Council Regulation (EC) No 160/2009 of 23 February 2009 amending the Conditions of Employment of Other Servants of the European Communities

COUNCIL REGULATION (EC) No 160/2009

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amending the Conditions of Employment of Other Servants of the European Communities

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 283 thereof,

Having regard to the Protocol on the Privileges and Immunities of the European Communities, and in particular Article 13 thereof,

Having regard to the proposal presented by the Commission after consulting the Staff Regulations Committee,

Having regard to the opinion of the European Parliament[(1)],

Having regard to the opinion of the Court of Justice,

Having regard to the opinion of the opinion of the Court of Auditors,

Whereas:

(1) In accordance with Article 21 of Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament[(2)], Members are entitled to assistance from personal staff whom they may freely choose.

(2) At present, Members of the European Parliament employ all their staff directly under contracts subject to national law, while recovering the costs incurred from the European Parliament, subject to a fixed maximum amount.

(3) On 9 July 2008, the Bureau of the European Parliament adopted implementing measures for the Statute for Members of the European Parliament. Pursuant to Article 34 of those implementing measures, Members shall make use of:

(a) 'accredited parliamentary assistants', employed at one of the European Parliament's three places of work under the specific legal arrangements adopted on the basis of Article 283 of the Treaty and whose contracts are concluded and administered directly by the European Parliament, and

(b) natural persons who are to assist Members in their Member States of election and who have concluded an employment or service contract with them in keeping with applicable national law, in accordance with the conditions laid

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 160/2009. (See end of Document for details)*

down in the aforementioned implementing measures, hereinafter referred to as 'local assistants'.

(4) In contrast to local assistants, accredited parliamentary assistants are, as a general rule, expatriates. They work in the premises of the European Parliament in a European, multilingual and multicultural environment and undertake tasks which are directly linked to the work carried out by one or several Members of the European Parliament in the exercise of their functions as Members of the European Parliament.

(5) For these reasons, and with a view to ensuring transparency and legal certainty through common rules, it is appropriate to provide for accredited parliamentary assistants to be employed by way of direct contracts with the European Parliament. However, local assistants, including those working for Members elected in one of the Member States in which the European Parliament's three places of work are located, should continue to be employed, in accordance with the implementing measures for the Statute for Members of the European Parliament, by Members of the European Parliament under contracts concluded under the applicable national law in the Member State in which they are elected.

(6) It is therefore appropriate for accredited parliamentary assistants to be subject to the Conditions of employment of other servants of the European Communities, laid down by Regulation (EEC, Euratom, ECSC) No 259/68 of the Council[3] in such a way as to take account of their particular circumstances, the particular tasks they are called on to perform and the specific duties and obligations they have to fulfil vis-à-vis the Members of the European Parliament for whom they are called on to work.

(7) The introduction of this specific category of servants does not affect Article 29 of the Staff Regulations of Officials of the European Communities, laid down by Regulation (EEC, Euratom, ECSC) No 259/68, hereinafter referred to as the 'Staff Regulations', which provides that internal competitions are only open to officials and temporary staff, and no provision of this Regulation may be construed as giving accredited parliamentary assistants privileged or direct access to posts of officials or other categories of servants of the European Communities or to internal competitions for such posts.

(8) As is the case for contract staff, Articles 27 to 34 of the Staff Regulations should not apply to accredited parliamentary assistants.

(9) Accredited parliamentary assistants should thus constitute a category of other servants specific to the European Parliament, in particular with regard to the fact that they provide, under the direction and authority of one or several Members of the European Parliament and in a relationship of mutual trust, direct assistance to that Member or those Members in the exercise of their functions as Members of the European Parliament.

(10) Accordingly, it is necessary to amend the Conditions of employment of other servants of the European Communities in order to incorporate this new category of other servants, taking account, on the one hand, of the specific nature of the duties, functions and responsibilities of accredited parliamentary assistants, which are designed to allow them

to provide direct assistance to Members of the European Parliament in the exercise of their functions as Members of the European Parliament, under their direction and authority, and, on the other, of the contractual relationship between those accredited parliamentary assistants and the European Parliament.

(11) Where provisions of the Conditions of employment of other servants of the European Communities apply to accredited parliamentary assistants, directly or by analogy, these factors should be taken into account, having strict regard, in particular, to the mutual trust which has to characterise the working relationship between the accredited parliamentary assistants and the Member or Members of the European Parliament whom they assist.

(12) In the light of the nature of the duties of accredited parliamentary assistants, it is necessary to provide for only one category of accredited parliamentary assistants, but divided into grades, to which such assistants should be assigned by indication of the Members concerned in accordance with the implementing measures adopted by internal decision of the European Parliament.

(13) The contracts of accredited parliamentary assistants concluded between them and the European Parliament should be based on mutual trust between the accredited parliamentary assistant and the Member or Members whom he assists. The duration of such contracts should be directly linked to the duration of the mandate of the Members concerned.

(14) Accredited parliamentary assistants should have statutory representation outside the system that applies to officials and other staff of the European Parliament. Their representatives should act as interlocutor vis-à-vis the competent authority of the European Parliament, taking into account that a formal link should be established between the statutory representation of staff and the autonomous representation of assistants.

(15) The principle of budgetary neutrality should be observed in respect of the introduction of this new category of staff.

(16) The implementing measures laid down by internal decision of the European Parliament should include further rules for the implementation of this Regulation, based on the principle of sound financial management as set out in Title II of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities[(4)].

(17) The entry into force of these new provisions should coincide with the entry into force of the Statute for Members of the European Parliament,

HAS ADOPTED THIS REGULATION:

Article 1

The Conditions of employment of other servants of the European Communities are hereby amended as set out in the Annex.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 160/2009. (See end of Document for details)*

Article 2

The appropriations entered in the European Parliament section of the general budget of the European Communities and earmarked to cover parliamentary assistance, the annual amounts of which will be determined within the framework of the annual budgetary procedure, cover all the costs directly associated with Members′ assistants, be they accredited parliamentary assistants or local assistants.

Article 3

The European Parliament shall, no later than 31 December 2011, present a report on the application of this Regulation in order to examine the possible need to adapt the rules applying to parliamentary assistants.

On the basis of this report, the Commission may make any proposals it deems appropriate to this effect.

Article 4

This Regulation shall enter into force on the first day of the European Parliament parliamentary term beginning in 2009.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 23 February 2009.

For the Council

The President

A. VONDRA

ANNEX

The Conditions of Employment of other servants of the European Communities are hereby amended as follows:

1. in Article 1, the following indent shall be inserted after '— special advisers,':
   — accredited parliamentary assistants.;

2. the following Article shall be inserted after Article 5:

Article 5a

For the purposes of these Conditions of employment, "accredited parliamentary assistants" means persons chosen by one or more Members and engaged by way of direct contract by the European Parliament to provide direct assistance, in the premises of the European Parliament at one of its three places of work, to the Member or Members in the exercise of their functions as Members of the European Parliament, under their direction and authority and in a relationship of mutual trust deriving from the freedom of choice referred to in Article 21 of Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament[(5)].;

3. Titles VII and VIII with Articles 125 to 127 become Titles VIII and IX with Articles 140 to 142. A new Title VII shall be inserted:

TITLE VII

PARLIAMENTARY ASSISTANTS

CHAPTER 1

General provisions

Article 125

1 The European Parliament shall adopt implementing measures by internal decision for the purposes of the application of this Title.

2 Accredited parliamentary assistants shall not be assigned to a post included in the list of posts appended to the section of the budget relating to the European Parliament. Their remuneration shall be financed under the appropriate budget heading and they shall be paid from the appropriations allocated to the section of the budget relating to the European Parliament.

Article 126

1 The accredited parliamentary assistant shall be classified by grade in accordance with the indication given by the Member or Members whom the assistant will support, in accordance with the implementing measures referred to in Article 125(1). In order to be classified in grades 14 to 19, as set out in Article 133, accredited parliamentary assistants shall be required, as a minimum, to have a university degree or equivalent professional experience.

2 Article 1e of the Staff Regulations, on measures of a social nature and working conditions, shall apply by analogy, provided that such measures are