

COUNCIL REGULATION (Euratom, ECSC, EEC) No 3019/87

of 5 October 1987

laying down special and exceptional provisions applicable to officials of the European Communities serving in a third country

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the Staff Regulations of officials of the European Communities and the conditions of employment of other servants of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁾, as last amended by Regulation (Euratom, ECSC, EEC) No 793/87 ⁽²⁾,

Having regard to the proposal from the Commission ⁽³⁾, submitted after consulting the Staff Regulations Committee,

Having regard to the opinion of the European Parliament ⁽⁴⁾,

Having regard to the opinion of the Court of Justice,

Whereas there should be special provisions for officials serving in third countries, on account of special living conditions there;

Whereas it is for the Council, acting by a qualified majority on a proposal from the Commission and after consulting the other institutions concerned, to amend the Staff Regulations of Officials of the European Communities,

HAS ADOPTED THIS REGULATION:

Article 1

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

1. After Article 101 the following Title and Article are inserted:

*TITLE VIIIa***SPECIAL AND EXCEPTIONAL PROVISIONS APPLICABLE TO OFFICIALS SERVING IN A THIRD COUNTRY***Article 101a*

Without prejudice to the other provisions of the Staff Regulation, Annex X lays down the special and exceptional provisions applicable to officials serving in a third country.

2. The following Annex is added:

*ANNEX X***Special and exceptional provisions applicable to officials serving in a third country**

CHAPTER 1

GENERAL PROVISIONS

Article 1

This Annex lays down the special and exceptional provisions applicable to officials of the European Communities serving in a third country.

Only nationals of Member States of the Communities may be recruited to serve in such a country, the appointing authority not being permitted to invoke the exception provided for in Article 28 (a) of the Staff Regulations.

General implementing provisions shall be adopted in accordance with Article 110 of the Staff Regulations.

Article 2

By decision of the appointing authority in the interests of the service, officials shall be transferred periodically, if necessary without regard to vacant posts.

Posts to be filled by officials serving outside the Community need not be declared vacant until the transfer procedure referred to in the first subparagraph ("the mobility procedure") has been completed.

Article 3

In order to allow retraining periods of limited duration as part of the mobility procedure provided for in Article 2, the appointing authority may decide to assign an official serving outside the Community to a post in a Member State of the European Communities; such assignments, which shall not be preceded by a vacancy notice, may not be for more than four years. By way of derogation from the first subparagraph of Article 1, the appointing authority may decide, on the basis of general implementing provisions, that the official shall remain subject to certain provisions of this Annex for the duration of this temporary assignment, excluding Articles 5, 10 and 12 thereof.

⁽¹⁾ OJ No L 56, 4. 3. 1968, p. 1.

⁽²⁾ OJ No L 79, 21. 3. 1987, p. 1.

⁽³⁾ OJ No C 284, 11. 11. 1986, p. 8.

⁽⁴⁾ OJ No C 255, 13. 10. 1986, p. 245.

CHAPTER 2

OBLIGATIONS

Article 4

An official shall carry out his duties at the place to which he is assigned on recruitment or on transfer in the interests of the service following the mobility procedure.

Article 5

If the institution provides the official with accommodation which corresponds to the composition of his dependent family, he shall be required to reside in it.

CHAPTER 3

WORKING CONDITIONS

Article 6

An official shall, per calendar year, be entitled to annual leave of five calendar days for each month of service.

Article 7

In the year in which an official takes up or ceases to perform his duties in a third country, he shall be entitled to five calendar days leave for each complete month of service, to five calendar days for an incomplete month consisting of more than 15 days and to two and a half calendar days for an incomplete month of 15 days or less.

Where an official, for reasons other than the requirements of the service, has not used up his annual leave before the end of the current calendar year, the amount of leave which may be carried over to the following year shall not exceed 20 calendar days.

Article 8

By way of exception, the appointing authority may, by special reasoned decision, grant an official rest leave on account of particularly difficult living conditions at his place of employment. For each such place, the appointing authority shall determine the town(s) where rest leave may be taken.

Article 9

1. Annual leave may be taken all at once or in several periods, according to what the official desires and taking account of the requirements of the service. It must, however, include at least one period of 20 consecutive calendar days.

2. The rest leave referred to in Article 8 may not exceed a period of 15 calendar days for each year of service. It may not be combined with annual leave, nor may it be carried over from one year to the next.

The period of rest leave shall be extended by the addition of travelling time calculated in accordance with Article 7 of Annex V to the Staff Regulations.

CHAPTER 4

EMOLUMENTS AND SOCIAL SECURITY BENEFITS

Section 1

EMOLUMENTS AND FAMILY ALLOWANCES

Article 10

1. An allowance for living conditions shall be fixed, according to the official's place of employment, as a percentage of a reference amount. This reference amount shall comprise the total basic salary, plus the expatriation allowance, household allowance and dependent child allowance, less the compulsory deductions referred to in the Staff Regulations or in the regulations adopted to implement them.

Where an official is employed in a country in which living conditions can be deemed equivalent to those normally obtaining in the Community, no such allowance shall be payable.

In the case of other places of employment, the allowance for living conditions shall be fixed as follows.

The parameters taken into account for fixing the allowance for living conditions shall be the following:

- health and hospital environment,
- security,
- climate,

to which three parameters shall be applied a weighting of 1:

- degree of isolation,
- other local conditions,

to which two parameters shall be applied a weighting of 0,5.

Each parameter shall have the following value:

0: where conditions are normal but not equivalent to those normally obtaining in the Community,

2: where conditions are difficult compared with those normally obtaining in the Community,

4: where conditions are very difficult compared with those normally obtaining in the Community.

The allowance shall be fixed as a percentage of the reference amount referred to in the first subparagraph, in accordance with the following scale :

- 10 % where the value equals 0,
- 15 % where the value is greater than 0 but not greater than 2,
- 20 % where the value is greater than 2 but not greater than 5,
- 25 % where the value is greater than 5 but not greater than 8,
- 35 % where the value is greater than 8.

The allowance for living conditions fixed for each place of employment shall be reviewed and, where appropriate, adjusted each year by the appointing authority after the opinion of the Staff Committee has been obtained.

2. If living conditions at the place of employment are such as to put the official at personal risk, a temporary additional allowance shall be paid to him by special reasoned decision of the appointing authority. This allowance shall be fixed as a percentage of the reference amount referred to in the first subparagraph of paragraph 1 :

- at 5 % where the authority advises its staff not to settle their families in the place of employment,
- at 10 % where the authority decides to reduce temporarily the number of staff serving in the place of employment.

Article 11

Remuneration, as also the allowances referred to in Article 10, shall be paid in Belgian francs in Belgium. They shall be subject to the weighting applicable to the remuneration of officials employed in Belgium.

Article 12

At the request of the official, the appointing authority may decide to pay all or part of his remuneration in the currency of the country of employment. In that event, it shall be subject to the weighting for the place of employment and shall be converted on the basis of the corresponding exchange rate.

In duly substantiated exceptional cases, the appointing authority may make all or part of this payment in a currency other than that of the country of employment in such a way as to maintain purchasing power.

Article 13

In order to ensure as far as possible that officials, enjoy equivalent purchasing power irrespective of their place of employment, the Council shall determine the weighting referred to in Article 12 every six months. The Council shall, by the written procedure within

one month, act on a proposal from the Commission by the qualified majority provided for 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. Should a Member State request formal examination of the Commission proposal, the Council shall act within two months.

Where however, in the case of a given country, the variation in the cost of living measured on the basis of the weighting and the corresponding exchange rate is found to have exceeded 5 % since the last adjustment, the Commission shall decide on interim measures for adjusting the weighting and shall inform the Council thereof as soon as possible.

Article 14

The Commission shall submit an annual report to the Council on the application of this Annex and in particular on the fixing of the rate of the allowance for living conditions as provided for in Article 10.

Article 15

On the conditions laid down by the appointing authority, the official shall receive an education allowance to cover the actual education costs incurred, payment of the allowance being made on the production of supporting documents. Except in cases deemed exceptional by the appointing authority, this allowance shall not exceed three times the doubled maximum education allowance.

Article 16

Reimbursements due to officials shall be paid in either Belgian francs or the currency of the country of employment, on the basis of a reasoned request from the official.

Officials may opt to have installation or resettlement allowances paid in either Belgian francs or the currency of the place of installation or resettlement; in the latter case, they shall be subject to the weighting fixed for the place in question and converted at the corresponding exchange rate.

Section 2

RULES RELATING TO THE REIMBURSEMENT OF EXPENSES

Article 17

An official not in furnished accommodation provided by the institution who, for reasons beyond his control, is obliged to change his residence at the place of employment shall, by special reasoned decision of the

appointing authority, be reimbursed the expenses incurred in respect of removal of furniture and personal effects, on production of supporting documents and in accordance with the rules on removals.

In such cases, he shall have his actual installation expenses reimbursed on production of supporting documents, subject to a ceiling equal to half the installation allowance.

Article 18

An official who, at his place of employment, is staying at a hotel because the accommodation provided for in Article 5 cannot yet be allocated to him or is no longer available to him or who, for reasons beyond his control, has not been able to take possession of his accommodation shall be reimbursed the hotel expenses of himself and his family on production of the hotel bills, after prior authorization by the appointing authority.

He shall also receive half the daily allowance.

The expenses referred to in the first and second subparagraphs shall be reimbursed subject to the limits laid down in Article 10 of Annex VII to the Staff Regulations, except where the appointing authority takes a special decision that there is a case of *force majeure*.

Where hotel accommodation cannot be provided, the official shall be entitled to reimbursement of the actual cost of renting temporary accommodation, after prior approval by the appointing authority.

Article 19

An official who does not have the use of a staff car for travel relating to official business within his area of activity shall receive a mileage allowance for the use of his own car. The amount of the allowance shall be fixed by the appointing authority.

Article 20

An official shall be entitled to travel expenses for rest leave from his place of employment to the authorized place of leave for himself and, if he is entitled to the household allowance, for his spouse and dependents if they live with him.

Where travel by train is impossible or impracticable, reimbursement shall be by special decision on production of the air tickets, whatever the distance.

Article 21

An official who is obliged to change his place of residence in order to comply with Article 20 of the Staff Regulations and Article 4 of this Annex and who does not move house shall be entitled, on taking up his duties, to reimbursement of the cost of transporting his personal effects, subject to the conditions laid down by the appointing authority, on production of supporting documents.

Where, following a transfer, an official is obliged to change his place of residence in order to comply with Article 20 of the Staff Regulations, the institution shall, depending on the type of accommodation that can be provided at the place of employment and subject to the conditions laid down by the appointing authority, bear the actual cost of moving part or all of his furniture and personal effects from their location at the time to the place of employment or of transporting his personal effects or of storage. Reimbursement may be made for any or all of these costs.

In the event of termination of service or death, the institution shall, subject to the conditions laid down by the appointing authority, bear the actual cost of moving an official's furniture and personal effects from their location at the time to his place of origin or of transporting his personal effects from the place of employment to his place of origin. Reimbursement may be made for any or all of these costs.

In the event of the death of an unmarried official, reimbursement shall be made to those entitled under him.

Article 22

The temporary accommodation allowance and the cost of transporting the personal effects of his spouse and dependants shall be advanced to a probationer official by the institution.

In the event of the probationer official not being established at the end of his probationary period, the institution may in exceptional cases take steps to recover up to half of these sums on the basis of the provisions laid down by the appointing authority.

Article 23

Where the official is not provided with accommodation by the institution, his rent shall be reimbursed, provided that the accommodation corresponds to the level of his duties and to the composition of his dependent family.

Section 3

SOCIAL SECURITY BENEFITS

Article 24

The official, his spouse, his children and other persons dependent on him shall be covered by supplementary sickness insurance for the difference between expenditure actually incurred and payments from the scheme provided for in Article 72 of the Staff Regulations; no reimbursement shall be made under Article 72 (3).

Half the premium shall be paid by the official and half by the institution. However, the official's contribution shall not exceed 0,6 % of his basic salary, any balance shall be paid by the institution.

The official, his spouse, his children and other persons dependent on him shall be insured for repatriation on health grounds in the case of an emergency or extreme emergency; the premium shall be paid entirely by the institution.

Article 25

The spouse, children and other persons dependent on the official shall be insured against accidents occurring outside the Community in the countries appearing on a list adopted for this purpose by the appointing authority.

Half the premium shall be paid by the official and half by the institution.

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

Done at Luxembourg, 5 October 1987.

CHAPTER 5

DISCIPLINE

Article 26

If an official covered by Title VIIIa of the Staff Regulations is the subject of a disciplinary procedure, the disciplinary board shall include two members based at a seat of the institution and drawn by lot respectively from each list referred to in the second and third subparagraphs of Article 5 (1) of Annex II to the Staff Regulations.

CHAPTER 6

TRANSITIONAL PROVISIONS

Article 27

In accordance with implementing rules to be adopted by the appointing authority after the opinion of the Staff Committee has been obtained, an official or a member of the staff covered by Regulation (Euratom, ECSC, EEC) No 3018/87⁽¹⁾ shall, for a period not exceeding the duration of the assignment being carried out when these provisions enter into force and for a maximum of five years, receive remuneration at least equal to that which he was receiving the day before entry into force of these provisions.

⁽¹⁾ OJ No L 286, 9. 10. 1987, p. 1.

Article 2

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

For the Council

The President

N. WILHJELM