

EN

EN

EN



EUROPEAN COMMISSION

Brussels, 9.6.2010
COM(2010) 309 final

2010/0171 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending the Staff Regulations of Officials of the European Communities and the
Conditions of Employment of Other Servants of those Communities**

EXPLANATORY MEMORANDUM

CONTEXT OF THE PROPOSAL

The Treaty of Lisbon, which entered into force on 1 December 2009, created the office of the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission. According to the Treaty, the High Representative and Vice-President is to be assisted by the European External Action Service (EEAS). Article 27(3) of the Treaty on European Union stipulates that the EEAS is to work in cooperation with the diplomatic services of the Member States and is to comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States.

As is the case for all the institutions and bodies of the Union, the EEAS staffing and personnel policy will operate within the framework established by the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of those Communities. In order to allow the EEAS to operate as set out in the Treaty on European Union and in line with the guidance provided in the Presidency Report endorsed by the European Council on 29 October 2009, certain amendments to the Staff Regulations and the Conditions of Employment are required. Apart from adaptations to the new terminology resulting from the entry into force of the Treaty of Lisbon, the proposed amendments are limited to what is necessary for the establishment and functioning of the EEAS.

This proposal is one of the legislative measures that need to be adopted in that context. The organisation and functioning of the EEAS will be established by a Council Decision, as provided for in Article 27(3) of the Treaty on European Union. The Financial Regulation will also be adapted to the specific needs of the EEAS.

CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

The elements of the proposal have been discussed with the staff representatives in accordance with the appropriate procedures. The proposal takes account of the opinions of the parties consulted.

LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

In order to be operational right from its inception, the EEAS must have qualified and experienced staff at its disposal. The Regulation confirms that – where it is stipulated in the Council Decision establishing the EEAS that an entity from the Council or Commission organisation chart is transferred to the EEAS – the officials and temporary staff occupying posts in that entity and other staff assigned to that entity are transferred from their respective institutions to the EEAS.

A fundamental aspect of the EEAS is the equality of treatment between the sources of EEAS staffing. Selection procedures for posts will thus be open on an equal basis (as opposed to the current situation, where internal candidates, followed by inter-institutional candidates, have priority). Hence, the Appointing Authority will consider

applications for vacant posts in the EEAS from different categories of staff – staff of national diplomatic services, officials of the Commission, the Council and the EEAS, as well as temporary staff of the EEAS from national diplomatic services – without giving any priority to any of them. After the start-up phase, but on 1 July 2013 at the latest, this facilitated access to vacant posts in the EEAS will be extended to officials of other institutions of the Union. In order to guarantee proper representation of staff from national diplomatic services in the EEAS, it should be possible, until 30 June 2013, to give priority to candidates from national diplomatic services of the Member States for AD posts in case of substantially equal qualifications.

Staff from national diplomatic services will be employed by the EEAS as a specific category of temporary staff. For this particular category of temporary staff, certain rules (retirement age, possibility of secondment, and leave on personal grounds) are aligned to those applicable to officials. These staff members will thus benefit from the same working conditions as officials.

Officials of the EEAS who were officials of either the Council or the Commission before taking up their duties in the EEAS will be able to apply for vacant posts in their institution of origin on the same basis as officials inside those institutions. Their applications will thus be considered as applications from internal candidates. In exceptional circumstances, a transfer in the interests of the service, i.e. without prior publication of the post, from the EEAS to the Council or the Commission and vice versa will be made possible.

The EEAS will be treated as an institution for the purposes of the Staff Regulations. The High Representative and Vice-President will be the Appointing Authority for the staff of the EEAS (with a possibility to entrust EEAS staff members with these powers). Special arrangements are foreseen for cases where EEAS staff will have to perform functions on behalf of the Commission. In this respect they will have to take instructions from the Commission. Moreover, the Commission will be involved in the recruitment and evaluation of these members of staff, as well as in disciplinary matters. In addition, account is also taken of the situation of Commission officials working in Union delegations who will have to take instructions in certain areas from the Head of delegation (who will be an official or a temporary agent of the EEAS).

Other, more technical, amendments concern Annex X to the Staff Regulations (applicable to staff serving in third countries), contract staff and local staff. They should improve the functioning of the Union delegations.

The whole of Annex X (and not only certain provisions) will apply to contract staff serving in a third country, including Commission staff. Contract staff engaged to perform duties in delegations will be able to take part in the rotation between delegations and Headquarters. In order to ensure better gender balance in delegations, staff serving in third countries will be able to take parental leave while continuing to benefit from certain provisions of Annex X (accommodation provided by the institution or reimbursement of rent, supplementary sickness insurance and education allowance) for a restricted period of time.

The amendments concerning local staff are aimed at improving their social security protection. Currently, local staff working in countries with no, or insufficient, social security systems are asked to contribute to an EU-established scheme, while the

Commission pays the employer's contribution. A specific provision should be introduced in the Conditions of Employment, as this scheme provides for minimum social guarantees, which are not ensured by national law.

Legal basis

The amendments to the Staff Regulations and the Conditions of Employment must be adopted by the European Parliament and the Council pursuant to Article 336 of the Treaty on the Functioning of the European Union, that is in accordance with the ordinary legislative procedure on a proposal from the Commission and after consulting the other institutions concerned.

Subsidiarity principle

The proposal concerns an area that falls within the exclusive competence of the Union. The principle of subsidiarity does not therefore apply.

BUDGETARY IMPLICATIONS

The proposal is broadly budgetary neutral, although some provisions have a small budgetary impact:

Application of Article 9a of Annex X to the Staff Regulations would result in savings of around EUR 189 000 per year (decrease in expenditure). This is due to the fact that officials on parental leave receive an allowance, which is lower than their salary. The number of parental leave cases is expected to increase.

Article 18 of Annex X provides for the reimbursement of hotel costs when the accommodation provided for in Article 5 of that Annex cannot yet be allocated. It is expected that there would be about 24 cases if this Article 18 were to be applied to contract staff. The annual impact would be EUR 130 000 (increase in expenditure).

The amendment to Article 3a of the Conditions of Employment which allows rotation between delegations and Headquarters for contract staff engaged in delegations is not considered to have a budgetary impact.

There will be no additional costs incurred by the modification of Article 121 of the Conditions of Employment of Other Servants, as the scheme is already in place and the necessary amounts are included by the budgetary authority in the annual budgets of the European Union.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of those Communities

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 336 thereof,

Having regard to the proposal from the European Commission, submitted following consultations with the Staff Regulations Committee¹,

After transmission of the proposal to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) According to Article 27 of the Treaty on European Union, the High Representative of the Union for Foreign Affairs and Security Policy is to be assisted by a European External Action Service (EEAS). This service is to work in cooperation with the diplomatic services of the Member States and is to comprise officials from relevant departments of the General Secretariat of the Council and of the Commission as well as staff seconded from national diplomatic services of the Member States.
- (2) In view of its specific tasks, the EEAS should be granted autonomy within the framework of the Staff Regulations. Therefore, for the purposes of the Staff Regulations and the Conditions of Employment, the EEAS should be treated as an institution of the Union.
- (3) The High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission should act as Appointing Authority and Authority to Conclude Contracts for the staff of the EEAS, with the possibility of entrusting the EEAS with these powers. As certain EEAS staff members, including the Heads of Delegations, will have to carry out tasks for the Commission as part of their normal duties, provision should be made for the participation of the Commission in decisions concerning those staff members.

¹ OJ C , , p. .

- (4) It is appropriate to clarify that staff of the EEAS who carry out tasks for the Commission as part of their duties should follow instructions given by the Commission. Likewise, Commission officials working in Union delegations should follow instructions from the Head of Delegation, in particular on organisational and administrative matters and on the implementation of the Union budget.
- (5) For the avoidance of doubt, it should be confirmed that officials and temporary staff occupying a post in an organisational entity which is transferred from the General Secretariat of the Council or the Commission to the EEAS pursuant to the Council Decision referred to in Article 27(3) of the Treaty on European Union are deemed to be transferred with the post. This should also apply to contract and local staff assigned to such an organisational entity. Specific measures should be taken to ensure that the staff concerned by the transfer receive appropriate career guidance and assistance.
- (6) Officials from the Council or the Commission who have taken up duties in the EEAS should be able to apply for vacant posts within their institution of origin on an equal footing with internal candidates of those institutions.
- (7) In order to take account of specific situations in a flexible manner (for example an urgent need to fill a post or future transfers of support tasks from the Council or the Commission to the EEAS), a transfer of officials in the interests of the service, that is without prior publication of the vacant post, from the Council or the Commission to the EEAS should also be made possible in exceptional cases. Similarly, it should be possible to transfer officials in the interest of the service from the EEAS to the Council or the Commission.
- (8) It is necessary to ensure that staff from national diplomatic services, candidates from the Council and the Commission as well as internal candidates can apply for posts in the EEAS on an equal footing. From 1 July 2013 at the latest this should also apply to officials from other institutions. However, in order to guarantee proper representation of staff from national diplomatic services in the EEAS, the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission should be able to decide that for posts in function group AD, until 30 June 2013, priority may be given to candidates from national diplomatic services of the Member States in case of substantially equal qualifications.
- (9) Selected candidates from national diplomatic services who are seconded by their Member States should be employed as temporary agents and thus be put on equal footing with officials. The implementing provisions to be adopted by the EEAS should guarantee career perspectives for temporary agents that are equivalent to those of officials.
- (10) In order to avoid unnecessary restrictions on the employment in the EEAS of staff from national diplomatic services, specific rules on the length of contracts should be adopted. For this particular category of temporary staff, the rules on secondment, leave on personal grounds and maximum retirement age should be aligned with those applicable to officials.
- (11) These specific rules should also be made applicable, at the request of the persons concerned, to temporary agents from national diplomatic services of the Member States who were engaged by the relevant departments of the General Secretariat of the

Council or of the Commission before the establishment of the EEAS, but after the entry into force of the Lisbon Treaty.

- (12) In order to ease the administrative burden of the EEAS, the Disciplinary Board established in the Commission should also serve as the Disciplinary Board for the EEAS, unless the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission decides to establish a Disciplinary Board for the EEAS.
- (13) In order to ensure coherent representation of Commission and EEAS staff in delegations, it should be provided that the Staff Committee of the Commission also represents EEAS staff, who would be entitled to vote and stand as candidates in its elections.
- (14) As the specific provisions laid down in Annex X to the Staff Regulations for officials serving in a third country are not applicable during parental or family leave, it proves difficult in practice for officials working in delegations to take such leave. This runs counter to the general objective of better conciliating private and professional life and in particular constitutes an obstacle for women who might otherwise be interested in taking up a post in a Union delegation. It is therefore appropriate that the provisions of Annex X should continue to apply, to a limited extent, during parental and family leave.
- (15) In the light of the experience gathered since 2004, there seems no justification for maintaining the existing limitation with regard to the application of Annex X of the Staff Regulations to contract staff. This means in particular that contract staff should take part fully in the mobility procedure under Articles 2 and 3 of Annex X. To this end, it is necessary to provide that contract staff engaged in delegations, to whom Article 3a of the Conditions of Employment applies, may be temporarily assigned to the seat of the institution.
- (16) As regards social security for local staff, Article 121 of the Conditions of Employment refers to the social security contributions under current regulations in the place where the servant is to perform his duties. As social security systems are inexistent or insufficient in certain countries, a statutory basis should be created for the setting up of an autonomous or complementary system of social security.
- (17) To facilitate matters for staff travelling outside the European Union in the performance of their duties, it should be possible to issue laissez-passer when the interests of the service so require, and special advisers should be covered by this possibility.
- (18) The terms used in the Staff Regulations and the Conditions of Employment need to be adapted to the Treaty on European Union and the Treaty on the Functioning of the European Union, which entered into force on 1 December 2009.
- (19) This Regulation should enter into force at the earliest possible date, since the proposed amendments to the Staff Regulations and Conditions of Employment constitute a necessary condition for the proper functioning of the EEAS,

HAVE ADOPTED THIS REGULATION:

Article 1

The Staff Regulations of Officials of the European Communities shall be amended as follows:

1. The title shall be replaced by 'Staff Regulations of Officials of the European Union'.
2. Except in Article 66a(1), the words 'European Communities' shall be replaced by 'European Union'.

With the exception of the references to the European Coal and Steel Community, the European Economic Community or the European Atomic Energy Community in Articles 68 and 83, the words 'Community' and 'Communities' shall be replaced by 'Union' and any necessary grammatical changes shall be made.

The words 'the three European Communities' and 'one of the three European Communities' shall be replaced by 'the European Union'.

3. In Article 64, second paragraph, and in Article 65(3), the words 'in the first indent of the second subparagraph of Articles 148(2) of the Treaty establishing the European Economic Community and 118(2) of the Treaty establishing the European Atomic Energy Community' shall be replaced by 'in Article 16(4) and (5) of the Treaty on European Union'. In Article 13, first paragraph, second sentence, of Annex X, the words 'in the first eventuality set out in the second subparagraph of Article 148(2) of the Treaty establishing the European Economic Community and of Article 118 of the Treaty establishing the European Atomic Energy Community' shall be replaced by 'in Article 16(4) and (5) of the Treaty on European Union'.

In Article 83a(5), Article 14(2) of Annex XII and Article 22(3) of Annex XIII the words 'in the first indent of Article 205(2) of the EC Treaty' shall be replaced by 'in Article 16(4) and (5) of the Treaty on European Union'. In Article 13(3) of Annex VII, the words 'in the first indent of the second subparagraph of Article 205(2) of the EC Treaty' shall be replaced by 'in Article 16(4) and (5) of the Treaty on European Union'.

In Article 45(2) the words 'Article 314 of the EC Treaty' shall be replaced by 'Article 55 of the Treaty on European Union'.

4. In Article 7(1) of Annex III the words 'European Communities Personnel Selection Office' shall be replaced by 'European Personnel Selection Office'.

In Article 7(3) of Annex VII the words 'in Annex IV to the Treaty establishing the European Economic Community' shall be replaced by 'Annex II to the Treaty on the Functioning of the European Union'.

In Article 40 of Annex VIII the words 'Commission of the European Communities' shall be replaced by 'European Commission'.

5. The second subparagraph of Article 6(4) shall be replaced by the following:

'The European Parliament and the Council shall decide in accordance with Article 336 of the Treaty on the Functioning of the European Union'.

In Article 9(2) of Annex VIII and in Article 15(2) of Annex XI, the words 'Article 283 of the EC Treaty' shall be replaced by 'Article 336 of the Treaty on the Functioning of the European Union'.

In Article 10 of Annex XI the words 'the Council shall act in accordance with the procedure laid down in Article 283 of the EC Treaty' shall be replaced by 'the European Parliament and the Council shall decide in accordance with Article 336 of the Treaty on the Functioning of the European Union'.

6. Article 1b shall be amended as follows:

(a) The following point (a) shall be inserted:

'(a) the European External Action Service under the authority of the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission (hereinafter referred to as EEAS),';

(b) The current points (a) to (d) shall become points (b) to (e).

7. In Article 23, the third paragraph shall be replaced by the following:

'The laissez-passer provided for in the Protocol on Privileges and Immunities shall be issued to heads of unit, to officials in grade AD12 to AD16, to officials serving outside the territory of the European Union and to other officials for whom this is required in the interest of the service.'

8. In Article 77, the third paragraph shall be replaced by the following:

'However, in the case of officials who have been assisting a person holding an office provided for in the Treaty on European Union and the Treaty on the Functioning of the European Union, the elected President of one of the institutions or organs of the Union or the elected Chairman of one of the political groups in the European Parliament, the entitlement to pensions corresponding to the years of pensionable service acquired while working in that capacity shall be calculated by reference to the final basic salary received during that time if the basic salary received exceeds that taken as reference for purposes of the second paragraph of this Article.'

9. Title VIIIa shall become Title VIIIb. The following new Title VIIIa shall be added after Title VIII:

TITLE VIIIa

SPECIAL PROVISIONS APPLICABLE TO THE EEAS

Article 95

1. The powers conferred by these Staff Regulations on the Appointing Authority shall be exercised by the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission in respect of staff of the EEAS. He may determine who within the EEAS shall exercise those powers. Article 2(2) shall apply.
2. However, in respect of Heads of Delegation, the powers concerning appointments shall be exercised on the basis of a list of candidates on which the Commission has agreed within the framework of the powers that the Treaties confer on it. This shall apply *mutatis mutandis* to transfers in the interests of the service.
3. In respect of EEAS officials who have to carry out tasks for the Commission as part of their duties, the Appointing Authority shall initiate administrative inquiries and disciplinary proceedings as referred to in Articles 22 and 86 and Annex IX if the Commission so requests.

For the purposes of the application of Article 43 the Commission shall be consulted.

Article 96

Notwithstanding Article 11, a Commission official working in a Union delegation shall take instructions from the Head of Delegation, in particular on organisational and administrative matters and, in accordance with legal acts adopted under Article 322 of the Treaty on the Functioning of the European Union, on the implementation of the Union budget.

An EEAS official who has to carry out tasks for the Commission as part of his duties shall take instructions from the Commission with regard to those tasks.

The modalities for implementing this Article shall be agreed between the Commission and the EEAS.

Article 97

Under the conditions set out in Article 7(1) and notwithstanding Articles 4 and 29, the Appointing Authorities of the institutions concerned may in exceptional cases, acting by common agreement and solely in the interests of the service, after having heard the official concerned, transfer him from the Council or the Commission to the EEAS without notifying the staff of the vacant post. An EEAS official may be transferred to the Council or the Commission under the same conditions.

Article 98

1. For the purposes of Article 29(1)(a) and without prejudice to Article 97, when filling a vacant post in the EEAS, the Appointing Authority shall consider the applications of officials of the Council, the Commission and the EEAS, of temporary staff to whom Article 2(e) of the Conditions of Employment of Other Servants applies and of staff from national diplomatic services of the Member States without giving priority to any of these categories.

From a date fixed by the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission, but at the latest from 1 July 2013, the Appointing Authority shall also consider the applications of officials from other institutions without giving priority to any of these categories.

2. For the purposes of Article 29(1)(a) and without prejudice to Article 97, the Appointing Authority shall, when filling a vacant post in the Council or the Commission, consider applications of internal candidates and officials of the EEAS who were officials of the institution concerned until they became officials of the EEAS without giving priority to any of these categories.

Article 99

1. Unless the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission decides to establish a Disciplinary Board for the EEAS, the Disciplinary Board of the Commission shall also serve as the Disciplinary Board for the EEAS.

In this case the two additional members referred to in Article 5(2) of Annex IX shall be appointed from amongst EEAS officials. The Appointing Authority and the Staff Committee referred to in Article 5(5) and Article 6(4) of Annex IX shall be those of the EEAS.

2. By derogation from the first indent of Article 9(1)(a), the Staff Committee of the Commission shall also represent officials and other servants of the EEAS.'

10. In Chapter 3 of Annex X, the following Article 9a shall be added:

'Article 9a

During parental and family leave as provided for in Articles 42a and 42b of the Staff Regulations, Articles 5, 23 and 24 of this Annex shall continue to apply for a cumulative maximum period of six months within each two-year period of assignment to a third country, and Article 15 of the present Annex shall continue to apply for a cumulative maximum period of nine months within each two-year period of assignment to a third country.'

Article 2

The Conditions of Employment of Other Servants of the European Communities shall be amended as follows:

1. The title shall be replaced by 'Conditions of Employment of Other Servants of the European Union'.

2. Except in Article 28a(8), the words 'European Communities' shall be replaced by 'European Union' and the words 'Community' and 'Communities' shall be replaced by 'Union' and any necessary grammatical changes shall be made.
3. In Article 12(3) and Article 82(5) the words 'European Communities Personnel Selection Office' shall be replaced by 'European Personnel Selection Office'.
4. In Article 39(1) the words 'Article 283 of the EC Treaty' shall be replaced by 'Article 336 of the Treaty on the Functioning of the European Union'.
5. Article 2 shall be amended as follows:
 - (a) in point (c) the words 'the Treaties establishing the Communities or the Treaty establishing a Single Council and a Single Commission of the European Communities, or the elected President of one of the institutions or organs of the Communities' shall be replaced by 'the Treaty on European Union and the Treaty on Functioning of the European Union, or the elected President of one of the institutions or organs of the Union'.
 - (b) the following point (e) shall be added:

'(e) staff seconded from national diplomatic services of the Member States engaged to fill temporarily a permanent post in the EEAS.'
6. In the first paragraph of Article 3a, the following subparagraph shall be added:

'Staff engaged for the performance of full-time or part-time duties in Union delegations may be temporarily assigned to the seat of the institution under the mobility procedure set out in Articles 2 and 3 of Annex X to the Staff Regulations.'
7. In Article 3b, the second paragraph shall be replaced by the following:

'Except in the cases referred to in the second subparagraph of Article 3a(1), the use of contract staff for auxiliary tasks is excluded where Article 3a applies.'
8. Article 10 shall be amended as follows:
 - (a) the four existing paragraphs shall be numbered;
 - (b) the last sentence of paragraph 4 shall be deleted;
 - (c) the following paragraph 5 shall be added:

'5. Articles 95, 96 and 99 of the Staff Regulations shall apply by analogy to temporary staff. Title VIIIb of the Staff Regulations shall apply by analogy to temporary staff serving in a third country.'
9. In Article 47, point (a) shall be replaced by the following:

'(a) at the end of the month in which the servant reaches the age of 65 years or, where applicable, at the date fixed in accordance with Article 50c(3); or'

10. The following Chapter 10 'Special provisions for members of temporary staff referred to in Article 2(e)' shall be added to Title II:

'CHAPTER 10

Special provisions for members of temporary staff referred to in Article 2(e)

Article 50b

1. Staff from national diplomatic services of the Member States who were selected under the procedure laid down in Article 98(1) of the Staff Regulations and who are seconded by their national diplomatic services shall be engaged as temporary staff under Article 2(e).
2. They may be engaged for a maximum period of four years. Contracts may be renewed more than once for a maximum period of four years for each renewal. A renewal shall be granted on condition that the secondment from the national diplomatic service is extended for the period of renewal.

Article 50c

1. Articles 37, 38 and 39 of the Staff Regulations shall apply by analogy. Secondment shall not extend beyond the term of the contract.
2. Article 40 of the Staff Regulations shall apply by analogy. Leave on personal grounds shall not extend beyond the term of the contract. Article 17 of the Conditions of Employment of Other Servants shall not apply.
3. The second subparagraph of Article 52(b) of the Staff Regulations shall apply by analogy.'

11. The following paragraph 5 shall be added to Article 80:

'5. Articles 95, 96 and 99 of the Staff Regulations shall apply by analogy.'

12. Article 118 shall be replaced by the following:

'Article 118

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.'

13. Article 121 shall be replaced by the following:

'Article 121

As regards social security, the institution shall be responsible for the employer's share of the social security contributions under current regulations in the place where the servant is to perform his duties, unless the seat agreement provides otherwise.

The institution may set up an autonomous or complementary system of social security for countries where coverage by the local system either does not exist or is insufficient.'

14. In Article 124, the words 'the first and second paragraphs of Article 23' shall be replaced by 'Article 23'.

Article 3

1. Officials and temporary staff occupying a post in an organisational entity which is transferred from the General Secretariat of the Council or the Commission to the European External Action Service (EEAS) pursuant to the Council Decision adopted in accordance with Article 27(3) of the Treaty on European Union shall be deemed to be transferred to the EEAS from the relevant institutions at the date fixed in that Decision. This shall also apply to contract and local staff assigned to such an organisational entity, for whom the conditions of the contract shall remain unchanged.

Where a part of an organisational entity is transferred and the officials and other servants assigned to that part of the entity cannot be automatically identified, the Council or the Commission, as the case may be, shall take a decision on the transfer of the staff in agreement with the High Representative and after hearing the officials and other servants potentially concerned.

2. At the request of the persons concerned, the contracts of temporary staff from national diplomatic services of the Member States who were engaged after 30 November 2009 and who occupy a post in an organisational entity which is transferred from the General Secretariat of the Council or the Commission to the EEAS pursuant to the Council Decision adopted in accordance with Article 27(3) of the Treaty on European Union shall be transformed, without a new selection procedure, into contracts under Article 2(e) of the Conditions of Employment of Other Servants. For the rest, the conditions of the contract shall remain unchanged. The request must be made within one year after the date of transfer as fixed in the Council Decision adopted in accordance with Article 27(3) of the Treaty on European Union.

3. In order to guarantee adequate representation of staff from national diplomatic services in the EEAS, the High Representative of the Union for Foreign Affairs and Security Policy and Vice-President of the Commission may decide that, by derogation from Article 98(1) of the Staff Regulations, priority may be given until 30 June 2013 for certain posts in function group AD in the EEAS to candidates from national diplomatic services of the Member States in case of substantially equal qualifications.

Article 4

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

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

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

2. ABM / ABB FRAMEWORK

Policy Area(s) concerned and associated Activity/Activities: External Relations – Administrative Expenditure of the delegations of the European Union

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex- BA lines)) including headings:

XX 01 01 02 01: Remuneration and Allowances

XX 01 02 02 01: Remuneration of Other Staff

XX 01 02 02 03: Expenses of other staff and payment for other services

04.010413: Instrument for Pre-Accession Assistance (IPA) – Human resources component – Expenditure on administrative management.

08.010501: Expenditure related to research staff

08.010502: External Staff for research

11.010404: International fisheries agreements - Expenditure on administrative management

13.010402: Instrument for Pre-Accession Assistance (IPA) – Regional development component – Expenditure on administrative management

19.010401: Development Cooperation Instrument (DCI) Expenditure on Administrative Management

19.010402: European Neighbourhood and Partnership Instrument (ENPI) – Expenditure on administrative management

19.010407: European Instrument for Democracy and Human Rights (EIDHR) - Expenditure on administrative management

21.010401: Development Cooperation Instrument (DCI) Expenditure on Administrative Management

21.010405: Facility for rapid response to soaring food prices in developing countries
- Expenditure on administrative management

21.010410: EDF Contribution to common administrative support expenditure

22.010401: Pre-Accession Assistance – Expenditure on administrative management

24.0106: European Anti-fraud Office (OLAF) - Expenditure on administrative management

N.B. Other Heading 5 budget lines covering the External service are also impacted but are not mentioned because the amounts are too small to be expressed in a sensible manner in this context.

3.2. Duration of the action and of the financial impact:

The proposal concerns the conditions of employment of contract agent and local staff in the delegations of the European Union and is of unlimited duration. It is envisaged in particular:

- To make it possible for officials and contract agents serving in delegations to benefit from parental and family leave without losing certain benefits provided by Annex X of the Staff Regulations. As the salary saved by someone taking parental/family leave outweighs the costs of Annex X benefits which it is now proposed to provide, it is estimated that **this measure could result in economies of EUR 189 000 per annum distributed between all of the budget lines referred to in point 3.3 below (see detailed calculation in Annex I).**
- To apply the provisions of Annex X of the Staff regulations fully to contract agents. This will mean that in future, where housing provided for in Article 5 cannot yet be allocated, a contract agent, unlike today, will be entitled to reimbursement of temporary accommodation costs. **The estimated cost of this measure, EUR 130 000, is outweighed by the economies related to parental and family leave. This cost is distributed between all of the budget lines referred to point 3.3 below with the exception of those which refer solely to officials (08.010501 and XX01010201) (see detailed calculation in Annex I).**
- To make statutory provision for the rotation of contract agents. Currently, these agents, at the end of their contract, return to their place of origin and their experience is lost for the External Service. It would be desirable to put in place a system of rotation similar to that which exists for officials. As the current budget provides for an annual turn over of 25% of contract agents this measure is not considered to have a financial impact.
- To provide a statutory basis for the Provident Fund and Medical Insurance schemes which are operated on behalf of local staff. In agreement with the local staff and their representatives, and based on the framework rules laying down the conditions of employment of local staff of the Commission of the European Communities serving in non-member countries, the Commission and local staff contribute jointly to a supplementary Provident Fund and supplementary sickness Insurance fund for local agents. These schemes provide for a once off lump sum on termination of employment and reimbursement of medical expenses (subject to

conditions) for the agent and his/her entitled dependents during the period of employment. The cost of these measures for the Commission, which has been included in the annual administrative budgets of the delegations, is 5% and 3.22% respectively of basic salary. The annual cost is set out under point 4.1.1 below (see detailed calculation in Annex I). **However it is underlined that this is not an additional cost as it has been included in the annual budget for many years.**

Currently, there are around 2870 local agents affiliated to the Provident fund and around 2840 (plus their entitled dependents) to the Sickness insurance. At the end of 2009 the Provident fund had a balance of EUR 38.5 M and the Sickness fund a balance of EUR 11 M.

It is considered that the existence of these schemes should be formalised in the Conditions of Employment of Other Staff.

3.3. Budgetary characteristics:

Budget line	Type of expenditure	New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
XX 01 01 02 01	Non-diff	NO	NO	NO	No 5
XX 01 02 02 01	Non-diff	NO	NO	NO	No 5
XX 01 02 02 03	Non-diff	NO	NO	NO	No 5
04.010413	Non-diff	NO	NO	NO	No 4
08.010501	Non-diff	NO	NO	NO	No 1a
08.010502	Non-diff	NO	NO	NO	No 1a
11.010404	Non-diff	NO	NO	NO	No 4
13.010402	Non-diff	NO	NO	NO	No 4
19.010401	Non-diff	NO	NO	NO	No 4
19.010402	Non-diff	NO	NO	NO	No 4
19.010407	Non-diff	NO	NO	NO	No 4
21.010401	Non-diff	NO	NO	NO	No 4
21.010405	Non-diff	NO	NO	NO	No 4
21.010410	Non-diff	NO	NO	NO	No 4
22.010401	Non-diff	NO	NO	NO	No 4
24.01600	Non-diff	NO	NO	NO	No 5

4. SUMMARY OF RESOURCES

4.1. Financial Resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Expenditure type	Section no.		Year n	n + 1	n + 2	n + 3	n + 4	n + 5 and later	Total
------------------	-------------	--	--------	-------	-------	-------	-------	-----------------	-------

Operational expenditure²

Commitment Appropriations (CA)	8.1.	a							
Payment Appropriations (PA)		b							

Administrative expenditure within reference amount³

Technical & administrative assistance (NDA)									
04.010413	8.2.4.	c	0.043	0.043	0.043	0.043	0.043	0.043	0.258
08.010501	8.2.4	c	-0.001	-0.001	-0.001	-0.001	-0.001	-0.001	-0.006
08.010502	8.2.4.	c	0.040	0.040	0.040	0.040	0.040	0.040	0.240
11.010404	8.2.4.	c	0.002	0.002	0.002	0.002	0.002	0.002	0.012
13.010402	8.2.4.	c	0.085	0.085	0.085	0.085	0.085	0.085	0.510
19.010401	8.2.4.	c	0.824	0.824	0.824	0.824	0.824	0.824	4.944
19.010402	8.2.4.	c	0.706	0.706	0.706	0.706	0.706	0.706	4.560
19.010407	8.2.4.	c	0.114	0.114	0.114	0.114	0.114	0.114	0.684
21.010401	8.2.4.	c	0.392	0.392	0.392	0.392	0.392	0.392	2.352
21.010405	8.2.4.	c	0.030	0.030	0.030	0.030	0.030	0.030	0.180
21.010410	8.2.4.	c	1.033	1.033	1.033	1.033	1.033	1.033	6.198
22.010401	8.2.4.	c	1.031	1.031	1.031	1.031	1.031	1.031	6.186
24.010600	8.2.4.	c	0.006	0.006	0.006	0.006	0.006	0.006	0.036

TOTAL REFERENCE AMOUNT

Commitment Appropriations		a+c	4.296	4.296	4.296	4.296	4.296	4.296	25.776
Payment Appropriations		b+c	4.296	4.296	4.296	4.296	4.296	4.296	25.776

² Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

³ Expenditure within article xx 01 04 of Title xx.

Administrative expenditure not included in reference amount⁴

Human resources and associated expenditure (NDA)									
XX01010201	8.2.5	d	-0.096	-0.096	-0.096	-0.096	-0.096	-0.096	-0.576
XX01020201	8.2.5	d	0.006	0.006	0.006	0.006	0.006	0.006	0.036
XX 01020203	8.2.5.	d	2.191	2.191	2.191	2.191	2.191	2.191	13.146
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6.	e							

Total indicative financial cost of intervention

TOTAL CA including cost of Human Resources		a+c +d +e	6.397	6.397	6.397	6.397	6.397	6.397	38.382
TOTAL PA including cost of Human Resources		b+c +d +e	6.397	6.397	6.397	6.397	6.397	6.397	38.382

This is not an additional cost but the current annual budget.

4.1.2. Compatibility with Financial Programming

- Proposal is compatible with existing financial programming.
- Proposal will entail reprogramming of the relevant heading in the financial perspective.
- Proposal may require application of the provisions of the Interinstitutional Agreement⁵ (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. Financial impact on Revenue

- Proposal has no financial implications on revenue

4.2. Human Resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

None

⁴ Expenditure within chapter xx 01 other than articles xx 01 04 or xx 01 05.

⁵ See points 19 and 24 of the Interinstitutional agreement.

5. CHARACTERISTICS AND OBJECTIVES

5.1. Need to be met in the short or long term

See point 3.2 above. The proposal envisages the provision of a statutory basis for the existing Provident and Medical Insurance Schemes, allows delegations staff who take parental or family leave to benefit from certain conditions of Annex X, provides for the rotation of contract agents and fully extends the application of Annex X to contract agents serving in delegations.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

Not applicable

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

The objective is to provide comparable conditions of employment between contract agents and officials in delegations, to provide a formal basis for the rotation of contract agents put in place a legal basis for the local agents Provident and Medical Insurance Schemes.

5.4. Method of Implementation (indicative)

Centralised Management

directly by the Commission

indirectly by delegation to:

executive Agencies

bodies set up by the Communities as referred to in art. 185 of the Financial Regulation

national public-sector bodies/bodies with public-service mission

Shared or decentralised management

with Member states

with Third countries

Joint management with international organisations (please specify)

Relevant comments:

6. MONITORING AND EVALUATION

6.1. Monitoring system

6.2. Evaluation

7. ANTI-FRAUD MEASURES

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost

The objective is to provide comparable conditions of employment between contract agents and officials in delegations, to provide a formal basis for the rotation of contract agents put in place a legal basis for the local agents Provident and Medical Insurance Schemes.

8.2. Administrative Expenditure

8.2.1. Number and type of human resources:

The proposal does not envisage any additional human resources.

8.2.2. Description of tasks deriving from the action

8.2.3. Sources of human resources (statutory) - **None**

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts pre-allocated within the APS/PDB exercise for year n
- Posts to be requested in the next APS/PDB procedure
- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

8.2.4. Other Administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)

EUR million (to 3 decimal places)

Budget line (number and heading)	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL

1 Technical and administrative assistance (including related staff costs)	4.296	4.296	4.296	4.296	4.296	4.296	25.776
Executive agencies ⁶							
Other technical and administrative assistance							
- <i>intra muros</i>							
- <i>extra muros</i>							
Total Technical and administrative assistance	4.296	4.296	4.296	4.296	4.296	4.296	25.776

⁶ Reference should be made to the specific legislative financial statement for the Executive Agency(ies) concerned.

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
Officials and temporary staff (XX 01 01)	-0.096	-0.096	-0.096	-0.096	-0.096	-0.096	-0.576
Staff financed by Art XX 01 02 (auxiliary, END, contract staff, etc.)							
XX01020201	0.006	0.006	0.006	0.006	0.006	0.006	0.036
XX 01020203	2.191	2.191	2.191	2.191	2.191	2.191	13.146
Total cost of Human Resources and associated costs (NOT in reference amount)	2.101	2.101	2.101	2.101	2.101	2.101	12.606

8.2.6. *Other administrative expenditure not included in reference amount*

EUR million (to 3 decimal places)

	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
XX 01 02 11 01 – Missions							
XX 01 02 11 02 – Meetings & Conferences							
XX 01 02 11 03 – Committees ⁷							
XX 01 02 11 04 – Studies & consultations							
XX 01 02 11 05 - Information systems							
2 Total Other Management							

⁷ Specify the type of committee and the group to which it belongs.

Expenditure (XX 01 02 11)							
3 Other expenditure of an administrative nature (specify including reference to budget line)							
Total Administrative expenditure, other than human resources and associated costs (NOT included in reference amount)							