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

2010/0171(COD) - 24/11/2010 - Final act

PURPOSE: 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).

LEGISLATIVE ACT: Regulation (EU, Euratom) No 1080/2010 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.

CONTENT: the Council adopted revised versions of the EU staff and financial regulation necessary for the functioning of the European External Action Service (EEAS). This follows a first-reading agreement with the European Parliament. The modifications reflect and concretise agreements made in the context of the Council decision on the establishment and functioning of the EEAS which was adopted on 26 July 2010. 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. The EEAS should be granted autonomy and be treated as an institution of the Union.

The main characteristics of the amended Staff Regulations of Officials of the European Communities may be summarised as follows:

Equal treatment: Officials of the Union and temporary agents coming from the diplomatic services of the Member States should have the same rights and obligations and be treated equally, in particular as concerns their eligibility to assume all positions under equivalent conditions. No distinction should be made between temporary agents coming from national diplomatic services and officials of the Union as regards the assignment of duties to perform in all areas of activities and policies implemented by the EEAS.

Selected candidates who are seconded by the national diplomatic services of the Member States should be employed as temporary agents and thus be put on an equal footing with officials. They should be recruited on the basis of an objective and transparent procedure and the implementing provisions to be adopted by the EEAS should guarantee equivalent career prospects within the EEAS for temporary agents and officials.

Organising staff transfers to the EEAS: staff transfers and seconded staff from Member States should be organised in the following way:

- **until 30 June 2013** the EEAS will recruit **exclusively officials originating from the General Secretariat of the Council and the Commission as well as staff from the diplomatic services of the Member States**; during this period, it is necessary to ensure that staff from national diplomatic services, candidates from the General Secretariat of the Council and the Commission as well as internal candidates can apply for posts in the EEAS on an equal footing. During the same period, it should however be possible, in exceptional cases and after having exhausted the possibilities to recruit from the three exclusive sources, to recruit from outside those sources technical support staff

at AD level necessary for the good functioning of the EEAS, such as specialists in the areas of crisis management, security and IT;

- with a view to helping reach the target that staff from national diplomatic services should represent at least one third of all EEAS staff at AD level, it is necessary to provide for a temporary derogation until 30 June 2013 to give priority for certain posts in function group AD in the EEAS to candidates from such national diplomatic services in the case of equivalent qualifications;
- **from 1 July 2013** access to posts in the EEAS should also be **opened to officials from other institutions** (e.g. European Parliament staff);
- **until 30 June 2014**, with regard to those officials from the General Secretariat of the Council or from the Commission who have been transferred to the EEAS during the start-up phase, it should be possible to transfer such EEAS officials without their post, in the interest of the service, from the EEAS to the Council or the Commission. The Appointing Authorities of the institutions concerned may in exceptional cases, acting by common agreement and solely in the interest of the service, after having heard the official concerned, transfer such an EEAS official from the EEAS to a vacant post of the same grade in the General Secretariat of the Council or in the Commission without notifying the staff of the vacant post.

Power to appoint and rules applicable to delegating powers: the High Representative should act as Appointing Authority and Authority to **conclude contracts for the staff of the EEAS**, with the possibility of **delegating powers** in that capacity to the EEAS. As 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 certain decisions concerning those staff members. 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.

Guaranteeing a proper balance amongst the different staff components of the EEAS: in order to ensure a proper balance amongst the different staff components of the EEAS and in accordance with Decision 2010/427/EU, when the EEAS has reached its full capacity, personnel from the diplomatic services of the Member States appointed as temporary agents should represent **at least one third of all EEAS staff at AD level and Union officials should represent at least 60% of all EEAS staff at AD level**.

Recruiting seconded national experts: the EEAS may, in specific cases, have recourse to a limited number of specialised seconded national experts (SNEs), seconded with a view to their performing specific tasks, in particular related to crisis management or military functions, over whom the High Representative should have authority. Their secondment should not be counted in the one third of all EEAS staff at AD level which staff from Member States should represent when the EEAS reaches its full capacity.

Recruiting highly qualified staff: recruitment or engagement should be directed to securing for the EEAS the services of officials and temporary staff of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of Member States of the Union. This will apply to the EEAS as a whole and to its different staff components, including temporary staff. In addition, the staff of the EEAS should comprise an appropriate and meaningful presence of nationals from all the Member States

Promoting gender equality: it is also stipulated that the High Representative will take appropriate measures to promote equal opportunities for the under-represented gender in certain function groups, more particularly in function group AD. It should be noted that specific provisions are laid down to better apply the rules applicable to parental or family leave.

Duration of contracts of seconded staff engaged as temporary EEAS staff: the proposal provides that the engagement of seconded staff should not exceed eight years. However, in exceptional circumstances and in the interest of the service, at the end of the eighth year, the contract may be extended for a maximum period of two years. After this delay, staff may reintegrate immediately their posts in the national administrations. The rules on secondment and maximum retirement age should be aligned with those applicable to officials.

Other particular measures are as follows:

- a Disciplinary Board should be established by the HR for the EEAS by 31 December 2011 at the latest. The Disciplinary Board established in the Commission should also serve as the Disciplinary Board for the EEAS, until the High Representative decides to establish a Disciplinary Board for the EEAS;
- as regards social security for local staff, as social security systems are non-existent or insufficient in certain countries, a statutory basis should be created for the setting-up of an autonomous or complementary system of social security;
- 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 interest of the service so requires, and special advisers should be covered by this possibility.

Report: by mid-2013, the High Representative shall submit a report to the European Parliament, the Council and the Commission on the implementation of this Regulation, with a particular emphasis on gender and geographical balance of staff within the EEAS.

ENTRY INTO FORCE: 27/11/2010.