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(Acts whose publication is obligatory)

COUNCIL REGULATION (ECSC, EEC, EURATOM) No 3830/91

of 19 December 1991

amending the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of those Communities in respect of detailed rules for adjusting the remuneration

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 (1) thereof,

Having regard to the proposal presented by the Commission after consulting the Staff Regulations Committee,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the Court of Justice,

Having taken note of the report from the Consultation Committee set up by the Council Decision of 23 June 1981,

Whereas, following its earlier decisions of 20 March 1972 and 26 June 1976, the Council, by Decision 81/1061/Euratom, ECSC, EEC⁽²⁾, established for a period of 10 years the conditions governing the adjustment of the remuneration of officials and other servants of the Communities;

Whereas this had the effect of transforming relations between the European institutions and their officials and other staff into a partnership, making it possible to avoid disputes on salary adjustments;

Whereas, in the light of this experience, it is necessary to confirm and lay down the detailed rules according to which the Council, acting on a proposal from the Commission, applies Articles 64 and 65 of the Staff Regulations, in order to maintain this partnership between the European institutions and their officials and other staff;

Whereas it is appropriate to reaffirm the principle of the parallel development, both upwards and downwards, of the purchasing power of the salaries of national central

government civil servants and of officials of the European Communities;

Whereas to implement the principle of parallel development it is necessary to take account of any changes in the cost of living affecting officials of the European Communities;

Whereas work is to commence, under the auspices of the Statistical Office of the European Communities, on an analysis of existing problems with a view to improving comparability of price indexes in order to speed up rationalization of the method for drawing them up;

Whereas in this context it appears desirable, for the purposes of the annual review, that the joint index provided for in Article 65 of the Staff Regulations should be weighted in such a way that the Belgian index (Brussels capital component) counts for 25 %;

Whereas the principle of parallel development ensures that the same consideration is given to the economic and social situation as in Member States' decisions regarding salary adjustments of national civil servants;

Whereas the weightings applicable to the remuneration of officials of the European Communities in the various places of employment should be calculated with the greatest possible precision in order to ensure observance of the principle of purchasing power equivalence;

Whereas, in order to ensure observance of the principles of parallel development and purchasing power equivalence, it is necessary to determine the procedure by which the Council takes account of substantial changes in the cost of living for the purpose of adjusting the weightings in accordance with Article 65 (2) of the Staff Regulations; whereas, however, if the purchasing power forecast for the reference period produces a negative trend, the adjustment should be reduced appropriately;

⁽¹⁾ OJ No C 129, 20. 5. 1991, p. 222 and opinion of 12 December 1991 (not yet published in the Official Journal).

⁽²⁾ OJ No L 386, 31. 12. 1981, p. 6.

Whereas recruitment needs should be taken into account if necessary;

Whereas, in the event of a serious and sudden deterioration in the economic and social situation, the Commission will submit appropriate proposals on which the Council will act,

HAS ADOPTED THIS REGULATION :

Article 1

The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities are hereby amended as follows :

1. the following Article shall be inserted in the said Staff Regulations :

Article 65a

The rules for implementing Articles 64 and 65 are set out in Annex XI.';

2. the Annex to this Regulation shall be added as Annex XI;

3. in the first paragraph of Article 20 of the Conditions of Employment, 'Articles 63, 64 and 65 of the Staff Regulations' shall be replaced by 'Articles 63, 64 and 65a of the Staff Regulations'.

Article 2

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

It shall apply from 1 July 1991.

For the purposes of the application of Annex XI, the reference period for the adjustment of remuneration on 1 July 1991 shall begin on 1 July 1990.

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

Done at Brussels, 19 December 1991.

For the Council

The President

P. DANKERT

ANNEX

ANNEX XI

RULES FOR IMPLEMENTING ARTICLES 64 AND 65 OF THE STAFF REGULATIONS

CHAPTER 1

ANNUAL REVIEW OF REMUNERATION

(Article 65 (1) of the Staff Regulations)

Section 1

Factors determining annual adjustments

Article 1

1. *Report from the Statistical Office of the European Communities*

For the purposes of the review provided for in Article 65 (1) of the Staff Regulations, the Statistical Office of the European Communities — hereinafter called the "Statistical Office" — shall draw up every year before the end of September a report on changes in the cost of living in Brussels, the economic parities between Brussels and the other places of employment in the Member States, and changes in the purchasing power of salaries in the national civil services, hereinafter called "changes in purchasing power".

The reference period for these data shall be the 12 months preceding 1 July of the year in which the review is carried out.

2. *Changes in the cost of living for Brussels (joint index)*

The Statistical Office, in agreement with the Member States' national statistics institutes — hereinafter called the "national institutes" — shall draw up a joint index to measure changes in the cost of living for officials of the European Communities in Brussels.

3. *Economic parities*

(a) The Statistical Office, in agreement with the national institutes, shall calculate the economic parities which establish the equivalence of purchasing power of the salaries of European officials serving in the capitals of the Member States and in certain other places of employment specified in Article 9 with reference to Brussels.

(b) The economic parities shall be calculated in such a way that each basic component can be checked by a direct survey at least once every five years.

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, the Statistical Office shall, on the basis of information supplied by the national departments concerned, calculate specific indicators reflecting changes in the real remuneration of civil servants in each central government during the reference period.

The specific indicators shall take two forms:

- one indicator for each of the four categories A, B, C and D,
- an average indicator weighted to reflect the numbers of national civil servants in each category.

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 all the Member States together, the results per country shall be weighted by the total emoluments of central government civil servants as shown in the most recent statistics published in the national accounts.

(b) At the request of the Statistical Office, the national departments shall supply it with the additional information which it considers necessary in order to draw up a specific indicator accurately measuring changes in national civil service purchasing power.

If, after further consultation of the national departments, the Statistical Office 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 needed to make an assessment.

- (c) The Statistical Office shall also assess statistically the difference between the gross and net rates of the specific indicators.
- (d) Besides the specific indicators, the Statistical Office shall submit control indicators in the form of data on real per capita emoluments in general government and in central government, drawn up in accordance with national accounts definitions.

The Statistical Office report on the specific indicators shall be accompanied by explanations of the differences between these indicators and the abovementioned control indicators.

Article 2

The Commission shall produce, before the end of 1992 and every three years thereafter, a comprehensive report 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

Article 3

1. With effect from 1 July and pursuant to Article 65 (3) of the Staff Regulations, the Council, acting on the 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 remunerations.

2. The amount of the adjustment shall be obtained by multiplying the joint index, weighted in such a way that the Belgian index (Brussels capital component) counts for 25 %, by the specific indicator. The adjustment shall be in net terms and may be expressed as a uniform across-the-board percentage or in a non-proportional manner.

The adjustment may therefore be expressed as :

- one or more percentages,
- and/or
- an absolute amount.

If the adjustment is not expressed as a single percentage, it shall be effected in such a way that the change in total emoluments shall correspond to an adjustment expressed as a percentage.

3. The amount of the adjustment thus fixed and the weightings applicable to officials serving in Belgium after

application of the fourth paragraph of Article 63 of the Staff Regulations shall be incorporated, in accordance with the following method, in the salary tables appearing in Article 66 of the Staff Regulations and in Articles 20 and 63 of the Conditions of Employment of other servants :

- the net remuneration for a weighting of 100 attaching to each step of each grade of official and to each class in every group of other servants shall be increased by the above weighting, and by the amount of the annual adjustment referred to above, whether given as a percentage and/or as an absolute amount,
- the new table of basic salaries in gross terms shall be drawn up by calculating for each step or class the gross amount which after deduction of tax made 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 various allowances provided for in the Staff Regulations,
- the weightings for both Belgium and Luxembourg shall be fixed at 100.

4. For the purpose 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,
- the current weighting applicable to the remunerations of officials serving in Belgium after application of the fourth paragraph of Article 63 of the Staff Regulations, and before incorporation as set out in paragraph 3 of this Article,
- the rate of adjustment of remunerations referred to in paragraph 2,
- and/or
- if the adjustment is made in the form of an absolute amount, the equivalent average percentage.

5. The weightings applicable in the capitals and places of employment other than Brussels and Luxembourg shall be determined on the basis of the relationships between the economic parities referred to in Article 1 and the exchange rates specified in Article 63 of the Staff Regulations for the relevant countries.

However, the procedures laid down in Article 8 concerning the retrospective application of weightings in places of employment with a high rate of inflation shall apply.

6. For places of employment other than Brussels and Luxembourg, changes in the cost of living during the reference period shall be found indirectly by multiplying the joint index for Brussels by the change in the economic parity of the place of employment in question.

CHAPTER 2

INTERIM ADJUSTMENTS OF REMUNERATION

(Article 65 (2) of the Staff Regulations)

Article 4

1. Interim adjustments of remuneration 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 if the sensitivity threshold is reached 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 interim adjustments shall be taken into account in the annual salary adjustment.

Article 5

1. In March each year the Statistical Office 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 adjustment.

2. The change in the cost of living for Brussels shall be measured by the joint index for the reference period constituted by the second half of the previous calendar year.
3. For places of employment other than Brussels and Luxembourg, an economic parity 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 3 (6).

Article 6

1. The sensitivity threshold shall be 55 % of the average change in the cost of living in the Community,

recorded over the second six-month period in the previous calendar year and as published by the Statistical Office in its monthly updating of consumer prices. However, upper and lower limits shall be 5 % and 2,75 % respectively.

2. The threshold thus established shall be applied in accordance with the following procedure, subject, with respect to the calculation of the weighting, to application of the second paragraph of Article 5 (1):

- if the threshold as defined above is reached or exceeded in Brussels, the weightings for all places of employment shall be adjusted,
- if the sensitivity threshold is not reached in Brussels, only the weightings of places where inflation has exceeded the threshold shall be adjusted.

Article 7

1. The amount of the adjustment shall be the joint index for Brussels, multiplied, where appropriate, by half the forecast specific indicator if this forecast is negative.
2. Subject to application of Article 6:
 - the weighting for Brussels and Luxembourg shall be the amount of the adjustment multiplied by the former weighting,
 - the weighting for each other place of employment shall be the amount of the adjustment multiplied by the relationship between the relevant economic parity and the exchange rate provided for in Article 63 of the Staff Regulations.

CHAPTER 3

COUNTRIES WITH A HIGH RATE OF INFLATION

(Date on which weightings come into effect)

Article 8

1. For countries with a high rate of inflation, the weightings shall come into effect before 1 January in the case of the interim adjustment, or 1 July in the case of the annual adjustment, 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. The theoretical number of days by which the effective date must be brought forward in order to arrive at the corresponding loss shall be calculated for each place of employment using the following formula:

$$N = \frac{-6 + \left[\frac{1-b}{1-\sqrt[6]{b}} \right] - \left[\frac{1-a}{1-\sqrt[6]{a}} \right] - 6}{1 - \frac{1}{a}} \times 30$$

where "N" is the theoretical number of days, "a" is the percentage change in the cost of living in the place + 1, "b" is the sensitivity threshold + 1.

2. On the basis of the theoretical number of days, the effective dates shall be as follows:

- the first day of the month for places of employment having a theoretical date falling between the 22nd of the preceding month and the 6th of the month in question, and
- the 16th of the month for places of employment having a theoretical date falling between the 7th and the 21st of the same month.

In no case may the effective date be 1 or 16 December for the interim adjustment, or 1 or 16 June for the annual adjustment.

CHAPTER 4

CREATION OF WEIGHTINGS

(Article 64 of the Staff Regulations)

Article 9

On the basis of a report by the Statistical Office and when objective factors reveal an appreciable distortion in purchasing power in a given place of employment compared with that in the capital of the Member State concerned, the Council, on a proposal from the Commission and in accordance with the second paragraph of Article 64 of the Staff Regulations shall decide to set a weighting for that place.

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 Commission 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 second subparagraph of Article 24 (1) of the Treaty establishing a Single Council and a Single Commission of the European Communities.

CHAPTER 6

ROLE OF THE STATISTICAL OFFICE OF THE EUROPEAN COMMUNITIES AND RELATIONS WITH THE NATIONAL STATISTICS INSTITUTES OF THE MEMBER STATES

Article 11

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

Article 12

In March each year the Statistical Office shall convene a working party composed of experts from national institutes to be known as the "Working Party on Article 65 of the Staff Regulations".

At the meeting all the statistical problems concerning specific indicators, in particular problems involved in calculating these indicators in net terms, shall be examined.

At the meeting the following shall also be provided:

- data on trends in working hours in central government departments,
- the information required to produce a forecast of changes in purchasing power for the purposes of the interim adjustment of remuneration.

Article 13

At least once a year and not later than September, the Statistical Office shall convene a working party composed of experts from national institutes to be known as the "Working Party on Article 64 of the Staff Regulations".

At the meeting all the statistical problems concerning the establishment of the joint index and economic parities shall be examined.

Article 14

Each Member State shall inform the Statistical Office of any factors having a direct or indirect impact on the consumption 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 1991 to 30 June 2001.
2. They shall be reviewed at the end of the fifth year and revised, if appropriate, on the basis of a report submitted 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.