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REPORT

on the proposal for a Council Regulation amending the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities
(COM(2002) 213 – C5-0262/2002 – 2002/0100(CNS))

Committee on Legal Affairs and the Internal Market

Rapporteurs: Malcolm Harbour and Manuel Medina Ortega

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 5 June 2002 the Council consulted Parliament, pursuant to Article 283 of the EC Treaty, on the proposal for a Council Regulation amending the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities (COM(2002) 213 – 2002/0100(CNS)).

At the sitting of 10 June 2002 the President of Parliament announced that he had referred this proposal to the Committee on Legal Affairs and the Internal Market as the committee responsible and the Committee on Budgets, the Committee on Budgetary Control, the Committee on Employment and Social Affairs and the Committee on Constitutional Affairs for their opinions (C5-0262/2002).

The Committee on Legal Affairs and the Internal Market had appointed Malcolm Harbour rapporteur at its meeting of 23 November 2001. The committee appointed Manuel Medina Ortega co-rapporteur at its meeting of 11 July 2002.

The committee considered the Commission proposal and the draft report at its meetings of 10 September, 30 September, 21 November 2002, 27 January, 19 February and 18 March 2003.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Giuseppe Gargani, chairman; Willi Rothley and Ioannis Koukiadis, vice-chairmen; Malcolm Harbour and Manuel Medina Ortega, co-rapporteurs; Paolo Bartolozzi, Carlos Bautista Ojeda (for Neil MacCormick, pursuant to Rule 153(2)), Luis Berenguer Fuster (for Carlos Candal), Ward Beysen, Charlotte Cederschiöld (for Rainer Wieland), Michel J.M. Dary, Bert Doorn, Francesco Fiori, Janelly Fourtou, Evelyne Gebhardt, Fiorella Ghilardotti, José María Gil-Robles Gil-Delgado, The Lord Inglewood, Hans Karlsson (for Maria Berger), Kurt Lechner, Klaus-Heiner Lehne, Toine Manders, Marcelino Oreja Arburúa (for Joachim Wuermeling), Imelda Mary Read (for Arlene McCarthy), Guido Sacconi (for Bill Miller, pursuant to Rule 153(2)), Anne-Marie Schaffner, Marianne L.P. Thyssen, Ieke van den Burg (for François Zimeray, pursuant to Rule 153(2)), Diana Wallis, Matti Wuori (for Heidi Anneli Hautala) and Stefano Zappalà.

The opinions of the Committee on Budgets, the Committee on Budgetary Control and the Committee on Constitutional Affairs are attached; the Committee on Employment and Social Affairs decided on 12 June 2002 not to deliver an opinion.

The report was tabled on 21 March 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council Regulation amending the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities (COM(2002) 213 – C5-0262/2002 – 2002/0100(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2002) 213¹),
 - having regard to Article 283 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0262/2002),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the Internal Market and the opinions of the Committee on Budgets, the Committee on Budgetary Control and the Committee on Constitutional Affairs (A5-0069/2003),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Commission, in line with the undertakings given, to withdraw its proposal should the Council intend to alter it substantially;
 4. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 5. Asks the Council to consult the Parliament again if intends to amend the Commission proposal substantially;
 6. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1

RECITALS (1 A) (NEW), (1B) (NEW) AND (1C) (NEW)

(1a) Amendments to the current Staff Regulations and Conditions of Employment involve a transitional period for which it is necessary to guarantee rapid and transparent mechanisms for transition to

¹ OJ C 291 E, 26.11.2002, p. 33.

the new regime, whilst keeping the already established rights of civil servants.

(1b) As the new career system involves a regrading of civil servants, it would be necessary to undertake a global revision of job descriptions as well as jobs and professions within the Community institutions.

(1c) The inclusion of the “method” for adapting salaries, the system of programming promotions provided for in Article 6(2) and the pension regime constitute a balanced and reasonable compensation for the reduction in increases in step and the rationalisation of allowances and indemnities and must thus be considered as an integral part of the reform package.

Justification

These three recitals are designed to stress the importance and meaning of some rules included in the reform. These rules are sensitive and therefore need the support of these three recitals.

Amendment 2

RECITAL 2 B (NEW)

(2b) The current system of applying a weighting to pensions depending on the pensioner’s place of residence:

a) runs counter to the principle of equality, since all officials pay the same contributions and there must be equal pensions for equal contributions,

b) runs counter to the principle of freedom of establishment, which would suffer if pensions varied according to place of residence,

c) is increasingly expensive owing to the greater bureaucracy required to calculate pensions and verify genuine places of residence in order to avoid fraud.

Self-explanatory.

Justification

Amendment 3

RECITAL 2 C (NEW)

(2c) Therefore, any weighting for pensions based on the pensioner's place of residence ought to be eliminated as an alternative to introducing a new weighting exclusively for pensioners involving a considerable decrease in pension levels.

Self-explanatory.

Justification

Amendment 4

RECITAL 2 D (NEW)

(2d) The inclusion of the 'method' for the adjustment of salaries, the system of programming promotion under Article 6(2) and the pensions scheme offset fairly and reasonably the reduced number of advancements to a higher step and the rationalisation of the allowances system, and as such ought to be considered as forming an integral part of the reform package.

Self-explanatory.

Justification

Amendment 5

RECITAL 2 E (NEW)

(2e) An overall package that is fair in its approach to remuneration and pensions is vital to ensuring that the best candidates seek employment in an independent and

permanent European civil service.

Justification

Self-explanatory.

Amendment 6
RECITAL 2 F (NEW)

(2f) Officials should act impartially and in accordance with the principle of equal treatment, in particular where they are required to take decisions involving discretionary powers.

Justification

Self-explanatory.

Amendment 7
ANNEX I, POINT 3

Article 1b of the Staff Regulations of officials of the European Communities

“Article 1b

Save as otherwise provided in these Staff Regulations,
- the Economic and Social Committee,
- the Committee of the Regions,
- the European Ombudsman,
- the European Data Protection Supervisor and
- those Community bodies to which these Staff Regulations apply under the Community acts establishing them (hereinafter “agencies”)
shall, for the purposes of these Staff Regulations, be treated as institutions of the Communities.”

“Article 1b

Save as otherwise provided in these Staff Regulations,
*- the **European** Economic and Social Committee,*
- the Committee of the Regions,
- the European Ombudsman,
- the European Data Protection Supervisor and
- those Community bodies to which these Staff Regulations apply under the Community acts establishing them (hereinafter “agencies”)
shall, for the purposes of these Staff Regulations, be treated as institutions of the Communities.

The Interinstitutional Selection Office shall be involved in their selection procedures in order to ensure that uniform standards are applied thereto, especially in the case of agencies.

Justification

Concern has been expressed about the need to ensure that Community bodies and agencies have the same rules on recruitment as the institutions. Otherwise, they may prove a means of becoming a Community official "by the back door".

Amendment 8

ANNEX I, POINT 3

Article 1b, third paragraph (new), of the Staff Regulations of officials of the European Communities

At the request of the institutions the Interinstitutional Selection Office may be called upon to lend the technical assistance required to organise internal competitions.

Justification

This wording more accurately reflects points 3 and 4 of the Declaration of the Bureau of the European Parliament annexed to the decision of the institutions upon the establishment of the European Communities Personnel Selection Office (OJ L 197, 26.7.2002, p. 56).

Amendment 9

ANNEX I, POINT 3

Article 1b, fourth paragraph (new) of the Staff Regulations of officials of the European Communities

The Interinstitutional Selection Office may be involved in selection procedures organised for the recruitment of temporary staff engaged in accordance with Article 2(c) of the Conditions of Employment of other servants of the European Communities to assist a political group in the European Parliament in order to ensure the application of the same standards as for the selection of permanent staff."

Justification

Self-explanatory.

Amendment 10
ANNEX I, POINT 5, POINT (A)

Article 1d, paragraph 1, first subparagraph of the Staff Regulations of officials of the European Communities

1. In the application of these Staff Regulations, any discrimination ***shall be prohibited, in particular that based on gender, race, colour, ethnic or social origin, genetic features, language, religion, convictions, political opinions or any other opinions, membership of a national minority, wealth, birth, age, disability or sexual orientation.***

1. In the application of these Staff Regulations, any discrimination ***based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.***

Justification

These are the words of Article 21 of the Charter of Fundamental Rights.

Amendment 11

ANNEX I, POINT 7, POINT (c)

Article 2, paragraph 2 of the Staff Regulations of officials of the European Communities

(c) The following paragraph 2 is added:
“2. *However, one or more institutions may entrust to any one of them or to an inter-institutional body the exercise of some **or all** of the powers conferred on the Appointing Authority.*”

(c) The following paragraph 2 is added:
“2. *However, one or more institutions may entrust to any one of them or to an inter-institutional body the exercise of some of the powers conferred on the Appointing Authority. **Nonetheless, decisions relating to appointments, promotions, grading, transfers or disciplinary measures in respect of the officials or other servants of each institution may not be entrusted to another institution or to an inter-institutional body.***”

Justification

Institutions – especially those with a supervisory role, such as Parliament, the Court of Justice and the Court of Auditors – should have the option of appointing, promoting, transferring and imposing penalties on their own officials so as to maintain their

independence.

Amendment 12
ANNEX I, POINT 8

Article 5, paragraph 2a (new) of the Staff Regulations of officials of the European Communities

"2a. By way of derogation from paragraphs 1 and 2 and after consulting the Staff Regulations Committee, individual institutions with a specific need may create a function group ADL, comprising ten grades, corresponding to linguistic duties (translation and interpreting duties)."

Justification

Self-explanatory

Amendment 13
ANNEX I, POINT 8

Article 5, paragraph 2b (new) of the Staff Regulations of officials of the European Communities

2b. By way of derogation from paragraphs 1 and 2 and after consulting the Staff Regulations Committee, basic posts in career bracket AST 1 to AST 3 shall be created for specific duties as defined by each institution.

Justification

Some institutions consider that very specific duties of a confidential nature, such as those of parliamentary ushers at the European Parliament or high-level security duties at the Council or the Court of Justice, should not be entrusted to contract staff, such as those provided for in Title IV. To this end, institutions having such a requirement should be permitted, after consulting the Staff Regulations Committee, to recruit, in AST 1 on the basis of specific notices and specific professional experience, officials whose career could reach AST 3.

Article 45a would apply mutatis mutandis to those officials who have shown the ability to develop skills in areas other than the one for which they were recruited. See also Amendment to Article 5, paragraph 3, point (c) (new) (Annex I point 8).

Amendment 14
ANNEX I, POINT 8

Article 5, paragraph 3 of the Staff Regulations of officials of the European Communities

"3. Appointment shall require at least
(a) in function group *AST*
- a post-secondary education diploma or
- an advanced level of secondary education
and appropriate professional experience of
at least three years, **or**
- **equivalent professional experience.**

(b) in function **group AD**
- a university degree awarded after a
course of at least three years and
appropriate professional experience of at
least one year or a further year of
university studies beyond the third year **or**
- **equivalent professional experience."**

"3. Appointment shall require at least
(a) in function group *AST*
- a post-secondary education diploma or
- an advanced level of secondary education
and appropriate professional experience of
at least three years.

(b) in function **groups AD and ADL**
- a university degree awarded after a
course of at least three years and
appropriate professional experience of at
least one year or a further year of
university studies beyond the third year."

Justification

Article 5(3) relating to the minimum requirements for appointment to AD and AST posts does not take account of way in which society has changed since the original Staff Regulations were drawn up in 1967. Then university degrees were comparatively rare and it was possible in some countries to enter the professions without a degree. This is no longer the case. A first degree is now becoming virtually a standard requirement for posts at AD level. Indeed, a postgraduate degree or professional qualification is becoming the norm.

Deletion of the words "or equivalent professional experience" is further intended to raise the entry standard.

Amendment 15
ANNEX I, POINT 8

Article 5, paragraph 3, point (c) (new) of the Staff Regulations of officials of the European Communities

(c) in the case of the duties defined in paragraph 2b:
- a secondary education diploma or
- equivalent professional experience.

Justification

See also Amendment to Article 5, paragraph 2b (new) (Annex I point 8).

Amendment 16
ANNEX I, POINT 9 A (NEW)

Article 9, paragraph 1, point (-a) (new) before point (a) of the Staff Regulations of officials of the European Communities

9 a. In Article 9, paragraph 1, a new point (-a) is inserted before point (a):

"(-a) for each appointing authority:

- a Staff Committee, which may be organised in sections for the different places of employment; "

Justification

Self-explanatory.

Amendment 17
ANNEX I, POINT 15

Article 12a of the Staff Regulations of officials of the European Communities

"Article 12a

- 1. Officials shall refrain from any form of psychological or sexual harassment.*
- 2. "Psychological harassment" means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.*
- 3. "Sexual harassment" means conduct*

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- 2. "Psychological harassment" means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.*
- 3. "Sexual harassment" means conduct*

relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment. Sexual harassment shall be treated as discrimination based on gender, as referred to in Article 1d(1)."

relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment. Sexual harassment shall be treated as discrimination based on gender, as referred to in Article 1d(1).

3a. Wilful or malicious accusations of sexual harassment without due cause may result in the initiation of disciplinary proceedings against the accuser."

Justification

Self-explanatory.

Amendment 18 ANNEX I, POINT 18

Article 15 of the Staff Regulations of officials of the European Communities

18. Article 15 is replaced by the following:

"Article 15

1. An official who intends to stand for public office shall notify the Appointing Authority. The Appointing Authority shall decide, in the light of the interests of the service, whether the official concerned:
- should be required to apply for leave on personal grounds, or
- should be granted annual leave, or
- may be authorised to discharge his duties on a part-time basis, or
- may continue to discharge his duties as before.

2. An official elected or appointed to public office shall immediately inform the Appointing Authority. The Appointing Authority shall, having regard to the interests of the service, the importance of the office, the duties it entails and the remuneration and reimbursement of expenses incurred in carrying out those duties, take one of the foregoing decisions.

18. Article 15 is replaced by the following:

"Article 15

1. An official who intends to stand for public office shall notify the Appointing Authority. The Appointing Authority shall decide, in the light of the interests of the service, whether the official concerned:
- should be required to apply for leave on personal grounds, or
- should be granted annual leave, or
- may be authorised to discharge his duties on a part-time basis, or
- may continue to discharge his duties as before.

2. An official elected or appointed to public office shall immediately inform the Appointing Authority. The Appointing Authority shall, having regard to the interests of the service, the importance of the office, the duties it entails and the remuneration and reimbursement of expenses incurred in carrying out those duties, take one of the foregoing decisions.

If the official is required to take leave on personal grounds or is authorised to discharge his duties on a part-time basis, the period of such leave or part-time working shall correspond to the official's term of office.

If the official is required to take leave on personal grounds or is authorised to discharge his duties on a part-time basis, the period of such leave or part-time working shall correspond to the official's term of office.

3. An official granted leave on personal grounds for this purpose shall retain his rights to advancement to a higher step during his period of leave on personal grounds.

Justification

Self-explanatory.

Amendment 19
ANNEX I, POINT 21

Article 17a of the Staff Regulations of officials of the European Communities

“Article 17a

*Without prejudice to Articles 12 and 17, an official who intends to publish or cause to be published, whether alone or with others, any matter dealing with the work of the Communities shall **notify** the Appointing Authority in writing in advance. **The Appointing Authority may refuse permission only where it is able to demonstrate with full reasons that the matter is liable seriously to prejudice the interests of the Communities. The Appointing Authority shall notify the official of its decision within 30 working days. If no decision is notified within the specified period, authorisation shall be deemed to have been granted.**”*

“Article 17a

*Without prejudice to Articles 12 and 17, an official who intends to publish or cause to be published, whether alone or with others, any matter dealing with the work of the Communities shall **inform** the Appointing Authority in writing in advance.”*

Justification

In so far as Article 17a requires officials to obtain prior authorisation for publishing matters dealing with the work of the Communities, it is at odds with Article 11 of the Charter of

Fundamental Rights. A mere requirement for officials to inform the institutions of their intention to publish is more appropriate.

Amendment 20
ANNEX I, POINT 26

Article 22c of the Staff Regulations of officials of the European Communities

"Article 22c

*The protection provided under Articles 22b is without prejudice to any personal liability which the official making the disclosure may incur under the **relevant national provisions.**"*

"Article 22c

The protection provided under Articles **22a and 22b** is without prejudice to any personal liability which the official making the disclosure may incur under the **applicable national criminal law or the law governing non-contractual liability (delict/tort). Where appropriate, the institutions may decide to pay compensation for pecuniary and/or non-pecuniary loss suffered by an official who has been the subject of wilful false accusations.**

In any event, disciplinary proceedings shall be brought where information is communicated or disclosed within the meaning of Articles 22a and/or 22b for a malicious purpose."

Justification

Express sanctions should be expressly laid down for officials maliciously making false accusations.

Amendment 21
ANNEX I, PARAGRAPH 28
Article 24 a

It shall facilitate such further training and instruction for officials as is compatible with the proper functioning of the service and is in accordance with **its** own interests.

Such training and instruction **shall** be taken into account for purposes of promotion in

They shall **make efforts to ensure** such further training and instruction for officials as is compatible with the proper functioning of the service and is in accordance with **their** own interests.

Such training and instruction **may** be taken into account for purposes of promotion in

their careers.

their careers.

Justification

Self-explanatory..

Amendment 22

ANNEX I, POINT 30

Article 25, paragraph 3 of the Staff Regulations of officials of the European Communities

30. In the third paragraph of Article 25, “shall at once be posted in the premises of the institution to which the official belongs and shall be published in the *Monthly Staff Bulletin of the Communities*” is replaced by “shall be brought to the attention of the staff in the institution to which the official belongs.”

30. In the third paragraph of Article 25, “shall at once be posted in the premises of the institution to which the official belongs and shall be published in the *Monthly Staff Bulletin of the Communities*” is replaced by “shall be brought to the attention of the staff in the institution to which the official belongs **and shall be published in the *Monthly Staff Bulletin of the Communities.***”

Justification

Bringing decisions to the attention of the staff in a single institution is no substitute for the guarantee of transparency afforded by publishing them.

Amendment 23

ANNEX I, POINT 31, POINT (b)

Article 26, paragraph 4 of the Staff Regulations of officials of the European Communities

(b) In the fourth paragraph the following is inserted after “religious views”:
“or to his racial or ethnic origin or sexual orientation **unless provided or approved by the official himself.**”

(b) In the fourth paragraph the following is inserted after “religious views”:
“or to his racial or ethnic origin or sexual orientation.”

Justification

The ban on references that may give rise to discrimination must be emphatic. It should not be left to the judgement of the person concerned, who may ask for references to be included that could afford him or her preferential treatment over others.

Amendment 24

ANNEX I, POINT 31, POINT (c)

Article 26, paragraph 6 of the Staff Regulations of officials of the European Communities

(c) In the sixth paragraph “*and to take copies of them **if necessary***” is inserted after “*file*”.

(c) In the sixth paragraph “*and to take copies of them*” is inserted after “*file*”.

Justification

The right to copy documents from one’s own file cannot be qualified by such ambiguous wording as ‘if necessary’.

Amendment 25

ANNEX I, POINT 34, POINT (a a) (new)

Article 29, paragraph 1a (new) (Staff Regulation of officials of the European Communities)

(aa) The following paragraph is inserted after paragraph 1:

"1a. By way of derogation from paragraph 1(a)(i) the Appointing Authority shall, and by way of derogation from paragraph 1(b) the Appointing Authority may, consider the possibility of filling a vacant post by appointing as officials temporary servants engaged in accordance with Article 2(c) of the Conditions of Employment of other servants of the European Communities to assist a political group in the European Parliament, provided that they have passed a selection procedure in accordance with the third subparagraph of Article 1b(2) of the Staff Regulations of officials of the European Communities and have been in service as such temporary servants for more than seven years.

Justification

Self-explanatory. The present Article 29(2) becomes (3).

Amendment 26

ANNEX I, POINT 35

Article 31 of the Staff Regulations of officials of the European Communities

“Article 31

1. Candidates selected shall be appointed to the grade of the function group set out in the notice of the competition they have passed.

2. Without prejudice to Article 29(2), officials shall be recruited only at grades AST 1 to AST 4 or AD 5 to AD 8.”

“Article 31

1. Candidates selected shall be appointed to the grade of the function group set out in the notice of the competition they have passed.

*2. Without prejudice to Article 29(2), officials shall be recruited only at grades AST 1 to AST 4 or AD 5 to AD 8. **By way of exception, officials may be recruited in duly reasoned circumstances at up to grade AD 11 provided that they can show commensurate professional experience. Recruitment at these grades may not exceed the limit of 5% of the posts becoming vacant or newly created.**”*

Justification

The Court of Justice has a particular problem with the recruitment of specialist staff (accountants, financial comptroller, IT staff) since its A and L/A staff consist almost entirely of lawyers and this rules out filling specialist posts by promotion or internal transfer. As a result, it is unreasonable to expect it to recruit at grade AD 8 at the highest. The Court is not keen on using Article 29(2) to recruit such staff, as it prefers to recruit by competition.

Amendment 27

ANNEX I, POINT 42, POINTS (b) AND (b a) (new)

Article 41, paragraph 3 of the Staff Regulations of officials of the European Communities

*(b) **In the sixth subparagraph, “for pensions” is inserted after “at the rate fixed”.***

*(b) **The sixth subparagraph should read as follows: “The allowance and the total remuneration last received, as referred to in the fourth subparagraph, shall be weighed at a rate equal to 100, regardless of whether the recipient establishes his residence in a country inside or outside the Communities”.***

*(ba) **The seventh subparagraph is deleted.***

Justification

See the amendment on the new recital 2 c .

Amendment 28

ANNEX I, POINT 45

Article 44 of the Staff Regulations of officials of the European Communities

“If an official is appointed head of unit, director or director-general in the same grade, he shall benefit from advancement by one step in that grade at the time the appointment comes into effect. This advancement shall lead to an increase in his basic monthly salary corresponding to the percentage between the first and the second step in each grade. If the increase is less or if the official at that time is already in the last step of his grade, he shall receive an increase in basic salary ensuring such increase until his next promotion comes into effect.”

*“If an official is appointed head of unit, **head of division, authorising officer,** director or director-general in the same grade, he shall benefit from advancement by one step in that grade at the time the appointment comes into effect. This advancement shall lead to an increase in his basic monthly salary corresponding to the percentage between the first and the second step in each grade. If the increase is less or if the official at that time is already in the last step of his grade, he shall receive an increase in basic salary ensuring such increase until his next promotion comes into effect.”*

Justification

Since, in view of their limited organisation plan, small and medium-sized institutions cannot create posts of head of unit, it is proposed to reintroduce the post of head of division.

Moreover, following the amendment of the Financial Regulation, authorising officers are going to have to assume important financial responsibilities and an extra step in their grade would constitute an incentive to perform duties involving risks. However, that extra step should not be able to be combined with that obtained in connection with one of the functions listed above and would be granted to authorising officers on the basis of internal implementing provisions fixing the amount of the budget giving entitlement to such advancement.

Indeed, as a result of delegations and sub-delegations, some authorising officers responsible for substantial budgets do not occupy one of the posts referred to above.

Amendment 29 ANNEX I, POINT 46

Article 45a, paragraph 1 of the Staff Regulations of officials of the European Communities

1. From grade 5, an official in function group AST may be transferred to function group AD within the meaning of Article 29 on condition, in particular, that he has successfully completed a set of training

1. From grade 5, an official in function group AST may be transferred to function group AD within the meaning of Article 29 on condition, in particular, that he has successfully completed a set of training

modules at a higher level which ensure that he has reached a level equivalent to that required under Article 5(3). The institutions shall adopt general implementing provisions for these arrangements, and in particular for training and transfer. Such provisions shall take account of career development.

modules at a higher level which ensure that he has reached a level equivalent to that required under Article 5(3)(b). The institutions shall adopt general implementing provisions for these arrangements, and in particular for training and transfer. Such provisions shall take account of career development.

Justification

The blanket reference to Article 5(3) in the original proposal makes no sense and could lead to an assistant needing only the qualifications required of an assistant (Article 5(3)(a)) in order to become an administrator. Possession of a university degree should be a sine qua non for appointment as an administrator of a European institution. The institutions could facilitate access to university studies for assistants having the necessary potential as shown by their staff reports.

Amendment 30 ANNEX I, POINT 46

Article 45a, paragraph 2a (new) of the Staff Regulations of officials of the European Communities

(2a) The Interinstitutional Selection Office shall determine the conditions for implementing paragraph 1, in particular as regards the requirement for university level education.

Justification

A university degree should be required in order for an AST official to transfer to the AD Category and funding should be provided for university-level training by the institutions in order to safeguard the quality of AD officials.

Provision should be made for the Interinstitutional Selection Office to be involved in order to avoid differing standards applying as between the institutions since this could jeopardise the desired interinstitutional mobility.

Amendment 31 ANNEX I, POINT 50A (NEW)

Article 49, two new paragraphs after the first paragraph, of the Staff Regulations of officials of the European Communities

50a. In Article 49, two new paragraphs are added after the first paragraph:

" Staff within the meaning of the third paragraph of Article 1b may be required to resign at any time at three month's notice. The length of this period of notice shall be extended by one month for each completed year of service but may not exceed nine months.

The period of notice shall not, however, commence to run during maternity leave or sick leave, provided that such sick leave does not exceed three months. It shall, moreover, be suspended during maternity or sick leave subject to the limits aforesaid."

Justification

Takes over what is provided in the proposed new Article 47(3) of the Conditions of Employment of other servants of the European Communities.

The adoption of this amendment would lead to the deletion of the corresponding provisions of the Conditions of Employment.

Amendment 32
ANNEX I, POINT 51, POINT (A)

Article 50, first paragraph of the Staff Regulations of officials of the European Communities

(a) In the first paragraph the phrase "*An official holding a post in grades A 1 or A 2*" is replaced by "***A senior official as defined in Article 29(2)***".

(a) In the first paragraph the phrase "*An official holding a post in grades A 1 or A 2*" is replaced by "***An official holding a post in grades AD 16, AD 15, AD 14, AD 13 or AD 12***".

Justification

Affords the institutions greater flexibility.

Amendment 33
ANNEX I, POINT 61

Article 59, paragraph 1, new subparagraph between the second and third subparagraphs, of the Staff Regulations of officials of the European Communities

If the finding made in the examination is that the official is fit to work, his absence shall be regarded as unjustified from the date of the examination.

Justification

Self-explanatory.

Amendment 34
ANNEX I, POINT 61

Article 59, paragraph 2, second subparagraph (new), of the Staff Regulations of officials of the European Communities

If the independent doctor's opinion finds that the official is fit to resume work, his absence shall be considered to be unjustified from the date of that opinion. In the absence of such opinion, his absence shall be considered to be unjustified as from the thirteenth day of absence because of sickness without a medical certificate.

Justification

Self-explanatory

Amendment 35
ANNEX I, POINT 61

Article 59, paragraph 3, second subparagraph (new), of the Staff Regulations of officials of the European Communities

Without prejudice to the possible application of the disciplinary provisions, any absence considered to be unjustified under paragraphs 1, 2 and 3 shall be deducted from the annual leave of the

official concerned. In the event that the official has no outstanding leave entitlement, the official shall lose the benefit of his remuneration for the corresponding period.

Justification

Self-explanatory.

Amendment 36

ANNEX I, POINT 75, POINT (a), POINTS i and i a (new)

Article 82, paragraph 1, second and third subparagraphs of the Staff Regulations of officials of the European Communities

i. The second subparagraph ***is amended*** as follows:

- ***“They” is replaced by “Pensions”.***

- ***“for pensions” is inserted between “rate” and “fixed for the country”.***

- ***“has his residence” is replaced by “has established his main residence”.***

- ***The following sentence is added: “This rate shall be determined in accordance with the arrangements laid down in Annex XI.”***

i. The second subparagraph ***should read*** as follows:

“The weighting shall be equal to 100, regardless of the country in which the person entitled to a pension has his residence.”

ia. The third subparagraph is deleted.

Justification

See the amendment on the new recital 2 b.

Amendment 37

ANNEX I, POINT 89

Annex I, Point A of the Staff Regulations of officials of the European Communities

Text proposed by the Commission

A. Types of posts in each function group, as provided for in Article 5(3)

<i>Function group AD</i>		<i>Function group AST</i>	
<i>Director-General</i>	<i>AD 16</i>		
<i>Director/Director-General</i>	<i>AD 15</i>		
<i>Administrator/</i>	<i>AD 14</i>		
<i>Research</i>			
<i>Administrator¹/Linguistic</i>			
<i>Administrator/ Head of</i>			
<i>Unit/ Director</i>			
<i>Administrator/</i>	<i>AD 13</i>		
<i>Research</i>			
<i>Administrator/Linguistic</i>			
<i>Administrator/ Head of Unit</i>			
“	<i>AD 12</i>		
“	<i>AD 11</i>	<i>AST 11</i>	<i>Assistant/</i>
			<i>Research Assistant²/</i>
“	<i>AD 10</i>	<i>AST 10</i>	“
“	<i>AD 9</i>	<i>AST 9</i>	“
<i>Administrator/</i>	<i>AD 8</i>	<i>AST 8</i>	“
<i>Research</i>			
<i>Administrator/Linguistic</i>			
<i>Administrator</i>			
“	<i>AD 7</i>	<i>AST 7</i>	“
“	<i>AD 6</i>	<i>AST 6</i>	“
“	<i>AD 5</i>	<i>AST 5</i>	“
		<i>AST 4</i>	“
		<i>AST 3</i>	“
		<i>AST 2</i>	“
		<i>AST 1</i>	“

Amendments by Parliament

A. Types of posts in each function group, as provided for in Article 5(3)

<i>Function groups AD and ADL</i>		<i>Function group AST</i>	
<i>Director-General</i>	<i>AD 16</i>		
<i>Director/Director-General</i>	<i>AD 15</i>		
<i>Principal Administrator/</i>	<i>AD/ADL 14</i>		

¹ Officials occupying posts paid from appropriations in the research and investment budget shall become research administrators.

² Officials occupying posts paid from appropriations in the research and investment budget shall become research assistants.

**Principal Research
Administrator¹/Principal
Linguistic Administrator/
Head of Unit/ Head of
Division/ Authorising
Officer/ Director**

**Principal Administrator/ AD/ADL 13
Principal Research
Administrator/Principal
Translator/ Principal
Interpreter/ Head of
Unit/Head of Division/
Head of Language
Division/Authorising
Officer/**

“ AD/ADL 12

“ AD/ADL 11

AST 11

**Principal Assistant/
Principal Research
Assistant²/**

**Head of Unit/
Administrator/
Research Administrator/
Translator/Interpreter**

AD/ADL 10

AST 10

“

“ AD/ADL 9

AST 9

“

**Assistant Administrator/
Assistant Research
Administrator /Assistant
Translator/ Assistant
Interpreter**

AD/ADL 8

AST 8

**Assistant/Research
Assistant**

ADADL 7

AST 7

“ AD/ADL 6

AST 6

“

“ AD/ADL 5

AST 5

“

AST 4

“

AST 3

**Junior Assistant
/Junior Research
Assistant**

AST 2

“

AST 1

“

¹ Officials occupying posts paid from appropriations in the research and investment budget shall become research administrators.

² Officials occupying posts paid from appropriations in the research and investment budget shall become research assistants.

Justification

With regard to job descriptions and titles, under the proposal staff could bear the same title ("Administrator"/"Linguistic Administrator" or "Assistant") for the whole of their careers. Staff may have different job descriptions but these will not be reflected in their titles and it will be hard to distinguish senior administrators from more junior ones. It is considered that job titles are important landmarks in an official's career and that it is psychologically sound to reward staff for merit even if only by a change in job title.

Amendment 38

ANNEX I, POINT 90 (g)

Annex II - Section 6 - Joint Advisory Committee for professional incompetence
Article 12, first paragraph (Staff Regulations of officials of the European Communities)

The Joint Advisory Committee for professional incompetence shall comprise a chairman and at least two members, who shall be officials of grade AD 14 at least. Half of the members shall be designated by the Staff Committee and half by the Appointing Authority. The chairman shall be appointed by the Appointing Authority from a list of candidates drawn up in concertation with the Staff Committee.

The Joint Advisory Committee for professional incompetence shall comprise a chairman and at least two members, who shall be officials of grade AD 14 at least. ***They shall be appointed for a period of 3 years.*** Half of the members shall be designated by the Staff Committee and half by the Appointing Authority. The chairman shall be appointed by the Appointing Authority from a list of candidates drawn up in concertation with the Staff Committee.

Justification

Self-explanatory

Amendment 39

ANNEX I, POINT 96, POINT (A) (III).

Annex VII, Article 1, paragraph 2, point (c), of the Staff Regulations of officials of the European Communities

“(c) an official who is registered as a stable non-marital partner, provided that:

- the couple produces a legal document recognised as such by a Member State acknowledging their status as non-marital partners,***
- neither partner is in a marital relationship or in another non-marital***

“(c) an official who is engaged in a non-marital partnership recognised by the employing institution; the institution shall recognise such a partnership if the couple produces a formal document or registration of a Member State attesting to their partnership or, in the absence of such document or registration, establishes to the satisfaction of the employing institution that they have formed a household for at

partnership,

least two years;”

- the partners are not related in any of the following ways: parent, child, grandparent, grandchild, brother, sister, aunt, uncle, nephew, niece, father-in-law, son-in-law, daughter-in-law;

- the couple has no access to legal marriage in a Member State; a couple shall be considered to have access to legal marriage for the purposes of this indent only where the members of the couple meet all the conditions laid down by the legislation of a Member State permitting marriage of such a couple;”

Justification

This amendment is based on the Conditions of Employment for Staff of the European Central Bank. The proposal as it stands would introduce discrimination on the basis of nationality - and would therefore be liable to be challenged in court - and unjustly exclude many couples. The amended provision would also be much simpler to administer.

Amendment 40 ANNEX 1, POINT 96, POINT (L)

Annex VII, Article 13, paragraph 1, second subparagraph (new), of the Staff Regulations of officials of the European Communities

The daily allowance shall be adapted once a year on the basis of the HORECA coefficient published by the Statistical Office of the European Union.

Justification

Restaurants and hotels are subject to price increases exceeding the cost-of-living index, which affects officials going on missions.

Amendment 41 ANNEX I, POINT 97, SUBPOINT H)

Annex VIII, Article 11, paragraph 2 of the Staff Regulations of officials of the European Communities

i. In the first subparagraph,
“shall be entitled upon establishment to have paid to the Communities either the actuarial equivalent or the flat-rate redemption value of retirement pension rights acquired by virtue of such services or activities.”
is replaced by:
*“shall be entitled, **after establishment but before** becoming eligible for payment of a retirement pension, to have paid to the Communities the capital value updated to the date of the actual transfer of pension rights acquired by virtue of such service or activities.”*

ii. The second subparagraph is amended as follows:

“by means of general implementing provisions” is inserted after *“determine”*.
- *“taking into account his grade on establishment”* is replaced by *“taking into account **the official's basic salary** and age at the date of application for a transfer,”*;
- *“under its own pension scheme”* is replaced by *“under the Community pension scheme”*;
- *“on the basis of the amount of the actuarial equivalent or sums repaid as aforesaid.”*
is replaced by:

“on the basis of the capital transferred, after deducting an amount representing capital appreciation between the date of the application for a transfer and the actual date of the transfer.”

iii. The following paragraph is added:
“Officials may make use of this arrangement once only for each Member State and pension fund concerned.”

i. In the first subparagraph,
“shall be entitled upon establishment to have paid to the Communities either the actuarial equivalent or the flat-rate redemption value of retirement pension rights acquired by virtue of such services or activities.”
is replaced by:
*“shall be entitled, **on** becoming eligible for payment of a retirement pension, to have paid to the Communities the capital value updated to the date of the actual transfer of pension rights acquired by virtue of such service or activities.”*

ii. The second subparagraph is amended as follows:

“by means of general implementing provisions” is inserted after *“determine”*.
- *“taking into account his grade on establishment”* is replaced by *“taking into account the **grade on recruitment as a member of the temporary staff or as an official, the basic salary corresponding to that grade at the date of the application for a transfer and his age** at the date of application for a transfer,”*;
- *“under its own pension scheme”* is replaced by *“under the Community pension scheme”*;
- *“on the basis of the amount of the actuarial equivalent or sums repaid as aforesaid.”*
is replaced by:

“on the basis of the capital transferred, after deducting an amount representing capital appreciation between the date of the application for a transfer and the actual date of the transfer.”

iii. The following paragraph is added:
“Officials may make use of this arrangement once only for each Member State and pension fund concerned.”

Justification

The proposed amendment would simplify significantly the procedure provided for in Article 11(2) of Annex VIII without hurting the beneficiaries of the procedure or burdening the Communities' pension scheme.

Amendment 42
ANNEX I, POINT 98

Annex IX - Disciplinary proceedings - Section 1: General provisions
Article 2, paragraph 2 (Staff Regulations of officials of the European Communities)

*2. Subject to the protection of the legitimate interests of third parties, the Appointing Authority shall inform the person concerned when the investigation ends, and shall communicate to him, **on request**, the conclusions of the investigation report and all documents directly related to the allegations made against him.*

*2. Subject to the protection of the legitimate interests of third parties, the Appointing Authority shall inform the person concerned when the investigation ends, and shall communicate to him the conclusions of the investigation report and, **on request**, all documents directly related to the allegations made against him.*

Justification

Self-explanatory

Amendment 43
ANNEX I, POINT 98

Annex IX - Disciplinary proceedings - Section 2: Disciplinary Board
Article 4, paragraph 1 (Staff Regulations of officials of the European Communities)

1. A Disciplinary Board, hereinafter referred to as “the Board”, shall be established in each institution.

*1. A Disciplinary Board, hereinafter referred to as “the Board”, shall be established in each institution. **When setting up the Board, the institution shall take care to ensure that it includes an external element to provide every guarantee of independence.***

Justification

Self-explanatory

Amendment 44
ANNEX I, POINT 98

Annex IX - Disciplinary proceedings - Section 5: Disciplinary proceedings before the Disciplinary Board
Article 14, paragraph 1 (Staff Regulations of officials of the European Communities)

1. The official accused shall be heard by the Disciplinary Board; at the hearing, he may submit observations in writing or orally, whether in person or through a representative. He may call witnesses.

1. The official accused shall be heard by the Disciplinary Board; at the hearing, he may submit observations in writing or orally, whether in person or through a representative. He may call witnesses.

When an investigation by the Anti-Fraud Office has revealed the personal involvement of the official concerned, the Board may hear evidence from the OLAF investigators.

Justification

Self-explanatory

Amendment 45

ANNEX I, POINT 100

Annex XI, Chapter 1, Section 1, Article 1, paragraph 3, subparagraph (a), second indent of the Staff Regulations of officials of the European Communities

- of the pensions of officials paid in the Member States with reference to Belgium. *deleted*

Justification

See the amendment on the new recital 2 c.

Amendment 46

ANNEX I, POINT 100

Annex XI, Chapter 1, Section 1, Article 3, paragraph 5, first subparagraph of the Staff Regulations of officials of the European Communities

5. The correction coefficients for both Belgium and Luxembourg shall be fixed at 100. *deleted*

Justification

Self-explanatory.

Amendment 47

ANNEX I, POINT 100

Annex XI, Chapter 1, Section 2, Article 3, paragraph 5, second paragraph, second indent of the Staff Regulations of officials of the European Communities

***- the pensions of European Communities
paid in the other Member States,*** ***deleted***

Justification

See the amendment on the new recital 2 c.

Amendment 48

ANNEX I, POINT 102

Annex XIII, Section 1, Article 12a (new) (Staff Regulations of officials of the European Communities)

"Article 12a

The European Personnel Selection Office may be asked by the Appointing Authority to validate a selection procedure for temporary servants engaged in accordance with Article 2(c) of the Conditions of Employment of other servants of the European Communities to assist a political group in the European Parliament, completed before [date of entry into force of the Staff Regulations] as having been in conformity with the standards referred to in the third subparagraph of Article 1b(2) of the Staff Regulations.

Justification

Necessary transitional provision following the modification of Article 1b .

Amendment 49

ANNEX I, POINT 102

Annex XIII, Section 4, Article 20 of the Staff Regulations of officials of the European Communities

From [1 January 2004] to [31 December 2007], the second subparagraph of Article ***deleted***

82(1) of the Staff Regulations is replaced by the following:

“Pensions shall be adjusted by the average of the correction coefficient for officials and the correction coefficient for pensions mentioned in Article 3(5) of Annex XI to the Staff Regulations for the Member State where the recipient provides evidence of having established his main residence. The average shall be calculated using the weightings in the following table:

1.2.2004 1.1.2005 1.2.2006 1.1.2007

1.1.2008

80% Officials 20% Pension

60% Officials 40% Pension

40% Officials 60% Pension

20% Officials 80% Pension

100% Pension

When at least one of the coefficients is modified, the average is modified with effect on the same date.

Justification

See the amendment on the new recital 2 c.

Amendment 50

ANNEX II, POINT 17

Article 39, paragraph 2 a (new) (Conditions of Employment of other servants of the European Communities)

2a. By way of derogation from Article 77 of the Staff Regulations, the final paragraph of Article 9 of Annex VIII to the Staff Regulations may be applied to temporary servants engaged in accordance with Article 2(c) of the Conditions of Employment of other servants of the European Communities to assist a political group in the European Parliament:

- who have completed at least five years of service;***
- subject to the proviso that the pension shall not be less than [100 %] of the minimum subsistence figure.”***

Justification

Amendment suggested by the Court of Auditors concerning the treatment of temporary staff.

Amendment 51

ANNEX II, POINT 21

Article 48, paragraphs 2 (new) and 3 (new) (Conditions of Employment of other servants of the European Communities)

"(2) Article 50 of the Staff Regulations shall apply by analogy to temporary staff engaged in accordance with Article 2(c) of these Conditions of Employment to assist a political group in the European Parliament.

(3) Article 41(3), with the exception of the second subparagraph, shall apply by analogy to temporary servants engaged in accordance with Article 2(c) of the Conditions of Employment of other servants of the European Communities to assist a political group in the European Parliament, for a maximum of one year, where the group is affected by a reduction of posts."

Justification

Self-explanatory.

Amendment 52

ANNEX II, POINT 34

Title IV, Chapter 1, Article 79 (Conditions of Employment of other servants of the European Communities)

The contracts of contract staff may be concluded for a fixed period of at least three months and not more than five years. They may be renewed not more than once for a fixed period of not more than five years. The initial contract and the first renewal must be of a total duration of not less than six months for function group I and not

The employment contracts of contractual agents may be concluded for a fixed duration of not more than five years. They may be renewed for a fixed duration of five years maximum. Any subsequent renewal shall be for an indefinite duration in the "contractual agents" category if the number of years of service exceeds ten.

less than nine months for the other function groups. Any further renewal shall be for an indefinite period.

Within the institutions contractual agents will eventually replace civil servants in category "D". In the representation offices, Commission delegations, agencies, executive agencies and other bodies instituted by a specific legal act contractual agents may be recruited at all levels within the limit of two-thirds of employees and with the exception of executive positions.

Justification

This amendment stresses what the European Commission says in the explanatory statement, i.e. that contractual agents will be a limited part of European Community staff.

Amendment 53
ANNEX II, POINT 34

Title IV, Chapter 1, Article 80, paragraph 2, second subparagraph of the Conditions of Employment of other servants of the European Communities

*"The grading of contract staff within each function group shall take account of the qualifications and experience of the persons concerned. **Within their grade, contract staff shall be recruited in the first step.**"*

"The grading of contract staff within each function group shall take account of the qualifications and experience of the persons concerned."

Justification

This amendment would allow contract staff to be recruited at a level higher than the first step in their grade in order to take account of their professional experience and qualifications. This would help the institutions to take on the best person for the job.

Amendment 54
ANNEX II, POINT 34

Title IV, Chapter 3, Article 84, paragraph 1, of the Conditions of Employment of other servants of the European Communities

1. A member of the contract staff shall serve a probationary period for the first six

*1. A member of the contract staff **whose contract is concluded for a duration of***

months of his period of employment if he is in function group I and the first nine months if he is in any other function group.

more than one year shall serve a probationary period for the first six months of his period of employment.

Justification

The proposed provision is incompatible with Article 79, under which contract staff may have contracts ranging from three months to five years.

Amendment 55 ANNEX II, POINT 34

Title IV, Chapter 6, Section A, Article 94, paragraph 2, last subparagraph of the Conditions of Employment of other servants of the European Communities

"The Commission shall, after obtaining the opinion of a committee of experts, lay down such provisions as it deems necessary for applying this Article."

"The Commission shall, after obtaining the opinion of a committee of experts, lay down such provisions as it deems necessary for applying this Article.

A former member of the contractual staff may not be prejudiced in any way by any conflicting regulations or administrative difficulties which might be caused by differences or divergences as between national legislation and the present provisions."

Justification

Under the provisions proposed, it is provided for negotiations to take place between the Commission and the various Member States in order to guarantee the cooperation necessary to cover the social risks to which contract staff might be exposed in the event of termination of their employment.

In the light of experience of liaising between the institutions and the national social security bodies, it seems very difficult to guarantee that the rights of staff will be strictly respected. Indeed, from the administrative point of view, the national social security bodies are at liberty to alter their procedures and internal rules, which gives rise to delays and may even make it impossible to obtain the administrative documents necessary to secure social security cover for the institutions' staff in good time.

The relevant administrative texts are not always easy to apply on a day-to-day basis, particularly since the administration has to deal with fifteen (soon twenty-five) different

systems and there are no plans to harmonise social security.

EXPLANATORY STATEMENT

The rapporteurs strongly approve the overall reform package proposed by the Commission.

Apart from the specific improvements to the Staff Regulations and their modernisation, which they commend, the rapporteurs fully endorse the inclusion of the "méthode" for pay review and the collective minimum rates of promotion provided for in Article 6(2), which, together with the pension scheme, constitute a fair and reasonable quid pro quo for the reduction in incremental salary steps and the rationalisation of allowances and must be regarded as an intrinsic and essential part of the reform package. They point out that Parliament's administration is already successfully applying a merit-based collective guarantee of promotion under its points-based promotion scheme. The rapporteurs further consider that it is essential to maintain an attractive overall package in terms of pay and pensions in order to attract the best possible candidates for posts in the European public service, even in periods of strong economic growth. The rapporteurs also strongly support the permanent early retirement scheme as proposed, as a means of enabling new blood to be taken on and to reduce the average age of staff, which is much higher than in the civil service of the Member States, not to mention the private sector. Indeed, the average retirement age for European officials is higher than that of national civil servants and persons employed in the private sector.

The rapporteurs consider that the satisfactory resolution of these issues in the current discussion in the Council, is crucial if the Human Resource package is to be implemented effectively. The rapporteurs wish to remind the Council that the revised Staff Regulations are an integral part of the reform, which has been strongly promoted by Parliament since the resignation of the Santer Commission in 1998. European citizens are expecting reforms to be delivered quickly and effectively. Reform is essential if citizens' trust in the European institutions is to be regained. This package of reforms in human resource policy provides the right framework for the European public service to evolve in the 21st Century. The European public service has been responsible for remarkable achievements, and has great resources of skill and expertise. Implementation of these reforms will offer a long-term career structure to retain the best talents, encourage them to develop their skills, and stimulate them to perform at their best.

The rapporteurs further observe that the proposed reforms will effect the necessary modernisation and make for greater efficiency, but without the excellence which only recruitment of the best professionals, and hence adequate funding, can afford, the reforms will not achieve their goal. If, for short-term budgetary reasons, the Council seeks to cut back the European public service or reduce its funding, it will do a grave disservice, not only to the administration of the Union, but also to the hopes and aspirations of European citizens, particularly in the acceding countries.

What the rapporteurs have sought to do in this report is to propose amendments that will help to achieve the objectives set out in the explanatory memorandum, in Vice-President Kinnock's statements to Parliament and in the Harbour report on the Commission's White Paper in the

light of the evidence which they have collected in a series of interviews with staff committees and staff representatives (including retired civil servants), representatives of the administrations of the institutions and representatives of the political groups.

Their primary concern has been that the amendments proposed should be consistent with Parliament's resolutions and should actually produce the results intended, while respecting the ethos of the European public service. Accordingly the amendments put forward are designed to eliminate inconsistencies, promote legal certainty and ensure that the proposed changes to the Staff Regulations are consistent with the objectives set out in the White Paper and the Harbour report. Certain amendments are also calculated to take account of the special needs of Parliament and the smaller and specialised institutions, such as the Court of Justice. The rapporteurs have also been at pains not to upset the outcome of the negotiations between the staff representatives and the Commission, which they commend

18 February 2003

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Legal Affairs and the Internal Market

on the proposal for a Council regulation amending the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities
(COM(2002) 213 – C5-0262/2002 – 2002/0100(CNS))

Draftsman: Catherine Guy-Quint

PROCEDURE

The Committee on Budgets appointed Catherine Guy-Quint draftsman at its meeting of 20 June 2002.

It considered the draft opinion at its meeting of 18 February 2003.

At the last meeting it adopted the following amendments unanimously.

The following were present for the vote: Terence Wynn, chairman; Franz Turchi, vice-chairman; Catherine Guy-Quint, draftsman; Kathalijne Maria Buitenweg, Joan Colom i Naval, Den Dover, Bárbara Dührkop Dührkop, Göran Färm, Markus Ferber, Salvador Garriga Polledo, Jutta D. Haug, John Joseph McCartin, Jan Mulder, Joaquim Piscarreta, Per Stenmarck, Kyösti Tapio Virrankoski, Ralf Walter et Brigitte Wenzel-Perillo, Anne-Karin Glase (for Ioannis Averoff) and Bartho Pronk (for James E.M. Elles).

SHORT JUSTIFICATION

Throughout the reform process that began with the White Paper published in January 2000, the Committee on Budgets has focused its efforts on keeping in check the budgetary impact of the various aspects of the process without jeopardising the successful outcome of the Commission's Reform following the mandate given to it by the Berlin and Cologne European Councils and despite the pressure on the ceiling for Heading 5 of the Financial Perspective.

During the past two years, Parliament has played an active role in the process of administrative reform of the Commission:

- in legislative terms, through consultation procedures (revision of the Financial Regulation, special early retirement scheme, external service, executive agencies)
- in budgetary terms, through the decisions by the Budgetary Authority granting the 717 posts requested by the Commission in two successive tranches
- in its own administration and in cooperation with staff representatives.

In the 2001, 2002 and 2003 budgetary procedures, Parliament responded positively to successive requests from the Commission for additional human resources by allocating:

- 400 posts in the 2001 budget
- 317 posts in the 2002 budget.

Parliament also responded favourably to the Commission's requests for an increase in expenditure on training (Chapter A-7), and expenditure involved in the devolution and decentralisation of the external service (Chapter A-6).

Regular monitoring of the administrative Reform from a budgetary point of view has enabled Parliament to:

- keep a check on spending objectives: decentralisation of the external service, executive agencies, introduction of procedures to establish a link between the legislative timetable and the budgetary procedure, improvement of the project cycle and financial channels,
- force the Commission to provide greater transparency vis-à-vis the budgetary authority (creation of an annex to the budget for expenditure arising from the Reform), and to adopt a more rigorous approach (vacant posts, absenteeism, commitology).
- extend the special early retirement scheme to the other institutions, including political group staff (revised proposal).

The reform of the Staff Regulations of officials and other servants is undoubtedly the last major element of the Reform. The position expressed by Parliament in its opinion on the White Paper¹ was as follows:

¹ A-0327/2000, para 29

Takes the view that, with a view to budgetary rigour and in order to optimise career development opportunities, new officials in all categories should preferably be recruited in the basic grade; considers, furthermore, that the importance of management training must be duly emphasised when job specifications are drawn up; stresses the need to achieve adequate specialisation in the Commission's external services; believes that career plans should be updated;

Broadly speaking, these objectives have been taken into account in the Commission proposal. The amendments proposed here are therefore confined to general considerations relating to the principles of budgetary conditionality and sound financial management.

However, it is regrettable that the Commission has not taken the opportunity of the revision of the Staff Regulations to assess the need for a more radical reform of the current pension system.

Your draftsman also notes that the costs entailed by the reform of staff policy in general and the Staff Regulations in particular are not significant and, as from 2004, will even generate savings in Heading 5 of the Financial Perspective, as shown in the table below. The new Staff Regulations will also lead to savings in Heading 3 (research staff and staff of decentralised agencies) but it remains to be seen how the appropriations released will be redeployed (increase in the margin, use for operational purposes?).

COST OF THE STAFF POLICY REFORM

(Calculated by the Commission on 4 February 2003)

€ million

		2002	2003	2004	2005	2006	Total
Pensions	H5 : Expenditure	0,0	-8,8	-5,5	-11,0	-16,4	-41,7
	Revenue	0,0	-1,1	-0,1	-0,4	-0,4	-2,0
Commission	Officials						
	Others *						
Other institutions	Officials						
	Others *						
Outside Heading 5	Officials						
Total	H5 : Expenditure	4,6	-23,2	-8,2	-31,3	-52,8	-110,8
	Part B (Research) Expenditure	0,0	-4,8	-5,1	-8,6	-11,3	-29,8
	Revenue	0,0	-27,8	-48,2	-59,9	-69,5	-205,3
	Cost (H5+Part B-Revenue)	4,6	-0,2	34,9	20,0	5,4	64,8
	Cost officials (H5+Part B)	0,0	-42,8	-31,1	-61,9	-87,5	-223,4
	Cost officials (H5+Part B-Revenue)	0,0	-15,1	17,0	-2,0	-18,0	-18,0

* Conditions of employment

AMENDMENTS

The Committee on Budgets calls on the Committee on Legal Affairs and the Internal Market, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Recital 2a (new)

(2a) As the following provisions have financial implications they are conditional upon the necessary appropriations for their implementation being approved by the budgetary authority during the annual budgetary procedures.

Justification

Principle of budgetary conditionality.

Amendment 2
Annex I (Amendments to the Staff Regulations of officials of the EC)

Point 8, Article 6, paragraph 2

2. The establishment plan shall guarantee that for each institution each year the possibilities of promotion from a given grade to the next higher grade correspond at least to the number of officials in the lower grade in active employment under Article 35(a), on secondment in the interests of the service under Article 38, on leave for military service under Article 35(e) or on parental leave or family leave under Article 35(f) on 1 January of the preceding year, multiplied by the percentage laid down in the establishment plan in Annex I, point B, for the lower grade.

2. The establishment plan shall guarantee that for each institution each year, ***depending on the appropriations allocated by the budgetary authority***, the possibilities of promotion from a given grade to the next higher grade correspond at least to the number of officials in the lower grade in active employment under Article 35(a), on secondment in the interests of the service under Article 38, on leave for military service under Article 35(e) or on parental leave or family leave under Article 35(f) on 1 January of the preceding year, multiplied by the percentage laid down in the establishment plan in Annex I, point B, for the lower grade.

¹ OJ C 291, 26.11.2002, p. 33.

Justification

Principle of budgetary conditionality.

Amendment 3

Annex I (Amendments to the Staff Regulations of officials of the EC)

Point 35, Article 31, paragraph 2

2. Without prejudice to Article 29(2), officials shall be recruited only at grades ***AST 1 to AST 4 or AD 5 to AD 8.***

2. Without prejudice to Article 29(2), officials shall be recruited, ***as a general rule, only at the lower grades of each function group AST 1 or AD 5.***

Justification

For reasons of sound financial management, recruitment should take place at the lowest level of each career bracket.

Amendment 4

Annex I (Amendments to the Staff Regulations of officials of the EC)

Point 42, Article 41, paragraph 3

The allowance and the total remuneration last received, as referred to in the fourth subparagraph, shall be weighted at the rate fixed for pensions for the country inside or outside the Communities where the recipient proves he has his residence.

Deleted

Justification

Complete abolition of the current weighting system for pensions is required to satisfy the principle of equity (same contribution, same pension) and freedom of establishment for retired persons. This is also a source of savings for the Community budget (€66 million a year), administrative simplification and, finally, it removes a potential source of fraud in relation to declarations of residence.

Amendment 5
Annex I (Amendments to the Staff Regulations of officials of the EC)

Point 46, Article 45

Promotion shall be by decision of the Appointing Authority in the light of Article 6(2). It shall be effected by appointment of the official to the next higher grade in the function group to which he belongs. Promotion shall be exclusively by selection from among officials who have completed a minimum of two years in their grade, after consideration of the comparative merits of the officials eligible for promotion. When considering comparative merits, the Appointing Authority may take account of the responsibilities fulfilled by them.

Promotion shall be by decision of the Appointing Authority in the light of Article 6(2) ***and subject to appropriations being made available by the budgetary authority for each financial year***. It shall be effected by appointment of the official to the next higher grade in the function group to which he belongs. Promotion shall be exclusively by selection from among officials who have completed a minimum of two years in their grade, after consideration of the comparative merits of the officials eligible for promotion. When considering comparative merits, the Appointing Authority may take account of the responsibilities fulfilled by them.

Justification

Principle of budgetary conditionality.

Amendment 6
Annex I (Amendments to the Staff Regulations of officials of the EC)

Point 75, Article 82

Pensions shall be weighted at the rate for pensions fixed for the country inside the Communities where the recipient proves he has established his main residence. This rate shall be determined in accordance with the arrangements laid down in Annex XI.

If the recipient of a pension establishes his residence in a country outside the Communities, the weighting of 100 shall be applied.

Deleted

Justification

See justification for amendment to Point 42, Article 41, paragraph 3.

Amendment 7

Annex I (Amendments to the Staff Regulations of officials of the EC)

Point 100, Annex XI of the Staff Regulations, Article 1, paragraph 3, point (a), indent 2

- of the pensions of officials paid in the Member States with reference to Belgium. **Deleted**

Justification

See justification for amendment to Point 42, Article 41, paragraph 3.

Amendment 8

Annex I (Amendments to the Staff Regulations of officials of the EC)

Point 100, Annex XI of the Staff Regulations, Article 3, paragraph 5, subparagraph 2, indent 2

- the pensions of European Communities paid in the other Member States, **Deleted**

Justification

See justification for amendment to Point 42, Article 41, paragraph 3.

Amendment 9

Annex II (Amendments to the Conditions of employment of other servants)

Point 4, Article 3a

1. For the purposes of these Conditions of Employment, 'contract staff' means staff not assigned to a post included in the list of posts appended to the section of the budget

1. For the purposes of these Conditions of Employment, 'contract staff' means staff not assigned to a post included in the list of posts appended to the section of the budget

relating to the institution concerned and engaged for the performance of full-time or part-time duties:

2. Such staff shall be paid from the total appropriations for the purpose under the section of the budget relating to the institution.

relating to the institution concerned and engaged for the performance of full-time or part-time duties ***not involving the exercise of the powers of a public authority***:

2. Such staff shall be paid from the total appropriations for the purpose under the section of the budget relating to the institution, ***subject to their approval by the budgetary authority within the framework of the annual budgetary procedure.***

Justification

This new category of staff must comply with the principles established by the budgetary authority when TAOs were abolished.

Amendment 10

Annex II (Amendments to the Conditions of employment of other servants)

Point 5, Article 4

For the purposes of these Conditions of Employment, 'local staff' means staff engaged in places outside the European Union according to local practice for manual or service duties, assigned to a post not included in the list of posts appended to the section of the budget relating to each institution and paid from the total appropriations for the purpose under that section of the budget. Staff engaged in places of employment situated outside the European Union for duties other than those mentioned above which, in the interests of the service, could not be assigned to an official or servant having another capacity within the meaning of Article 1, shall also be regarded as local staff.

For the purposes of these Conditions of Employment, 'local staff' means staff engaged in places outside the European Union according to local practice for manual or service duties, assigned to a post not included in the list of posts appended to the section of the budget relating to each institution and paid from the total appropriations for the purpose under that section of the budget, ***subject to their approval by the budgetary authority within the framework of the annual budgetary procedure.*** Staff engaged in places of employment situated outside the European Union for duties other than those mentioned above which, in the interests of the service, could not be assigned to an official or servant having another capacity within the meaning of Article 1, shall also be regarded as local staff.

Justification

Principle of budgetary conditionality.

Amendment 11

Annex II (Amendments to the Conditions of employment of other servants)

Point 34, Annex II, Article 79

The contracts of contract staff may be concluded for a fixed period of at least three months and not more than five years. They may be renewed not more than once for a fixed period of not more than five years. The initial contract and the first renewal must be of a total duration of not less than six months for function group I and not less than nine months for the other function groups. Any further renewal shall be for an indefinite period.

1. The contracts of contract staff may be concluded for a fixed period of **not longer than five years**. They may be renewed for a fixed period of up to five years. Any further renewal shall be for an indefinite period, in the contract staff category, if the total years of service is more than ten.

2. Within the institutions, contract staff shall ultimately replace category D officials. In the representative offices, Commission delegations, agencies, executive agencies and other entities set up by a specific legal act, contract staff may be recruited at all levels, subject to a ceiling of two-thirds of the staff and with the exception of management functions.

Justification

See justification for the amendment to Point 4, Article 3a.

20 February 2003

OPINION OF THE COMMITTEE ON BUDGETARY CONTROL

for the Committee on Legal Affairs and the Internal Market

on the proposal for a Council regulation amending the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities
(COM(2002) 213 – C5-0262/2002 – 2002/0100(CNS))

Draftsman: Gianfranco Dell'Alba

PROCEDURE

The Committee on Budgetary Control appointed Gianfranco Dell'Alba draftsman at its meeting of 9 July 2002.

It considered the draft opinion at its meetings of 11 and 19 February 2003.

At the latter meeting it adopted the following amendments by 16 votes to 1.

The following were present for the vote: Diemut R. Theato (chairman), Herbert Bösch, Paulo Casaca and Freddy Blak (vice-chairman); Gianfranco Dell'Alba (draftsman); María Antonia Avilés Perea, Juan José Bayona de Perogordo, Mogens N.J. Camre, Helmut Kuhne, Brigitte Langenhagen, John Joseph McCartin (for Christopher Heaton-Harris), Eluned Morgan, Heide Rühle (for Bart Staes), Ole Sørensen, Gabriele Stauner, Rijk van Dam and Michiel van Hulten.

SHORT JUSTIFICATION

In its resolutions on the reform of the Commission¹ and on the discharge procedure, and, in particular, in the resolutions relating to the discharges for 1999 and 2000², Parliament, on a proposal from the Committee on Budgetary Control, focused in particular on the questions of transparency, accountability and democratic control which would entail modifications to the provisions of the Staff Regulations. These were:

- the whistle-blowing procedure,
- the procedure for professional incompetence, and the disciplinary procedure,
- the creation of the new staff category: 'contract staff'.

The resolution accompanying the discharge for the financial year 2000 (McCartin report) states in paragraph 7 that *'any measure involving amendment of the Staff Regulations of Officials and the Conditions of Employment of Other Servants, (...) must comply with the principles of independence, neutrality and continuity of the European civil service and modern standards of administration, especially providing service and openness towards the citizens'*. In its resolution of 30 January 2003 (McCartin report³) on the action taken by the Commission on the observations accompanying the discharge decision for 2000. Parliament notes *'that the revised staff regulation is under examination by Parliament and recommends that very serious consideration be given to Parliament's final position, especially concerning the whistle blowing procedure, disciplinary sanctions, categories of staff and the use of contractual agents'*.

In your draftsman's view, the proposals made by the Commission in these three areas are far from satisfactory. The proposals should confirm compliance with the broad principles set out above, ensure the requisite clarity in the relationship between staff and management and provide the requisite legal certainty to secure staff support - in practice - for the new provisions. They should be formulated in a way that does not create new problems when they are designed to resolve problems experienced in the past. The Court of Auditors also points out that *'satisfactory working conditions (...) have an important role to play in motivating staff'* and that *'on the other hand, appropriate and robust disciplinary procedures are required'*⁴.

In the light of these considerations, your draftsman proposes the following amendments.

AMENDMENTS

The Committee on Budgetary Control calls on the Committee on Legal Affairs and the Internal Market, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission⁵

Amendments by Parliament

¹ Van Hulten resolution (OJ C 304, 24.10.2000, p. 135), Pomes Ruiz resolution (OJ C 228, 13.8.2001, p. 201).

² Blak resolution (OJ L 160, 15.6.2001, p.1) and McCartin resolution (OJ L 158, 17.6.2002, p. 23).

³ A5-0002/2003.

⁴ OJ C 21, 28.1.2003 (Court of Auditors' Opinion 14/2002, para. 5).

⁵ OJ C 291, 26.11.2002, p. 33.

Amendment 1
ANNEX I, POINT 13

Article 11a (Staff Regulations of officials of the European Communities)

- 1. An official shall act impartially and in accordance with the principle of equal treatment, in particular where he is required to take decisions involving discretionary powers.**
1. An official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.
2. Any official to whom it falls, in the performance of his duties, to deal with a matter referred to **above** shall immediately inform the Appointing Authority. The Appointing Authority shall take any appropriate measure, and may in particular relieve the official from responsibility in this matter
2. An official shall not, in the performance of his duties and save as hereinafter provided, deal with a matter in which, directly or indirectly, he has any personal interest such as to impair his independence, and, in particular, family and financial interests.
3. An official may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties.
3. Any official to whom it falls, in the performance of his duties, to deal with a matter referred to **in paragraph 2** shall immediately inform the Appointing Authority. The Appointing Authority shall take any appropriate measure, and may in particular relieve the official from responsibility in this matter
4. An official may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties.
4. An official may neither keep nor acquire, directly or indirectly, in undertakings which are subject to the authority of the institution to which he belongs or which have dealings with that institution, any interest of such kind or magnitude as might impair his independence in the performance of his duties.

Amendment 2
ANNEX I, POINT 26

Article 22a, paragraph 1 (Staff Regulations of officials of the European Communities)

1. Any official who, **in the course of or in connection with the performance of his duties**, becomes aware of evidence which gives rise to a presumption of the existence of illegal activity, **including fraud or corruption**, detrimental to the interests of the Communities, or of **conduct** relating to the discharge of professional duties which may constitute a **serious** failure to comply
1. Any official **or other servant** who becomes aware of evidence which gives rise to a presumption of the existence of **possible cases of fraud, corruption or any other** illegal activity detrimental to the interests of the Communities, or of **serious situations** relating to the discharge of professional duties which may constitute a failure to comply with the obligations of officials **or**

with the obligations of officials of the Communities liable to result in disciplinary or, in appropriate cases, criminal proceedings, or of a failure *by any other person* to comply with *any similar obligation he may have towards an institution, including members of institutions and any other person at the service of an institution in any manner whatsoever or carrying out services for an institution*, shall *without delay inform* his Head of Service or Director-General or, if he considers it useful, *the* Secretary-General, *or the persons in equivalent positions*, or the European Anti-Fraud Office direct.

servants of the Communities liable to result in disciplinary or, in appropriate cases, criminal proceedings, or a failure to comply with *the analogous obligations of the members, managers or members of staff not subject to the Staff Regulations*, shall *inform without delay* his Head of Service or Director-General or, if he considers it useful, *his* Secretary-General or the European Anti-Fraud Office direct.

Amendment 3

ANNEX I, POINT 26

Article 22a, paragraph 3 (Staff Regulations of officials of the European Communities)

3. *An official shall not suffer any adverse consequences from the institution* as a result of having communicated the information referred to in paragraphs 1 and 2, *provided that he acted reasonably and honestly*.

3. *Officials must in no way suffer inequitable or discriminatory treatment* as a result of having communicated the information referred to in paragraphs 1 and 2.

Amendment 4

ANNEX I, POINT 26

Article 22a, paragraphs 4 and 4a (Staff Regulations of officials of the European Communities)

4. Paragraphs 1 to 3 shall not apply, in the Court of Justice, to documents, deeds, reports, notes or information in any form whatsoever held or created in the course of proceedings in legal cases, whether pending or closed.

4. Paragraphs 1 to 3 shall not apply, in the Court of Justice, to documents, deeds, reports, notes or information in any form whatsoever held or created in the course of proceedings in legal cases, whether pending or closed.

4a. The provisions of this Article shall apply without prejudice to the provisions laid down in Article 4(1), (2) and (3) of Regulation (EC) No 1049/2001 on public access to documents.

Amendment 5

ANNEX I, POINT 26

Article 22b (Staff Regulations of officials of the European Communities)

-1. An official or other servant who discloses the information defined in Article 22a shall, within one month, be duly informed by his immediate superiors of the action taken on his disclosure. Once that time-limit has expired, should he not have been informed of the action taken, he shall inform the President of the Commission, or of the Court of Auditors, or of the Council of Ministers, or of the European Parliament, or the European Ombudsman. Within a period of no more than 60 days, the European Anti-Fraud Office shall inform the official or other servant who has disclosed the information of its decision as to the action that it intends to take.

1. An official who further discloses information as defined in Article 22a to the President of the Commission or of the Court of Auditors or of the Council of Ministers or of the European Parliament, or to the European Ombudsman, shall not as a result suffer any adverse consequences from the institution to which he belongs provided that all of the following conditions are met:

(a) the official ***honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true***; and

(b) the official has previously disclosed the same information to the European Anti-Fraud Office or to his own institution and has allowed a reasonable period of time for the Office or that institution to take appropriate action.

2. For the purposes of paragraph 1, point (b), and subject to paragraph 3, a reasonable period shall be the period which the Office or the institution, as the case may be, has indicated as being necessary to carry out the investigations and, where necessary, take appropriate action. The official shall be duly informed.

1. An official ***or other servant*** who further discloses information as defined in Article 22a ***and forwards it, where appropriate, to the President(s) of the institution(s) referred to in Article 22b(-1), may not as a result be subject to any disciplinary action by*** the institution to which he belongs provided that all of the following conditions are met:

(a) the official ***has acted in the manner defined in Article 22a(3)***; and

(b) the official has previously disclosed the same information to the European Anti-Fraud Office or to his own institution and has allowed a reasonable period of time for the Office or that institution to take appropriate action.

2. For the purposes of paragraph 1, point (b), and subject to paragraph 3, a reasonable period shall be the period which the Office or the institution, as the case may be, has indicated as being necessary to carry out the investigations and, where necessary, take appropriate action. The official shall be duly informed.

3. Paragraph 2 shall not apply where the official can demonstrate that the period or periods indicated by the Office or the institution is or are unreasonable having regard to all the circumstances of the case.

4. Paragraphs 1 to 3 shall not apply, in the Court of Justice, to documents, deeds, reports, notes or information in any form whatsoever held or created in the course of proceedings in legal cases, whether pending or closed.

3. Paragraph 2 shall not apply where the official can demonstrate that the period or periods indicated by the Office or the institution is or are unreasonable having regard to all the circumstances of the case.

4. Paragraphs 1 to 3 shall not apply, in the Court of Justice, to documents, deeds, reports, notes or information in any form whatsoever held or created in the course of proceedings in legal cases, whether pending or closed.

5. The rights of officials to address a petition to the European Parliament pursuant to Article 194 of the EC Treaty or to approach the Ombudsman pursuant to Article 195 of the EC Treaty shall remain unaffected.

Amendment 6

ANNEX I, POINT 26

Article 22c (Staff Regulations of officials of the European Communities)

The protection provided under Article 22b is without prejudice to any personal liability which the official making the disclosure may incur under the relevant national provisions.

1. The protection provided under Article 22b is without prejudice to any personal liability which the official making the disclosure may incur under the relevant national provisions.

2. If it were to be established that the official or other servant who discloses information within the meaning of Article 22a has acted maliciously, he may be the subject of disciplinary measures. Similarly, if it were to be established that the hierarchical superior who receives the information referred to in Article 22a has used his authority or powers with a view to opposing the consideration or forwarding of that information, he shall be subject to disciplinary measures.

Amendment 7

ANNEX I, POINT 33 a (new)

Article 28, point (a) (Staff Regulations of officials of the European Communities)

In Article 28, point (a) is replaced by the

following:

"(a) he is a national of one of the Member States of the Communities, or is a national of a third country with a permanent right of residence in one of the Member States of the Communities, and enjoys his full rights as a citizen;"

Amendment 8
ANNEX I, POINT 53

Article 51, paragraphs 1 and 2 (Staff Regulations of officials of the European Communities)

1. Each institution shall define procedures to identify, deal with and remedy cases of incompetence in a timely and positive fashion. Once these procedures have been exhausted, an official who, on the basis of consecutive career development reports, still proves incompetent in the performance of his duties may be dismissed, downgraded or classified in a lower function group at the same grade or a lower grade.

The Appointing Authority may, however, offer to classify the official in a lower grade or function group.

2. Any proposal to dismiss, downgrade or classify an official in a lower function group shall set out the reasons on which it is based and shall be communicated to the official concerned.

1. Each institution shall define procedures to identify, deal with and remedy cases of incompetence in a timely and positive fashion. Once these procedures have been exhausted, an official who, on the basis of consecutive career development reports, still proves incompetent in the performance of his duties may be dismissed, downgraded or classified in a lower function group at the same grade or a lower grade.

Deleted.

2. Any proposal to dismiss, downgrade or classify an official in a lower function group shall set out the reasons on which it is based and shall be communicated to the official concerned. ***It shall be forwarded by the appointing authority to the Joint Advisory Committee referred to in Article 9, fourth indent.***

Amendment 9
ANNEX I, POINT 90 (g)

Annex II - Section 6 - Joint Advisory Committee for professional incompetence
Article 12, first paragraph (Staff Regulations of officials of the European Communities)

The Joint Advisory Committee for professional incompetence shall comprise a chairman and at least two members, who

The Joint Advisory Committee for professional incompetence shall comprise a chairman and at least two members, who

shall be officials of grade AD 14 at least. Half of the members shall be designated by the Staff Committee and half by the Appointing Authority. The chairman shall be appointed by the Appointing Authority from a list of candidates drawn up in concertation with the Staff Committee.

shall be officials of grade AD 14 at least. ***They shall be appointed for a period of 3 years.*** Half of the members shall be designated by the Staff Committee and half by the Appointing Authority. The chairman shall be appointed by the Appointing Authority from a list of candidates drawn up in concertation with the Staff Committee.

Amendment 10

ANNEX I, POINT 91, letter (a), iii

Annex III, Article 1(1), second subparagraph, point (i) (Staff Regulations of officials of the European Communities)

iii ***In*** the second subparagraph, point (i), ***“Article 28(a)” is replaced by “Article 28(1)(a)”***.

iii The second subparagraph, point (i) ***is deleted.***

Amendment 11

ANNEX I, POINT 98

Annex IX - Disciplinary proceedings - Section 1: General provisions

Article 1, paragraph 1 (Staff Regulations of officials of the European Communities)

1. Whenever an investigation by the Anti-fraud Office (OLAF) reveals the ***possible*** involvement of an official (or a former official) of an institution, that person shall rapidly be informed, provided this is not harmful to the investigation. In any event, conclusions referring by name to an official may not be drawn once the investigation has been completed without that official concerned having had the opportunity to comment on facts concerning him.

1. Whenever an investigation by the Anti-fraud Office (OLAF) reveals the ***personal*** involvement of an official (or a former official) of an institution, that person shall rapidly be informed, provided this is not harmful to the investigation. In any event, conclusions referring by name to an official may not be drawn once the investigation has been completed without that official concerned having had the opportunity to comment on facts concerning him.

Amendment 12

ANNEX I, POINT 98

Annex IX - Disciplinary proceedings - Section 1: General provisions

Article 2, paragraph 2 (Staff Regulations of officials of the European Communities)

2. Subject to the protection of the legitimate interests of third parties, the

2. Subject to the protection of the legitimate interests of third parties, the

Appointing Authority shall inform the person concerned when the investigation ends, and shall communicate to him, **on request**, the conclusions of the investigation report and all documents directly related to the allegations made against him.

Appointing Authority shall inform the person concerned when the investigation ends, and shall communicate to him the conclusions of the investigation report and, **on request**, all documents directly related to the allegations made against him.

Amendment 13

ANNEX I, POINT 98

Annex IX - Disciplinary proceedings - Section 2: Disciplinary Board

Article 4, paragraph 1 (Staff Regulations of officials of the European Communities)

1. A Disciplinary Board, hereinafter referred to as “the Board”, shall be established in each institution.

1. A Disciplinary Board, hereinafter referred to as “the Board”, shall be established in each institution. ***When setting up the Board, the institution shall take care to ensure that it includes an external element to provide every guarantee of independence.***

Amendment 14

ANNEX I, POINT 98

Annex IX - Disciplinary proceedings - Section 5: Disciplinary proceedings before the Disciplinary Board

Article 14, paragraph 1 (Staff Regulations of officials of the European Communities)

1. The official accused shall be heard by the Disciplinary Board; at the hearing, he may submit observations in writing or orally, whether in person or through a representative. He may call witnesses.

1. The official accused shall be heard by the Disciplinary Board; at the hearing, he may submit observations in writing or orally, whether in person or through a representative. He may call witnesses.

When an investigation by the Anti-Fraud Office has revealed the personal involvement of the official concerned, the Board may hear evidence from the OLAF investigators.

Amendment 15
ANNEX I, POINT 98
Annex IX – Section 8 – Final provisions
Article 25 (Staff Regulations of officials of the European Communities)

Where new facts supported by relevant evidence come to light, disciplinary proceedings may be reopened *by* the Appointing Authority on application by the official concerned.

Where new facts supported by relevant evidence come to light, disciplinary proceedings may be reopened *at the instigation of* the Appointing Authority *or* on application by the official concerned.

Amendment 16
ANNEX II, POINT 4
Article 3a, paragraph 1 (Conditions of Employment of other servants of the European Communities)

1. For the purposes of these Conditions of Employment, 'contract staff' means staff not assigned to a post included in the list of posts appended to the section of the budget relating to the institution concerned and engaged for the performance of full-time or part-time *duties*:

- in an institution to carry out manual *or support service* duties;
- in the agencies referred to in Article 1b of the Staff Regulations *and other entities inside the European Union created by specific legal act issued by one or more institutions* allowing for the use of such staff;
- in Representations and Delegations of Community institutions,
- in other entities situated outside the European Union.

Implementing rules governing the use of such staff shall be adopted by each institution.

1. For the purposes of these Conditions of Employment, 'contract staff' means staff not assigned to a post included in the list of posts appended to the section of the budget relating to the institution concerned and engaged for the performance of full-time or part-time *work*:

- in an institution to carry out manual duties;
- in the agencies referred to in Article 1b of the Staff Regulations and *Article 54(2) of Council Regulation No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities* allowing for the use of such staff;
- in Representations and Delegations of Community institutions,
- in other entities situated outside the European Union.

Implementing rules governing the use of such staff shall be adopted by each institution.

Amendment 17
ANNEX II, POINT 8 a (new)
Article 12, paragraph 2, point (a) (Conditions of Employment of other servants of the European Communities)

In Article 12(2), point (a) is replaced by the following:

"(a) he is a national of one of the Member States of the Communities, or is a national of a third country with a permanent right of residence in one of the Member States of the Communities, and enjoys his full rights as a citizen;"

Amendment 18

ANNEX II, POINT 22 a (new)

Article 55, paragraph 1, point (a) (Conditions of Employment of other servants of the European Communities)

In Article 55(1), point (a) is replaced by the following:

"(a) he is a national of one of the Member States of the Communities, or is a national of a third country with a permanent right of residence in one of the Member States of the Communities, and enjoys his full rights as a citizen;"

Amendment 19

ANNEX II, POINT 34

Article 79 (Conditions of Employment of other servants of the European Communities – Title IV – Contract Staff – Chapter 1: General provisions)

The contracts of contract staff may be concluded for a fixed period of at least three months and not more than five years. They may be renewed not more than once for a fixed period of not more than five years. ***The initial contract and the first renewal must be of a total duration of not less than six months for function group I and not less than nine months for the other function groups. Any further renewal shall be for an indefinite period.***

The contracts of contract staff may be concluded for a fixed period of at least three months and not more than five years. They may be renewed not more than once for a fixed period of not more than five years.

Amendment 20

ANNEX II, POINT 34

Article 82, paragraph 3, point (a) (Conditions of Employment of other servants of the

European Communities – Title IV – Contract Staff – Chapter 3: Conditions of engagement)

(a) is a national of one of the Member States of the Communities, unless an exception is authorised by the authority referred to in the first paragraph of Article 6, and enjoys his full rights as a citizen;

(a) is a national of one of the Member States of the Communities, or is a national of a third country with a permanent right of residence in one of the Member States of the Communities, and enjoys his full rights as a citizen;

Amendment 21

ANNEX II, POINT 34

Article 84, paragraph 1 (Conditions of Employment of other servants of the European Communities – Title IV - Contract Staff – Chapter 3: Conditions of engagement)

A member of the contract staff shall serve a probationary period for the first six months of his period of employment if he is in function group I and the first nine months if he is in any other function group.

A member of the contract staff **on a contract with a term longer than one year** shall serve a probationary period for the first six months of his period of employment if he is in function group I and the first nine months if he is in any other function group.

Amendment 22

ANNEX II, POINT 34

Article 94, paragraph 2 (Conditions of Employment of other servants of the European Communities – Title IV - Contract Staff – Chapter 6: Social security benefits)

2. To be eligible for this unemployment allowance, a former member of the contract staff shall:

- (a) be registered, at his own request, as seeking employment with the employment authorities of the Member State in which he establishes his residence;
- (b) fulfil the obligations laid down by the law of that Member State for persons in receipt of unemployment benefits under that law;
- (c) forward every month to the institution to which he belonged, which shall immediately forward it to the Commission, a certificate issued by the competent national employment authority

2. To be eligible for this unemployment allowance, a former member of the contract staff shall:

- (a) be registered, at his own request, as seeking employment with the employment authorities of the Member State in which he establishes his residence;
- (b) fulfil the obligations laid down by the law of that Member State for persons in receipt of unemployment benefits under that law;
- (c) forward every month to the institution to which he belonged, which shall immediately forward it to the Commission, a certificate issued by the competent national employment authority

stating whether or not he has fulfilled the obligations and conditions referred to in (a) and (b).

The allowance may be granted or maintained by the Community, even where the national obligations referred to under (b) have not been fulfilled, in cases of illness, accident, maternity, invalidity or a situation recognised as being similar or where the national authority, competent to meet those obligations, has given a dispensation.

The Commission shall, after obtaining the opinion of a committee of experts, lay down such provisions as it deems necessary for applying this Article.

stating whether or not he has fulfilled the obligations and conditions referred to in (a) and (b).

The allowance may be granted or maintained by the Community, even where the national obligations referred to under (b) have not been fulfilled, in cases of illness, accident, maternity, invalidity or a situation recognised as being similar or where the national authority, competent to meet those obligations, has given a dispensation.

The Commission shall, after obtaining the opinion of a committee of experts, lay down such provisions as it deems necessary for applying this Article. ***A contract staff member shall not suffer any damage as a result of possible contradictions of a regulatory nature or problems of an administrative nature that might arise from differences between national legislation and these regulations.***

19 February 2003

OPINION OF THE COMMITTEE ON CONSTITUTIONAL AFFAIRS

for the Committee on Legal Affairs and the Internal Market

on the proposal for a Council regulation on amending the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities
(COM(2002) 213 – C5-0262/2002 – 2002/0100 (CNS))

Draftsman: Richard Corbett

PROCEDURE

The Committee on Constitutional Affairs appointed Richard Corbett draftsman at its meeting of 16 July 2002.

It considered the draft opinion at its meeting of 10 December 2002 and 17 February 2003.

At the latter meeting it adopted the following amendments by 23 votes to 1, with 1 abstention.

The following were present for the vote: Giorgio Napolitano chairman; Jo Leinen vice-chairman; Ursula Schleicher, vice-chairman; Richard Corbett draftsman; Margrietus J. van den Berg (for Enrique Barón Crespo), Jean-Louis Bourlanges, Carlos Carnero González, Jean-Maurice Dehousse, Giorgos Dimitrakopoulos, Andrew Nicholas Duff, José María Gil-Robles Gil-Delgado, Gerhard Hager, Sylvia-Yvonne Kaufmann, Giorgio Lisi (for Antonio Tajani, pursuant to Rule 153(2)), Hanja Maij-Weggen, Hans-Peter Martin, Iñigo Méndez de Vigo, Gérard Onesta, Marcelino Oreja Arburúa (for Daniel J. Hannan, pursuant to Rule 153(2)), Jacques F. Poos (for Olivier Duhamel), José Ignacio Salafranca Sánchez-Neyra (for Teresa Almeida Garrett, pursuant to Rule 153(2)), Giacomo Santini (for Luigi Ciriaco De Mita, pursuant to Rule 153(2)), Dimitris Tsatsos, Johannes Voggenhuber and Rainer Wieland (for The Lord Inglewood, pursuant to Rule 153(2)).

AMENDMENTS

The Committee on Constitutional Affairs calls on the Committee on Legal Affairs and the Internal Market, as the committee responsible, to incorporate the following amendments in its report:

Text presented by the Commission¹

Amendments by AFCE

Amendment 1 RECITAL 2 B (NEW)

(2b) The current situation, in which a correction coefficient is applied to pensions on the basis of pensioners' place of residence:

(a) is contrary to the principle of equality, since all officials pay contributions on an equal basis and the pensions paid should correspond to the contributions made;

(b) is contrary to the principle of freedom of establishment, which would be distorted if pensions varied in accordance with the place of residence; and

(c) would cause a rise in the system's cost as a result of the greater amount of bureaucracy entailed in calculating pensions and checking actual places of residence (to prevent fraud);

Justification

Self-explanatory

¹ OJ C .

Amendment 2
RECITAL 2 C (NEW)

(2c) Therefore, all correction coefficients for pensions based on pensioners' place of residence should be eliminated, instead of introducing a new correction coefficient to be applied exclusively to pensioners, which would imply a significant decrease in pensions;

Justification

Self-explanatory

Amendment 3
Annex I

Point 5
Article 1d

1. In the application of these Staff Regulations, any discrimination shall be prohibited, in particular that based on gender, race, colour, ethnic or social origin, genetic features, language, religion, convictions, political opinions or any other opinions, membership of a national minority, wealth, birth, age, disability or sexual orientation.

1. In the application of these Staff Regulations, any discrimination ***based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.***

Justification

These are the words of Article 21 of the Charter of fundamental rights.

Amendment 4
ANNEX I, POINT 7
Article 2, paragraph 2 (Staff Regulations)

2. However, one or more institutions may entrust to any one of them or to an inter-institutional body the exercise of some or all of the powers conferred on the Appointing Authority.

2. However, one or more institutions may entrust to any one of them or to an inter-institutional body the exercise of some or all of the powers conferred on the Appointing Authority, **but decisions concerning the appointment, promotion, grading, transfer or disciplinary measures in respect of officials or members of staff from any institution may not be entrusted to another institution or to an inter-institutional body.**

Justification

The institutions should retain the power to appoint, promote, transfer and impose disciplinary measures on their officials themselves in order to preserve their independence, especially those with a scrutinising function such as Parliament, the Court of Justice, the Court of Auditors, etc.

Amendment 5

ANNEX I, POINT 8

Article 5, paragraph 2 (Staff Regulations)

2. Function group AD shall comprise twelve grades, corresponding to administrative, advisory, **linguistic** and scientific duties. Function group AST shall comprise eleven grades, corresponding to executive, technical and clerical duties.

2. Function group AD shall comprise twelve grades, corresponding to administrative, advisory and scientific duties, **together with a subgroup (ADL) with specific linguistic duties.** Function group AST shall comprise eleven grades, corresponding to executive, technical and clerical duties.

Justification

The language services established under the Staff Regulations provide a guarantee – as a result of a rigorous selection procedure – of the quality and multi-lingualism which are essential for a representative institution such as Parliament, which exercises legislative powers. Only services with staff employed under a regulations-based regime can carry out their duties with the loyalty to the institution which is needed when such legislative powers are exercised.

Amendment 6

Annex I

Point 8

Article 5

1. The posts covered by the Staff Regulations shall be classified, according to the nature and importance of the duties to which they relate, in an administrators' function group (hereinafter "AD") and an assistants' function group (hereinafter "AST").

2. Function group AD shall comprise twelve grades, corresponding to administrative, advisory, linguistic and scientific duties. Function group AST shall comprise eleven grades, corresponding to executive, technical and clerical duties.

3. Appointment shall require at least

(a) in function group AST

- a post-secondary education diploma or
- an advanced level of secondary education and appropriate professional experience of at least three years, or
- equivalent professional experience.

(b) in function group AD

- a university degree awarded after a course of at least three years and appropriate professional experience of at least one year or a further year of university studies beyond the third year or
- equivalent professional experience.

4. A table showing types of posts is given in Annex I, point A. By reference to this table, each institution shall define the duties and powers attaching to each post after consulting the Staff Regulations Committee.

5. Identical conditions of recruitment and

1. The posts covered by the Staff Regulations shall be classified, according to the nature and importance of the duties to which they relate, in an administrators' function group (hereinafter "AD") and an assistants' function group (hereinafter "AST").

2. Function group AD shall comprise twelve grades, corresponding to administrative, advisory, linguistic and scientific duties. Function group AST shall comprise eleven grades, corresponding to executive, technical, clerical duties *and those of a parliamentary usher*.

3. Appointment shall require at least

(a) in function group AST

- a post-secondary education diploma or
- an advanced level of secondary education and appropriate professional experience of at least three years, (*deletion*)

(b) in function group AD

- a university degree awarded after a course of at least three years and appropriate professional experience of at least one year or a further year of university studies beyond the third year or
- *relevant* equivalent professional experience.

4. A table showing types of posts is given in Annex I, point A. By reference to this table, each institution shall define the duties and powers attaching to each post after consulting the Staff Regulations Committee.

5. Identical conditions of recruitment and

service career shall apply to all officials belonging to the same function group.

service career shall apply to all officials belonging to the same function group.

Amendment 7
Annex I, paragraph 8
Article 5, paragraph 3 b

does not concern EN text

Justification

Amendment to DE text, changing “gleichwertige” (of equal value) to “gleich zu setzende” (to be treated as equivalent), where the EN text already has “equivalent”.

Amendment 8
Annex I, paragraph 18
Article 15, paragraph 3 (new)

3. The decision taken by the Appointing Authority pursuant to paragraph 2 shall on no account be automatically renewed in the case of the official’s re-election or re-appointment.

Amendment 9
Annex I

Point 26

Article 22a

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of evidence which gives rise to a presumption of the existence of illegal activity, including fraud or corruption, detrimental to the interests of the Communities, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of evidence which gives rise to a presumption of the existence of illegal activity, including fraud or corruption, detrimental to the interests of the Communities, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply

with the obligations of officials of the Communities liable to result in disciplinary or, in appropriate cases, criminal proceedings, or of a failure by any other person to comply with any similar obligation he may have towards an institution, including members of institutions and any other person at the service of an institution in any manner whatsoever or carrying out services for an institution, shall without delay inform his Head of Service or Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office direct.

2. Any official receiving such information shall without delay transmit to the European Anti-Fraud Office any evidence of which he is aware from which the existence of the irregularities referred to in paragraph 1 may be presumed.

3. An official shall not suffer any adverse consequences from the institution as a result of having communicated the information referred to in paragraphs 1 and 2, provided that he acted reasonably and honestly.

4. Paragraphs 1 to 3 shall not apply, in the Court of Justice, to documents, deeds, reports, notes or information in any form whatsoever held or created in the course of proceedings in legal cases, whether pending or closed.

with the obligations of officials of the Communities liable to result in disciplinary or, in appropriate cases, criminal proceedings, or of a failure by any other person to comply with any similar obligation he may have towards an institution, including members of institutions and any other person at the service of an institution in any manner whatsoever or carrying out services for an institution, shall without delay inform his Head of Service or Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office direct.

2. Any official receiving such information shall without delay transmit to the European Anti-Fraud Office any evidence of which he is aware from which the existence of the irregularities referred to in paragraph 1 may be presumed.

3. An official shall not suffer any adverse consequences from the institution as a result of having communicated the information referred to in paragraphs 1 and 2, provided that he acted reasonably and honestly.

(deletion)

Amendment 10
Annex I, paragraph 28
Article 24 a

It shall facilitate such further training and instruction for officials as is compatible with the proper functioning of the service and is in accordance with *its* own interests.

They shall *make efforts to ensure* such further training and instruction for officials as is compatible with the proper functioning of the service and is in accordance with *their*

Such training and instruction **shall** be taken into account for purposes of promotion in their careers.

own interests.

Such training and instruction **may** be taken into account for purposes of promotion in their careers.

Amendment 11
ANNEX I, POINT 30
Article 25 (Staff Regulations)

Specific decisions regarding appointment, establishment, promotion, transfer, determination of administrative status and termination of service of an official shall be brought to the attention of the staff in the institution to which the official belongs.

Specific decisions regarding appointment, establishment, promotion, transfer, determination of administrative status and termination of service of an official shall be brought to the attention of the staff in the institution to which the official belongs, **and shall be published in the Monthly Staff Bulletin of the Communities.**

Justification

The publication of decisions provides a guarantee of transparency, which cannot be replaced by bringing decisions to the attention of the staff in a single institution.

Amendment 12
ANNEX I, POINT 31, POINT (B)
Article 26, paragraph 4 (Staff Regulations)

An official's personal file shall contain no reference to his political, philosophical or religious views, or to his racial or ethnic origin or sexual orientation **unless provided or approved by the official himself.**

An official's personal file shall contain no reference to his political, philosophical or religious views, or to his racial or ethnic origin or sexual orientation.

Justification

The prohibition of references which might give rise to discrimination must be absolute. It cannot be left to the judgement of the persons involved, since they could request the inclusion of material which might favour them to the detriment of others.

Amendment 13
ANNEX I, POINT 31
Article 26, paragraph 6 (Staff Regulations)

An official shall have the right, even after leaving the service, to acquaint himself with all the documents in his file and to take copies of them *if necessary*.

An official shall have the right, even after leaving the service, to acquaint himself with all the documents in his file and to take copies of them.

Justification

The right to copy documents in an official's own file cannot be made subject to a condition as ambiguous as 'if necessary'.

Amendment 14 Article 28 of the Staff Regulations

An official may be appointed only on condition that:

- (a) he is a national of one of the Member States of the Communities, unless an exception is authorised by the appointing authority, and enjoys his full rights as a citizen;
- (b) he has fulfilled any obligations imposed on him by the laws concerning military service;
- (c) he produces the appropriate character references as to his suitability for the performance of his duties;
- (d) he has, subject to Article 29(2), passed a competition based on either qualifications or tests, or both qualifications and tests, as provided for in Annex III;
- (e) he is physically fit to perform his duties; and
- (f) he produces evidence of a thorough knowledge of one of the languages of the Communities and of a satisfactory knowledge of another language of the Communities to the extent necessary for the performance of his duties.

An official may be appointed only on condition that:

- (a) he is a national of one of the Member States of the Communities, unless an exception is authorised by the appointing authority, and enjoys his full rights as a citizen;
- (b) he has fulfilled any obligations imposed on him by the laws concerning military service;
- (c) he produces the appropriate character references as to his suitability for the performance of his duties;
- (d) he has, subject to Article 29(2), passed a competition based on either qualifications or tests, or both qualifications and tests, as provided for in Annex III;
- (e) he is physically fit to perform his duties; and
- (f) he produces evidence of a thorough knowledge of one of the languages of the Communities and of a satisfactory knowledge of *at least one other language*, to the extent necessary for the performance of his duties.

Amendment 15 ANNEX I, POINT 42

Article 41, paragraph 3, subparagraphs 6 and 7 (Staff Regulations)

The allowance and the total remuneration last received, as referred to in the fourth subparagraph, shall be weighted at **the rate fixed for pensions for the country inside or outside the Communities where the recipient proves he has his residence.**

If the recipient establishes his residence in a country outside the Communities, the weighting shall be equal to 100.

The allowance and the total remuneration last received, as referred to in the fourth subparagraph, shall be weighted at **a rate equal to 100, whether the recipient establishes his residence in a country inside the Communities or in a country outside them.**

Amendment by José María Gil-Robles Gil-Delgado

Amendment 16

ANNEX I, POINT 46

Article 45 a, paragraph 1 (Staff Regulations)

1. From grade 5, an official in function group AST may be transferred to function group AD within the meaning of Article 29 on condition, in particular, that he has successfully completed a set of training modules at **a higher** level which ensure that he has reached a level equivalent to that required under Article 5(3). The institutions shall adopt general implementing provisions for these arrangements, and in particular for training and transfer. Such provisions shall take account of career development.

1. From grade 5, an official in function group AST may be transferred to function group AD within the meaning of Article 29 on condition, in particular, that he has successfully completed a **complete** set of training modules at **full degree** level which ensure that he has reached a level equivalent to that required under Article 5(3). The institutions shall adopt general implementing provisions for these arrangements, and in particular for training and transfer. Such provisions shall take account of career development.

Or. es

Amendment 17

Article 69

The expatriation allowance shall be equal to **16%** of the total of the **basic** salary, household allowance and dependent child allowance to which the official is entitled. The expatriation allowance shall be not less than 400.14 euros per month.

The expatriation allowance shall be equal to **20%** of the total of the **starting** salary, household allowance and dependent child allowance to which the official is entitled. The expatriation allowance shall be not less than 400.14 euros per month.

Amendment 18
ANNEX I, POINT 75, POINT (A)
Article 82, paragraph 1, subparagraphs 2 and 3 (Staff Regulations)

Pensions shall be weighted at the rate for pensions fixed for the country inside the Communities where the recipient proves he has established his main residence. This rate shall be determined in accordance with the arrangements laid down in Annex XI.

If the recipient of a pension establishes his residence in a country outside the Communities, the weighting of 100 shall be applied.

Regardless of the country in which the recipient has his residence, the weighting of 100 shall be applied.

Justification

See arguments set out under Amendment 2 (new Recital 2b).

Amendment 19
ANNEX I, POINT 100
Annex XI, Chapter 1, Section 1, Article 1, paragraph 3, subparagraph (a), indent 2 (Staff Regulations)

- of the pensions of officials paid in the Member States with reference to Belgium. ***deleted***

Justification

See arguments set out under Amendment 2 (new Recital 2b).

Amendment by José María Gil-Robles Gil-Delgado

Amendment 20
ANNEX I, POINT 100
Annex XI, Chapter 1, Section 2, Article 3, paragraph 5, subparagraph 2, indent 2

- the pensions of European Communities paid in the other Member States, ***deleted***

Justification

See arguments set out under Amendment 2 (new Recital 2b).

Amendment 21
ANNEX I, POINT 102
Annex XIII, Article 20 (Staff Regulations)

From [1 January 2004] to [31 December 2007], the second subparagraph of Article 82(1) of the Staff Regulations is replaced by the following: *deleted*

“Pensions shall be adjusted by the average of the correction coefficient for officials and the correction coefficient for pensions mentioned in Article 3(5) of Annex XI to the Staff Regulations for the Member State where the recipient provides evidence of having established his main residence. The average shall be calculated using the weightings in the following table:

TABLE

When at least one of the coefficients is modified, the average is modified with effect on the same date.

Justification

See arguments set out under Amendment 2 (new Recital 2b).

Amendment 22
Annex II
Point 2

Article 2 of the Conditions of Employment of other servants of the Communities

For the purposes of these conditions of employment, 'temporary staff' means:

(a) staff engaged to fill a post which is

For the purposes of these conditions of employment, 'temporary staff' means:

(a) staff engaged to fill a post which is

included in the list of posts appended to the section of the budget relating to each institution and which the budgetary authorities have classified as temporary;

(b) staff engaged to fill temporarily a permanent post included in the list of posts appended to the section of the budget relating to each institution;

(c) staff, other than officials of the Communities, engaged to assist either a person holding an office provided for in the Treaties establishing the Communities, or the Treaty establishing a Single Council and a Single Commission of the European Communities, or the elected President of one of the institutions or organs of the Communities, or one of the political groups in the European Parliament or the Committee of the Regions, or a group in the Economic and Social Committee.;

(d) staff engaged to fill temporarily a permanent post paid from research and investment appropriations and included in the list of posts appended to the budget relating to the institution concerned.

included in the list of posts appended to the section of the budget relating to each institution and which the budgetary authorities have classified as temporary;

(b) staff engaged to fill temporarily a permanent post included in the list of posts appended to the section of the budget relating to each institution;

(c) staff, other than officials of the Communities, engaged to assist either a person holding an office provided for in the Treaties establishing the Communities, or the Treaty establishing a Single Council and a Single Commission of the European Communities, or the elected President of one of the institutions or organs of the Communities, or the Committee of the Regions, or a group in the Economic and Social Committee.;

(d) *staff engaged to assist one of the political groups in the European Parliament*

(e) staff engaged to fill temporarily a permanent post paid from research and investment appropriations and included in the list of posts appended to the budget relating to the institution concerned.

Amendment 23
Annex II

Point 4

Article 3a of the Conditions of other servants of the Communities

1. For the purposes of these Conditions of Employment, 'contract staff' means staff not assigned to a post included in the list of posts appended to the section of the budget

1. For the purposes of these Conditions of Employment, 'contract staff' means staff not assigned to a post included in the list of posts appended to the section of the budget

relating to the institution concerned and engaged for the performance of full-time or part-time duties:

- in an institution to carry out manual or support service duties;
- in the agencies referred to in Article 1b of the Staff Regulations and other entities inside the European Union created by specific legal act issued by one or more institutions allowing for the use of such staff;
- in Representations and Delegations of Community institutions,
- in other entities situated outside the European Union.

Implementing rules governing the use of such staff shall be adopted by each institution.

2. Such staff shall be paid from the total appropriations for the purpose under the section of the budget relating to the institution

relating to the institution concerned and engaged for the performance of full-time or part-time duties:

- in an institution to carry out manual or support service duties;
- in the agencies referred to in Article 1b of the Staff Regulations and other entities inside the European Union created by specific legal act issued by one or more institutions allowing for the use of such staff;
- in Representations and Delegations of Community institutions,
- in other entities situated outside the European Union.

Implementing rules governing the use of such staff shall be adopted by each institution. ***Those rules shall ensure that for agencies, Representations and Delegations, contract staff shall not exceed a reasonable proportion of the total.***

2. Such staff shall be paid from the total appropriations for the purpose under the section of the budget relating to the institution

Amendment 24
ANNEX II, POINT 34

Title IV: Contract staff, Chapter I: General provisions, Article 79 (Staff Regulations)

The contracts of contract staff may be concluded for a fixed period of at least three months and not more than five years. They may be renewed not more than once for a fixed period of not more than five years. The initial contract and the first renewal must be of a total duration of not less than six months for function group I and not less than nine months for the other function groups. ***Any further renewal shall be for an indefinite period.***

The contracts of contract staff may be concluded for a fixed period of at least three months and not more than five years. They may be renewed not more than once for a fixed period of not more than five years. The initial contract and the first renewal must be of a total duration of not less than six months for function group I and not less than nine months for the other function groups.

Contract staff shall only be engaged in exceptional circumstances, on a temporary basis and on justified grounds, and only

when engaging new officials is impossible because the reserve lists from open or internal competitions have been exhausted.

Justification

The diversity and complexity of Community action, which has a much wider sphere of operation than even the most complex of national administrations, requires high levels of efficiency; this cannot be achieved except by using staff from many different sources – in terms of specialisation, administrative culture and languages – who possess advanced professional qualifications. These demands require the maintenance of an operational structure guaranteeing independence and skill which remain stable over time and capable of serving the public interest on a permanent basis, independently of the natural changes in political direction which are to be expected in democratic institutions. All this translates into the need for a European civil service with a legal status, since neither contractual arrangements nor the privatisation of services would make it possible to combine all the requirements which have been referred to very briefly above.