to in paragraph 6 are to be made shall be:

- three months where the official has completed less than five years' service at the date on which the dismissal decision is taken;
- six months where the official has completed at least five years' service but less than ten;
- nine months where the official has completed at least 10 years' service but less than 20;
- 12 months where the official has completed over 20 years' service.

8. Officials who are downgraded or classified in a lower function group on grounds of incompetence may after a period of six years ask for all references to that measure to be deleted from their personal files.

9. Officials shall be entitled to reimbursement of reasonable expenses incurred on their initiative in the course of the proceedings, including fees payable to a defending adviser not belonging to the institution, where the proceedings provided for in this Article end without any decision being taken on their dismissal, downgrading or classification in a lower function group.'

54. The first paragraph of Article 52 is amended as follows:

In the introductory wording, 'Article 50' is replaced by 'Articles 47a and 50'.

55. In Article 54, 'career bracket or the next higher bracket' is replaced by 'grade or the next higher grade'.

56. Article 55a is replaced by the following:

*'Article 55a*

1. An official may request authorisation to work part time.

The Appointing Authority may grant such authorisation if this is compatible with the interests of the service.

The official shall be entitled to authorisation in the following cases:

- to care for a child aged 8 or under,
- to care for a child aged from 8 to 12, if the reduction in working time is no more than 10 % of normal working time,

- to care for a seriously ill or handicapped spouse, relative in the ascending line, relative in the descending line, brother or sister,
- to take part in further training, or
- as of the age of 55 during the last five years before retirement.

However, where part-time is requested under the fourth and fifth indents, the Appointing Authority may refuse authorisation or postpone its date of effect in exceptional circumstances and for overriding service-related reasons.

Where authorisation is granted for the reasons mentioned in the fourth indent, the total of all such periods shall not exceed five years over the official's career.

2. The Appointing Authority shall reply to the official's request within 60 days.
  3. The rules governing part-time work and the procedure for granting authorisation are laid down in Annex IVa.'
57. The following Article is inserted after Article 55a:

*'Article 55b*

An official may request authorisation to work half-time in the form of job-sharing in a post identified by the Appointing Authority as appropriate for that purpose. The authorisation to work half-time by job-sharing shall not be limited in time. It may, however, be withdrawn by the Appointing Authority in the interests of the service giving the official six months' notice. Likewise, the Appointing Authority may, on application of the official concerned and giving him at least six months' notice, withdraw the authorisation. In this case, the official may be transferred to a different post.

Article 3, except for the last sentence of subparagraph 2, of Annex IVa and Article 59a shall apply.

The Appointing Authority may lay down detailed rules for the application of these provisions.'

58. Article 56 is amended as follows:
- (a) In the second paragraph, 'Categories A and B and in the Language Service' is replaced by 'function group AD'.
  - (b) In the third paragraph, 'Categories C and D' is replaced by 'function group AST'.

59. The following Article is inserted after Article 56b:

*'Article 56c*

Special allowances may be granted to certain officials to compensate for particularly arduous working conditions.

The Council shall, on a proposal from the Commission presented after seeking the opinion of the Staff Regulations Committee, determine the categories of beneficiaries, and the rates and conditions of such special allowances.'

60. Article 58 is replaced by the following:

*'Article 58*

Pregnant women shall, in addition to the leave provided for in Article 57, be entitled on production of a medical certificate to twenty weeks of leave. The leave shall start not earlier than six weeks before the expected date of confinement shown in the certificate and end not earlier than 14 weeks after the date of confinement. In the case of multiple or premature birth or the birth of a handicapped child, the duration shall be of 24 weeks. Premature birth for the purposes of this provision is a birth taking place before the end of the 34th week of pregnancy.'

61. Article 59 is replaced by the following:

'1. An official who provides evidence of being unable to carry out his duties by reason of illness or accident shall be entitled to sick leave.

The official concerned shall notify his institution of his incapacity as soon as possible and at the same time state his present address. He shall produce a medical certificate if he is absent for more than three days. This certificate must be sent on the fifth day of absence at the latest, as evidenced by the date as postmarked. Failing this, and unless failure to send the certificate is due to reasons beyond his control, the official's absence shall be considered as unauthorised. He may at any time be required to undergo a medical examination arranged by the institution. If the examination cannot take place for reasons attributable to the official, his absence shall be considered as unauthorised as from the date that the examination is due to take place.

If the official considers the conclusions of the medical examination arranged by the Appointing Authority to be unjustified on medical grounds, he or a doctor acting on his behalf may within two days submit to the institution a request that the matter be referred to an independent doctor for an opinion. The institution shall immediately transmit the request to another doctor agreed upon by the official's doctor and the institution's medical officer. Failing such agreement within five days of the request, the institution shall select a person from a list of independent doctors to be established for this purpose each year by common consent of the Appointing Authority and the Staff Committee. The official may within two working days object to the institution's choice, whereupon the institution may choose another person from the list, which choice shall be final. The independent doctor's opinion given after consultation of the official's doctor and the institution's medical officer shall be binding.

2. If, over a period of 12 months, an official is absent for up to three days because of sickness for a total of more than 12 days, he shall produce a medical certificate for any further absence because of sickness.

3. The Appointing Authority may refer to the Invalidity Committee the case of any official whose sick leave totals more than 12 months in any period of three years.

4. An official may be required to take leave after examination by the institution's medical officer if his state of health so requires or if a member of his household is suffering from a contagious disease.

In cases of dispute, the procedure laid down in the third subparagraph of paragraph 1 shall apply.

5. Officials shall undergo a medical check-up every year either by the institution's medical officer or by a medical practitioner chosen by them.

In the latter case, the practitioner's fees shall be payable by the institution up to a maximum fixed for a period of no more than three years by the Appointing Authority after consulting the Staff Regulations Committee.'

62. Article 59a is replaced by the following:

*'Article 59a*

The annual leave of an official who is authorised to work part time shall, for as long as he is so authorised, be reduced proportionally.'

In Article 66 the table is replaced by the following <sup>(2)</sup>:

'Grade	Step				
	1	2	3	4	5
16	13 917,93	14 502,78	15 112,21		
15	12 301,13	12 818,04	13 356,67	13 728,27	13 917,93
14	10 872,14	11 329,00	11 805,06	12 133,50	12 301,13
13	9 609,16	10 012,95	10 433,70	10 723,99	10 872,14
12	8 492,89	8 849,77	9 221,65	9 478,21	9 609,16
11	7 506,29	7 821,72	8 150,40	8 377,16	8 492,89
10	6 634,31	6 913,09	7 203,59	7 404,01	7 506,29
9	5 863,62	6 110,02	6 366,77	6 543,90	6 634,31
8	5 182,46	5 400,24	5 627,16	5 783,72	5 863,62
7	4 580,43	4 772,91	4 973,47	5 111,84	5 182,46
6	4 048,34	4 218,45	4 395,72	4 518,01	4 580,43
5	3 578,05	3 728,41	3 885,08	3 993,17	4 048,34
4	3 162,40	3 295,29	3 433,76	3 529,29	3 578,05
3	2 795,03	2 912,48	3 034,87	3 119,31	3 162,40
2	2 470,34	2 574,15	2 682,32	2 756,95	2 795,03
1	2 183,37	2 275,12	2 370,72	2 436,68	2 470,34'

63. Article 66a is deleted.

64. In the first paragraph of Article 68, 'under Article 41 and 50' is replaced by 'under Articles 41, 47a and 50'.

65. In Article 68a, 'half-time' is replaced by 'part time'.

66. Article 70 is amended as follows:

(a) In the first paragraph, 'dependent children' is replaced by 'children dependent on the deceased at the time of the death.'

(b) In the second paragraph, 'or an invalidity allowance' is inserted after 'pension'.

(c) In the second paragraph, 'or allowance' is inserted after 'in respect of the deceased's pension'.

<sup>(2)</sup> The amounts concerning remuneration in Annexes I and II are based on the amounts specified in the Staff Regulations in [July 2001] and shall be updated automatically on the basis of the adjustments of those amounts decided by the Council between [July 2001] and the date of entry into force of this Regulation.

67. Article 70a is deleted.

68. Article 72 is amended as follows:

(a) The following subparagraphs are inserted after the first subparagraph of paragraph 1:

‘Under the sickness insurance scheme, recognised partners shall be treated as spouses even if the condition laid down in the fourth indent of Article 1(2)(c) of Annex VII hereto is not met.

The institutions may, under the Rules referred to in the first indent of paragraph 1, confer on one of their number the power to lay down the rules governing the reimbursement of expenses in accordance with the procedure laid down in Article 110.’

(b) In paragraph 1a, first sentence, ‘he cannot be covered by any other public scheme of sickness insurance’ is replaced by: ‘he is not in gainful employment’.

(c) In paragraph 1b, ‘he or she cannot be covered by any other public scheme of sickness insurance’ is replaced by: ‘he or she is not in gainful employment’.

(d) In paragraph 2, ‘invalidity pension’ is replaced by ‘invalidity allowance’.

(e) Paragraph 2a is replaced by the following:

‘2a. The following shall likewise be entitled to the benefits provided for in paragraph 1, on condition that they are not in gainful employment:

— former officials entitled to retirement pensions who leave the service of the Communities before reaching the age of 60,

— persons entitled to a survivor's pension as a result of the death of a former official who leaves the service of the Communities before reaching the age of 60.

The contribution referred to in paragraph 1 shall be calculated by reference to the former official's pension before application, where appropriate, of the reduction coefficient provided for in Article 9 of Annex VIII to the Staff Regulations.

However, persons entitled to an orphan's pension shall not receive the benefit provided for in paragraph 1 unless they apply for it. The contribution shall be calculated by reference to the orphan's pension.’

(f) The following paragraphs are inserted after paragraph 2a:

‘2b. In the case of persons entitled to a retirement pension or a survivor's pension, the contribution referred to in paragraphs 2 and 2a may not be less than that calculated by reference to the basic salary corresponding to the first step in grade 1.

2c. Officials dismissed in accordance with Article 51 and not entitled to a retirement pension shall likewise be entitled to the benefits provided for in paragraph 1, on condition that they are not gainfully employed and that they bear half the contribution calculated by reference to their last basic salary.’

69. The heading of Chapter 3 in Title V is replaced by ‘Pensions and invalidity allowance’.



70. Article 78 is amended as follows:

(a) In the first paragraph, 'pension' is replaced by 'allowance' and 'his career bracket' is replaced by 'his function group'.

(b) The second to fifth paragraphs are replaced by the following:

'Article 52 shall apply by analogy to recipients of an invalidity allowance. If the recipient of an invalidity allowance retires before the age of 65 without having reached the maximum pension entitlement, the general rules on retirement pensions shall be applied. The amount of the retirement pension shall be based on the salary for the grade and step occupied by the official when he became an invalid.

The invalidity allowance shall be equal to 70 % of the official's last basic salary. However, it may not be less than the minimum subsistence figure.

The invalidity allowance shall be subject to contributions to the pension scheme.

Where the invalidity arises from an accident in the course of or in connection with the performance of an official's duties, from an occupational disease, from a public-spirited act or from risking his life to save another human being, the invalidity allowance may not be less than 120 % of the minimum subsistence figure. In such cases, moreover, contributions to the pension scheme shall be paid in full from the budget of the institution or body referred to in Article 1b.'

71. Article 79 is amended as follows:

(a) In the first and second paragraphs, 'widow' is replaced by 'surviving spouse' and 'her husband' is replaced by 'the deceased'.

(b) In the first paragraph 'of the retirement or invalidity pension' is replaced by 'of the retirement pension or invalidity allowance'.

72. Article 79a is deleted.

73. Article 80 is amended as follows:

(a) In the first paragraph 'a retirement or invalidity pension' is replaced by 'a retirement pension or invalidity allowance' and 'the dependent children within the meaning of Article 2 of Annex VII' is replaced by 'the children dependent on the deceased within the meaning of Article 2 of Annex VII at the time of his death'.

(b) The fourth paragraph is replaced by the following:

'For persons treated as dependent children within the meaning of Article 2(4) of Annex VII, the orphan's pension may not exceed an amount equal to twice the dependent child allowance.'

(c) The following paragraph is inserted after the fourth paragraph:

'Where a child has been adopted, the death of the natural parent who has been replaced by the adoptive parent shall not give rise to payment of an orphan's pension.'

(d) In the sixth paragraph, 'under Article 50' is replaced by 'under Articles 47a or 50'.

(e) The following paragraph is added:

'Persons in receipt of an orphan's pension may not receive more than one such pension from the Community. Where a surviving child has entitlement to more than one Community pension, he shall receive the pension providing the higher or highest amount.'

74. The first paragraph of Article 81 is amended as follows:

(a) 'at the age of 60 years or later' is deleted.

(b) 'invalidity pension' is replaced by 'invalidity allowance'.

The following sentence is added:

'These allowances shall be paid to recipients of a survivor's pension only in respect of the children dependent on the deceased official or former official at the time of death.'

In Article 81a(1)(e), 'Article 41 or 50 of these Staff Regulations' is replaced by 'Article 41, 47a or 50 of these Staff Regulations'.

75. Article 82 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) The second subparagraph is amended as follows:

— 'They' is replaced by 'Pensions'.

— 'for pensions' is inserted between 'rate' and 'fixed for the country'.

— 'has his residence' is replaced by 'has established his main residence'.

— The following sentence is added: 'This rate shall be determined in accordance with the arrangements laid down in Annex XI.'

(ii) In the fourth subparagraph, 'in the manner provided for in the second paragraph of Article 63 of the Staff Regulations' is deleted.

(b) Paragraph 2 is amended as follows:

(i) 'Should the Council, in accordance with Article 65(1), decide' is replaced by 'Where the Council, in accordance with Article 65(1), decides'.

(ii) 'increase remunerations' is replaced by 'adapt remunerations'.

(iii) 'it shall, acting in accordance with the procedure set out in Article 65(3), at the same time decide on an appropriate increase in pensions.' is replaced by 'the same adaptation shall be applied to pensions.'

(c) The following paragraph 3 is added:

'3. The provisions of paragraphs 1 and 2 shall apply by analogy to recipients of an invalidity allowance.'

76. Article 83(4) is deleted.

77. The following Article is inserted:

*'Article 83a*

1. The scheme shall be kept in balance in accordance with the detailed rules set out in Annex XII.

2. Decentralised Community bodies not funded out of the budget of the Communities shall pay into that budget the entire amount of the contributions needed to finance the scheme.
3. On the occasion of the five-yearly actuarial assessment in accordance with Annex XII and in order to ensure the balance of the scheme, the Council shall decide on the rate of contribution and any change to the pensionable age.
4. Each year the Commission shall present to the Council an updated version of the actuarial assessment, in accordance with Article 1(2) of Annex XII. Where it is shown that there is a gap of at least 0,25 points between the rate of contribution currently applied and the rate required to maintain actuarial balance, the Council shall consider whether the rate should be adapted, in accordance with the arrangements laid down in Annex XII.
5. For the purposes of paragraphs 3 and 4 of this Article, the Council shall act by a qualified majority on a proposal from the Commission as provided for in the first indent of Article 205(2) of the Treaty establishing the European Community. For the purposes of paragraph 3, the Commission's proposal shall be presented after consultation of the Staff Regulations Committee.'
78. In Article 85 the following paragraph is added:
- 'The request for recovery must be made no later than five years from the date on which the sum was paid. Where the Appointing Authority is able to establish that the recipient deliberately misled the administration with a view to obtaining the sum concerned, the request for recovery shall not be invalidated even if this period has elapsed.'
79. In Article 85a(2), sixth indent, 'invalidity pensions' is replaced by 'invalidity allowances'.
80. Article 86(2) and (3) are replaced by the following:
- '2. Where the Appointing Authority or the Anti-Fraud Office becomes aware of evidence of failure within the meaning of paragraph 1, they may launch administrative investigations to verify whether such failure has occurred.
3. Disciplinary rules and procedures and the rules and procedures covering administrative investigations shall be laid down in Annex IX to the Staff Regulations.'
81. Articles 87, 88 and 89 are deleted.
82. Article 90(3) and (4) are deleted.
83. The following Articles are inserted:

*'Article 90a*

Any person to whom these Staff Regulations apply may submit to the Director of the Anti-Fraud Office a request within the meaning of Article 90(1), asking the Director to take a decision relating to him in connection with investigations by the Office. Such person may also submit a complaint within the meaning of Article 90(2) against an act adversely affecting him in connection with investigations by the Office.

*Article 90b*

Any person to whom these Staff Regulations apply may submit to the European Data Protection Supervisor a request or a complaint within the meaning of Article 90(1) and (2), within his sphere of competence.

*Article 90c*

Requests and complaints relating to the areas to which Article 2(2) has been applied shall be lodged with the Appointing Authority entrusted with the exercise of powers.'

84. In Article 91a, the first sentence is deleted;The second sentence is amended to read:

'Any appeals relating to the areas in which Article 2(2) has been applied shall be made against the institution to which the Appointing Authority entrusted with the exercise of powers is answerable.'

85. Articles 92, 93 and 94 are replaced by the following:

*'Article 92*

This Title lays down the special provisions applicable to officials of the Communities who occupy posts paid from appropriations in the research and investment budget and classified in accordance with Annex I.A.

*Article 93*

Special allowances may be granted to some of the officials covered by Article 92 to compensate for particularly arduous working conditions.

The Council shall, on a proposal from the Commission, determine the rates and conditions of such special allowances and the staff who shall receive them.

*Article 94*

By way of derogation from the second paragraph of Article 56a and the second paragraph of Article 56b, and in exceptional cases only because of the exigencies of the service, safety regulations or national or international obligations, the Appointing Authority shall designate the officials covered by Article 92 who shall be entitled to benefit from the provisions of these Articles.'

86. Articles 95, 96, 97, 98, 99, 100, 101, 102, 106 and 107 are repealed.

87. The following Article is inserted:

*'Article 107a*

Transitional provisions are set out in Annex XIII.'

88. Article 110 is amended as follows:

(a) The first paragraph becomes paragraph 1, the second paragraph becomes paragraph 3 and the third paragraph becomes paragraph 4.

(b) In paragraph 1 the following sentence is added:

'Agencies shall adopt the appropriate implementing rules for giving effect to these Staff Regulations, after consultation of the relevant Staff Committee and in agreement with the Commission.'

The following paragraph 2 is inserted:

'2. For the purposes of the adoption of rules by agreement between the institutions, agencies shall not be treated as institutions. However, the Commission shall consult the agencies before the adoption of these rules.'

(c) In paragraph 4 the following sentence is added:

'Agencies shall be jointly represented in these consultations in accordance with rules to be fixed by agreement between them.'

89. Annex I is replaced by the following:

'ANNEX I

TYPES OF POSTS

A. Types of posts in each function group, as provided for in Article 5(3)

<i>Function group AD</i>		<i>Function group AST</i>	
Director-General	AD 16		
Director/Director-General	AD 15		
Administrator/Research Administrator <sup>(3)</sup> /Linguistic Administrator/Head of Unit/Director	AD 14		
Administrator/Research Administrator/Linguistic Administrator/Head of Unit	AD 13		
Administrator/Research Administrator/Linguistic Administrator/Head of Unit	AD 12		
Administrator/Research Administrator/Linguistic Administrator/Head of Unit	AD 11	AST 11	Assistant/Research Assistant <sup>(4)</sup>
Administrator/Research Administrator/Linguistic Administrator/Head of Unit	AD 10	AST 10	Assistant/Research Assistant <sup>(4)</sup>
Administrator/Research Administrator/Linguistic Administrator/Head of Unit	AD 9	AST 9	Assistant/Research Assistant <sup>(4)</sup>
Administrator/Research Administrator/Linguistic Administrator	AD 8	AST 8	Assistant/Research Assistant <sup>(4)</sup>
Administrator/Research Administrator/Linguistic Administrator	AD 7	AST 7	Assistant/Research Assistant <sup>(4)</sup>
Administrator/Research Administrator/Linguistic Administrator	AD 6	AST 6	Assistant/Research Assistant <sup>(4)</sup>
Administrator/Research Administrator/Linguistic Administrator	AD 5	AST 5	Assistant/Research Assistant <sup>(4)</sup>
		AST 4	Assistant/Research Assistant <sup>(4)</sup>
		AST 3	Assistant/Research Assistant <sup>(4)</sup>
		AST 2	Assistant/Research Assistant <sup>(4)</sup>
		AST 1	Assistant/Research Assistant <sup>(4)</sup>

<sup>(3)</sup> Officials occupying posts paid from appropriations in the research and investment budget shall become research administrators.

<sup>(4)</sup> Officials occupying posts paid from appropriations in the research and investment budget shall become research assistants.

**B. Minimum promotion rates as referred to in Article 6(2)**

Grade	Assistants	Administrators
13	—	20 %
12	—	25 %
11	—	25 %
10	20 %	25 %
9	20 %	25 %
8	25 %	33 %
7	25 %	33 %
6	25 %	33 %
5	25 %	33 %
4	33 %	—
3	33 %	—
2	33 %	—
1	33 %	—

90. Annex II is amended as follows:

(a) In Article 1 the following sentence is inserted after the first sentence of the second paragraph:

‘However, the institution may decide that the conditions for election are to be determined in accordance with the preference of the staff of the institution as expressed in a referendum.’

(b) In the fourth paragraph of Article 1, ‘categories of officials and of all services’ is replaced by ‘function groups’.

(c) In Article 3a, ‘the third subparagraph of Article 2’ is replaced by ‘Article 2(2)’.

(d) Section 3: Disciplinary Board is deleted.

(e) In the first paragraph of Article 10, ‘and the Staff Committee, each appointing the same number’ is inserted after ‘Appointing Authority’.

(f) In Article 10, ‘senior officials of the institution’ is replaced by ‘officials of the institution in function group AD.’

(g) The following Section is added:

***‘Section 6: Joint Advisory Committee for professional incompetence***

*Article 12*

The Joint Advisory Committee for professional incompetence shall comprise a chairman and at least two members, who shall be officials of grade AD 14 at least. Half of the members shall be designated by the Staff Committee and half by the Appointing Authority. The chairman shall be appointed by the Appointing Authority from a list of candidates drawn up in concertation with the Staff Committee.

When the case concerns an official in grade AD 14 or lower, the Joint Advisory Committee shall include two further members from the same function group and of the same grade as the official in question, designated in the same way as the permanent members.

Where the Joint Advisory Committee is called upon to examine the case of a senior management official within the meaning of Article 29(2), a special ad hoc Joint Advisory Committee shall be set up, comprising two members appointed by the Staff Committee and two members appointed by the Appointing Authority, who shall be of a grade at least equal to that of the official concerned.

The Appointing Authority and the Staff Committee shall agree on an ad hoc procedure to designate the further members referred to in the second paragraph who must sit for cases involving an official posted to a country outside the Union or a member of contract staff.

91. Annex III is amended as follows:

(a) Article 1(1) is amended as follows:

- (i) In the third subparagraph, 'the third subparagraph of Article 2' is replaced by 'Article 2(2)'.  
(ii) In the second subparagraph, 'and the function group and grade offered;' is added to point (c).  
(iii) In the second subparagraph, point (i), 'Article 28(a)' is replaced by 'Article 28(1)(a)'.

(b) Article 3 is amended as follows:

- (i) The first subparagraph is replaced by the following:  

'The Selection Board shall consist of a chairman designated by the Appointing Authority and of members designated by the Appointing Authority and the Staff Committee, each designating the same number.'
  - (ii) In the second subparagraph, 'the third subparagraph of Article 2' is replaced by 'Article 2(2)'.  
(iii) In the fourth paragraph, 'function group and' is added after 'whose'.
- (c) In Article 4, 'Article 28(a), (b) and (c)' is replaced by 'Article 28(1)(a), (b) and (c)'.

92. Annex IV is amended as follows:

(a) In the title, ', 47a' is inserted after 'Article 41'.

(b) The sole Article is amended as follows:

(i) Paragraph 2 is replaced by the following:

'2. Officials whose service is terminated under Article 47a of the Staff Regulations shall be entitled, during a specified period depending on age and years of service, on the basis of the table in paragraph 5, to a monthly allowance of:

- 70 % of their basic salary in the first four years,
- 60 % of their basic salary thereafter.'

- (ii) In paragraph 3, 'in Articles 41 or 50' is replaced by 'in Articles 41, 47a or 50'.
- (iii) Paragraph 1a becomes paragraph 4.
- (iv) In the first subparagraph of that paragraph, 'referred to in Articles 41, 47a and 50 of the Staff Regulations' is inserted after 'official' and 'cannot be covered by any other public scheme against the same risks' is replaced by 'is not gainfully employed.'

93. Annex IVa is replaced by the following:

*'ANNEX IVa*

#### **PART-TIME WORK**

##### *Article 1*

The request for authorisation to work part time shall be submitted by the official through the official's immediate superior at least two months before the requested date, except in duly justified urgent cases.

Authorisation may be granted for a minimum of one month and a maximum of three years, without prejudice to the cases referred to in Articles 15 and the fifth indent of the third subparagraph of Article 55a(1).

The authorisation may be renewed on the same terms. Applications for renewal shall be made by the official concerned at least two months before expiry of the period for which the authorisation was granted. Part-time work may not be less than half the normal working time.

A period of part-time work shall start on the first day of a month, except in duly justified cases.

##### *Article 2*

The Appointing Authority may, at the request of the official concerned, withdraw the authorisation before expiry of the period for which it is granted. The date of withdrawal may not be more than two months after the date proposed by the official or four months after that date if the part-time work was authorised for more than one year.

The Appointing Authority may, in exceptional cases and in the interests of the service, withdraw the authorisation before the expiry of a period for which it is granted, giving the official two months' notice.

##### *Article 3*

An official shall be entitled, during the period for which part-time work is authorised, to a percentage of his remuneration corresponding to the percentage of the normal time worked. However, the percentage shall not be applied to the dependent child allowance, the basic amount of the household allowance or the education allowance.

Contributions to the sickness insurance scheme shall be calculated by reference to the basic salary payable to an official working full time. Contributions to the pension scheme shall be calculated by reference to the basic salary received by an official working part time. The official may also request that contributions to the pension scheme be calculated by reference to the basic salary payable to an official working full time, in accordance with Article 83.

During the period of part-time work, the official may not work overtime or engage in any other gainful activity.



*Article 4*

Notwithstanding the first sentence of the first paragraph of Article 3, officials aged over 55 authorised to work half time in preparation for retirement shall receive a reduced basic salary equal to the higher of the two amounts obtained by applying the following percentages to the full-time basic salary:

- either 60 %
- or the percentage corresponding to years of service within the meaning of Articles 2, 3, 4, 5, 9 and 9a of Annex VIII at the beginning of the period of half-time work, plus 10 %.

Officials who make an application under this Article shall be required, when they cease to work half-time, either to retire or to repay the amount exceeding 50 % of the basic salary received during the period of half-time work.

*Article 5*

The Appointing Authority may lay down detailed rules for the application of these provisions.'

94. Annex V is amended as follows:

(a) Article 6 is amended as follows:

(i) In the seventh indent of the first paragraph, 'birth or' is deleted.

(ii) The following indents are inserted after the seventh indent of the first paragraph:

— birth of a child: 10 days, to be taken during the fourteen weeks following birth;

— death of the wife during maternity leave: a number of days corresponding to the remaining maternity leave; if the deceased wife is not an official, the remaining maternity leave is determined by applying the provisions of Article 58 of the Staff Regulations, by analogy.'

(iii) The following indent is inserted after the former eighth indent of the first paragraph:

— very serious illness of a child, as certified by a doctor, or hospitalisation of a child aged 12 or under: up to five days;'

(iv) The following indents are inserted after the former ninth indent of the first paragraph:

— adoption of a child: 20 weeks, rising to 24 weeks in the case of the adoption of a handicapped child:

Every adopted child shall confer entitlement to only one period of special leave, which may be shared between the adoptive parents if both are officials. It shall be granted only if the official's spouse engages in a gainful activity at least half-time. If the spouse works outside the EU institutions and benefits from comparable leave, a corresponding number of days shall be deducted from the official's entitlement.

The Appointing Authority may, in case of necessity, grant additional special leave in cases where the national legislation of the country in which the adoption procedure takes place and which is not the country of employment of the adopting official requires a stay of one or both adoptive parents.

Special leave of 10 days shall be granted if the official does not benefit from the full special leave of 20 or 24 weeks by reason of the first sentence of this indent; this additional special leave shall be granted only once for each adopted child.'

(v) The following paragraph is added:

'For the purposes of this Article, a recognised partner shall be treated as the spouse even if the condition laid down in the last indent of Article 1(2), point (c) of Annex VII is not fulfilled.'

(b) Article 7 is amended as follows:

(i) The second and third paragraphs are deleted.

(ii) The former fifth paragraph is replaced by the following:

'The preceding provisions shall apply to officials whose place of employment is within the territories of the Member States. If the place of employment is outside these territories, the travelling time shall be fixed by special decision taking into account particular needs.'

95. In Articles 1 and 3 of Annex VI, 'categories C and D' is replaced by 'function group AST'.

96. Annex VII is amended as follows:

(a) Article 1 is amended as follows:

(i) Paragraph 1 is replaced by the following:

'1. The household allowance shall be set at a basic amount of [EUR 140,27] <sup>(5)</sup>, plus 2 % of an official's basic salary.'

(ii) Paragraph 2, point (c) becomes paragraph 2, point (d).

(iii) The following paragraph 2, point (c) is inserted:

'(c) an official who is registered as a stable non-marital partner, provided that:

— the couple produces a legal document recognised as such by a Member State acknowledging their status as non-marital partners,

— neither partner is in a marital relationship or in another non-marital partnership,

— the partners are not related in any of the following ways: parent, child, grandparent, grandchild, brother, sister, aunt, uncle, nephew, niece, father-in-law, son-in-law, daughter-in-law;

— the couple has no access to legal marriage in a Member State; a couple shall be considered to have access to legal marriage for the purposes of this indent only where the members of the couple meet all the conditions laid down by the legislation of a Member State permitting marriage of such a couple.'

(iv) In the new paragraph 2, point (d), 'laid down in (a) and (b)' is replaced by 'laid down in (a), (b) and (c)'.

<sup>(5)</sup> See footnote 2.

- (v) In the first sentence of paragraph 3, 'the third step of grade C 3' is replaced by 'the second step of grade 3'.
- (b) In Article 2(1), '[EUR 232,73] <sup>(5)</sup>' is replaced by '[EUR 306,51]'.
- (c) Article 3 is amended as follows:
- (i) The current text becomes paragraph 1.
- (ii) The first subparagraph of paragraph 1 is replaced by the following:
- 'Subject to the conditions laid down in the general implementing provisions, an official shall receive an education allowance equal to the actual education costs incurred by him up to a maximum of [EUR 207,98] <sup>(5)</sup> per month for each dependent child, within the meaning of Article 2(2) above, who is in regular full-time attendance at a primary or secondary school that charges fees or at an establishment of higher education. The requirement of attendance at a school that charges fees shall not apply to the reimbursement of the cost of transport to and from school.'
- (iii) The first sentence of the third subparagraph is replaced by the following:
- 'Irrespective of whether the educational establishment charges fees or not, the allocation paid shall be subject to a ceiling of twice the maximum prescribed in the first subparagraph for:'.
- (iv) The following is added to the second indent of the third subparagraph:
- 'or where the child attends a higher education establishment in a country other than that of the official's place of employment;
- in the same conditions as in the foregoing two indents, persons entitled to the allowance who are not in active service, taking account of the place of residence instead of the place of employment.'
- (v) The following paragraph 2 is added:
- '2. For each dependent child within the meaning of Article 2(2), an official shall be entitled to a pre-school allowance of [EUR 74,87] <sup>(5)</sup> a month. Entitlement to the pre-school allowance shall end at the end of the month preceding that in which the child starts to attend primary school. The first sentence of the last indent of paragraph 1 shall apply.'
- (d) Sections 2a and 2b are deleted.
- (e) Article 5(1) is amended as follows:
- (i) The first subparagraph is replaced by the following:
- '1. An installation allowance equal to two months' basic salary in the case of an official who is entitled to the household allowance, and equal to one month's basic salary in other cases shall be paid to an established official who qualifies for reimbursement of removal expenses as provided for in Article 9 of this Annex, or who furnishes evidence that a change in the place of residence was required in order to satisfy the requirements of Article 20 of the Staff Regulations.'
- (ii) In the second subparagraph, 'or other servants' is inserted after 'husband and wife who are officials'.

- (f) Article 6(1) is amended as follows:

In the first sentence of the first subparagraph, 'who satisfies the requirements of Article 5(1)' is replaced by 'who provides evidence of a change of residence'.

In the second sentence of the first subparagraph 'or other servants' is inserted after 'husband and wife who are officials'.

- (g) Article 7(2) is replaced by the following:

'2. The basis for calculating the reimbursement shall be the first-class rail fare on the shortest and most economical habitual route by rail between the place of employment and the place of recruitment or origin.

Where the route referred to in the first subparagraph exceeds 500 km and in cases where the usual route includes a sea crossing, the official concerned shall be entitled, on production of the tickets, to reimbursement of the cost of travel by air in business class or equivalent. Where a means of transport other than those mentioned above is used, calculation of reimbursement shall be based on the cost by rail, excluding sleeper accommodation. Where calculation on this basis is not possible, the terms of reimbursement shall be determined by special decision of the Appointing Authority.'

- (h) Article 8 is amended as follows:

- (i) Paragraphs 1 and 2 are replaced by the following:

'1. Officials shall be entitled to be paid in each calendar year a sum equivalent to the cost of travel from the place of employment to the place of origin as defined in Article 7 for themselves and, if they are entitled to the household allowance, for the spouse and dependants within the meaning of Article 2.

Where a husband and wife are both officials of the Communities, each has the right in respect of himself or herself and in respect of dependants to the flat-rate payment of travelling expenses, in accordance with the above provisions; each dependant shall be entitled to one payment only. The payment in respect of dependent children is fixed at the request of the husband or wife, on the basis of the place of origin of one or other of them.

Where an official marries during a given year and thereby becomes entitled to the household allowance, the travel expenses payable for the spouse shall be calculated in proportion to the period from the date of the marriage to the end of the year.

Any alteration to the basis of calculation which may arise from changes in family status after the date of payment of the sums in question shall not render the official concerned liable to make repayment.

Travel expenses for children aged two to ten years shall be calculated on the basis of half of the kilometric allowance and half the flat-rate supplement, the children being deemed for the purposes of calculation to have completed their second or tenth year on 1 January of the current year.

2. The flat-rate payment shall be based on an allowance per kilometre of distance between the official's place of employment and place of recruitment or origin; such distance to be calculated according to the method laid down in the first indent of Article 7(2).

The kilometric allowance <sup>(5)</sup> shall be:

EUR 0 for every km from 0 to 200 km

[EUR 0,3117] for every km from 201 to 1 000 km

[EUR 0,5195] for every km from 1 001 to 2 000 km

[EUR 0,3117] for every km from 2 001 to 3 000 km

[EUR 0,1039] for every km from 3 001 to 4 000 km

EUR 0 for every km over 4 000 km.

To the above kilometric allowance a flat-rate supplement shall be added, amounting to:

[EUR 155,86] if the distance by train between the place of employment and the place of origin is between 725 km and 1 450 km,

[EUR 311,72] if the distance by train between the place of employment and the place of origin is greater than 1 450 km,

The above kilometric allowances and flat-rate supplements shall be adapted every year in the same proportion as remuneration.'

(ii) Paragraph 4 is replaced by the following:

'4. The preceding provisions shall apply to officials whose place of employment is within the territories of the Member States of the European Union. Officials whose place of employment is outside the territory of the Member States of the European Union shall be entitled for themselves and, if they are entitled to receive the household allowance, for their spouse and other dependants within the meaning of Article 2, in each calendar year, to repayment of travel expenses to their place of origin, or to repayment of travel expenses to another place not exceeding the expense of travel to the place of origin. However, if the spouse and the persons referred to in Article 2(2) do not live with the official at the place of employment, they shall be entitled each calendar year to reimbursement of travel expenses from the place of origin to the place of employment or to another place not exceeding the cost of the former journey.

These travel expenses shall be reimbursed in the form of a flat-rate payment based on the cost of air travel in the class immediately superior to economy class.'

(i) The first sentence of Article 9(1) is replaced by the following:

'The expenses incurred in respect of removal of furniture and personal effects, including the cost of insurance against ordinary risks (breakage, theft, fire), shall be reimbursed to officials who are obliged to change their place of residence owing to taking up their duties, or to transfer to a different place of employment, and who have not been reimbursed in respect of the same expenses from another source.'

(j) Article 10 is amended as follows:

(i) Paragraph 1 is replaced by the following:

'1. Where an official furnishes evidence that a change in the place of residence is required in order to satisfy the requirements of Article 20 of the Staff Regulations, such official shall be entitled for a period specified in paragraph 2 to a subsistence allowance per calendar day as follows:

Official entitled to receive household allowance: [EUR 32,21] <sup>(5)</sup>.

Official not entitled to receive household allowance: [EUR 25,98] <sup>(5)</sup>.

The above scale shall be reviewed each time remunerations are revised pursuant to Article 65 of the Staff Regulations.'

(ii) In the second subparagraph, 'or other servants' is inserted after 'husband and wife who are officials'.

(iii) Paragraph 3 is deleted.

(k) Article 11 is amended as follows:

(i) The second subparagraph of paragraph 1 is deleted.

(ii) The first sentence of paragraph 2 is replaced by the following:

'The travel order shall state the probable duration of the mission, on the basis of which shall be calculated any advance which the official may draw against the daily subsistence allowance.'

(iii) The following paragraph 3 is added:

'3. Save in special cases, to be determined by special decision and in particular where an official is called back from leave, the reimbursement of mission expenses shall be limited to the cost of the most economical journey between the place of employment and the place of mission which does not require the official on mission to extend his stay significantly.'

(l) Articles 12 and 13 are replaced by the following:

*'Article 12*

1. Travel by rail

Travel expenses for missions carried out by rail shall be reimbursed on presentation of supporting documents on the basis of the cost of transport in first class by the shortest route between the place of employment and the place of the mission.

2. Travel by air

Officials shall be authorised to travel by air if the outward and return journeys by rail would total at least 800 kilometres.

3. Travel by sea

The Appointing Authority shall authorise in each case and on the basis of the length and cost of the journey the classes to be used and the cabin supplements which may be reimbursed.

4. Travel by car

Travel costs shall be reimbursed in the form of a lump sum based on the rail cost, in accordance with point 1; no other supplement shall be paid.

In the case of an official travelling on mission in special circumstances, however, the Appointing Authority may decide to grant that official an allowance per kilometre covered instead of the reimbursement of travel costs provided for above, if the use of public transport presents clear disadvantages.

*Article 13*

1. The daily subsistence allowance for missions shall comprise a flat-rate sum to cover all expenses incurred by the person on mission: breakfast, two main meals and incidental expenses, including local travel. Hotel costs, including local taxes, shall be reimbursed up to a maximum fixed for each country, on production of supporting documents.

2. (a) The scale for the Member States of the Union is as follows:

Destination	Daily allowance	Hotel maximum
Belgium	84,06	117,08
Denmark	91,70	148,07
Germany	74,14	97,03
Greece	66,04	99,63
Spain	68,89	126,57
France	72,58	97,27
Ireland	80,94	139,32
Italy	60,34	114,33
Luxembourg	82,00	106,92
Netherlands	78,26	131,76
Austria	74,47	128,58
Portugal	68,91	124,89
Finland	92,34	140,98
Sweden	92,91	141,77
United Kingdom	86,89	149,03

Where an official on mission is provided with a meal or accommodation free of charge or reimbursed by one of the institutions of the Communities, an administration or outside body, this must be declared. A corresponding deduction will then be made.

(b) The scale for missions in countries outside the European territory of the Member States shall be fixed and adjusted periodically by the Appointing Authority.

3. The rates set out in paragraph 2(a) may be amended by the Council acting on a proposal by the Commission by the qualified majority provided for in the first indent of the second subparagraph of Article 205(2) of the Treaty. The Commission shall consider periodically, and at least every three years, whether to present a proposal for an amendment.'

(m) The following Article is inserted after Article 13:

*'Article 13a*

Detailed rules for the application of Articles 11, 12 and 13 shall be laid down by the various institutions under the general implementing provisions.'

- (n) Articles 14a and 14b are deleted.
- (o) In the first paragraph of Article 15 'official in grade A1 or A2' is replaced by 'senior management staff within the meaning of Article 29(2)'.
- (p) Article 17 is amended as follows:

- (i) Paragraphs 2 and 3 are replaced by the following:

'2. In the conditions laid down in rules fixed by the Community institutions by common consent after consulting the Staff Regulations Committee, officials may regularly have part of their remuneration transferred by their institution of employment to another Member State.

Under the preceding provision the following may be transferred, separately or in combination:

- for children attending an education establishment in another Member State, a maximum amount per dependent child equal to the amount of the education allowance actually received for that child;
- on production of valid supporting documents, regular payments to all other persons residing in the relevant Member State to whom the official provides evidence of having an obligation by virtue of a decision of the courts or the competent administrative authority.

The transfers referred to in the second indent may not exceed 5 % of the official's basic salary.

3. The transfers provided for in paragraph 2 shall be made at the exchange rate referred to in the second paragraph of Article 63 of the Staff Regulations. The amounts transferred shall be multiplied by a coefficient representing the difference between the weighting for the country in whose currency the transfer is made and the weighting for the country in which the official is employed. The weightings used for this comparison shall be those defined in the second indent of Article 3(5) of Annex XI to the Staff Regulations.'

- (ii) The following paragraph 4 is added:

'4. Apart from the above, an official may request a regular transfer to another Member State at the monthly exchange rate, without application of any coefficient. This transfer may not exceed 25 % of the official's basic salary.'

97. Annex VIII is amended as follows:

- (a) Article 3 is replaced by the following:

*'Article 3*

Provided that the servants concerned have paid their shares of the pension contributions in respect of the periods of service concerned, the following shall be taken into account for the purpose of calculating years of pensionable service within the meaning of Article 2:

1. the period of service as an official of one of the institutions in one of the administrative statuses set out in Article 35(a), (b), (c) and (e) of the Staff Regulations. However, officials subject to Article 40 of the Staff Regulations shall be subject to the conditions laid down in the last sentence of the second subparagraph of paragraph 3 thereof;
2. periods of entitlement to the allowance under Articles 41, 47a and 50 of the Staff Regulations, up to a maximum of five years in the case of Articles 41 and 50 and six years in the case of Article 47a;



3. periods of entitlement to an invalidity allowance;
4. periods of service in any other capacity in accordance with the Conditions of Employment of other servants of the Communities. However, where members of contract staff within the meaning of those Conditions of Employment become officials, the years of pensionable service they have acquired as members of contract staff shall entitle them to a number of years of pensionable service as officials calculated on the basis of the ratio between the last basic salary received as a member of contract staff and the first basic salary received as an official. This provision shall apply with the necessary changes where officials become members of contract staff.'

(b) Article 4 is amended as follows:

- (i) The present text becomes paragraph 1 and the second sentence of the first paragraph is replaced by the following:

'He may request that, for the purpose of calculating his pension rights, the whole of the period of service as an official or member of the temporary staff for which contributions have been paid be taken into account, subject to:

- (a) repayment of the severance grant paid under Article 12, with compound interest at a rate of 3,5 % per annum. Where Article 42 of the Conditions of Employment of other servants has been applied in the case of the official concerned, the latter shall also be required to repay the amount paid under that Article, plus compound interest at the said rate.

- (b) having an amount set aside for this purpose, before calculation of the credited contribution years provided for in Article 11(2) and providing the official has requested and obtained the application of that Article after resuming service, equal to that part of the amount transferred to the Community pension scheme that corresponds to the actuarial equivalent calculated and transferred pursuant to Article 11(2) or Article 12(b), plus compound interest at a rate of 3,5 % per annum.'

- (ii) The second and third paragraphs are replaced by the following:

'Where Article 42 or 110 of the Conditions of Employment of other servants has been applied in the case of the official concerned, the calculation of the amount to be set aside shall also take account of the amount paid under those Articles, plus compound interest at 3,5 % per annum.

Where the amount transferred to the Community scheme is insufficient to make up the pension rights covering the previous period of employment in full, the official or member of the temporary staff shall be authorised, on request, to make the amount up to that defined in point (b) of the first paragraph.'

- (iii) The following paragraph 2 is added:

'2. The interest rate laid down in paragraph 1 may be reviewed in accordance with the rules laid down in Article 7 of Annex XII.'

- (c) In Article 6, 'at the first step of grade D 4' is replaced by: 'at the first step of grade AST 1.'

- (d) Article 7 is deleted.

- (e) In Article 8,

'the latest mortality tables compiled by the budgetary authority in accordance with Article 39, the rate of interest applicable being 3,5 % per annum'

is replaced by:

'the mortality table referred to in Article 5 of Annex XII and subject to 3,5 % interest per annum, which rate may be revised in accordance with the rules laid down in Article 7 of Annex XII.'

- (f) The following sentence is added to the second indent of the first paragraph of Article 9:

'This table shall be adjusted in accordance with Article 7 of Annex XII. In the case of officials aged 55 or more, the Appointing Authority may decide, in the interests of the service, on the basis of objective criteria and transparent procedures fixed in rules adopted by common consent after consulting the Staff Regulations Committee, to ignore partially — or, in appropriate cases, wholly — the coefficients in the table.'

- (g) The following Article is inserted:

*'Article 9a*

For the purposes of determining the reduced pension of officials with more than 35 years of service who request immediate payment of their retirement pension in accordance with Article 9, the coefficients in Article 9 shall be applied to a hypothetical figure corresponding to years of pensionable service rather than to an amount capped at 70 % of the final basic salary. In no case, however, may the reduced pension thus calculated exceed 70 % of the last basic salary within the meaning of Article 77 of the Staff Regulations.'

- (h) Article 11(2) is amended as follows:

- (i) In the first subparagraph,

'shall be entitled upon establishment to have paid to the Communities either the actuarial equivalent or the flat-rate redemption value of retirement pension rights acquired by virtue of such services or activities.'

is replaced by:

'shall be entitled, after establishment but before becoming eligible for payment of a retirement pension, to have paid to the Communities the capital value updated to the date of the actual transfer of pension rights acquired by virtue of such service or activities.'

- (ii) The second subparagraph is amended as follows:

— 'by means of general implementing provisions' is inserted after 'determine'.

— 'taking into account his grade on establishment' is replaced by 'taking into account the official's basic salary and age at the date of application for a transfer,';

— 'under its own pension scheme' is replaced by 'under the Community pension scheme';

— 'on the basis of the amount of the actuarial equivalent or sums repaid as aforesaid.'

is replaced by:

'on the basis of the capital transferred, after deducting an amount representing capital appreciation between the date of the application for a transfer and the actual date of the transfer.'

(iii) The following paragraph is added:

'Officials may make use of this arrangement once only for each Member State and pension fund concerned.'

(i) Article 12 is amended as follows:

(i) The present text becomes paragraph 1 and, in the introductory part, 'immediate or deferred' is inserted before 'retirement pension', and 'or the provisions of Article 11(1)' and 'to payment of:' are deleted.

(ii) Points (a), (b), (c) and (d) are replaced by:

'(a) where they have completed at least one year's service and have not made use of the arrangement laid down in Article 11(2), to payment of a severance grant equal to three times the amounts withheld from their basic salary in respect of their pension contributions, after deduction of any amounts paid under Articles 42 and 110 of the Conditions of Employment of other servants;

(b) in other cases, to the benefits provided under Article 11(1) or to the payment of the actuarial equivalent of such benefits to a private insurance company or pension fund of their choice, on condition such company or fund guarantees that:

— the capital will not be repaid;

— a monthly income will be paid from age 60 at the earliest, and age 65 at the latest;

— provisions are included for reversion or survivors' pensions;

— transfer to another insurance company or other fund will be authorised only if such fund fulfils the conditions laid down in the three foregoing indents.'

(iii) The following paragraph 2 is added:

'2. Where an official's service has been terminated by removal from his post, the severance grant to be paid or, as the case may be, the actuarial equivalent to be transferred shall be determined by reference to the decision taken in accordance with Article 7(1)(h) of Annex IX.'

(j) Article 12a is deleted.

(k) The title of Chapter 3 is replaced by: 'Invalidity allowance'.

(l) Article 13 is amended as follows:

(i) The first subparagraph becomes paragraph 1 and 'invalidity pension' is replaced by 'invalidity allowance.'

(ii) The second subparagraph is replaced by the following paragraph 2:

'2. Persons in receipt of an invalidity allowance may not engage in gainful employment without the prior authorisation of the Appointing Authority. Any income from such gainful employment which, in combination with the invalidity allowance, exceeds the final total remuneration received while in active service shall be deducted from the invalidity allowance.

The recipient of the allowance shall be required to provide on request written proof and to notify his or her institution of any factor that may affect entitlement to the allowance.'

(m) Article 14 is amended as follows:

(i) 'invalidity pension' is replaced by 'invalidity allowance' and 'this pension' is replaced by 'this allowance'.

(ii) In the second paragraph, 'in that case the provisions of Article 16 of Annex VIII shall apply' is deleted.

(n) In Article 15, 'pension' is replaced by 'allowance'.

(o) Article 16 is deleted.

(p) Article 17 is amended as follows:

(i) 'the widow' is replaced by 'the surviving spouse'.

(ii) In the first paragraph, 'provided that she has been married to him' is replaced by 'provided that the couple was married' and 'widow's pension' is replaced by 'survivor's pension'.

(q) Article 17a is amended as follows:

(i) In the first and second paragraphs, 'widow's pension' is replaced by 'survivor's pension'.

(ii) In the first and third paragraphs, 'the widow' is replaced by 'the surviving spouse'.

(iii) The first paragraph is amended as follows:

— 'Article 47a of the Staff Regulations, or' is inserted between 'terminated by virtue of' and 'Regulations';

— 'Article 50' is replaced by 'Articles 47a or 50.';

— 'provided that she had been married to him for at least one year when he left the service of an institution' is replaced by: 'provided that the couple is already married before the official leaves the service of an institution and that the marriage has lasted at least one year.';

— 'husband' is replaced by 'spouse'.

(r) Article 18 is amended as follows:

(i) 'his widow' is replaced by 'the surviving spouse' and 'her husband' is replaced by 'the spouse'.

- (ii) In the first paragraph, 'provided that she had been married to him for at least one year when he left the service of an institution' is replaced by: 'provided that the couple is already married before the official leaves the service of an institution and that the marriage has lasted at least one year.'
- (iii) In the second paragraph, 'before he left' is replaced by 'before he or she left'.
- (s) Article 18a is amended as follows:
  - (i) 'the widow' is replaced by 'the surviving spouse'.
  - (ii) The first paragraph is amended as follows:
    - 'provided that she had been married to him for at least one year when he left the service of an institution' is replaced by: 'provided that the couple is already married before the official leaves the service of an institution and that the marriage has lasted at least one year.';
    - 'widow's pension' is replaced by 'survivor's pension';
    - 'husband' is replaced by 'spouse'.
- (t) Article 19 is amended as follows:
  - (i) 'invalidity pension' is replaced by 'invalidity allowance' and 'her husband' is replaced by 'the spouse';
  - (ii) The first paragraph is amended as follows:
    - 'his widow' is replaced by 'the surviving spouse';
    - 'provided that she was married to him' is replaced by 'provided that the couple was married';
    - 'this pension' is replaced by 'this allowance'.
- (u) In Article 21(1), 'the widow' is replaced by 'the surviving spouse' and 'a retirement or invalidity pension' is replaced by 'a retirement pension or invalidity allowance'.
- (v) Article 22 is amended as follows:
  - (i) In the first paragraph 'a widow' is replaced by 'a surviving spouse'.
  - (ii) In the third paragraph 'a retirement or invalidity pension' is replaced by 'a retirement pension or invalidity allowance'.
- (w) Article 24 is amended as follows:
  - (i) In the first paragraph 'a retirement or invalidity pension' is replaced by 'a retirement pension or invalidity allowance'.

(ii) In the second paragraph the following sentence is added:

'Similarly the right to an orphan's pension shall cease if the recipient ceases to be regarded as a dependent child within the meaning of Article 2 of Annex VII to the Staff Regulations.'

Article 25 is amended as follows:

'a retirement or invalidity pension' is replaced by 'a retirement pension or invalidity allowance';

(x) In Article 26, 'A widow' is replaced by 'A surviving spouse' and 'She shall be entitled' is replaced by 'He or she shall be entitled'.

(y) Article 27 is amended as follows:

(i) 'her former husband' is replaced by 'the former spouse'.

(ii) In the first and third paragraphs, 'The divorced wife' is replaced by 'The divorced spouse'.

(iii) In the first paragraph, 'from him' is replaced by 'from the former spouse', and 'officially registered and enforced' is added.

(iv) The third paragraph is replaced by 'The divorced spouse's entitlement shall cease if he or she remarries before the former spouse dies. Article 26 shall apply in the event of remarriage after the death of the former spouse.'

(z) Article 28 is amended as follows:

(i) In the first paragraph, 'divorced wife' is replaced by 'divorced spouse' and 'a widow' is replaced by 'a surviving spouse.'

(ii) In the second paragraph, 'her share, her share' is replaced by 'his or her share, that share'.

(aa) In Article 29, 'the divorced wife' is replaced by 'the divorced spouse' and 'to the widow' is replaced by 'to the surviving spouse'.

(bb) In Article 31, 'retirement or invalidity pension' is replaced by 'retirement pension or invalidity allowance'.

(cc) In Article 31a, 'under Article 50' is replaced by 'under Articles 47a or 50'.

(dd) In Article 34, the second paragraph is replaced by:

'Articles 80 and 81 of the Staff Regulations shall also apply to children born less than 300 days after the death of the official or former official in receipt of a retirement pension or invalidity allowance.'

- (ee) In Article 35, 'of a retirement, invalidity or survivor's pension' is replaced by 'of a retirement or survivor's pension or of an invalidity allowance'.
- (ff) In Article 36, 'and invalidity allowances' is inserted after 'Salaries'.
- (gg) In Article 37, 'up to a maximum of five years as provided in Article 3, to officials receiving the allowance provided for in respect of non-active status or retirement in the interests of the service', is replaced by 'up to a maximum of five years in the case of Articles 41 and 50 and up to a maximum of six years in the case of Article 47a to officials receiving the allowances under Article 41, Article 47a or Article 50 of the Staff Regulations'.
- (hh) Article 39 is deleted.
- (ii) Article 40 is amended as follows:
- (i) In the first paragraph 'retirement, invalidity or survivor's pension' is replaced by 'retirement or survivor's pension or invalidity allowance'.
- (ii) The second paragraph is amended as follows:
- 'a retirement or invalidity pension' is replaced by 'a retirement pension or invalidity allowance';
  - 'by an institution of the three European Communities' is replaced by 'from the general budget or by one of the decentralised Community bodies';
  - 'under Articles 41 and 50' is replaced by 'under Articles 41, 47a and 50';
  - 'Similarly, they shall be incompatible with any remuneration derived from a post in one of the institutions or decentralised Community bodies.' is added.
- (jj) Article 42 is amended as follows:
- (i) 'a retirement or invalidity pension' is replaced by 'a retirement pension or invalidity allowance';
- (ii) 'or allowance' is inserted between 'their pension' and 'within one year'.
- (kk) In Article 44 'temporarily' is inserted before 'deprived' and 'under Article 86 of the Staff Regulations' is replaced by 'under Article 7 of Annex IX to the Staff Regulations'.
- (ll) The third paragraph of Article 45 is replaced by:

'For pensioners residing within the European Union, benefits shall be paid in the currency of the country of residence into a bank in that country, on the terms laid down in the second paragraph of Article 63 of the Staff Regulations.

For pensioners residing outside the European Union, pensions shall be paid in euro into a bank in the country of residence. The pension may by way of exception be paid in euro into a bank in the country where the institution has its headquarters, or in foreign currency in the country of residence of the pensioner, converted at the most up-to-date exchange rates used for the implementation of the general budget of the European Communities.

This Article shall apply by analogy to the recipients of an invalidity allowance.'

(mm) In Article 46, 'of a retirement or invalidity pension' is replaced by 'of a retirement pension or invalidity allowance'.

98. Annex IX is replaced by the following:

*'ANNEX IX*

**DISCIPLINARY PROCEEDINGS**

***Section 1: General provisions***

*Article 1*

1. Whenever an investigation by the Anti-fraud Office (OLAF) reveals the possible involvement of an official (or a former official) of an institution, that person shall rapidly be informed, provided this is not harmful to the investigation. In any event, conclusions referring by name to an official may not be drawn once the investigation has been completed without that official concerned having had the opportunity to comment on facts concerning him.

2. In cases that demand absolute secrecy for the purposes of the investigation and requiring the use of investigative procedures falling within the remit of a national judicial authority, compliance with the obligation to invite the official to comment may, in agreement with the Appointing Authority, be deferred. In such cases, no disciplinary proceedings may be opened before the official has had a chance to comment.

3. If, following an OLAF investigation, no case can be made against an official about whom allegations have been made, the investigation in question shall be closed, with no further action taken, by decision of the Director of the Office, who shall inform the official and his institution in writing. The official may request that this decision be inserted in his personal file.

*Article 2*

1. The rules set out in Article 1 shall apply *mutatis mutandis* to other administrative enquiries carried out by the Appointing Authority.

2. Subject to the protection of the legitimate interests of third parties, the Appointing Authority shall inform the person concerned when the investigation ends, and shall communicate to him, on request, the conclusions of the investigation report and all documents directly related to the allegations made against him.

3. The institutions shall adopt implementing arrangements for this Article, in accordance with Article 110 of the Staff Regulations.

*Article 3*

On the basis of the investigation report, and after hearing the official concerned, the Appointing Authority may:

- (i) decide that no case can be made against the official. The official shall be informed accordingly in writing;
- (ii) decide that no disciplinary measure should be taken, and if appropriate address a warning to the official;
- (iii) in the case of failure to comply with obligations, within the meaning of Article 86 of the Staff Regulations:
  - (a) decide to initiate the disciplinary proceedings provided for in Section 4, or
  - (b) decide to initiate disciplinary proceedings before the Disciplinary Board after having notified the official of all items in the file.



An official who, for objective reasons, cannot be heard under the provisions of this Annex may be asked to comment in writing or be represented by a person of his choice.

## **Section 2: Disciplinary Board**

### *Article 4*

1. A Disciplinary Board, hereinafter referred to as "the Board", shall be established in each institution.
2. The Board shall consist of a chairman and four full members, who may be replaced by alternates, and, in cases involving an official in a grade up to AD 13, two additional members in the same function group and grade as the official subject to disciplinary proceedings.
3. The members and alternates of the Board shall be appointed from amongst the officials in grade AD 14 or above in active employment in respect of all cases other than those concerning officials in grades AD 16 or AD 15.
4. The members and alternates of the Board shall be appointed from amongst officials in grade AD 16 in active employment for cases involving officials in grades AD 16 or AD 15.
5. The Appointing Authority and the Staff Committee shall agree on an ad hoc procedure to designate the further members referred to in paragraph 2 who must sit for cases involving an official posted to a country outside the Union or a member of contract staff.

### *Article 5*

1. The Appointing Authority and the Staff Committee shall each appoint two members and two alternates at the same time.
2. The chairman and alternate for the chairman shall be appointed by the Appointing Authority.
3. The chairman, the members and the alternates shall be appointed for a period of three years. However, the institutions may provide for a shorter period for members and alternates, subject to a minimum of one year.
4. The two members of the Board as enlarged in accordance with Article 4(2) shall be appointed in the following manner:
  - (a) The Appointing Authority shall draw up a list containing, if possible, the names of two officials in each grade in each function group. At the same time, the Staff Committee shall send the Appointing Authority a list drawn up on the same basis.
  - (b) Within five days of the notification of the report on which the decision to open disciplinary proceedings or the procedure laid down in Article 22 of the Staff Regulations is based, the chairman of the Disciplinary Board, in the presence of the person concerned, shall draw by lot from the above-mentioned lists the names of the two Board members, one member being drawn from each list. The chairman shall notify the individual members of the Board of its complete composition.
5. The accused official shall be entitled to reject one of the Board members within five days of the Board's establishment.

Within the same time limit, Board members may ask to be excused duty for legitimate reasons.

If necessary, the chairman of the Disciplinary Board shall draw new lots to fill the places on the Board.

*Article 5a*

The Board shall be assisted by a secretary.

*Article 6*

1. Members of the Board shall be completely independent in the performance of their duties.
2. The deliberations and proceedings of the Board shall be secret.

**Section 3: Disciplinary measures**

*Article 7*

1. The Appointing Authority may impose one of the following penalties:
  - (a) a written warning;
  - (b) a reprimand;
  - (c) deferment of advancement to a higher step for a period of between one and 23 months;
  - (d) relegation in step;
  - (e) temporary downgrading for a period of between 15 days and one year;
  - (f) downgrading in the same function group;
  - (g) classification in a lower function group, with or without downgrading;
  - (h) removal from post and, where appropriate, reduction pro tempore of a pension or withholding of an amount from an invalidity allowance; the effects of this measure shall not extend to the official's dependants. The official's income may not, however, be less than the minimum subsistence figure laid down in Article 6 of Annex VIII to these Staff Regulations, with the addition of any family allowances payable.
2. Where the official is in receipt of a retirement pension or an invalidity allowance, the Appointing Authority may decide to withhold an amount from the pension or the invalidity allowance for a given period; the effects of this measure shall not extend to the official's dependants. The official's income may not, however, be less than the minimum subsistence figure laid down in Article 6 of Annex VIII to these Staff Regulations, with the addition of any family allowances payable.
3. A single case of misconduct shall not give rise to more than one disciplinary penalty.

*Article 8*

The severity of the disciplinary penalties imposed shall be commensurate with the seriousness of the misconduct. To determine the seriousness of the misconduct and to decide upon the disciplinary penalty to be imposed, the nature of the misconduct and the circumstances in which it occurred shall be taken into account. In particular account shall be taken of:

- the extent to which the misconduct adversely affects the integrity, reputation or interests of the European Communities;
- the extent to which the misconduct involves intentional actions or negligence;
- the motives for the official's misconduct;
- the official's grade and seniority;
- the degree of the official's personal responsibility;
- whether the misconduct involves repeated action or behaviour;
- the conduct of the official throughout the course of his career.

#### ***Section 4: Disciplinary proceedings not involving the Disciplinary Board***

##### *Article 9*

After hearing the official concerned, the Appointing Authority may issue a written warning or reprimand without consulting the Disciplinary Board.

#### ***Section 5: Disciplinary proceedings before the Disciplinary Board***

##### *Article 10*

1. The Appointing Authority shall submit a report to the Board, stating clearly the facts complained of and, where appropriate, the circumstances in which they arose, including any aggravating or extenuating circumstances.
2. The report shall be communicated to the official accused and to the chairman of the Disciplinary Board, who shall bring it to the attention of the members of the Board.

##### *Article 11*

1. On receipt of the report, the official accused shall have the right to obtain his complete personal file and take copies of all documents relevant to the proceedings, including exonerating evidence.
2. The official accused shall have not less than 15 days from the date of receipt of the report initiating the disciplinary proceedings to prepare a defence.
3. The official accused may be assisted by a person of his or her choice.

##### *Article 12*

If the official accused acknowledges misconduct, the Appointing Authority may, after hearing the official, impose a disciplinary penalty ranging from a written warning to a relegation in step without further proceedings and withdraw the case from the Disciplinary Board.

##### *Article 13*

Before the first meeting of the Disciplinary Board, the chairman shall give one of its members the task of preparing a general report on the matter and shall inform the other members of the Board accordingly.

*Article 14*

1. The official accused shall be heard by the Disciplinary Board; at the hearing, he may submit observations in writing or orally, whether in person or through a representative. He may call witnesses.
2. The institution shall be represented before the Disciplinary Board by an official mandated by the Appointing Authority to this effect and shall have rights equivalent to those of the official concerned, including the right to object to one of the members of the Board.

*Article 15*

1. If the Disciplinary Board does not consider that it has sufficiently clear information on the facts complained of or the circumstances in which they arose, it shall order an investigation in which each side can submit its case and reply to the case of the other side.
2. The chairman or a member of the Board shall conduct the investigation on behalf of the Board. For the purposes of the investigation, the Board may call for any documents relating to the matter before it. The institution shall comply with any such request within the time limit, if any, set by the Board. Where such a request is addressed to the official, note shall be taken of any refusal to comply.

*Article 16*

After consideration of documents submitted and having regard to any statement made orally or in writing and to the results of any investigation undertaken, the Disciplinary Board shall, by majority vote, deliver a reasoned opinion as to whether the facts complained of are established and as to any penalty to which those facts should give rise. This opinion shall be signed by all the members of the Board. Each member may attach to the opinion a divergent view. The Board shall transmit the opinion to the Appointing Authority and to the official accused within two months of the date of receipt of the report of the Appointing Authority, provided that this time limit is commensurate with the degree of complexity of the case. Where an investigation has been held at the Board's initiative, the time limit shall be four months, provided that this period is commensurate with the degree of complexity of the case.

*Article 17*

1. The chairman of the Disciplinary Board shall not vote on matters before it, except as regards matters of procedure or where votes are tied.
2. The chairman shall ensure that the decisions of the Board are implemented and shall bring all information and documents relating to the case to the attention of each of its members.

*Article 18*

The secretary shall draw up minutes of meetings of the Disciplinary Board. Witnesses shall sign the minutes recording their evidence.

*Article 19*

1. Expenses incurred on the initiative of an official concerned in the course of disciplinary proceedings, and in particular fees paid to a person chosen to assist the official or for his defence, shall be borne by the official where the administrative investigation results in the imposition of one of the penalties provided for in Article 7.
2. However, the Appointing Authority may decide otherwise in exceptional cases where the burden on the official concerned would be unfair.

*Article 20*

1. After hearing the official, the Appointing Authority shall take its decision as provided for in Articles 7 and 8 within two months of receipt of the opinion of the Disciplinary Board.

2. If the Appointing Authority decides to close the case without imposing any disciplinary penalty, the official concerned may request that this decision be inserted in his personal file.

### **Section 6: Suspension**

#### *Article 21*

1. If the Appointing Authority accuses an official of serious misconduct, whether through a failure to honour his professional obligations or through an infringement of the law, it may immediately suspend the person accused of that misconduct for a specified or indefinite period.

2. The Appointing Authority shall take this decision after hearing the official concerned, save in exceptional circumstances.

#### *Article 22*

1. The decision suspending an official shall state whether the official is to continue to receive his full remuneration during the period of suspension or what part thereof is to be withheld. The amount paid to the official shall not under any circumstances be less than the minimum subsistence figure laid down in Article 6 of Annex VIII to these Staff Regulations, with the addition of any family allowances payable.

2. The situation of a suspended official must be definitively settled within six months of the date on which the suspension takes effect. If no such decision is taken within six months, the official concerned shall be entitled to again receive full remuneration, subject to paragraph 3.

3. Remuneration may continue to be withheld in part after the six-month deadline referred to in paragraph 2 if the official is the subject of criminal proceedings for the same acts and is in custody as a result of those proceedings. In such cases the official shall not receive full remuneration until the competent court has ordered his release.

4. Sums withheld under paragraph 1 shall be repaid to the official if the final decision imposes a disciplinary penalty no more severe than a written warning, reprimand or deferment of advancement to a higher step, or if no disciplinary penalty is imposed; in the latter case, the repayment shall be made with compound interest at the rate defined in Article 12 of Annex VIII.

### **Section 7: Parallel criminal prosecution**

#### *Article 23*

Where the official is prosecuted for those same acts, a final decision shall be taken only after a final judgment has been handed down by the court hearing the case.

### **Section 8: Final provisions**

#### *Article 24*

An official against whom a disciplinary penalty other than removal from post has been ordered may, after three years in the case of a written warning or reprimand or after six years in the case of any other penalty, submit a request for the deletion from his personal file of all reference to such measure. The Appointing Authority shall decide whether to grant this request.

*Article 25*

Where new facts supported by relevant evidence come to light, disciplinary proceedings may be reopened by the Appointing Authority on application by the official concerned.

*Article 26*

If no case has been made against the official pursuant to Article 1(3) and Article 20(2), the official shall be entitled to request that the damage suffered should be made good through suitable publicity for the decision of the Appointing Authority.

*Article 27*

Each institution shall, if it sees fit, adopt implementing arrangements for this Annex after consulting its Staff Committee.'

99. Annex X is amended as follows:

(a) The second paragraph of Article 2 is replaced by the following:

'The Appointing Authority shall make such transfers by a specific procedure referred to as the "mobility procedure", for which it shall lay down detailed implementing rules, after consulting the Staff Committee.'

(b) The first sentence of Article 3 is replaced by the following:

'Under the mobility procedure, an official assigned to a third country may, by decision of the Appointing Authority, be reassigned temporarily with his post to the seat of the institution or any other place of employment in the Community; such assignments, which shall not be preceded by a vacancy notice, may not be for more than four years.'

(c) Article 5 is amended as follows:

(i) 'the level of his duties and' is inserted after 'corresponds to';

(ii) The following paragraph is added:

'Detailed rules for the application of the first paragraph shall be laid down by the Appointing Authority, after consultation of the Staff Committee; the Appointing Authority shall also decide on the entitlement to furniture and other fittings for accommodation, in line with the conditions applying at each place of employment.'

(d) 'five calendar days' is replaced by 'three and a half working days'.

(e) Article 7 is amended as follows:

(i) In the first paragraph, 'five calendar days' is replaced by 'three and a half working days' and 'two and a half calendar days' is replaced by 'two working days';

(ii) In the second paragraph, '20 calendar days' is replaced by '14 working days'.

(f) Article 9 is amended as follows:

(i) In paragraph 1, '20 calendar days' is replaced by '14 working days'.

(ii) The first subparagraph of paragraph 2 is amended as follows:

- 'calendar days' is replaced by 'working days'.
- The second sentence is deleted.

(g) Article 10(1) is amended as follows:

(i) The sixth subparagraph is amended as follows:

- in the fourth indent, '8' is replaced by '7';
- in the fifth indent, '8' is replaced by '9, but not greater than 11';
- the following indent is inserted after the fourth indent:
  - 30 % where the value is greater than 7 but not greater than 9;

the following indent is added: '— 40 % where the value is greater than 11.'

(ii) The following subparagraphs are added after the first subparagraph:

'Officials who, in the course of their career, have been assigned to a place considered difficult or very difficult and where the allowance for living conditions corresponds to 30 %, 35 % or 40 % and who accept a transfer to another place where the allowance corresponds to 30 %, 35 % or 40 % shall receive, in addition to the allowance for living conditions for their new place of employment, a supplementary premium of 5 % of the reference amount referred to in the first subparagraph.

That premium shall be granted cumulatively on each assignment of the official to a place of employment considered difficult or very difficult; however, the sum of the allowance for living conditions and the premium may not exceed 45 % of the reference amount referred to in the first subparagraph.'

(h) In the first sentence of the first paragraph of Article 13, 'every six months' is replaced by 'once a year'.

(i) In the first paragraph of Article 16, 'either euros or the currency of the country of employment' is replaced by 'euro, in the currency of the country of employment or in the currency in which the expenditure was incurred'.

(j) Article 17 is amended as follows:

(i) The first paragraph is amended as follows:

- 'not in furnished accommodation provided by the institution' is replaced by 'provided accommodation pursuant to Article 5 or 23 and';
- [amendment which does not concern the English version]

(ii) in the second paragraph, 'his actual installation expenses' is replaced by 'the other expenses incurred by this change of residence'.

(k) Article 18 is amended as follows:

(i) The second and third paragraphs are replaced by the following:

'The official shall also receive the daily allowance provided for in Article 10 of Annex VII, less 50 %, except in cases of force majeure to be determined by the Appointing Authority.'

(ii) [amendment which does not concern the English version].

(l) Article 19 is amended as follows:

(i) 'relating to official business within his area of activity' is replaced by 'on official business directly concerned with the performance of his duties'

(ii) 'the use of' in the first line is replaced by 'access to'.

(m) The first and second paragraphs of Article 21 are replaced by the following:

'Where an official is obliged to change his place of residence in order to comply with Article 20 of the Staff Regulations on taking up his appointment or on transfer, the institution shall, subject to the conditions laid down by the Appointing Authority and depending on the type of accommodation that can be provided for him at the place of employment, bear the cost of:

- moving part or all of his furniture and personal effects from their location at the time to the place of employment and of transporting his personal effects, in the event that unfurnished accommodation is provided;
- transporting his personal effects or of storage of his furniture and personal effects in the event that furnished accommodation is provided.'

(n) In Article 23, 'the level of his duties' is replaced by 'his duties.'

(o) Article 26 is deleted.

(p) Chapter 6, comprising Article 27, is deleted.

100. Annex XI is replaced by the following:

'ANNEX XI

CHAPTER 1

**Annual review of remuneration (Article 65(1) of the Staff Regulations)**

**Section 1: Factors determining annual adjustments**

*Article 1*

1. Report from Eurostat (the Statistical Office of the European Communities)

For the purposes of the review provided for in Article 65(1) of the Staff Regulations, Eurostat shall draw up every year before the end of October a report on changes in the cost of living in Brussels, the economic parities between Brussels and certain places in the Member States, and changes in the purchasing power of salaries in national civil services.



2. Changes in the cost of living for Brussels (Brussels International Index)

Eurostat shall draw up an index, based on data provided by the Belgian authorities, to measure changes in the cost of living for officials of the European Communities in Brussels. This index (to be known as Brussels International Index) shall take into account the changes between June of the previous year and June of the current year and shall be based on the statistical methodology defined by the Working Group on Article 64 of the Staff Regulations (see Article 13).

3. Changes in the cost of living outside Brussels (economic parities and implicit indices)

(a) Eurostat shall, after taking into account the views of national statistical institutes or other responsible authorities in the Member States, calculate the economic parities which establish the equivalence of purchasing power:

— of the salaries of officials of the European Communities serving in the capitals of the Member States (except for the Netherlands, where The Hague is used instead of Amsterdam) and in certain other places of employment with reference to Brussels,

— of the pensions of officials paid in the Member States with reference to Belgium.

(b) The economic parities shall refer to the month of June each year.

(c) The economic parities shall be calculated in such a way that each basic component can be updated twice per year and checked by a direct survey at least once every five years. Eurostat shall update the economic parities using the most appropriate indices as defined by the Working Group on Article 64 of the Staff Regulations (see Article 13).

(d) Outside Belgium and Luxembourg, changes in the cost of living during the reference period shall be measured by the implicit indices. These indices are calculated by multiplying the Brussels International Index by the change in the economic parity.

4. Changes in the purchasing power of salaries of national civil servants in central government (specific indicators).

(a) For the purpose of measuring the percentage change, either upward or downward, in the purchasing power of salaries in the national civil services, Eurostat shall, on the basis of information supplied before the end of September by the national authorities concerned, calculate specific indicators reflecting changes in the real remuneration of civil servants in central government, between 1 July of the previous year and 1 July of the current year.

The specific indicators shall take two forms:

— one indicator for each of the function groups, as defined in the Staff Regulations,

— an average indicator weighted to reflect the number of national civil servants corresponding to each function group.

Each of these indicators shall be established in real gross and real net terms. For the transition from gross to net, account shall be taken of statutory deductions and general taxation factors.

To establish gross and net indicators for the European Union total, the results per country shall be weighted in proportion to their national GDP measured using purchasing power parities as shown in the most recent statistics published in accordance with the national accounts definitions in the European Systems of Accounts (ESA) currently in force.

- (b) At the request of Eurostat, the appropriate national authorities shall supply it with the additional information which it considers necessary in order to draw up a specific indicator accurately measuring changes in the purchasing power of national civil servants.

If, after further consultation of the national authorities concerned, Eurostat finds statistical anomalies in the information obtained or finds it impossible to draw up indicators which measure with statistical accuracy the changes in the real income of civil servants in a given Member State, it shall report to the Commission and provide it with all the material it needs to make an assessment.

- (c) Besides the specific indicators, Eurostat shall calculate certain control indicators. One such indicator shall be in the form of data on real per capita emoluments in central government, drawn up in accordance with the national accounts definitions in the European System of Accounts currently in force.

The Eurostat report on the specific indicators shall be accompanied by comments on the differences between these indicators and the above-mentioned control indicators.

#### *Article 2*

The Commission shall produce a comprehensive report every three years on the recruitment requirements of the institutions and transmit it to the European Parliament and the Council. On the basis of this report the Commission shall, if necessary, present proposals based on all relevant factors to the Council after consulting the other institutions within the framework of the Staff Regulations.

### **Section 2: Arrangements for the annual adjustment of remuneration and pensions**

#### *Article 3*

1. Under Article 65(3) of the Staff Regulations, the Council, acting on a Commission proposal and on the basis of the criteria set out in Section 1, shall take a decision before the end of each year adjusting remuneration and pensions, with effect from 1 July.

2. The amount of the adjustment shall be obtained by multiplying the Brussels International Index by the specific indicator. The adjustment shall be in net terms as a uniform across-the-board percentage.

3. The amount of the adjustment thus fixed shall be incorporated, in accordance with the following method, in the basic salary tables appearing in Article 66 and in Annex XIII to the Staff Regulations and in Articles 20 and 63 of the Conditions of Employment of other servants:

- the net remuneration and net pension for a correction coefficient of 100 attaching to each step of each grade for officials and to each class in every group of other servants shall be increased or reduced by the annual adjustment referred to above,
- the new table of basic salaries shall be drawn up by calculating for each step or class the gross amount which, after deduction of tax having regard to paragraph 4 and compulsory deductions for social security and pension contributions, corresponds to the net amount,
- the conversion of net amounts into gross amounts shall be based on the situation of an unmarried official who does not receive the allowances provided for in the Staff Regulations.

4. For the purposes of applying Regulation (EEC, Euratom, ECSC) No 260/68 of the Council of 29 February 1968 laying down the conditions and procedure for applying the tax for the benefit of the European Communities, the amounts in Article 4 of that Regulation shall be multiplied by a factor composed of:

- the factor resulting from the previous adjustment, and/or
- the rate of adjustment of remuneration referred to in paragraph 2,

5. The correction coefficients for both Belgium and Luxembourg shall be fixed at 100.

The correction coefficients applicable to:

- the salaries of officials of the European Communities serving in the other Member States and in certain other places of employment,
- the pensions of European Communities paid in the other Member States,

shall be determined on the basis of the ratios between the corresponding economic parities referred to in Article 1 and the exchange rates specified in Article 63 of the Staff Regulations for the relevant countries.

The procedures laid down in Article 8 concerning the retrospective application of correction coefficients in places of employment with a high rate of inflation shall apply.

6. The institutions shall make the corresponding positive or negative adjustment to the remuneration and pensions of the officials, former officials and other persons concerned with retroactive effect for the period between the effective date and the date of entry into force of the decision on the next adjustment.

If this retroactive adjustment necessitates the recovery of sums overpaid, such recovery may be spread over a period of not more than twelve months from the date of entry into force of the decision on the next annual adjustment.

## CHAPTER 2

### **Intermediate adjustments of remuneration and pensions (Article 65(2) of the Staff Regulations)**

#### *Article 4*

1. Intermediate adjustments of remuneration and pensions pursuant to Article 65(2) of the Staff Regulations, taking effect on 1 January, shall be made in the event of a substantial change in the cost of living between June and December (by reference to the sensitivity threshold defined in Article 6(1)) and with due allowance being made for the forecast of the change in purchasing power during the current annual reference period.

2. The Commission proposal shall be sent to the Council not later than the second half of April.

3. These intermediate adjustments shall be taken into account in the annual salary adjustment.

#### *Article 5*

1. In March each year Eurostat shall make a forecast of changes in purchasing power over the period concerned on the basis of the information supplied at the meeting provided for in Article 12.

If this forecast produces a negative percentage, half of this percentage shall be taken into account in the calculation of the intermediate adjustment.

2. The change in the cost of living for Brussels shall be measured by the Brussels International Index for the period from June to December of the previous calendar year.

3. For each place for which a correction coefficient has been set (other than Belgium and Luxembourg), an estimate for December of the economic parities mentioned in Article 1(3) shall be calculated with reference to Brussels. The change in the cost of living shall be calculated according to the rules set out in Article 1(4).

#### *Article 6*

1. The sensitivity threshold shall be 2,75 %.

2. The threshold shall be applied in accordance with the following procedure, subject to application of the second subparagraph of Article 5(1):

— if the sensitivity threshold is reached or exceeded in Brussels (as measured by the Brussels International Index between June and December), the remuneration for all places shall be adjusted following the annual adjustment procedure,

— if the sensitivity threshold is not reached in Brussels, only the correction coefficients of places where the change in the cost of living (as measured by the implicit indices between June and December) has exceeded the threshold shall be adjusted.

#### *Article 7*

For the purposes of Article 6:

The amount of the adjustment shall be the Brussels International Index, multiplied, where appropriate, by half of the specific indicator forecast if this is negative.

Correction coefficients shall be the ratio between the relevant economic parity and the exchange rate provided for in Article 63 of the Staff Regulations, multiplied, if the adjustment threshold is not reached for Brussels, by the value of the adjustment.

### CHAPTER 3

#### **Date on which a correction coefficient comes into effect (places of employment with a high cost-of-living increase)**

#### *Article 8*

1. For places with a high cost-of-living increase (as measured by the change in the implicit indices), the correction coefficient shall come into effect before 1 January in the case of the intermediate adjustment, or 1 July in the case of the annual adjustment. This is so as to bring the loss in purchasing power into line with what it would be in a place of employment where the change in the cost of living corresponded to the sensitivity threshold.

2. The effective dates for the annual adjustment shall be as follows:

— 16 May for places of employment having an implicit index higher than 6,3 %, and

— 1 May for places of employment having an implicit index higher than 12,6 %.

3. The effective dates for the intermediate adjustment shall be as follows:
  - 16 November for places of employment having an implicit index higher than 6,3 %, and
  - 1 November for places of employment having an implicit index higher than 12,6 %.

#### CHAPTER 4

##### **Creation and withdrawal of correction coefficients (Article 64 of the Staff Regulations)**

###### *Article 9*

1. The appropriate authorities of the Member States concerned, the administration of a European Communities institution or the representatives of European Communities officials in a given place of employment can request the creation of a correction coefficient specific to that place.

This request should be supported by objective factors revealing an appreciable difference over some years in the cost of living between that place of employment and the capital of the Member State concerned (except for the Netherlands where The Hague is used instead of Amsterdam). If Eurostat confirms that the difference is appreciable (more than 5 %) and sustainable, the Commission should present a proposal to set a correction coefficient for that place.

2. Likewise the Council shall decide, on a proposal from the Commission, to withdraw the application of a correction coefficient specific to a certain place. In that case the proposal shall be based on one of the following:

- a request by the appropriate authorities of the Member State concerned, the administration of a European Communities institution or the representatives of European Communities officials in a given place of employment showing that the cost of living in that place is no longer significantly different [less than 2 %] than that of the capital of the Member State concerned. This convergence should be sustainable and validated by Eurostat.
- the fact that there are no longer any European Communities staff <sup>(6)</sup> employed in that place.

3. The Council shall decide on the proposal in accordance with the second paragraph of Article 64 of the Staff Regulations.

#### CHAPTER 5

##### **Exception clause**

###### *Article 10*

If there is a serious and sudden deterioration in the economic and social situation within the Community, assessed in the light of objective data supplied for this purpose by the Commission, the latter shall submit appropriate proposals on which the Council shall act by qualified majority after consulting the other institutions concerned in accordance with the procedure laid down in the Article 283 of the Treaty.

#### CHAPTER 6

##### **Role of Eurostat and relations with the appropriate authorities in the Member States**

###### *Article 11*

It shall be the task of Eurostat to monitor the quality of basic data and statistical methods used to work out the factors taken into account for the adjustment of remuneration. In particular, it shall make any assessments or carry out any studies required for such monitoring.

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<sup>(6)</sup> Officials and temporary staff.

*Article 12*

In March each year Eurostat shall convene a working group composed of experts from the appropriate authorities in the Member States to be known as the "Working Group on Article 65 of the Staff Regulations".

At this meeting, the statistical methodology and its implementation concerning specific and control indicators shall be examined.

The information required to produce a forecast of changes in purchasing power for the purposes of the intermediate adjustment of remuneration shall also be provided, together with the data on working hours in central government departments.

*Article 13*

At least once a year and not later than September, Eurostat shall convene a working group composed of experts from the appropriate authorities in the Member States to be known as the "Working Group on Article 64 of the Staff Regulations".

At this meeting, the statistical methodology and its implementation concerning the establishment of the Brussels International Index and economic parities shall be examined.

*Article 14*

At the request of Eurostat, Member States shall inform Eurostat of any factors having a direct or indirect impact on the composition and changes in the remuneration of central government civil servants.

## CHAPTER 7

**Final provision and review clause***Article 15*

1. The provisions of this Annex shall apply from [1 July 2003].
2. They shall be reviewed at the end of every fifth year and revised, if appropriate, on the basis of a report transmitted to the European Parliament and the Council and a proposal from the Commission after consulting the other institutions within the framework of the Staff Regulations.'

101. The following Annex XII is added:

## 'ANNEX XII

**RULES FOR IMPLEMENTING ARTICLE 83a OF THE STAFF REGULATIONS**

## CHAPTER 1

**Procedure for assessing the actuarial balance***Article 1*

1. In order to determine the contribution of officials to the pension scheme referred to in Article 83a(3) of the Staff Regulations, the Commission shall, every five years, carry out the actuarial assessment of the balance of the pension scheme referred to in Article 83a(3) of the Staff Regulations.
2. In preparation for the examination referred to in Article 83a(4) of the Staff Regulations, the Commission shall every year update this actuarial assessment, having regard to changes in the population as defined in Article 5 and the interest rate as defined in Article 6.

*Article 2*

Any adjustment of the contribution shall take effect on 1 July at the same time as the annual adjustment of remunerations under Article 65 of the Staff Regulations. The assessments shall be carried out with reference to 31 December of the previous year.

## CHAPTER 2

**Calculating the actuarial balance*****Method of calculation****Article 3*

The calculation of the actuarial balance shall use a detailed method of calculation based on generally accepted accounting rules and reconciling in a coherent fashion the particular features of the pension scheme and accounting requirements. This method shall be proposed by the Commission after the Staff Regulations Committee has given its opinion and shall be adopted by the Council by the qualified majority provided for in the first indent of Article 205(2) of the Treaty establishing the European Community.

***Charges on the scheme****Article 4*

The five-yearly actuarial assessments shall lay down the conditions for balance by taking into account, as charges on the scheme, the retirement pension as defined in Article 77 of the Staff Regulations, the invalidity allowance as defined in Article 78 of the Staff Regulations, survivors' pensions as defined in Articles 79 and 80 of the Staff Regulations and the weightings referred to in Article 82 of the Staff Regulations.

***Parameters for the calculation****Article 5*

1. The demographic parameters to be taken into consideration for the actuarial assessment shall be based on observation of the complete population of participants in the scheme, comprising staff in active service and pensioners. This information shall be collected annually by the Commission using information received from the different institutions and decentralised Community bodies whose staff are members of the scheme.

From the observation of this population shall be deduced in particular the structure of the population, the law of variation of salaries and the invalidity table.

2. The mortality table shall relate to a population which has characteristics as close as possible to those of the population of members of the scheme. It shall be updated only on the occasion of the five-yearly actuarial assessment referred to in Article 1.

*Article 6*

1. The interest rates to be taken into consideration for the actuarial calculations shall be based on the actual interest rates on the public debt of the Member States. To calculate real average annual interest rates, an appropriate consumer price index shall be used.

2. The effective annual rate to be taken into consideration for the actuarial calculations shall be the average of the real average interest rates for the 20 years preceding the adjustment referred to in Article 2.

#### *Article 7*

1. The table in Article 9 of Annex VIII shall, if necessary, be revised on the occasion of the five-yearly actuarial assessments.

2. The rate in Articles 4 and 8 of Annex VIII for the calculation of compound interest shall be the effective rate referred to in Article 6 and shall, if necessary, be revised on the occasion of the five-yearly actuarial assessments.

3. For the purpose of applying this Article, the Council shall act, on a proposal from the Commission, by the qualified majority provided for in the first indent of Article 205(2) of the Treaty establishing the European Community.

### CHAPTER 3

#### **Implementation**

#### *Article 8*

1. Eurostat shall be the authority responsible for the technical implementation of this Annex.

2. The actuarial assessments referred to in Article 1 may be entrusted by Eurostat to one or more qualified independent experts. Eurostat shall provide such experts with, in particular, the parameters referred to in Articles 5 and 6.

3. Each year on 1 September Eurostat shall submit a report on the assessments and updates referred to in Article 1.

4. Any questions of methodology raised by the implementation of this Annex shall be dealt with by Eurostat in cooperation with national experts from the relevant departments of the Member States and the qualified independent expert or experts. Eurostat shall convene a meeting of this group for that purpose at least once a year.

#### *Article 9*

Notwithstanding Article 2, the first adjustment of the contribution to the scheme made in accordance with this Annex shall be implemented with effect from 1 January 2004.

### CHAPTER 4

#### **Revision clause**

#### *Article 10*

On the occasion of the five-yearly actuarial assessments and by way of exception in order to remedy any anomalies, this Annex and the method of calculation referred to in Article 3 may be reconsidered by the Council on the basis of a report together with, if appropriate, a proposal from the Commission made after securing the opinion of the Staff Regulations Committee. The Council shall act on this proposal by the qualified majority provided for in the first indent of Article 205(2) of the Treaty establishing the European Community.'



102. The following Annex XIII is added:

‘ANNEX XIII

**TRANSITIONAL MEASURES APPLICABLE TO OFFICIALS OF THE COMMUNITIES (\*)**

**Section 1: General provisions**

*Article 1*

For the period from ... (date of entry into force) to ... (date of entry into force + 2 years) paragraphs 1 and 2 of Article 5 of the Staff Regulations are replaced by the following:

- “1. The posts covered by the Staff Regulations shall be classified, according to the nature and importance of the duties to which they relate, in four categories A, B, C and D, in descending order of rank.
2. Category A shall comprise twelve grades, category B shall comprise nine grades, category C shall comprise seven grades and category D shall contain five grades.”

*Article 2*

1. On ... (date of entry into force), the grades of officials having one of the administrative statuses set out in Article 35 of the Staff Regulations shall be renamed as follows.

Former grade	New (intermediate) grade	Former grade	New (intermediate) grade	Former grade	New (intermediate) grade	Former grade	New (intermediate) grade
A 1	A*16						
A 2	A*15						
A 3/LA 3	A*14						
A 4/LA 4	A*12						
A 5/LA 5	A*11						
A 6/LA 6	A*10	B 1	B*10				
A 7/LA 7	A*8	B 2	B*8				
A 8/LA 8	A*7	B 3	B*7	C 1	C*6		
		B 4	B*6	C 2	C*5		
		B 5	B*5	C 3	C*4	D 1	D*4
				C 4	C*3	D 2	D*3
				C 5	C*2	D 3	D*2

2. Subject to the provisions of Article 7, basic monthly salaries shall be determined for each grade and step as provided for in the following tables <sup>(7)</sup> (in euro) <sup>(8)</sup> <sup>(9)</sup>.

<sup>(7)</sup> The amounts in the table are based on the amounts specified in the Staff Regulations in [July 2001] and shall be updated automatically on the basis of the adjustments of those amounts decided by the Council between [July 2001] and the date of entry into force of this Regulation.

<sup>(8)</sup> The figures in italics in the tables refer to the former salaries as set out in Article 66 of the Staff Regulations before (date of entry into force). They are included in these tables merely for explanatory reasons and do not have any legal implication.

<sup>(9)</sup> The figure on the third line corresponding to each step is a coefficient representing the ratio between the basic salary before and after ... (date of entry into force).

Category A									
Former grade	New intermed grade	1	2	3	4	5	6	7	8
A 1	<b>A*16</b>	<b>13 917,93</b>	<b>14 502,78</b>	<b>15 112,21</b>	<b>15 112,21</b>	<b>15 112,21</b>	<b>15 112,21</b>		
		11 940,71	12 575,01	13 209,31	13 843,61	14 477,91	15 112,21		
		0,857937	0,867076	0,874082	0,916055	0,958027	1,000000		
A 2	<b>A*15</b>	<b>12 301,13</b>	<b>12 818,04</b>	<b>13 356,67</b>	<b>13 728,27</b>	<b>13 917,93</b>	<b>14 502,78</b>		
		10 596,40	11 201,67	11 806,94	12 412,21	13 017,48	13 622,75		
		0,861417	0,873899	0,883973	0,904135	0,935303	0,939320		
A 3	<b>A*14</b>	<b>10 872,14</b>	<b>11 329,00</b>	<b>11 805,06</b>	<b>12 133,50</b>	<b>12 301,13</b>	<b>12 818,04</b>	<b>13 356,67</b>	<b>13 917,93</b>
		8 775,74	9 305,18	9 834,62	10 364,06	10 893,50	11 422,94	11 952,38	12 481,82
		0,807177	0,821359	0,833085	0,854169	0,885569	0,891161	0,894862	0,896816
	<b>A*13</b>	<b>9 609,16</b>	<b>10 012,95</b>	<b>10 433,70</b>	<b>10 723,99</b>	<b>10 872,14</b>			
A 4	<b>A*12</b>	<b>8 492,89</b>	<b>8 849,77</b>	<b>9 221,65</b>	<b>9 478,21</b>	<b>9 609,16</b>	<b>10 012,95</b>	<b>10 433,70</b>	<b>10 872,14</b>
		7 372,55	7 785,79	8 199,03	8 612,27	9 025,51	9 438,75	9 851,99	10 265,23
		0,868085	0,879773	0,889107	0,908639	0,939261	0,942654	0,944247	0,944178
A 5	<b>A*11</b>	<b>7 506,29</b>	<b>7 821,72</b>	<b>8 150,40</b>	<b>8 377,16</b>	<b>8 492,89</b>	<b>8 849,77</b>	<b>9 221,65</b>	<b>9 609,16</b>
		6 078,30	6 438,40	6 798,50	7 158,60	7 518,70	7 878,80	8 238,90	8 599,00
		0,809761	0,823144	0,834131	0,854538	0,885293	0,890283	0,893430	0,894875
A 6	<b>A*10</b>	<b>6 634,31</b>	<b>6 913,09</b>	<b>7 203,59</b>	<b>7 404,01</b>	<b>7 506,29</b>	<b>7 821,72</b>	<b>8 150,40</b>	<b>8 492,89</b>
		5 252,79	5 539,39	5 825,99	6 112,59	6 399,19	6 685,79	6 972,39	7 258,99
		0,791761	0,801290	0,808762	0,825578	0,852510	0,854772	0,855466	0,854714
	<b>A*9</b>	<b>5 863,62</b>	<b>6 110,02</b>	<b>6 366,77</b>	<b>6 543,90</b>	<b>6 634,31</b>			
A 7	<b>A*8</b>	<b>5 182,46</b>	<b>5 400,24</b>	<b>5 627,16</b>	<b>5 783,72</b>	<b>5 863,62</b>	<b>6 110,02</b>		
		4 521,59	4 746,58	4 971,57	5 196,56	5 421,55	5 646,54		
		0,872479	0,878957	0,883495	0,898481	0,924608	0,924144		
A 8	<b>A*7</b>	<b>4 580,43</b>	<b>4 772,91</b>	<b>4 973,47</b>	<b>5 111,84</b>	<b>5 182,46</b>			
		3 998,94	4 160,21						
		0,873049	0,871630						
	<b>A*6</b>	<b>4 048,34</b>	<b>4 218,45</b>	<b>4 395,72</b>	<b>4 518,01</b>	<b>4 580,43</b>			
	<b>A*5</b>	<b>3 578,05</b>	<b>3 728,41</b>	<b>3 885,08</b>	<b>3 993,17</b>	<b>4 048,34</b>			

Category B									
Former grade	New intermed grade	1	2	3	4	5	6	7	8
	<b>B*11</b>	<b>7 506,29</b>	<b>7 821,72</b>	<b>8 150,40</b>	<b>8 377,16</b>	<b>8 492,89</b>			
B 1	<b>B*10</b>	<b>6 634,31</b>	<b>6 913,09</b>	<b>7 203,59</b>	<b>7 404,01</b>	<b>7 506,29</b>	<b>7 821,72</b>	<b>8 150,40</b>	<b>8 492,89</b>
		5 252,79	5 539,39	5 825,99	6 112,59	6 399,19	6 685,79	6 972,39	7 258,99
		0,791761	0,801290	0,808762	0,825578	0,852510	0,854772	0,855466	0,854714
	<b>B*9</b>	<b>5 863,62</b>	<b>6 110,02</b>	<b>6 366,77</b>	<b>6 543,90</b>	<b>6 634,31</b>			
B 2	<b>B*8</b>	<b>5 182,46</b>	<b>5 400,24</b>	<b>5 627,16</b>	<b>5 783,72</b>	<b>5 863,62</b>	<b>6 110,02</b>	<b>6 366,77</b>	<b>6 634,31</b>
		4 551,14	4 764,51	4 977,88	5 191,25	5 404,62	5 617,99	5 831,36	6 044,73
		0,878181	0,882277	0,884617	0,897562	0,921721	0,919472	0,915906	0,911132
B 3	<b>B*7</b>	<b>4 580,43</b>	<b>4 772,91</b>	<b>4 973,47</b>	<b>5 111,84</b>	<b>5 182,46</b>	<b>5 400,24</b>	<b>5 627,16</b>	<b>5 863,62</b>
		3 817,46	3 994,88	4 172,30	4 349,72	4 527,14	4 704,56	4 881,98	5 059,40
		0,833428	0,836990	0,838911	0,850911	0,873550	0,871176	0,867574	0,862846
B 4	<b>B*6</b>	<b>4 048,34</b>	<b>4 218,45</b>	<b>4 395,72</b>	<b>4 518,01</b>	<b>4 580,43</b>	<b>4 772,91</b>	<b>4 973,47</b>	<b>5 182,46</b>
		3 301,76	3 455,62	3 609,48	3 763,34	3 917,20	4 071,06	4 224,92	4 378,78
		0,815584	0,819168	0,821135	0,832964	0,855204	0,852951	0,849491	0,844923
B 5	<b>B*5</b>	<b>3 578,05</b>	<b>3 728,41</b>	<b>3 885,08</b>	<b>3 993,17</b>	<b>4 048,34</b>			
		2 951,34	3 075,85	3 200,36	3 324,87				
		0,824846	0,824976	0,823757	0,832639				
	<b>B*4</b>	<b>3 162,40</b>	<b>3 295,29</b>	<b>3 433,76</b>	<b>3 529,29</b>	<b>3 578,05</b>			
	<b>B*3</b>	<b>2 795,03</b>	<b>2 912,48</b>	<b>3 034,87</b>	<b>3 119,31</b>	<b>3 162,40</b>			

Category C									
Former grade	New intermed grade	1	2	3	4	5	6	7	8
C 1	<b>C*7</b>	<b>4 580,43</b>	<b>4 772,91</b>	<b>4 973,47</b>	<b>5 111,84</b>	<b>5 182,46</b>			
	<b>C*6</b>	<b>4 048,34</b>	<b>4 218,45</b>	<b>4 395,72</b>	<b>4 518,01</b>	<b>4 580,43</b>	<b>4 772,91</b>	<b>4 973,47</b>	<b>5 182,46</b>
C 2	<b>C*5</b>	3 367,66	3 503,46	3 639,26	3 775,06	3 910,86	4 046,66	4 182,46	4 318,26
		0,831862	0,830509	0,827910	0,835558	0,853819	0,847839	0,840954	0,833245
C 3	<b>C*4</b>	<b>3 578,05</b>	<b>3 728,41</b>	<b>3 885,08</b>	<b>3 993,17</b>	<b>4 048,34</b>	<b>4 218,45</b>	<b>4 395,72</b>	<b>4 580,43</b>
		2 929,16	3 053,61	3 178,06	3 302,51	3 426,96	3 551,41	3 675,86	3 800,31
C 4	<b>C*3</b>	0,818647	0,819011	0,818017	0,827040	0,846510	0,841876	0,836236	0,829684
		<b>3 162,40</b>	<b>3 295,29</b>	<b>3 433,76</b>	<b>3 529,29</b>	<b>3 578,05</b>	<b>3 728,41</b>	<b>3 885,08</b>	<b>4 048,34</b>
C 5	<b>C*2</b>	2 732,35	2 838,97	2 945,59	3 052,21	3 158,83	3 265,45	3 372,07	3 478,69
		0,864012	0,861524	0,857832	0,864823	0,882836	0,875829	0,867954	0,859288
C 4	<b>C*3</b>	<b>2 795,03</b>	<b>2 912,48</b>	<b>3 034,87</b>	<b>3 119,31</b>	<b>3 162,40</b>	<b>3 295,29</b>	<b>3 433,76</b>	<b>3 578,05</b>
		2 468,89	2 568,90	2 668,91	2 768,92	2 868,93	2 968,94	3 068,95	3 168,96
C 5	<b>C*2</b>	0,883314	0,882032	0,879415	0,887671	0,907200	0,900965	0,893758	0,885667
		<b>2 470,34</b>	<b>2 574,15</b>	<b>2 682,32</b>	<b>2 756,95</b>	<b>2 795,03</b>			
C 1	<b>C*1</b>	2 276,47	2 369,75	2 463,03	2 556,31				
		0,921521	0,920595	0,918246	0,927224				
		<b>2 183,37</b>	<b>2 275,12</b>	<b>2 370,72</b>	<b>2 436,68</b>	<b>2 470,34</b>			

Category D									
Former grade	New intermed grade	1	2	3	4	5	6	7	8
D 1	<b>D*5</b>	<b>3 578,05</b>	<b>3 728,41</b>	<b>3 885,08</b>	<b>3 993,17</b>	<b>4 048,34</b>			
	<b>D*4</b>	<b>3 162,40</b>	<b>3 295,29</b>	<b>3 433,76</b>	<b>3 529,29</b>	<b>3 578,05</b>	<b>3 728,41</b>	<b>3 885,08</b>	<b>4 048,34</b>
D 2	<b>D*3</b>	2 572,75	2 685,24	2 797,73	2 910,22	3 022,71	3 135,20	3 247,69	3 360,18
		0,813544	0,814872	0,814772	0,824591	0,844793	0,840895	0,835939	0,830014
D 3	<b>D*2</b>	<b>2 795,03</b>	<b>2 912,48</b>	<b>3 034,87</b>	<b>3 119,31</b>	<b>3 162,40</b>	<b>3 295,29</b>	<b>3 433,76</b>	<b>3 578,05</b>
		2 345,85	2 445,76	2 545,67	2 645,58	2 745,49	2 845,40	2 945,31	3 045,22
D 1	<b>D*1</b>	0,839293	0,839752	0,838807	0,848130	0,868167	0,863475	0,857751	0,851084
		<b>2 470,34</b>	<b>2 574,15</b>	<b>2 682,32</b>	<b>2 756,95</b>	<b>2 795,03</b>	<b>2 912,48</b>	<b>3 034,87</b>	<b>3 162,40</b>
D 2	<b>D*1</b>	2 183,37	2 276,82	2 370,27	2 463,72	2 557,17	2 650,62	2 744,07	2 837,52
		0,883834	0,884494	0,883664	0,893640	0,914899	0,910090	0,904180	0,897268
		<b>2 183,37</b>	<b>2 275,12</b>	<b>2 370,72</b>	<b>2 436,68</b>	<b>2 470,34</b>			

3. The salaries for the new intermediate grades shall be used as the applicable amounts within the meaning of Article 7.

#### Article 3

The step occupied by an official and the seniority acquired in grade and step shall not be affected by the procedure described in paragraph 1 of Article 2. Salaries shall be determined in accordance with Article 7.

#### Article 4

For the purposes of these provisions and for the period specified in introductory sentence of Article 1:

(a) "function group" shall be replaced by "category"

— in the Staff Regulations in:

— Article 5(5);

— Article 6(1);

- Article 7(2);
- Article 31(1);
- the third paragraph of Article 32;
- Article 39, point (f),
- Article 40(4);
- Article 41(3);
- Article 51(1), (2), (8) and (9);
- the first paragraph of Article 78;
- in Annex II to the Staff Regulations in the fourth paragraph of Article 1;
- in Annex III to the Staff Regulations in:
  - Article 1(1), point (c);
  - the fourth paragraph of Article 3;
- in Annex IX to the Staff Regulations in:
  - Article 4,
  - Article 7(1), points (f) and (g);
- (b) “function group AD” is replaced by “category A”
  - in the Staff Regulations in:
    - Article 5(3), point (b);
    - the third paragraph of Article 48;
    - the second paragraph of Article 56;
  - in Annex II to the Staff Regulations in the first paragraph of Article 10;
- (c) “function group AST” is replaced by “categories B, C and D”
  - in the Staff Regulations in:
    - the second paragraph of Article 43;
    - Article 45a(1);
    - the third paragraph of Article 48;
    - the third paragraph of Article 56;
  - in Annex VI to the Staff Regulations in Articles 1 and 3;

- (d) In Article 5(3)(a) "function group AST" is replaced by "categories B and C";
- (e) In the second paragraph of Article 43 of the Staff Regulations "an administrator's function" is replaced by "a function in the next higher category";
- (f) In Article 45a(1) of the Staff Regulations, "function group AD" is replaced by "a function in the next higher category";
- (ff) In Article 46 of the Staff Regulations, "AD 9 to AD 14" is replaced by "A\*10 to A\*14".
- (g) In paragraph 2 of Article 29 "grades AD 16 or 15" is replaced by "grades A\*16 or 15" and "grades AD 15 or 14" by "grades A\*15 or 14";
- (h) In the first paragraph of Article 12 of Annex II to the Staff Regulations, "AD 14" is replaced by "A\*14".
- (i) In Article 4 of Annex IX to the Staff Regulations:
  - in paragraph 2, "AD 13" is replaced by "A\*13";
  - in paragraph 3, "AD 14" is replaced by "A\*14 or higher" and "AD 16 or AD 15" by "A\*16 or A\*15";
  - in paragraph 4, "AD 16" is replaced by "A\*16" and "AD 15" by "A\*15";
- (k) In the second paragraph of Article 43 of the Staff Regulations, "As of grade 4," is deleted.
- (l) In Article 5(4) of the Staff Regulations, the reference to "Annex I, point A" is replaced by a reference to "Annex XIII.1".
- (m) Where in the Staff Regulations reference is made to the basic monthly salary of an official in grade AST 1, this shall be replaced by a reference to the basic monthly salary of an official in grade D\*1.

#### Article 5

1. Notwithstanding Article 45 of the Staff Regulations, officials eligible for promotion on (date of entry into force) shall continue to be eligible even if they have not completed a minimum of two years in their grade.
2. Officials whose names appear before (date of entry into force) on the list of candidates suitable for transfer from one category to another shall, if transfer takes place after that date, be placed in the grade and step they occupied in the former category, or failing this at the first step in the starting grade of the new category.
3. An official in grade A3 on (day before date of entry into force) shall, upon appointment after that date as Director, be promoted to the next higher grade, in accordance with Article 7(4). The last sentence of Article 46 of the Staff Regulations shall not apply.

*Article 6*

Without prejudice to Articles 9 and 10, for the first promotion of officials recruited before (date of entry into force), the percentages referred to in Article 6(2) of the Staff Regulations and in Annex I, point B to the Staff Regulations shall be adapted to comply with the arrangements in force in each institution prior to that date.

*Article 7*

Basic monthly salaries of officials recruited before . . . (date of entry into force) shall be determined in accordance with the following rules:

1. The renaming of grades pursuant to Article 2(1) shall not lead to any changes in the basic monthly salary paid to each official.
2. For each official, a multiplication factor shall be calculated at the time of entry into force. This multiplication factor shall be equal to the ratio between the basic monthly salary paid to an official before (date of entry into force) and the applicable amount defined in Article 2(2).

The basic monthly salary paid to the official on the date of entry into force shall be equal to the product of the applicable amount and the multiplication factor.

Once the multiplication factor has been set it shall be applied in order to determine the official's basic monthly salary following advancement in step or adjustment of remunerations.

3. Notwithstanding the foregoing provisions, for periods after . . . (date of entry into force) the basic monthly salary paid to an official shall be not less than that he would have received under the system in force before that date through automatic advancement in step in the grade formerly occupied by him. For each grade and step, the former basic salary to be taken into account is equal to the applicable amount after (date of entry into force) multiplied by the coefficient defined in Article 2(2).
4. Officials in grades A\*10 to A\*14 who are Heads of Unit on (day preceding the date of entry into force) shall be entitled to advancement by one step in the same grade. This advancement shall lead to an increase in the basic monthly salary corresponding to the percentage between the first and the second step in each grade as set out in the tables in Article 2(1) and Article 8(1). If the increase resulting from the advancement in step is less or if the official at that time is already in the last step of his grade he shall receive a differential amount ensuring such increase until his next promotion comes into effect.
5. Without prejudice to paragraph 3, for each official, the first promotion after (date of entry into force) shall, depending on the category occupied before (date of entry into force) and the step occupied at the time the promotion takes effect, lead to an increase in basic monthly salary to be determined on the basis of the following table:

Grade	Step							
	1	2	3	4	5	6	7	8
A	13,1 %	11,0 %	6,8 %	5,7 %	5,5 %	5,2 %	5,2 %	4,9 %
B	11,9 %	10,5 %	6,4 %	4,9 %	4,8 %	4,7 %	4,5 %	4,3 %
C	8,5 %	6,3 %	4,6 %	4,0 %	3,9 %	3,7 %	3,6 %	3,5 %
D	6,1 %	4,6 %	4,3 %	4,1 %	4,0 %	3,9 %	3,7 %	3,6 %

For the purpose of determining the applicable percentage, each grade shall be divided into notional steps corresponding to two months of service and into notional percentages reduced by one twelfth of the difference between the percentage for the step in question and that for the next higher step with each notional step.

For the purposes of calculating the salary before promotion of an official who is not in the last step of his grade, the value of the notional step shall be taken into account. For the purposes of this provision, each grade shall also be divided into notional salaries rising by one twelfth of the two-yearly increment for that grade throughout the span of the actual steps.

6. A new multiplication factor shall be determined upon this first promotion. That multiplication factor shall be equal to the ratio between the new basic salaries resulting from the application of paragraph 5 and the applicable amount in Article 2(2). Subject to paragraph 7, this multiplication factor, once it has been set, shall be applied to the salary after advancement in step and adaptation of remunerations.
  
7. If, after promotion, the multiplication factor is less than 1, the official shall, by derogation from Article 44 of the Staff Regulations, remain in the first step of his new grade for as long as the multiplication factor remains below 1 or until he is promoted. A new multiplication factor shall be calculated to take account of the value of the advancement in step to which he or she would have been entitled under that article. Once the factor rises to 1, the official shall start to advance in step in accordance with Article 44 of the Staff Regulations. If the multiplication factor is higher than one, any balance shall be converted into seniority in the step.
  
8. The multiplication factor shall be applied upon subsequent promotions.

#### Article 8

1. With effect from . . . (date of entry into force + 2 years), the grades introduced by Article 2(1) shall be renamed as follows:

Former (intermediate) grade	New grade	Former (intermediate) grade	New grade
A*16	AD 16		
A*15	AD 15		
A*14	AD 14		
A*13	AD 13		
A*12	AD 12		
A*11	AD 11	B*11	AST 11
A*10	AD 10	B*10	AST 10
A*9	AD 9	B*9	AST 9
A*8	AD 8	B*8	AST 8
A*7	AD 7	B*7/C*7	AST 7
A*6	AD 6	B*6/C*6	AST 6
A*5	AD 5	B*5/C*5/D*5	AST 5
		B*4/C*4/D*4	AST 4
		C*3/D*3	AST 3
		C*2/D*2	AST 2
		C*1/D*1	AST 1

2. Without prejudice to the provisions of Article 7, basic monthly salaries shall be determined for each grade and step on the basis of the table in Article 66 of the Staff Regulations. For officials who have been recruited before . . . (entry into force) and until their first promotion comes into effect after that date, the table <sup>(10)</sup> shall be as follows.

Grade	Step							
	1	2	3	4	5	6	7	8
16	13 917,93	14 502,78	15 112,21	15 112,21	15 112,21	15 112,21		
15	12 301,13	12 818,04	13 356,67	13 728,27	13 917,93	14 502,78		
14	10 872,14	11 329,00	11 805,06	12 133,50	12 301,13	12 818,04	13 356,67	13 917,93
13	9 609,16	10 012,95	10 433,70	10 723,99	10 872,14			
12	8 492,89	8 849,77	9 221,65	9 478,21	9 609,16	10 012,95	10 433,70	10 872,14
11	7 506,29	7 821,72	8 150,40	8 377,16	8 492,89	8 849,77	9 221,65	9 609,16
10	6 634,31	6 913,09	7 203,59	7 404,01	7 506,29	7 821,72	8 150,40	8 492,89
9	5 863,62	6 110,02	6 366,77	6 543,90	6 634,31			
8	5 182,46	5 400,24	5 627,16	5 783,72	5 863,62	6 110,02	6 366,77	6 634,31
7	4 580,43	4 772,91	4 973,47	5 111,84	5 182,46	5 400,24	5 627,16	5 863,62
6	4 048,34	4 218,45	4 395,72	4 518,01	4 580,43	4 772,91	4 973,47	5 182,46
5	3 578,05	3 728,41	3 885,08	3 993,17	4 048,34	4 218,45	4 395,72	4 580,43
4	3 162,40	3 295,29	3 433,76	3 529,29	3 578,05	3 728,41	3 885,08	4 048,34
3	2 795,03	2 912,48	3 034,87	3 119,31	3 162,40	3 295,29	3 433,76	3 578,05
2	2 470,34	2 574,15	2 682,32	2 756,95	2 795,03	2 912,48	3 034,87	3 162,40
1	2 183,37	2 275,12	2 370,72	2 436,68	2 470,34			

#### Article 9

From . . . (date of entry into force) to . . . (date of entry into force + 7 years) and by derogation from Annex I, point B to the Staff Regulations, with regard to officials in grades AD 12 and 13 and AST 10 the percentages referred to in Article 6(2) of the Staff Regulations shall be as follows.

Grade	Entry into force (EIF) until						
	EIF + 1 yrs	EIF + 2 yrs	EIF + 3 yrs	EIF + 4 yrs	EIF + 5 yrs	EIF + 6 yrs	EIF + 7 yrs
AD 13	—	—	5 %	10 %	15 %	20 %	20 %
AD 12	5 %	5 %	5 %	10 %	15 %	20 %	25 %
AST 10	5 %	5 %	5 %	10 %	15 %	20 %	20 %

#### Article 10

1. Officials in service before . . . (date of entry into force) in categories C or D shall be assigned as of . . . (date of entry into force + 2 years) to career streams allowing for promotions:

<sup>(10)</sup> See footnote 7.



(a) in former category C up to grade AST 7;

(b) in former category D up to grade AST 5;

2. For those officials, as of (date of entry into force) and by derogation from Annex I, Section B to the Staff Regulations, the percentages referred to in Article 6(2) of the Staff Regulations shall be as follows:

Career stream C							
Grade	Entry into force (EIF) until						After EIF + 6 yrs
	EIF + 1 yrs	EIF + 2 yrs	EIF + 3 yrs	EIF + 4 yrs	EIF + 5 yrs	EIF + 6 yrs	
C*/AST 7	—	—	—	—	—	—	—
C*/AST 6	5 %	5 %	5 %	10 %	15 %	20 %	20 %
C*/AST 5	22 %	22 %	22 %	22 %	22 %	22 %	22 %
C*/AST 4	22 %	22 %	22 %	22 %	22 %	22 %	22 %
C*/AST 3	25 %	25 %	25 %	25 %	25 %	25 %	25 %
C*/AST 2	25 %	25 %	25 %	25 %	25 %	25 %	25 %
C*/AST 1	25 %	25 %	25 %	25 %	25 %	25 %	25 %

Career stream D							
Grade	Entry into force (EIF) until						After EIF + 6 yrs
	EIF + 1 yrs	EIF + 2 yrs	EIF + 3 yrs	EIF + 4 yrs	EIF + 5 yrs	EIF + 6 yrs	
D*/AST 5	—	—	—	—	—	—	—
D*/AST 4	5 %	5 %	5 %	10 %	10 %	10 %	10 %
D*/AST 3	22 %	22 %	22 %	22 %	22 %	22 %	22 %
D*/AST 2	22 %	22 %	22 %	22 %	22 %	22 %	22 %
D*/AST 1	—	—	—	—	—	—	—

3. An official to whom paragraph 1 applies may become a member of the assistants' function group without restriction if he passes an open competition or on the basis of an attestation procedure. The institutions shall adopt rules implementing this procedure before (date of entry into force). Where necessary, specific provision shall be made by the institutions to take account of such change leading to a change in the applicable promotion rates.

4. This Article shall not apply to officials who have changed category after ... (date of entry into force).

### **Section 2: Special provisions for officials recruited after ... (date of entry into force)**

#### *Article 11*

1. Between ... (date of entry into force) and ... (date of entry into force + 2 years), paragraph 2 of Article 31 of the Staff Regulations is replaced by the following:

"2. Without prejudice to Article 29(2), officials shall be recruited only in grades C\*1 and C\*2, B\*3 and B\*4 and A\*5 to A\*8."

2. In the case of officials recruited from lists of suitable candidates resulting from competitions published before . . . (date of entry into force), Article 5(2) of the Staff Regulations shall not apply.

3. Grading of officials recruited between (date of entry into force) and . . . (date of entry into force + 2 years) shall take place on the basis of the tables in Article 2(2). However, this does not include the correspondence between grades mentioned in the publication of a competition and the new grades introduced by Article 2(1). Such correspondence between the published grade and the grade of recruitment shall be fixed by common accord between the institutions, after consulting the Staff Regulations Committee, before (date of entry into force).

#### Article 12

Officials who have been included in a list of suitable candidates before . . . (date of entry into force + 2) and are recruited after that date shall:

- if the list was drawn up for category A, LA or A\*, be graded in function group AD;
- if the list was drawn up for category B or B\*, or C or C\*, be graded in function group AST.

The correspondence between the published grade and the grade of recruitment shall be fixed by common accord between the institutions, after consulting the Staff Regulations Committee, before (date of entry into force).

### Section 3

#### Article 13

Notwithstanding Article 2(1) of Annex VII to the Staff Regulations, the allowance is replaced by the following amounts <sup>(10)</sup>:

1 January to 31 December 2004: EUR 245,03

1 January to 31 December 2005: EUR 257,32

1 January to 31 December 2006: EUR 269,62

1 January to 31 December 2007: EUR 281,92

1 January to 31 December 2008: EUR 294,21.

These amounts shall be adjusted each year by the same percentage as the annual adjustment specified in Annex XI to the Staff Regulations.

#### Article 14

Notwithstanding Article 3(2) of Annex VII to the Staff Regulations, the pre-school allowance is replaced by the following amounts <sup>(10)</sup>:

1 September 2004 to 31 August 2005: EUR 14,97

1 September 2005 to 31 August 2006: EUR 29,95

1 September 2006 to 31 August 2007: EUR 44,92

1 September 2007 to 31 August 2008: EUR 59,90.

These amounts shall be adjusted each year by the same percentage as the annual adjustment specified in Annex XI to the Staff Regulations.

#### Article 15

Notwithstanding Article 3 of Annex VII to the Staff Regulations, an official in receipt of a lump-sum payment of education allowance will continue to receive such payment as long as the conditions under which it was granted are fulfilled and at the latest until [31 August 2008]. The amounts of the lump-sum payments will, however, be reduced to 80 % of their value of 31 December 2003 on [1 September 2004], to 60 % on [1 September 2005], to 40 % on [1 September 2006], and to 20 % on [1 September 2007].

#### Article 16

From 1 January 2004 to 31 December 2008, notwithstanding Article 17(2) of Annex VII to the Staff Regulations, an additional amount may be transferred, subject to the following conditions:

- that amount must have been transferred regularly prior to 1 January 2004 and the conditions required for its authorisation must continue to be satisfied;
- that additional amount must not be such as to bring the total amount transferred each month above the following maximums, expressed as a percentage of the total amount transferred each month prior to 1 January 2004:

1 January to 31 December 2004: 100 %

1 January to 31 December 2005: 80 %

1 January to 31 December 2006: 60 %

1 January to 31 December 2007: 40 %

1 January to 31 December 2008: 20 %

#### Article 17

Beneficiaries who were entitled in the month before [1 January 2004] to the fixed allowance mentioned in the former Article 4a of Annex VII to the Staff Regulations will keep it *ad personam* up to grade 6. The amounts of the allowance will be adjusted every year by the same percentage as the annual pay adjustment referred to in Annex XI of the Staff Regulations. When the net remuneration of an official who has been promoted to grade 7, as a consequence of the abolition of the fixed allowance, is lower than the net remuneration he received, all other conditions being unchanged, in the last month before the promotion, he will be entitled to a compensatory allowance equal to the difference until his advancement to the next higher step in grade.

#### Article 18

If, during the transition period [from 1 January 2004 to 31 December 2008], an official's net monthly remuneration, before application of any correction coefficient, is lower than the net remuneration he would have received under the same personal conditions on 30 June 2003, he will be entitled to a compensatory allowance equal to the difference. This provision shall not apply where the reduction of the net remuneration results from the annual pay adjustment referred to in Annex XI to the Staff Regulations.

#### Article 19

For the [2003] annual adjustment, in Article 3(1) of Annex XI to the Staff Regulations, "1 July" is replaced by "[1 January 2004]."

#### Section 4

##### Article 20

From [1 January 2004] to [31 December 2007], the second subparagraph of Article 82(1) of the Staff Regulations is replaced by the following:

“Pensions shall be adjusted by the average of the correction coefficient for officials and the correction coefficient for pensions mentioned in Article 3(5) of Annex XI to the Staff Regulations for the Member State where the recipient provides evidence of having established his main residence. The average shall be calculated using the weightings in the following table:

From	[1.1.2004]	[1.1.2005]	[1.1.2006]	[1.1.2007]	[1.1.2008]
%	80 % Officials 20 % Pension	60 % Officials 40 % Pension	40 % Officials 60 % Pension	20 % Officials 80 % Pension	100 % Pension

When at least one of the coefficients is modified, the average is modified with effect on the same date.”

##### Article 21

1. The rules applied to pensions determined prior to [1 January 2004] shall continue to be used to determine the pension paid after that date. However, the rules on family allowances and the weightings in force after [1 January 2004] shall apply from that date.

Notwithstanding the first subparagraph, persons drawing invalidity pensions or survivor's pensions may, on application, have the provisions applicable from [1 January 2004] applied to them.

2. On the entry into force of these provisions, the nominal amount payable shall be guaranteed at the level of the net pension paid prior to [1 January 2004]. That guaranteed amount shall, however, be adjusted in the event of a change in family situation or country of residence. For persons retiring in the period from [1 January 2004] to [31 December 2007], the nominal amount payable upon retirement, in accordance with the Staff Regulations in force at the date of retirement, shall be guaranteed.

For the purposes of the first subparagraph, where the pension calculated in accordance with the provisions in force is less than the nominal pension as determined below, a compensatory amount equal to the difference shall be granted.

The nominal pension of persons who begin drawing a pension prior to [1 January 2004] shall be calculated each month in the light of their family situation and country of residence at the time and in accordance with the Staff Regulations in force on the day preceding [1 January 2004].

The nominal pensions of persons who retire in the period from [1 January 2004] to [31 December 2007] shall be calculated each month in the light of their family situation and country of residence at the time of the calculation and in accordance with the Staff Regulations in force on the day of retirement.

Where the death of persons drawing pensions determined prior to [1 January 2004] occurs after that date, any survivor's pensions shall be determined in the light of the deceased's guaranteed nominal pension.

3. For persons whose invalidity pensions have been maintained because they have neither requested that the provisions applicable after [1 January 2004] apply to them nor been declared fit to return to work, such invalidity pensions shall be regarded as retirement pensions when they reach the age of 65.

4. Paragraphs 1 and 2 shall apply to persons drawing an allowance payable under Articles 41, 47a or 50 of the Staff Regulations. However, their retirement pensions shall be determined in accordance with the rules in force on the day they begin to be paid.

#### Article 22

1. In the case of pensions determined before [1 January 2004], the grade used to calculate the pension shall be determined in accordance with the correlation established in the tables in Article 2(1) and Article 8(1).

The basic salary used to determine pensions shall be equal to the salary in the table set out in Article 66 of the Staff Regulations for the new grade so determined, in the same step, weighted by a percentage equal to the ratio between the basic salary in the former table and that in the table set out in Article 66 for the same step.

In the case of steps in the former table which do not correspond to those in the table set out in Article 66, the last step of the same grade shall be used as a reference for the calculation of the percentage referred to in the second subparagraph.

In the case of steps in grade D4 in the former table, the first step of the first grade shall be used as a reference for the calculation of the percentage referred to in the second subparagraph.

2. As a transitional measure, the basic salary for the purposes of Articles 77 and 78 of the Staff Regulations and of Annex VIII shall be determined by applying the corresponding multiplication factor defined in Article 7 to the salary corresponding to the classification used to determine entitlement to retirement pension or invalidity allowance in accordance with the table set out in Article 66 of the Staff Regulations.

In the case of steps in the former table which do not correspond to those in the table set out in Article 66 of the Staff Regulations, the last step of the same grade shall be used as a reference for the calculation of the multiplication factor.

In the case of retirement pensions and invalidity allowances determined between [1 January 2004] and [31 December 2005], Article 8(1) shall apply.

3. For persons drawing a survivor's pension, paragraphs 1 and 2 shall apply by reference to the deceased official or former official.

4. Paragraphs 1 and 2 shall apply by analogy to persons drawing an allowance payable under Articles 41, 47a or 50 of the Staff Regulations.

#### Article 23

1. Applications submitted before [1 January 2004] for the transfer of rights under Article 11(2) of Annex VIII shall be dealt with in accordance with the rules in force at the time of submission.

2. Providing the time limit provided for in Article 11(2) of Annex VIII has not yet been exceeded on [1 January 2004], the officials concerned who did not submit an application within the time limits previously laid down, or whose application was rejected because it was submitted after the time limit, may apply or re-apply for transfer under Article 11(2) of Annex VIII.

In such cases, the official's institution shall determine the number of years to be taken into account in its own scheme pursuant to the general implementing provisions adopted to give effect to Article 11(2) of Annex VIII.

#### Article 24

1. Former members of the temporary staff who are unemployed at [1 January 2004] and are covered by the provisions of Article 28a of the Conditions of Employment of other servants that were in force prior to [1 January 2004] shall continue to be covered by those provisions until their period of unemployment ends.

2. Members of the temporary staff who are under contract at [1 January 2004] may on application be covered by the provisions of Article 28a of the Conditions of Employment of other servants that were in force prior to [1 January 2004]. Such applications must be submitted no later than 30 calendar days after the date of expiry of their temporary employment contracts.

#### Article 25

1. For the purpose of calculating the actuarial equivalent referred to in Article 11(1) and Article 12(1)(b) of Annex VIII to the Staff Regulations, the following arrangements shall apply to the entitlement of officials and members of temporary staff in respect of periods of service prior to [1 January 2004].

The actuarial equivalent of the retirement pension may not be less than the aggregate of:

- (a) the sums deducted from the basic salary by way of pension contributions, plus compound interest at a rate of 3,5 % per annum;
- (b) a severance grant proportionate to the actual length of service, calculated on the basis of one and a half months of the last basic salary, before deductions, for each year of service;
- (c) the total amount paid to the Communities in accordance with Article 11(2) of Annex VIII to the Staff Regulations, plus compound interest at a rate of 3,5 % per annum.

2. However, where the official is removed from his post or the temporary staff member leaves the service because his contract has been cancelled, the severance grant to be paid or, where applicable, the actuarial equivalent to be transferred shall be determined in the light of the decision taken in accordance with Article 7(1)(h) of Annex IX.

#### ANNEX XIII.1

##### TYPES OF POSTS DURING THE TRANSITIONAL PERIOD

Types of posts in each category, as provided for in Article 4(l) of this Annex:

##### CATEGORY A

A*5	Administrator/Research Administrator/Linguistic Administrator
A*6	Administrator/Research Administrator/Linguistic Administrator
A*7	Administrator/Research Administrator/Linguistic Administrator
A*8	Administrator/Research Administrator/Linguistic Administrator
A*9	Administrator/Research Administrator/Linguistic Administrator

- A\*10 Administrator/Research Administrator/Linguistic Administrator/Head of Unit  
A\*11 Administrator/Research Administrator/Linguistic Administrator/Head of Unit  
A\*12 Administrator/Research Administrator/Linguistic Administrator/Head of Unit  
A\*13 Administrator/Research Administrator/Linguistic Administrator/Head of Unit  
A\*14 Administrator/Research Administrator/Linguistic Administrator/Administrator/Head of Unit/Director  
A\*15 Director/Director-General  
A\*16 Director-General

## CATEGORY B

- B\*3 Assistant/Research assistant  
B\*4 Assistant/Research assistant  
B\*5 Assistant/Research assistant  
B\*6 Assistant/Research assistant  
B\*7 Assistant/Research assistant  
B\*8 Assistant/Research assistant  
B\*9 Assistant/Research assistant  
B\*10 Assistant/Research assistant  
B\*11 Assistant/Research assistant

## CATEGORY C

- C\*1 Secretary/office clerk  
C\*2 Secretary/office clerk  
C\*3 Secretary/office clerk  
C\*4 Secretary/office clerk  
C\*5 Secretary/office clerk  
C\*6 Secretary/office clerk  
C\*7 Secretary/office clerk

## CATEGORY D

- D\*1 Employee  
D\*2 Employee  
D\*3 Employee  
D\*4 Employee'
-

## ANNEX II

## AMENDMENTS TO THE CONDITIONS OF EMPLOYMENT OF OTHER SERVANTS OF THE EUROPEAN COMMUNITIES

The Conditions of Employment of other servants of the European Communities are amended as follows:

1. Article 1 is amended as follows:
  - (a) The following indent is inserted after '— auxiliary staff': '— contract staff.'
  - (b) The following paragraph is added:

'Any reference in these Conditions of Employment 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.'
2. In Article 2, point (c), 'or the elected President of one of the institutions or organs of the Communities or the Elected Chairman of one of the political groups in the European Parliament' is replaced by 'or the elected President of one of the institutions or organs of the Communities, or one of the political groups in the European Parliament or the Committee of the Regions, or a group in the Economic and Social Committee'.
3. Article 3 is amended as follows:
  - (a) The current text becomes paragraph 1.
  - (b) In the first indent of point (b) of paragraph 1, 'Category B, C, or D or in the Language Service' is replaced by 'the assistants' function group (AST)'.
  - (c) In the second indent of point (b) of paragraph 1, 'Category A, other than those in Grade A1 or A2' is replaced by 'the administrators' function group (AD), other than senior staff (Directors-General or their equivalent in grades AD 16 or 15 and Directors or their equivalent in grades AD 15 or 14)'.
  - (d) The following paragraph 2 is added:

'2. The use of such staff is excluded where Article 3a applies.'
4. The following Article is inserted after Article 3:

*Article 3a*

1. For the purposes of these Conditions of Employment, "contract staff" means staff not assigned to a post included in the list of posts appended to the section of the budget relating to the institution concerned and engaged for the performance of full-time or part-time duties:
  - in an institution to carry out manual or support service duties;
  - in the agencies referred to in Article 1b of the Staff Regulations and other entities inside the European Union created by specific legal act issued by one or more institutions allowing for the use of such staff;
  - in Representations and Delegations of Community institutions,
  - in other entities situated outside the European Union.



Implementing rules governing the use of such staff shall be adopted by each institution.

2. Such staff shall be paid from the total appropriations for the purpose under the section of the budget relating to the institution.'

5. Article 4 is replaced by the following:

*'Article 4*

For the purposes of these Conditions of Employment, "local staff" means staff engaged in places outside the European Union according to local practice for manual or service duties, assigned to a post not included in the list of posts appended to the section of the budget relating to each institution and paid from the total appropriations for the purpose under that section of the budget. Staff engaged in places of employment situated outside the European Union for duties other than those mentioned above which, in the interests of the service, could not be assigned to an official or servant having another capacity within the meaning of Article 1, shall also be regarded as local staff.'

6. In the second paragraph of Article 6, 'the provisions of the second paragraph of Article 1' is replaced by 'Article 1b', and 'the second paragraph of Article 2' is replaced by 'Article 2(2)'.  
6a. In Article 7a'24a' is replaced by '24b'.

7. Article 8 is replaced by the following:

*'Article 8*

Temporary staff to whom Article 2, point (a), applies may be engaged for a fixed or indefinite period. The contracts of such staff who are engaged for a fixed period may be renewed not more than once for a fixed period. Any further renewal shall be for an indefinite period.

Temporary staff to whom Article 2, point (b) or (d), applies shall not be engaged for more than two years, and their contracts may be renewed not more than once for a maximum period of one year. At the end of that time they shall no longer be employed as temporary staff. On the expiry of their contracts such servants may be assigned to established posts in the institutions only if they are appointed as officials in accordance with the Staff Regulations.

Temporary staff to whom Article 2, point (c), applies shall be engaged for an indefinite period.'

8. Article 10 is replaced by the following:

*'Article 10*

Article 1d of the Staff Regulations concerning equal treatment, Article 1e concerning social welfare policy, Article 5(1), (2), (3) and (5), concerning the classification of posts into grades and the conditions of access to function groups, and Article 7 concerning the assignment of officials to posts, shall apply by analogy.

The grade and step at which temporary staff are engaged shall be stated in their contract.

Assignment of temporary staff to a post carrying a higher grade than that at which they were engaged shall be recorded in an agreement supplementary to their contract of service.

Title VIII of the Staff Regulations shall apply by analogy to temporary staff paid from appropriations in the research and investment budget.'

9. Article 14 is amended as follows:

(a) The third paragraph is replaced by the following:

'Not less than one month before the expiry of the probationary period, a report shall be made on the ability of the member of the temporary staff to perform the duties pertaining to his post and also on his conduct and efficiency in the service. The report shall be communicated to the person concerned, who shall have the right to submit his comments in writing. A member of the temporary staff whose work has not proved adequate to justify retention in his post shall be dismissed. However, the authority referred to in the first paragraph of Article 6 may, in exceptional circumstances, extend the probationary period for a maximum of six months, and possibly assign the member of the temporary staff to another department.'

(b) In the fourth paragraph, ' ; the period of service may not, however, exceed the normal probationary period' is deleted.

9a. In Article 15(2), 'to servants within the meaning of Article 2(a), (c) and (d)' is deleted.

10. The first paragraph of Article 16 is replaced by the following:

'Articles 42a, 42b and 55 to 61 of the Staff Regulations, concerning leave, hours of work, overtime, shiftwork, standby duty at place of work or at home and public holidays, shall apply by analogy. Special leave and parental and family leave shall not extend beyond the term of the contract.'

10a. In the second indent of the first paragraph of Article 17, 'six' is replaced by 'twelve'.

11. Article 20 is replaced by the following:

*'Article 20*

1. Articles 63, 64, 65 and 65a of the Staff Regulations, concerning the currency in which remuneration is to be expressed and adjustments to such remuneration, shall apply by analogy.

2. Articles 66, 67, 69 and 70 of the Staff Regulations, concerning basic salaries, family allowances and expatriation allowance payment in the event of death, shall apply by analogy.

3. A member of temporary staff who has been at one step in his grade for two years shall automatically advance to the next step in that grade.'

12. In Article 21, '3, 4 and 4a' is replaced by '3 and 4', and 'family allowances, expatriation allowance and temporary fixed allowance' is replaced by 'family allowances and expatriation allowance'.

13. Article 24(3) is replaced by the following:

'3. However, the installation allowance provided for in paragraph 1 and the resettlement allowance provided for in paragraph 2 shall not be less than:

— [EUR 917,21] <sup>(1)</sup> for a servant who is entitled to the household allowance; and

<sup>(1)</sup> The amounts concerning remuneration in Annexes I and II are based on the amounts specified in the Staff Regulations in [July 2001] and shall be updated automatically on the basis of the adjustments of those amounts decided by the Council between [July 2001] and the date of entry into force of this Regulation.

— [EUR 545,37] <sup>(1)</sup> for a servant who is not entitled to the household allowance.

In cases where a husband and wife who are officials or other servants of the Communities are both entitled to the settlement allowance or resettlement allowance, this shall be payable only to the person whose basic salary is the higher.'

14. Article 28a is amended as follows:

(a) Paragraphs 3 and 4 are replaced by the following:

'3. The unemployment allowance shall be set by reference to the basic salary attained by the former member of the temporary staff at the time of the termination of his service. The allowance shall be set at:

— 60 % of the basic salary for an initial period of 12 months,

— 45 % of the basic salary for the 13th to the 24th month,

— 30 % of the basic salary for the 25th to the 36th month.

Other than during an initial six-month period, in which the lower limit specified below is applicable but the upper limit is not, the amounts thus calculated may neither be less than [EUR 1 100] nor exceed [EUR 2 200]. These limits shall be adjusted, in the same way as the salary scales set out in Article 66 of the Staff Regulations, in accordance with Article 65 of the Staff Regulations.

4. The period during which the unemployment allowance is payable to a former member of the temporary staff may not be more than 36 months from the date of termination of service and shall in no case exceed the equivalent of one third of the actual length of service completed. However, if, during that period, the former member of the temporary staff ceases to fulfil the conditions laid down in paragraphs 1 and 2, payment of the unemployment allowance shall be suspended. Payment shall resume if, before the expiry of that period, the former member of the temporary staff again fulfils the said conditions and is not entitled to national unemployment benefit.'

(b) Paragraphs 6 and 7 are replaced by the following:

'6. The weighting for pensions as referred to in Article 82 of the Staff Regulations for the Member State in which a former member of the temporary staff proves that he is resident shall also be applied to the unemployment allowance and the family allowances. The weighting applicable to the unemployment allowance shall always be the one resulting from the latest annual review. The amounts concerned shall be paid by the Commission in the currency of the country of residence; they shall be converted at the exchange rates provided for in the second paragraph of Article 63 of the Staff Regulations.

7. Members of the temporary staff shall contribute one third of the financing of the unemployment insurance scheme. That contribution shall be set at 0,81 % of the basic salary of the person concerned after deducting a standard allowance of [EUR 1 000] <sup>(1)</sup> and without taking account of the weightings provided for in Article 64 of the Staff Regulations. The contribution shall be deducted each month from the salary of the person concerned and paid, together with the remaining two thirds to be borne by the institution, into a Special Unemployment Fund. This Fund shall be common to the institutions and the latter shall pay their contributions to the Commission each month, no later than eight days after the payment of remunerations. All expenditure under this Article shall be authorised and paid by the Commission in accordance with the provisions of the Financial Regulation governing the general budget of the European Communities.'

(c) Paragraph 11 is replaced by the following:

'11. One year after the introduction of this unemployment insurance scheme and every two years thereafter, the Commission shall present the Council with a report on the financial situation of the scheme. Independently of this report, the Commission may present to the Council proposals for adjusting the contributions provided for in paragraph 7 if this is necessary in the interests of the balance of the scheme. The Council shall act on the proposals in accordance with paragraph 3 of this Article.'

15. Article 33 is replaced by the following:

*'Article 33*

1. A servant who is suffering from total invalidity and who, for that reason, is obliged to suspend employment with the institution shall be entitled, for as long as the invalidity lasts, to an invalidity allowance, the amount of which shall be determined as follows.

The invalidity allowance shall be 70 % of the final basic salary of the member of the temporary staff. However, it shall not be less than the minimum subsistence figure. The invalidity allowance shall be subject to deduction of pension contributions.

Where the invalidity of the servant arises from an accident in the course of or in connection with the performance of his duties, from an occupational disease, from a public-spirited act or from risking life and limb to save another human being, the invalidity allowance shall not be less than 120 % of the minimum subsistence figure as defined in Article 6 of Annex VIII to the Staff Regulations. In such cases the pension contributions shall be borne by the budget of the former employer.

In the case of invalidity deliberately brought about by the servant, the authority referred to in the first paragraph of Article 6 may decide that he should receive only the grant provided for in Article 39.

Persons entitled to an invalidity allowance shall also be entitled to the family allowances provided for in Article 67 of the Staff Regulations in accordance with Annex VII to the Staff Regulations; the household allowance shall be determined on the basis of the recipient's allowance.

2. Invalidity shall be established by the Invalidity Committee provided for in Article 9 of the Staff Regulations.

3. The institution referred to in Article 40 of Annex VIII to the Staff Regulations may require periodic examinations of the recipient of an invalidity allowance to establish that he still fulfils the conditions for payment of that allowance. If the Invalidity Committee finds that these conditions are no longer fulfilled, the servant shall resume service with the institution, providing his contract has not expired.

However, if it proves impossible to employ the person concerned in the service of the Communities, the contract may be terminated subject to payment of an amount corresponding to the remuneration that would have been paid during the period of notice and, where applicable, to the compensation for termination of contract provided for in Article 47. Article 39 shall also apply.'

16. Article 37 is replaced by the following:

*'Article 37*

Where a servant or person entitled to a retirement pension or invalidity allowance dies leaving no spouse entitled to a survivor's pension, the children deemed to be dependent on him at the time of death shall be entitled to an orphan's pension in accordance with Article 80 of the Staff Regulations.

The same entitlement shall apply to children who fulfil the foregoing conditions in the event of death or remarriage of a spouse who is entitled to a survivor's pension.

Where a servant or a person entitled to a retirement pension or invalidity allowance dies but the conditions set out in the first paragraph are not satisfied, the provisions of the third paragraph of Article 80 of the Staff Regulations shall apply.

In the event of the death of a former member of the temporary staff within the meaning of Article 2(a), (c) or (d) who leaves the service before reaching 60 years of age and requests that his retirement pension be deferred until the first day of the calendar month following that in which he reaches 60 years of age, children deemed to be his dependants in accordance with Article 2 of Annex VII to the Staff Regulations shall be entitled to an orphan's pension on the same terms as those set out in the preceding paragraphs.

The orphan's pension of a person treated as a dependent child as defined in Article 2(4) of Annex VII to the Staff Regulations may not exceed 200 % of the dependent child allowance.

No orphan's pension shall be payable where a natural parent who has been replaced by an adoptive parent dies.

Orphans shall be entitled to an education allowance in accordance with Article 3 of Annex VII to the Staff Regulations.'

17. Article 39 is replaced by the following:

*'Article 39*

1. On leaving the service a servant within the meaning of Article 2 shall be entitled to a retirement pension, transfer of the actuarial equivalent or the payment of the severance grant in accordance with Chapter 3 of Title V of, and Annex VIII to, the Staff Regulations. Where the servant is entitled to a retirement pension his pension rights shall be reduced in proportion to the amounts paid under Article 42.

2. A person who becomes entitled to a retirement pension shall be entitled to the family allowances provided for in Article 67 of the Staff Regulations; the percentage component of the household allowance shall be calculated on the basis of the recipient's pension.'

18. The fourth paragraph of Article 40 is replaced by the following:

'The preceding paragraph shall not apply to a servant who, in the three months following application of the Staff Regulations to him, asks to be allowed to repay such sums plus compound interest at the rate of 3,5 % per year, which can be revised following the procedure laid down in Article 7 of Annex XII to the Staff Regulations.'

19. In Article 41, 'and Article 83a' is inserted after 'Article 83'.

20. Article 47 is replaced by the following:

*'Article 47*

Apart from cessation on death, the employment of temporary staff shall cease:

1. at the end of the month in which the servant reaches the age of 65 years.

2. Where the contract is for a fixed period:

(a) on the date stated in the contract;

- (b) at the end of the period of notice specified in the contract giving the servant or the institution the option to terminate earlier. The period of notice shall not be less than one month per year of service, subject to a minimum of one month and a maximum of three months. For temporary staff whose contracts have been renewed the maximum shall be six months. The period of notice shall not, however, commence to run during maternity leave or sick leave, provided such sick leave does not exceed three months. It shall, moreover, be suspended during maternity or sick leave subject to the limits aforesaid. If the institution terminates the contract, the servant shall be entitled to compensation equal to one third of his basic salary for the period between the date when his duties end and the date when his contract expires;
- (c) where the servant no longer satisfies the conditions laid down in Article 12(2), point (a), subject to the possibility of authorising an exception under that provision. Should the exception not be authorised, the period of notice referred to in point (b) shall apply.

3. Where the contract is for a fixed period:

- (a) at the end of the period of notice stipulated in the contract; the length of the period of notice shall not be less than one month for each completed year of service, subject to a minimum of three months and a maximum of 10 months.

The period of notice shall not, however, commence to run during maternity leave or sick leave, provided such sick leave does not exceed three months. It shall, moreover, be suspended during maternity or sick leave subject to the limits aforesaid;

- (b) where the servant no longer satisfies the conditions laid down in Article 12(2), point (a), subject to the possibility of authorising an exception under that provision. Should the exception not be authorised, the period of notice referred to in point (a) shall apply.'

20a. Point (b) of Article 48 is deleted, and point (c) is renamed point (b).

21. The following Article is inserted after Article 48:

*'Article 48a*

Article 47a of the Staff Regulations, on "termination of service", shall apply by analogy to temporary staff whose contract is for an indefinite period.'

21a. In the second subparagraph of Article 49(1), 'Article 88 of' is replaced by 'Article 21 of Annex IX to'.

21b. In the second subparagraph of Article 50(2), 'Article 88 of' is replaced by 'Article 21 of Annex IX to'.

22. Articles 51, 52 and 53 are replaced by the following:

*'Article 51*

The contracts of auxiliary staff shall be concluded for a fixed period; they shall be renewable.

*Article 52*

The actual period of employment of auxiliary staff, including any period of renewal, shall not exceed three years.

## Article 53

1. Auxiliary staff shall be divided into three function groups corresponding to the duties to be performed. Each function group shall be subdivided into grades.

The classification in grade shall take account of the qualifications and experience of the persons concerned, in accordance with Article 55.

2. The types of posts and corresponding groups are as shown in the following table:

Function group	Grades	Duties
IV	10 to 18	Administrative, advisory, conceptual, linguistic and equivalent technical tasks
III	5 to 9	Executive tasks, drafting, accountancy and other equivalent technical tasks
II	1 to 4	Clerical and secretarial tasks, office management and other equivalent tasks

3. Article 1d of the Staff Regulations concerning equality of treatment for officials and Article 1e concerning social welfare policy shall apply by analogy.'

23. The following paragraph is added after Article 55(2):

'3. Recruitment as auxiliary staff shall require:

(a) in function groups II and III:

- a post-secondary education diploma or
- an advanced level of secondary education and appropriate professional experience of at least three years or
- equivalent professional experience.

(b) in function group IV:

- a university degree based on a course lasting at least three years and an appropriate professional experience of at least one year or a further year of university studies beyond three years or
- equivalent professional experience.'

24. In Article 57, 'except Article 55a(2)' is added.

25. In the first paragraph of Article 58, 'Articles 3 and 5 of Annex V to the Staff Regulations shall apply by analogy.' is added.

26. Article 59 is replaced by the following:

*'Article 59*

Article 16, concerning sick leave and parental leave, shall apply to auxiliary staff. Parental leave under Article 42a of the Staff Regulations, shall however be limited to the minimum duration as defined by Community legislation.

Paid sick leave shall not exceed one month or the length of time worked by a member of the auxiliary staff, where the latter period is longer. Article 58 of the Staff Regulations, concerning maternity leave, shall apply by analogy.'

27. Article 63 is replaced by the following:

*'Article 63*

The scale of basic salaries shall be as provided for in the following table:

Function Group	Grade	
AX IV	18	7 774,00
	17	6 874,00
	16	6 078,00
	15	5 374,00
	14	4 749,00
	13	4 198,00
	12	3 710,00
	11	3 279,00
	10	2 898,00
AX III	9	3 710,00
	8	3 279,00
	7	2 898,00
	6	2 561,00
	5	2 264,00
AX II	4	2 561,00
	3	2 264,00
	2	2 001,00
	1	1 768,00'

28. Article 63a is deleted.
29. Article 65 is replaced by the following:

*'Article 65*

With the exception of Article 67(1)(c), Article 67 and Article 69 of the Staff Regulations and Articles 1, 2 and 4 of Annex VII to the Staff Regulations, concerning the payment of family and expatriation allowances, shall apply by analogy.'



29a. Article 66 is replaced by the following:

*'Article 66*

Where a servant is paid by the day, the remuneration due for each day's work payable shall be one twentieth of the monthly remuneration. Remuneration shall be paid at the end of the current week.'

30. Articles 67 and 68 are replaced by the following:

*'Article 67*

Articles 7, 11, 12, 13 and 13a of Annex VII to the Staff Regulations, concerning the reimbursement of travel expenses and mission expenses, and the granting of housing and transport allowances, shall apply by analogy.

*Article 68*

In the case of servants paid by the month, the remuneration shall be paid no later than the last working day of the month.

Where remuneration is not due in respect of a complete month, the amount shall be divided into 30ths, and

- (a) where the actual number of days payable is 15 or less, the number of 30ths due shall equal the actual number of days payable;
- (b) where the actual number of days payable is more than 15, the number of 30ths due shall equal the difference between the actual number of days not payable and 30.

Where entitlement to family allowances and the expatriation allowance commences after the date of entering the service, servants shall receive them from the first day of the month in which such entitlement commences. On cessation of such entitlement, servants shall receive them up to the last day of the month in which entitlement ceases.'

30a. Article 70(1) is amended as follows:

- (a) in the first subparagraph 'unemployment', is inserted after 'invalidity'.
- (b) in the second subparagraph, 'or unemployment insurance' is inserted between 'such a social security' and 'scheme'.

31. Article 74 is replaced by the following:

*'Article 74*

Apart from cessation on death, the employment of auxiliary staff shall cease:

1. on the date stated in the contract;
2. at the end of the month in which the servant reaches the age of 65 years.
3. at the end of the period of notice specified in the contract giving the servant or the institution the option to terminate earlier. The period of notice shall not be less than one month per year of service, subject to a minimum of one month and a maximum of three months. The period of notice shall not, however, commence to run during maternity leave or sick leave, provided such sick leave does not exceed three months. It shall, moreover, be suspended during maternity or sick leave subject to the limits aforesaid. If the institution terminates the contract, the servant shall be entitled to compensation equal to one third of his basic salary for the period between the date when his duties end and the date when his contract expires;

4. where the servant no longer satisfies the conditions laid down in Article 55(1), point (a), subject to the possibility of authorising an exception under that provision. Should the exception not be authorised, the period of notice referred to in paragraph 3 shall apply.'
32. Article 75 is amended as follows:
- (a) in the introductory wording, 'whether for a fixed or for an indefinite period' is deleted.
- (b) Point (c) is replaced by the following:
- '(c) if the servant ceases to satisfy the requirements of Article 55(1)(d). However, his contract may be terminated only if he is entitled to an invalidity pension;'
33. The current Title IV becomes Title V
34. The following Title IV is inserted:

TITLE IV

**CONTRACT STAFF**

CHAPTER 1

**GENERAL PROVISIONS**

*Article 79*

The contracts of contract staff may be concluded for a fixed period of at least three months and not more than five years. They may be renewed not more than once for a fixed period of not more than five years. The initial contract and the first renewal must be of a total duration of not less than six months for function group I and not less than nine months for the other function groups. Any further renewal shall be for an indefinite period.

*Article 80*

1. Contract staff shall be subdivided into four function groups corresponding to the duties to be performed. Each function group shall be subdivided into grades and steps.
2. Contract staff shall only be recruited
  - in grades 13, 14 or 16 for function group IV;
  - in grades 8, 9 or 10 for function group III;
  - in grades 4 or 5 for function group II;
  - in grade 1 for function group I.

The grading of contract staff within each function group shall take account of the qualifications and experience of the persons concerned. Within their grade, contract staff shall be recruited in the first step.

3. Where a member of the contract staff moves to a new post within a function group he shall not be classified in a lower grade or step than in his former post.

Where a member of the contract staff moves to a higher function group, he shall be classified at a grade and step such that his remuneration is at least equal to that to which he was entitled under the preceding contract.

The same provisions shall apply where the member of the contract staff concludes a new contract with an institution or body immediately following a preceding contract with a different institution or body.

4. The types of posts and corresponding function groups shall be as shown in the following table:

Function group	Grades	Duties
IV	13 to 18	Tasks equivalent to those covered by administrators in function group AD as defined in Article 5(2) of the Staff Regulations.
III	8 to 12	Executive tasks, drafting, accountancy and other equivalent technical tasks
II	4 to 7	Clerical and secretarial tasks, office management and other equivalent tasks
I	1 to 3	Manual and service tasks

5. Based on this table each institution or body referred to in Article 3a shall, after consulting the Staff Regulations Committee referred to in Article 10 of the Staff Regulations, define the duties and powers attaching to each type of post.

6. Article 1e of the Staff Regulations, on social welfare policy, shall apply by analogy.

#### CHAPTER 2

##### RIGHTS AND OBLIGATIONS

###### *Article 81*

Article 11 shall apply by analogy.

#### CHAPTER 3

##### CONDITIONS OF ENGAGEMENT

###### *Article 82*

1. Contract staff shall be selected on the broadest possible geographical basis from among nationals of Member States of the Communities and without distinction as to racial or ethnic origin, political, philosophical or religious beliefs, age or disability, gender or sexual orientation and without reference to their marital status or family situation.

2. Recruitment as a contract agent shall require at least:

(a) in function group I successful completion of compulsory education;

(b) in function groups II and III:

— a post-secondary education diploma or

— an advanced level of secondary education and appropriate professional experience of at least three years or

— equivalent professional experience.

(c) in function group IV:

- a university degree based on a course lasting at least three years and an appropriate professional experience of at least one year or a further year of university studies beyond three years or
- equivalent professional experience.

3. A member of the contract staff may be engaged only on condition that he:

- (a) is a national of one of the Member States of the Communities, unless an exception is authorised by the authority referred to in the first paragraph of Article 6, and enjoys his full rights as a citizen;
- (b) has fulfilled any obligations imposed on him by the laws concerning military service;
- (c) produces the appropriate character references as to his suitability for the performance of his duties; and
- (d) is physically fit to perform his duties.

4. In the initial contract, the authority referred to in the first paragraph of Article 6 may waive the requirement that the person concerned should produce documentary evidence that he fulfils the conditions of points (a), (b) and (c) of paragraphs 2 and 3 where his engagement is for not more than three months.

#### Article 83

Before being engaged, a member of the contract staff shall be medically examined by one of the institution's medical officers in order that the institution may be satisfied that he fulfils the requirements of Article 82(3)(d).

Article 33 of the Staff Regulations shall apply by analogy.

#### Article 84

1. A member of the contract staff shall serve a probationary period for the first six months of his period of employment if he is in function group I and the first nine months if he is in any other function group.

2. Where during his probationary period a member of the contract staff is prevented by sickness or accident from performing his duties for one month or more, the authority referred to in the first paragraph of Article 6 may extend his probationary period by the corresponding length of time.

3. Not less than one month before the expiry of the probationary period, a report shall be made on the ability of the member of the contract staff to perform the duties pertaining to his post and also on his conduct and efficiency in the service. The report shall be communicated to the person concerned, who shall have the right to submit his comments in writing. A member of the contract staff whose work has not proved adequate to justify retention in his function shall be dismissed. However, the authority referred to in the first paragraph of Article 6 may, in exceptional circumstances, extend the probationary period for a maximum of six months, and possibly assign the member of the contract staff to another department.

4. A report on the probationary member of the contract staff may be made at any time during the probationary period if his work is proving obviously inadequate. The report shall be communicated to the person concerned, who shall have the right to submit his comments in writing. On the basis of the report, the authority referred to in the first paragraph of Article 6 may decide to dismiss the member of the contract staff before the end of the probationary period by giving him one month's notice.

5. A dismissed member of the contract staff shall be entitled to compensation equal to one third of his basic salary per month of probation completed.

#### *Article 85*

The first paragraph of Article 43 of the Staff Regulations, concerning reports, shall apply by analogy to contract staff with a contract of not less than one year.

#### *Article 86*

A member of the contract staff who has been at one step in his grade for two years shall automatically advance to the next step in that grade.

#### *Article 87*

1. Classification in the next higher grade in the same function group shall be by decision of the authority referred to in the first paragraph of Article 6. It shall be effected by classifying the contract agent in the first step of the next higher grade. Such advancement shall be exclusively by selection from among contract staff with a contract of at least three years who have completed a minimum period of two years in their grade, after consideration of the comparative merits of contract staff eligible for advancement to a higher grade and of the reports on them.

2. A member of the contract staff may change to a higher function group only through participation in a general selection procedure.

### CHAPTER 4

#### **WORKING CONDITIONS**

#### *Article 88*

Articles 16 to 18 shall apply by analogy.

### CHAPTER 5

#### **REMUNERATION AND EXPENSES**

#### *Article 89*

Articles 19 to 27 shall apply by analogy subject to the modifications set out in Articles 90 and 92 below.

## Article 90

The scale of basic salaries <sup>(1)</sup> shall be as provided for in the following table:

Function group	Grade	Steps						
		1	2	3	4	5	6	7
IV	18	4 797,85	4 897,62	4 999,47	5 103,44	5 209,57	5 317,91	5 428,50
	17	4 240,46	4 328,65	4 418,67	4 510,55	4 604,36	4 700,11	4 797,85
	16	3 747,83	3 825,77	3 905,33	3 986,55	4 069,45	4 154,08	4 240,46
	15	3 312,43	3 381,32	3 451,63	3 523,41	3 596,68	3 671,48	3 747,83
	14	2 927,61	2 988,49	3 050,64	3 114,08	3 178,84	3 244,95	3 312,43
	13	2 587,50	2 641,31	2 696,24	2 752,31	2 809,54	2 867,97	2 927,61
III	12	3 312,38	3 381,26	3 451,57	3 523,35	3 596,61	3 671,40	3 747,75
	11	2 927,59	2 988,47	3 050,61	3 114,05	3 178,80	3 244,91	3 312,38
	10	2 587,50	2 641,31	2 696,23	2 752,30	2 809,53	2 867,95	2 927,59
	9	2 286,92	2 334,47	2 383,02	2 432,57	2 483,15	2 534,79	2 587,50
	8	2 021,25	2 063,28	2 106,19	2 149,98	2 194,69	2 240,33	2 286,92
II	7	2 286,85	2 334,42	2 382,97	2 432,54	2 483,13	2 534,78	2 587,50
	6	2 021,14	2 063,18	2 106,09	2 149,90	2 194,61	2 240,26	2 286,85
	5	1 786,30	1 823,46	1 861,38	1 900,10	1 939,62	1 979,96	2 021,14
	4	1 578,75	1 611,59	1 645,11	1 679,32	1 714,25	1 749,91	1 786,30
I	3	1 944,90	1 985,26	2 026,46	2 068,52	2 111,45	2 155,27	2 200,00
	2	1 719,37	1 755,06	1 791,48	1 828,66	1 866,61	1 905,35	1 944,90
	1	1 520,00	1 551,55	1 583,75	1 616,62	1 650,17	1 684,41	1 719,37

## Article 91 (deleted)

## Article 92

Notwithstanding Article 24(3), the installation allowance provided for in paragraph 1 and the resettlement allowance provided for in paragraph 2 of that Article shall not be less than:

- [EUR 689,90] <sup>(1)</sup> for a member of staff who is entitled to the household allowance; and
- [EUR 409,03] <sup>(1)</sup> for a member of staff who is not entitled to the household allowance.

## CHAPTER 6

## SOCIAL SECURITY BENEFITS

**Section A: Sickness and accident insurance, social security benefits**

## Article 93

Article 28 shall apply by analogy.

*Article 94*

1. A former member of the contract staff who becomes unemployed when his service with an institution of the European Communities is terminated, and:

- who is not in receipt of a retirement pension or invalidity allowance from the European Communities,
- whose service is not terminated by resignation or by cancellation of the contract for disciplinary reasons,
- who has completed a minimum of six months' service,
- who is resident in a Member State of the Communities,

shall be eligible for a monthly unemployment allowance under the conditions laid down below.

Where he is entitled to unemployment benefits under a national scheme, he shall be obliged to declare this to the institution to which he belonged, which shall immediately inform the Commission thereof. In such cases, the amount of those benefits shall be deducted from the allowance paid under paragraph 3.

2. To be eligible for this unemployment allowance, a former member of the contract staff shall:

- (a) be registered, at his own request, as seeking employment with the employment authorities of the Member State in which he establishes his residence;
- (b) fulfil the obligations laid down by the law of that Member State for persons in receipt of unemployment benefits under that law;
- (c) forward every month to the institution to which he belonged, which shall immediately forward it to the Commission, a certificate issued by the competent national employment authority stating whether or not he has fulfilled the obligations and conditions referred to in (a) and (b).

The allowance may be granted or maintained by the Community, even where the national obligations referred to under (b) have not been fulfilled, in cases of illness, accident, maternity, invalidity or a situation recognised as being similar or where the national authority, competent to meet those obligations, has given a dispensation.

The Commission shall, after obtaining the opinion of a committee of experts, lay down such provisions as it deems necessary for applying this Article.

3. The unemployment allowance shall be set by reference to the basic salary attained by the former member of the contract staff at the time of the termination of his service. The allowance shall be set at:

- 60 % of the basic salary for an initial period of 12 months,
- 45 % of the basic salary for the 13th to the 24th month,
- 30 % of the basic salary for the 25th to the 36th month.

Other than during an initial six-month period, in which the lower limit specified below is applicable but the upper limit is not, the amounts thus calculated may neither be less than [EUR 825] nor exceed [EUR 1 650]. These limits shall be adjusted, in the same way as the salary scales set out in Article 66 of the Staff Regulations, in accordance with Article 65 of the Staff Regulations.

4. The period during which the unemployment allowance is payable to a former member of the contract staff may not be more than 36 months from the date of termination of service and shall in no case exceed the equivalent of one third of the actual length of service completed. However, if, during that period, the former member of the contract staff ceases to fulfil the conditions laid down in paragraphs 1 and 2, payment of the unemployment allowance shall be suspended. Payment shall be resumed if, before the expiry of that period, the former member of the contract staff again fulfils the said conditions and is not entitled to national unemployment benefit.

5. A former member of the contract staff who is eligible for the unemployment allowance shall be entitled to the family allowances provided for in Article 67 of the Staff Regulations. The household allowance shall be calculated on the basis of the unemployment allowance under the conditions laid down in Article 1 of Annex VII to the Staff Regulations.

The person concerned shall be obliged to declare any allowances of the same kind paid from other sources to himself or to his spouse; such allowances shall be deducted from those to be paid on the basis of this Article.

A former member of the contract staff who is eligible for the unemployment allowance shall be entitled, as provided for in Article 72 of the Staff Regulations, to insurance cover against sickness without having to make any contribution.

6. The weighting for pensions as referred to in Article 82 of the Staff Regulations for the Member State in which a former member of the temporary staff proves that he is resident shall also be applied to the unemployment allowance and the family allowances. The weighting applicable to the unemployment allowance shall always be the one resulting from the latest annual review. The amounts concerned shall be paid by the Commission in the currency of the country of residence; they shall be converted at the exchange rates provided for in the second paragraph of Article 63 of the Staff Regulations.

7. Members of the contract staff shall contribute one third of the financing of the unemployment insurance scheme. That contribution shall be set at 0,81 % of the basic salary of the person concerned after deducting a standard allowance of EUR 750 and without taking account of the weightings provided for in Article 64 of the Staff Regulations. The contribution shall be deducted each month from the salary of the person concerned and paid, together with the remaining two thirds to be borne by the institution, into a Special Unemployment Fund. This Fund shall be common to the institutions and the latter shall pay their contributions to the Commission each month, no later than eight days after the payment of remunerations. All expenditure arising out of the application of this Article shall be authorised and paid by the Commission in accordance with the provisions of the Financial Regulation governing the general budget of the European Communities.

8. Unemployment allowances paid to former members of the contract staff who are unemployed shall be subject to Regulation (EEC, Euratom, ECSC) No 260/68 laying down the conditions and procedure for applying the tax collected by the European Communities.

9. The national departments with responsibility for employment and unemployment, acting in accordance with their national legislation, and the Commission shall cooperate with each other in an effective manner in order to ensure that this Article is properly applied.

10. The detailed arrangements for applying this Article shall be the subject of rules laid down by mutual agreement between the institutions of the Communities, after obtaining the opinion of the Staff Regulations Committee, without prejudice to the provisions of the third subparagraph of paragraph 2.



11. One year after the introduction of this unemployment insurance scheme and every two years thereafter, the Commission shall present the Council with a report on the financial situation of the scheme. Independently of this report, the Commission may present to the Council proposals for adjusting the contributions provided for in paragraph 7 if this is necessary in the interests of the balance of the scheme. The Council shall act on the proposals in accordance with paragraph 3 of this Article.

#### *Article 95*

Article 74 of the Staff Regulations, concerning the birth grant, and Article 75 of the Staff Regulations, concerning the assumption of liability by the institution for the costs referred to therein, shall apply by analogy.

#### *Article 96*

Article 76 of the Staff Regulations, concerning gifts, loans and advances, shall apply by analogy to contract staff during the term of their contract or after expiry of the contract where, as a result of serious protracted illness contracted, or an accident sustained, during his employment, the servant is incapable of working and proves that such illness or accident is not covered by another social security scheme.

### ***Section B: Insurance against the risk of invalidity and death***

#### *Article 97*

Contract staff shall be insured in accordance with the following provisions against the risk of death or invalidity occurring during their employment.

The payments and benefits provided for in this Section shall be suspended if the remuneration which a member of such staff receives in respect of his employment is suspended under these conditions of employment.

#### *Article 98*

Where the medical examination made before a servant is engaged shows that he is suffering from sickness or invalidity, the authority referred to in the first paragraph of Article 6 may, in so far as risks arising from such sickness or invalidity are concerned, decide to grant him guaranteed benefits in respect of invalidity or death only after a period of five years from the date of his entering the service of the institution.

The servant may appeal against this decision to the Invalidity Committee provided for in paragraph 1(b) of Article 9 of the Staff Regulations.

#### *Article 99*

1. A servant who is suffering from total invalidity and who, for that reason, is obliged to suspend employment with the institution shall be entitled, for as long as the invalidity lasts, to an invalidity allowance, the amount of which shall be determined as follows.

2. The invalidity allowance shall be 70 % of the final basic salary of the member of the contract staff. However, it shall not be less than the basic monthly salary of a member of the contract staff in function group I 1/1. The invalidity allowance shall be subject to deduction of pension contributions.

3. Where the invalidity of the staff member arises from an accident in the course of or in connection with the performance of his duties, from an occupational disease, from a public spirited act or from risking life and limb to save another human being, the invalidity allowance shall not be less than 120 % of the basic monthly salary of a function group I 1/1 contract agent. In such cases the pension contributions shall be borne by the budget of the former employer.

4. In the case of invalidity deliberately brought about by the servant, the authority referred to in the first paragraph of Article 6 may decide that he should receive only the grant provided for in Article 107.

5. Persons entitled to an invalidity allowance shall also be entitled to the family allowances provided for in Article 67 of the Staff Regulations in accordance with Annex VII to the Staff Regulations; the household allowance shall be determined on the basis of the recipient's allowance.

#### *Article 100*

1. Invalidity shall be established by the Invalidity Committee provided for in Article 9 of the Staff Regulations.

2. Entitlement to an invalidity allowance shall take effect on the day following that on which the staff member's employment is terminated under Articles 47 and 48, which are applicable by analogy.

3. The institution referred to in Article 40 of Annex VIII to the Staff Regulations may require periodic examinations of the recipient of an invalidity allowance to establish that he still fulfils the conditions for payment of that allowance. If the Invalidity Committee finds that these conditions are no longer fulfilled, the staff member shall resume service with the institution, providing his contract has not expired.

However, if it proves impossible to employ the person concerned in the service of the Communities, the contract may be terminated subject to payment of an amount corresponding to the remuneration that would have been paid during the period of notice and, where applicable, to the compensation for termination of contract provided for in Article 47. Article 107 shall also apply.

#### *Article 101*

1. The persons entitled under a deceased servant, as defined in Chapter 4 of Annex VIII to the Staff Regulations, shall be entitled to a survivor's pension as provided for in Articles 102 to 105.

2. In the event of the death of a former servant in receipt of an invalidity allowance or a former servant who is in receipt of a retirement pension or who leaves the service before reaching 60 years of age and requests that his retirement pension be deferred until the first day of the calendar month following that in which he reached 60 years of age, the persons entitled under the deceased former servant, as defined in Chapter 4 of Annex VIII to the Staff Regulations, shall be entitled to a survivor's pension as provided for in that Annex.

3. Where the whereabouts of a servant or of a former servant in receipt of an invalidity or retirement pension, or of a former servant who leaves the service before reaching 60 years of age and requests that his retirement pension be deferred until the first day of the calendar month following that in which he reaches 60 years of age, are unknown for more than one year, the provisions of Chapters 5 and 6 of Annex VIII to the Staff Regulations dealing with provisional pensions shall apply by analogy to his spouse and to persons recognised as his dependants.

#### *Article 102*

The right to receive payment of pension shall have effect from the first day of the month following that in which death occurs or, where applicable, on the first day of the month following the period during which the deceased's surviving spouse, orphans or dependants receive his emoluments under Article 70 of the Staff Regulations.

*Article 103*

The surviving spouse of a servant shall be entitled to a survivor's pension in accordance with Chapter 4 of Annex VIII to the Staff Regulations. The pension shall not be less than 35 % of the final basic monthly salary received by the servant, nor less than the basic monthly salary of contract staff in function group I 1/1. Where a servant dies, the amount of the survivor's pension shall be increased to 60 % of the retirement pension which the servant would have been paid if he had qualified, irrespective of length of service or of age, for such pension at the time of death.

A person drawing a survivor's pension shall be entitled, on the conditions laid down in Annex VII to the Staff Regulations, to the family allowances specified in Article 67 of the Staff Regulations. However, the dependent child allowance shall be double that provided for in Article 67(1)(b) of the Staff Regulations.

*Article 104*

1. Where a servant or person entitled to a retirement pension or invalidity allowance dies leaving no spouse entitled to a survivor's pension, the children deemed to be dependent on him shall be entitled to an orphan's pension in accordance with Article 25 of Annex VIII to the Staff Regulations.

2. The same entitlement shall apply to children who fulfil the foregoing conditions in the event of death or remarriage of a spouse who is entitled to a survivor's pension.

3. Where a servant or a person entitled to a retirement pension or invalidity allowance dies but the conditions set out in paragraph 1 are not satisfied, the provisions of the third paragraph of Article 80 of the Staff Regulations shall apply.

4. In the event of the death of a former member of the contract staff who leaves the service before reaching 60 years of age and requests that his retirement pension be deferred until the first day of the calendar month following that in which he reaches 60 years of age, children deemed to be his dependants in accordance with Article 2 of Annex VII to the Staff Regulations shall be entitled to an orphan's pension on the same terms as those set out respectively in the foregoing paragraphs.

5. The orphan's pension of a person treated as a dependent child as defined in Article 2(4) of Annex VII to the Staff Regulations may not exceed 200 % of the dependent child allowance. However, entitlement to the pension shall cease if a third party is liable for maintenance under the national laws applicable.

6. No orphan's pension shall be payable where a natural parent who has been replaced by an adoptive parent dies.

7. Orphans shall be entitled to an education allowance in accordance with Article 3 of Annex VII to the Staff Regulations.

*Article 105*

In the case of divorce or where there is more than one category of survivor who qualifies to claim survivor's pension, such pension shall be apportioned in the manner provided for in Chapter 4 of Annex VIII to the Staff Regulations.

*Article 106*

The rules relating to ceilings and apportionment set out in Article 29 of Annex VIII to the Staff Regulations shall apply by analogy.

**Section C: Retirement pension and severance grant***Article 107*

1. On leaving the service contract staff shall be entitled to a retirement pension, transfer of the actuarial equivalent or the payment of a severance grant in accordance with Chapter 3 of Title V of, and Annex VIII to, the Staff Regulations. Where the servant is entitled to a retirement pension his pension rights shall be reduced in proportion to the amounts paid under Article 110.

2. A person who becomes entitled to a retirement pension shall be entitled to the family allowances provided for in Article 67 of the Staff Regulations; the household allowance shall be calculated on the basis of the recipient's pension.

*Article 108*

1. If a servant is appointed an official of the Communities, he shall not receive the grant provided for in Article 107(1).

Any period of service on the contract staff of one of the Communities shall be taken into account for the purpose of calculating years of pensionable service as provided for in Annex VIII to the Staff Regulations.

2. Where a servant has exercised the option provided for in Article 110, his retirement pension rights shall be reduced proportionately in respect of the period in which the sums were withdrawn.

3. The preceding paragraph shall not apply to a servant who, in the three months following application of the Staff Regulations to him, asks to be allowed to repay such sums plus compound interest at the rate of 3,5 % per year, which can be revised following the procedure laid down in Article 7 of Annex XII to the Staff Regulations.

**Section D: Funding of the invalidity and life assurance scheme and of the pension scheme***Article 109*

As regards the funding of the social security scheme provided for in Sections B and C, the provisions of Articles 83 and 83a of the Staff Regulations and Articles 36 and 38 of Annex VIII thereto shall apply by analogy.

*Article 110*

In accordance with conditions to be laid down by the institution, a servant may request the institution to effect any payments which he is required to make in order to constitute or maintain pension rights in his country of origin.

Such payments shall not exceed 16,5 % of his basic salary and shall be charged to the budget of the Communities.

**Section E: Settlement of claims by contract staff***Article 111*

Articles 40 to 44 of Annex VIII to the Staff Regulations shall apply by analogy.

**Section F: Payment of benefits***Article 112*

1. Articles 81a and 82 of the Staff Regulations and Article 45 of Annex VIII thereto, concerning the payment of benefits, shall apply by analogy.

2. Any sums due from a servant to the Communities under this insurance scheme at the date when the benefits are payable shall be deducted from the amount of his benefit or from the benefits payable to those entitled under him in a manner to be determined by the institution referred to in Article 45 of Annex VIII to the Staff Regulations. The deduction may be spread over a number of months.

**Section G: Subrogation in favour of the Communities***Article 113*

The provisions of Article 85a of the Staff Regulations, relating to subrogation in favour of the Communities, shall apply by analogy.

## CHAPTER 6a

**RECOVERY OF UNDUE PAYMENT***Article 113a*

The provisions of Article 85 of the Staff Regulations on the recovery of undue payment shall apply.

## CHAPTER 6b

**APPEALS***Article 113b*

The provisions of Title VII of the Staff Regulations on appeals shall apply by analogy.

## CHAPTER 7

**SPECIAL AND EXCEPTIONAL PROVISIONS APPLICABLE TO CONTRACT STAFF SERVING IN A THIRD COUNTRY***Article 114*

The provisions of Articles 6 to 16 and 19 to 25 of Annex X to the Staff Regulations shall apply by analogy to contract staff serving in third countries. However, Article 21 of that Annex shall only apply if the contract is for not less than one year.

## CHAPTER 8

**TERMINATION OF EMPLOYMENT***Article 115*

Articles 47 to 50a, with the exception of Article 48a, shall apply by analogy to contract staff.

35. Former Articles 79 and 80 become Articles 116 and 117.

36. Former Article 81 becomes Article 118 and is replaced by the following:

*'Article 118*

Any dispute between the institution and a member of the local staff serving in a third country shall be submitted to an arbitration board on the conditions defined in the arbitration clause contained in the servant's contract.'

37. Title VI is deleted.
38. The former Title V becomes Title VI and the former Articles 82 and 83 become Articles 119 and 120 respectively.
- 38a. Article 120 is amended to read as follows:

*'Article 120*

Articles 1d, 1e, 11, 11a, 12 and 12a, the first paragraph of Article 16, Articles 17, 17a, 19, 22, 22a, 22b and 22c, the first and second paragraphs of Article 23 and the second paragraph of Article 25 of the Staff Regulations, concerning the rights and obligations of officials, and Articles 90 and 91 of the Staff Regulations, concerning appeals, shall apply by analogy.'

39. In Title VII, the former Articles 99, 100 and 101 are deleted and the following new Article 121 is inserted:

*'Article 121*

Without prejudice to the other provisions of the Conditions of Employment, the Annex hereto lays down the transitional provisions applicable to the servants engaged under contract covered by these Conditions of Employment.'

40. In Title VIII the former Articles 102 and 103 become Articles 122 and 123 respectively.
41. The following Annex is added:

*'ANNEX*

**TRANSITIONAL PROVISIONS APPLICABLE TO THE SERVANTS COVERED BY THE CONDITIONS OF EMPLOYMENT OF OTHER SERVANTS**

*Article 1*

1. The provisions of Annex XIII to the Staff Regulations shall apply by analogy to the Conditions of Employment of other servants.
2. For the period from (date of entry into force) to (date of entry into force + 2 years), in the Conditions of Employment of other servants:
  - (a) In the first indent of point (b) of Article 3(1), "function group AST" is replaced by "categories B and C";
  - (b) in the second indent of point (b) of Article 3(1), "the administrators' function group (AD)" is replaced by "category A", "AD 16 or AD 15" is replaced by "A\*16 or A\*15" and "AD 15 or AD 14" is replaced by "A\*15 or A\*14".

(c) in the first paragraph of Article 10, "function groups" is replaced by "categories".

#### *Article 2*

1. In accordance with the Conditions of Employment of other servants, the authority referred to in the first paragraph of Article 6 of those Conditions shall offer employment as a member of the contract staff to any servant employed by the Communities on (date of entry into force) under a contract of indefinite duration as a local servant in the European Union or by virtue of national legislation in one of the bodies referred to in Article 3a of the Conditions of Employment. The contract concerned shall take effect on (date of entry into force).

2. Should the classification of the servant accepting the offer of a contract result in a reduction in net remuneration, taking account of all the deductions required under the rules applicable, the servant shall be classified in the same function group at the closest grade and step equivalent to or next higher than his present net remuneration. If it proves impossible to classify him in the same function group, he shall be classified in the last grade and step of the function group and receive an allowance corresponding to the difference between the two amounts.

3. A servant who does not accept the offer referred to in paragraph 1 may retain his contractual relationship with the institution.

#### *Article 3*

Fixed-term contracts of temporary staff covered by Article 2, point (d) of the Conditions of Employment current on the date of entry into force of this Regulation may be renewed. Where the contract has already been renewed once, the new contract shall be for an indefinite period. Current contracts for an indefinite period of temporary staff covered by Article 2(d) of the Conditions of Employment shall be unaffected.

#### *Article 4*

Remuneration of auxiliary staff under contracts current on the date of entry into force of this Regulation shall not be affected by Article 63 of the Conditions of Employment.

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