

II

(Preparatory Acts)

COMMISSION

Amended proposal for a Council Regulation laying down special and exceptional provisions applicable to officials of the European Communities serving in a country which does not belong to the European Communities ⁽¹⁾

COM(86) 565 final

(Submitted by the Commission to the Council pursuant to the second paragraph of Article 149 of the EEC Treaty on 23 October 1986)

(86/C 284/07)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Justice,

Whereas there should be specific provisions for officials serving in a country which is not a member of the Community on account of special or exceptional living conditions there;

Whereas it is for the Council, acting by a qualified majority on a proposal from the Commission and after consulting the institutions concerned, to incorporate these special provisions into the Staff Regulations of Officials of the European Communities laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, as last amended by Regulation No ... ,

HAS ADOPTED THIS REGULATION:

Article 1

The following Title VIII a is inserted after Article 101 of the Staff Regulations:

'TITLE VIII a

Special and exceptional provisions applicable to officials serving in a country which does not belong to the European Communities';

with the following single Article:

Article 101a

Without prejudice to the other provisions of the Staff Regulations, Annex X to the Staff Regulations lays down the special and exceptional provisions applicable to officials serving in a country which does not belong to the European Communities.'

Article 2

The following Annex is inserted after Annex IX:

'ANNEX X

Special and exceptional provisions applicable to officials serving in a country which does not belong to the European Communities',

with the following Chapters, Sections and Articles:

'CHAPTER 1

GENERAL PROVISIONS

Article 1

This Annex lays down the special and exceptional provisions applicable to Community officials serving in a country which does not belong to the European Communities.

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

⁽¹⁾ OJ No C 74, 3. 4. 1986, p. 11.

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 shall not be declared vacant until the transfer procedure referred to in the previous paragraph ("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 posting within the Community; such assignments, which shall not be preceded by a vacancy notice, may not last for more than four years. By way of derogation from the first paragraph 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.

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 a mobility procedure.

Article 5

If the institution provides the official with accommodation, he shall be required to reside in it, provided it is adequate for his dependent family.

CHAPTER 3

WORKING CONDITIONS

Article 6

An official assigned to a country appearing on a list drawn up and periodically revised by the Appointing Authority after consulting the Staff Committee in the light of the special conditions prevailing there shall be entitled to annual leave of five calendar days for each month of service.

Article 7

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 8

The leave entitlement of officials serving in one of the countries appearing on the list referred to in Article 6 shall be calculated as follows.

From the date of taking up duty in a country appearing on this list to the date of termination of service or transfer to a country not appearing on this list, an official 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 all 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 9

1. Annual leave may be taken all at once or in several periods as desired by the official and according to 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 7 shall 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.

Rest leave shall be extended by 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

In accordance with the general implementing provisions an allowance for living conditions shall be fixed for the place to which the official is assigned as a percentage of total basic salary, plus expatriation

allowance and dependent child allowance, less the compulsory deductions referred to in the Staff Regulations or in any implementing regulations.

If living conditions at the place of employment are such as to place the official at personal risk, the amount referred to in the previous paragraph may be increased, by special reasoned decision, by up to a further 10 % calculated on the same basis.

The general implementing provisions referred to in the first paragraph shall lay down parameters for determining the percentage allowance and shall include a list of the places for which such an allowance is payable and the corresponding rates.

The list of places and the rates shall be revised by the Commission after consulting its Staff Committee. This revision shall normally be carried out every year.

Article 11

Remuneration as well as the allowances mentioned 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 institution may decide to pay all or part of his remuneration in the currency of the country of employment. In this case it shall be subject to the weighting for the place of employment and shall be converted on the basis of the rates used to establish the weighting.

In duly substantiated exceptional cases, the institution 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

If there is a significant change in one of the components of the weighting for a particular country, the Commission shall adopt measures to adjust the weighting and the corresponding exchange rate on the basis of general implementing provisions.

Article 14

The Commission shall report annually to the Council on the adjustment of the weighting referred to in Article 13 and on the allowance for living conditions.

Article 15

Under the conditions laid down by the Appointing Authority, the official shall receive an education allowance to cover the actual education costs incurred, on production of supporting documents. Apart from in cases deemed exceptional by the Appointing Authority, this allowance shall not exceed three times the doubled maximum allowance.

Article 16

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

Officials may opt to have installation and resettlement allowances paid either in Belgian francs or in 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

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 personal furniture, on production of supporting documents and in accordance with the rules on removals.

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

Article 18

An official who, at his place of employment, is in hotel accommodation pending allocation of the accommodation provided for in Article 5 of this Annex, no longer has access to such accommodation or, for reasons beyond his control, has not been able to take possession of his accommodation shall be reimbursed hotel expenses for himself and his family on production of hotel bills, after prior authorization by the Appointing Authority.

He shall also receive half the daily allowance.

The expenses referred to in the first two paragraphs 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 person concerned 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 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 household allowance, for his spouse and dependants if they live with him.

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

Article 21

On taking up duty, 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 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 an official is obliged to change his place of residence following a transfer in order to comply with Article 20 of the Staff Regulations, the institution shall, depending on the 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 personal furniture from its 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 personal furniture from its location at the time to his place of origin or of transporting his personal effects from 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 the 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 the accommodation corresponds to the level of his duties and to the composition of his dependent family.

SECTION 3

Social security benefits and pensions*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 case of emergency or extreme emergency; the premium shall be paid *in toto* by the institution.

Article 25

Depending on the country of service, years of service outside the Community may entitle the official to

extra pension rights of 0,3332 % per month in accordance with the following table:

- countries with normal living conditions (class 1)
— no increase;
- countries with difficult living conditions (class 2)
— two months per year of service;
- countries with very difficult living conditions (class 3) — four months per year of service.

The list of countries with difficult or very difficult living conditions shall be drawn up periodically by the institution.

The total pension shall not exceed 70 % of basic salary. The reduction referred to in Article 9 of Annex VIII to the Staff Regulations shall affect only the part of pension rights acquired as the result of actual service.

Article 26

The spouse, children and other persons dependent on the official shall be insured against accidents which may occur outside the Community in one of 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.

CHAPTER 5

DISCIPLINE

Article 27

If an official covered by Title VIII a of the Staff Regulations is the subject of a disciplinary procedure, at least one of the members of the Disciplinary Board drawn by lot from each list must be based at a seat of the institution.

CHAPTER 6

TRANSITIONAL PROVISIONS

Article 28

In accordance with implementing rules to be adopted by the Appointing Authority after consulting the Staff Committee, an official shall receive remuneration at least equal to that which he was receiving the day before entry into force of these provisions for a period not exceeding the duration of the assignment being carried out when these provisions enter into force; he shall receive such remuneration for not more than five years.