Staff Regulations of Officials of the European Union: European External Action Service personnel policy; new terminology

2010/0171(COD) - 11/03/2010 - Legislative proposal

PURPOSE: to amend the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of those Communities to take account of the setting up of the European External Action Service (EEAS).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

BACKGROUND: 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, 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.

IMPACT ASSESSMENT: no impact assessment was carried out.

LEGAL BASIS: Article 336 of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: 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**.

Equal treatment: 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.

Specific category of temporary staff: staff 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.

Flexibility: 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.

Authority entrusted with powers: **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 technical measures: these 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.

BUDGETARY IMPLICATION: 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.