Basic information

2010/0171(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Staff Regulations of Officials of the European Union: European External Action Service personnel policy; new terminology **Subject** 8.40.09 European officials, EU servants, staff regulations	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	RAPKAY Bernhard (S&D)	18/01/2010

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	SARYUSZ-WOLSKI Jacek (PPE)	27/04/2010
DEVE Development	KACZMAREK Filip (PPE)	22/06/2010
INTA International Trade	The committee decided not to give an opinion.	
BUDG Budgets	NEYNSKY Nadezhda (PPE)	21/06/2010
CONT Budgetary Control	HERCZOG Edit (S&D)	23/03/2010
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
AFCO Constitutional Affairs	The committee decided not to give an opinion.	13/07/2010
FEMM Women's Rights and Gender Equality	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date

	Economic and Financial Affairs ECOFIN	3045	2010-11-17

European Commission	Commission DG	Commissioner
	Human Resources and Security	ŠEFČOVIČ Maroš

Key events

Date	Event	Reference	Summary
11/03/2010	Legislative proposal published	COM(2010)0309	Summary
23/06/2010	Committee referral announced in Parliament, 1st reading		
18/10/2010	Vote in committee, 1st reading		Summary
19/10/2010	Committee report tabled for plenary, 1st reading	A7-0288/2010	
19/10/2010	Debate in Parliament		
20/10/2010	Decision by Parliament, 1st reading	T7-0369/2010	Summary
20/10/2010	Results of vote in Parliament		
17/11/2010	Act adopted by Council after Parliament's 1st reading		
24/11/2010	Final act signed		
24/11/2010	End of procedure in Parliament		
26/11/2010	Final act published in Official Journal		

Technical information

Procedure reference	2010/0171(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 336
Stage reached in procedure	Procedure completed
Committee dossier	JURI/7/03155

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE443.026	14/07/2010	
Amendments tabled in committee		PE448.750	08/09/2010	

Committee opinion	CONT	PE443.042	29/09/2010	
Committee opinion	BUDG	PE445.891	30/09/2010	
Committee opinion	AFET	PE445.792	04/10/2010	
Committee opinion	DEVE	PE445.850	06/10/2010	
Amendments tabled in committee		PE449.013	14/10/2010	
Committee report tabled for plenary, 1st reading/single reading		A7-0288/2010	19/10/2010	
Text adopted by Parliament, 1st reading/single reading		T7-0369/2010	20/10/2010	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00052/2010/LEX	24/11/2010	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2010)0309	11/03/2010	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CofA	Court of Auditors: opinion, report	5/2010 OJ C 291 27.10.2010, p. 0001	28/09/2010	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Corrigendum to final act 32010R1080R(01)
OJ L 144 05.06.2012, p. 0048

Regulation 2010/1080
OJ L 311 26.11.2010, p. 0001 Summary

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.

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

2010/0171(COD) - 20/10/2010 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 513 votes to 51 against, with 98 abstentions, a legislative resolution on the proposal for a regulation 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.

The European Parliament adopted its position at first reading under the ordinary legislative procedure (former co-decision procedure). The amendments adopted in plenary are the result of a compromise reached between the European Parliament and the Council. They amend the Commission's proposal as follows:

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.

Recruiting seconded national experts: the compromise reached in plenary states that 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.

Ensuring 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 Council 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. This should include staff coming from the diplomatic services of the Member States who have become permanent officials of the Union in accordance with the provisions of the Staff Regulations.

Recruiting highly qualified staff: the amended text stipulates that 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 thatthe 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.

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.

Setting up a Disciplinary Board and a Staff Committee by 31 December 2011: the compromise states that 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. Similarly, a Staff Committee should also be set up within the EEAS by 31 December 2011 at the latest. Until as such time as this happens, the Staff Committee of the Commission shall also represent EEAS staff, who would be entitled to vote and stand as candidates in its elections.

Statement from the High Representative (HR) on geographical balance in the EEAS: the High Representative, Mrs Ashton, should attach the highest importance to the recruitment on the broadest possible geographical basis from among the nationals of the Member States of the Union, as well as to ensuring an appropriate and meaningful presence of nationals from all Member States in the Service. The HR should attach the highest importance to the promotion of gender balance in the staffing of the EEAS. A key to the promotion of gender balance is the encouragement of applications from women for posts in the EEAS and the removal of barriers in this respect. She will also identify best practices from national diplomatic services and apply them whenever possible to the EEAS. Full use of all the possibilities in promoting the employment of women in the Service should be made.

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.

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.

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

2010/0171(COD) - 28/09/2010 - Court of Auditors: opinion, report

The Court of Auditors presented an opinion on the Council’s request on 21 June 2010 on the proposal for a regulation 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.

The main elements of this opinion may be summarised as follows:

On a general note: the Court considers that it will be a major challenge to form, from the different components of the EEAS, a homogeneous service with an appropriate esprit de corps to serve the interests of the Union. A precondition for success will be that staff from all components of the EEAS will be treated in an **equal manner**, having the same rights and obligations, regardless of whether they are officials of the EU or temporary agents coming from the diplomatic services of the Member State.

The Court recalls that the EEAS will be a functionally autonomous body of a sui generis nature, benefiting from its own section of the budget, while, at the same time, the EEAS will remain at Union Delegation level the relevant service to the Commission for the implementation of a wide range of operational appropriations from the ‘Commission’ section of the budget.

The staff in Union Delegations will comprise EEAS staff and Commission staff. The Heads of Delegation will have authority over all staff in the Union Delegation, whatever their status, and for all its activities. They shall be accountable to the High Representative but the Commission will also be entitled to issue instructions to Union Delegations, which shall be executed under the overall responsibility of the Heads of Delegation. This will mean that the Heads of Delegation will report to two different authorities which may give rise to conflicts of priority. The Court considers of utmost importance to preserve and enhance accountability, responsibility, and quality of management at Union Delegation level.

The Court also made a series of **specific comments**:

(a) on the amendments to the Staff Regulations, including CEOS (Conditions of Employment of Other Servants): the Court stresses the need to: (i) better define the level of responsibility as regards the Heads of Delegation; they should in particular: (ii) define the scope of the competences of a distinct Disciplinary Board; (iii) clarify, in the CEOS, other provisions concerning seconded staff from national diplomatic services who will fill temporarily permanent posts in the EEAS and to reinforce the provisions are regards equal treatment and social security cover for these agents;

(b) on the other provisions in connection with the EEAS: provisions are set out that would allow the High Representative to give priority to candidates from national diplomatic services of the Member States in order to guarantee adequate representation. In their current form, these provisions will not be incorporated into the text of the amended Staff Regulations or of the amended CEOS. This is not consistent with the purpose of the proposal to amend the Staff Regulations and the CEOS. For reasons of clarity and legal certainty, all provisions should be laid down in the body of the text of the amended Staff Regulations and CEOS or in their annexes.