Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union

REGULATION (EU, EURATOM) No 1023/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 22 October 2013

amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 336 thereof,

Having regard to the Protocol on the Privileges and Immunities of the European Union, and in particular Article 12 thereof,

Having regard to the proposal from the European Commission, submitted following consultation with the Staff Regulations Committee,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Court of Justice[(1)],

Having regard to the opinion of the Court of Auditors[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) The European Union, and its more than 50 institutions and agencies, should continue to be equipped with a high-quality European public administration, so as to enable it to achieve its objectives, implement its policies and activities and perform its tasks to the highest possible standard in accordance with the Treaties in order to meet the challenges, both internal and external, that it will face in the future and to serve the citizens of the Union.

(2) Consequently, it is necessary to ensure a framework for attracting, recruiting and maintaining highly qualified and multilingual staff, drawn on the broadest possible geographical basis from among citizens of the Member States, and with due regard to gender balance, who are independent and who adhere to the highest professional standards, and to enable such staff to carry out their duties as effectively and efficiently as possible. In that respect, it is necessary to overcome the current difficulties experienced by the institutions in recruiting officials or staff from certain Member States.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council. (See end of Document for details)*

(3) Given the size of the European civil service when measured against the objectives of the Union and its population, a decrease in the number of staff of the institutions and agencies of the Union should not lead to any impairment of the performance of their tasks, duties and functions in accordance with the obligations and powers under the Treaties. In this regard, there is a need for transparency in relation to the personnel costs incurred by each institution and agency with respect to all categories of staff employed by them.

(4) The European civil service is expected to live up to the highest standards of professional ethics and to remain independent at all times. To that end, Title II of the Staff Regulations[(4)], which provides a framework for rights and obligations, should be further clarified. Any failure by officials or former officials to comply with these obligations should render them liable to disciplinary action.

(5) The value of the European civil service lies equally in its cultural and linguistic diversity, which can only be ensured if appropriate balance is secured regarding officials' nationality. Recruitment and appointments should ensure that staff are employed on the broadest possible geographical basis from among the nationals of all Member States of the European Union without, however, posts being reserved for nationals of any specific Member State. To that end and in order to address possible significant imbalances between nationalities among officials which are not justified by objective criteria, each institution should be given the possibility to adopt justified and appropriate measures. Such measures should never result in recruitment criteria other than those based on merit. The Commission should report to the European Parliament and to the Council on the implementation of the appropriate measures by the institutions.

(6) In order to facilitate recruitment on the broadest possible geographical basis, the institutions should strive to support multilingual and multicultural education for the children of their staff. It is desirable that a contribution by the Union to the financing of the European Schools, determined by the budgetary authority in accordance with the relevant rules, be charged to the budget of the Union. Where necessary in the interests of the functioning of the institutions, the Commission should be able to ask the competent authorities to reconsider the location of a new European School.

(7) A broader aim should be to optimise the management of human resources in a European civil service characterised by its excellence, competence, independence, loyalty, impartiality and stability, as well as by cultural and linguistic diversity and attractive recruitment conditions.

(8) Officials should serve a nine-month probationary period. When deciding on the establishment of an official, the appointing authority should take into account the report on the probationary period made at the end of that period and the probationer's conduct with respect to his obligations under the Staff Regulations. It should be possible for a report on the probationer to be made at any time if the work of the probationer has proved obviously inadequate. Otherwise a report should only be made at the end of the probationary period.

(9) In the interest of guaranteeing that the purchasing power of officials and other servants of the European Union develops in parallel with that of national civil servants in central governments of the Member States, it is essential to preserve the principle of a multi-annual mechanism for pay update, known as 'the method', by ensuring its application until the end of 2023 with a review at the beginning of 2022, while including a mechanism for the provisional prolongation of the method. Moreover, in order to remedy the difficulties with the application of the method in the past, provision should be made for a method to allow for an automatic annual update of all salaries, pensions and allowances, including an automatic crisis clause. To that effect, the relevant amounts contained in the Staff Regulations and the Conditions of Employment of Other Servants of the European Union should be understood as reference amounts which are subject to a regular and automatic update. Those updated amounts should be published by the Commission in the C series of the *Official Journal of the European Union* for information purposes. This update mechanism should equally be used for all other instances where such an update is provided for.

(10) It is important to ensure the quality of statistical data used for updating remuneration and pensions. In accordance with the principle of impartiality, national statistical institutes or other appropriate authorities in the Member States should collect the data at national level and transmit them to Eurostat.

(11) The potential advantages for officials and other servants of the European Union of the application of the method should be balanced by the reintroduction of the system of a 'levy'. As in the case of the method, the application of the solidarity levy may be provisionally prolonged. It seems appropriate in the present circumstances to increase the solidarity levy, as compared with the level of the special levy applicable from 2004 to 2012, and to provide for a more progressive rate. This is to take account of the particularly difficult economic and social context in the Union, and its ramifications for public finances throughout the Union. The need to consolidate public finances in the Union, including in the short term, requires a swift and particular effort of solidarity on the part of the staff of the institutions of the Union. Such a solidarity levy should thus apply to all officials and other servants of the Union as from 1 January 2014.

(12) In its conclusions of 8 February 2013 on the multiannual financial framework, the European Council pointed out that the need to consolidate public finances in the short, medium and long term requires a particular effort by every public administration and its staff to improve efficiency and effectiveness and to adjust to the changing economic context. That call reiterated in fact the objective of the 2011 Commission proposal for amendment of the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, which strove to ensure cost-efficiency and acknowledged that challenges currently faced by the European Union require a particular effort by each and every public administration and each and every member of its staff to improve efficiency and to adjust to the changing economic and social context in Europe. The European Council called moreover, as part of the reform of the Staff Regulations, for the adjustment of remuneration and pensions of all staff

of the Union institutions through the method to be suspended for two years and for the new solidarity levy to be reintroduced as part of the reform of the salary method.

(13) In view of those conclusions and in order to respond to future budgetary constraints as well as to show solidarity on the part of the European civil service with the severe measures taken by Member States as a result of the unprecedented financial crisis and the particularly difficult social and economic context in the Member States and the Union as a whole, it is necessary to provide for suspension of the method for two years for all remuneration, pensions and allowances of officials and to apply the solidarity levy despite such suspension.

(14) Demographic changes and the changing age structure of the population concerned require that the pension age be increased, subject however to transitional measures for officials and other servants of the European Union already in service. Those transitional measures are necessary in order to respect acquired rights of officials already in service who have contributed to the notional pension fund for European Union officials. The pension age should also be made more flexible by making it easier for staff to continue to work voluntarily until the age of 67 and by making it possible, in exceptional circumstances and under specific conditions, to work until the age of 70.

(15) Since the European Union pension scheme is in actuarial balance and that balance has to be maintained in the short and in the long term, staff employed before 1 January 2014 should be compensated for their pension contribution by transitional measures, such as an adjusted accrual rate for the years of service after reaching pensionable age (Barcelona incentive) and by applying half of the reduction for early retirement between the age of 60 and the statutory retirement age.

(16) Commonly accepted actuarial practice requires that a period of past observations between 20 and 40 years be used for interest rates and salary growth with a view to ensuring the balance of pension schemes. The moving averages for interest rates and salary growth should therefore be extended to 30 years with a transitional period of seven years.

(17) The Council requested from the Commission a study and the submission of appropriate proposals on Article 5(4), Annex I, Section A, and Article 45(1) of the Staff Regulations with a view to establishing a clear link between responsibilities and grade and in order to ensure a greater emphasis on the level of responsibilities when comparing merits in the context of promotion.

(18) Taking that request into account, it is appropriate that promotion to a higher grade should be made conditional on personal dedication, improvement of skills and competences, and the performance of duties the importance of which justifies the official's appointment to that higher grade.

(19) The career stream in the AD and AST function groups should be restructured in such a way that the top grades will be reserved for a limited number of officials exercising the highest level of responsibilities. Therefore administrators can only progress as far as grade AD 12 unless they are appointed to a specific post above that grade, and grades AD 13 and 14 should be reserved for those staff whose roles entail significant

responsibilities. Similarly, officials in grade AST 9 can be promoted to grade AST 10 only in accordance with the procedure laid down in Article 4 and Article 29(1) of the Staff Regulations.

(20) With a view to adjusting career structures in the current domains of AST staff even further to different levels of responsibility and as an indispensable contribution to limiting administrative expenses, a new function group 'AST/SC' for secretarial and clerical staff should be introduced. Salaries and promotion rates should establish a suitable correlation between the level of responsibility and the level of remuneration. In this way it will be possible to preserve a stable and comprehensive European civil service. The Commission should assess and report on the scale and effects of introducing this new function group, taking particular account of the situation of women, so that the preservation of a stable and comprehensive European civil service can be ensured.

(21) The minimum of two years in the grade before promotion of an official to the next higher grade is maintained in order to allow for faster promotions for high performers. Each institution should ensure that its internal human resources policies use the possibilities provided in the Staff Regulations to allow for appropriate careers for high-potential and high-performing officials.

(22) Working hours applied in the institutions should be aligned with those in force in certain of the Member States of the European Union to compensate for the reduction of staff in the institutions. That alignment should take into account the working hours applied in the civil services of Member States. The introduction of a minimum number of weekly working hours will ensure that the staff employed by the institutions are able to carry out the work-load resulting from the European Union's policy objectives while, at the same time, harmonising working conditions in the institutions, in the interest of solidarity throughout the Union's civil service.

(23) Flexible working-time arrangements are an essential element of a modern and efficient public administration allowing for family-friendly working conditions and enabling a suitable gender balance within the institutions. It is therefore necessary to introduce an explicit reference to those arrangements in the Staff Regulations.

(24) The rules on travelling time and annual payment of travel expenses between the place of employment and the place of origin should be modernised, rationalised and linked with expatriate status in order to make their application simpler and more transparent. In particular, the annual travelling time should be replaced by home leave and limited to a maximum of two and a half days.

(25) Likewise, the rules on the reimbursement of removal costs should be simplified in order to facilitate their application both for the administration and the staff members concerned. To that end, cost ceilings which take account of the official's or agent's family situation and of the average cost of removal and associated insurance should be introduced.

(26) Some staff members frequently have to go on mission to the other principal places of work of their institution. These situations are at present not adequately taken into