



Der Generalsekretär

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NOTE FOR THE ATTENTION OF THE MEMBERS OF THE BUREAU

Subject: Management of external staff contracts following the COVID-19 outbreak

SUMMARY

Following the COVID-19 outbreak and with a view to containing the transmission of the virus further and thus protecting Members and staff, on 2 March 2020, and as updated by the decision of 9 March 2020 and renewed on 26 March 2020, the President adopted a number of measures with immediate effect until 30 April 2020, unless extended. Additional measures were taken by the Bureau, the Quaestors and the Secretary-General. At national level, Member States, including those hosting the Parliament's three places of work, took also several far-reaching (non-pharmacological) containment measures.

The measures mentioned above also had an impact on Parliament's service providers and their staff. Against this background, at its meeting of 17 April 2020, the Bureau enquired about the situation of staff of external service providers working for Parliament in the context of the COVID-19 pandemic.

As a follow-up to that meeting, the present note provides an overview of the management of external staff contracts by the Directorates-General for Communication (DG COMM) and for Infrastructure and Logistics (DG INLO).

The members of the Bureau are invited to:

- take note of the information provided in this note.

I. BACKGROUND

1. Following the COVID-19 outbreak and with a view to containing the transmission of the virus further and thus protecting Members and staff, on 2 March 2020, and as updated by the decision of 9 March 2020 and renewed on 26 March 2020, the President adopted a number of measures with immediate effect until 30 April 2020, unless extended. The measures included the cancellation of visits and events on Parliament's premises in all three places of work and in the European Parliament Liaison Offices (EPLOs), as well as the closure of Parliament's visitors' facilities. Additional measures were taken by the Bureau, the Quaestors and the Secretary-General.

2. At national level, Member States, including those hosting the Parliament's three places of work¹, took also several far-reaching (non-pharmacological) containment measures.
3. The measures mentioned above also had an impact on Parliament's service providers and their staff.
4. Against this background, at its meeting of 17 April 2020, the Bureau enquired about the situation of staff of external service providers working for Parliament in the context of the COVID-19 pandemic. As a follow-up to that meeting, the present note provides an overview of the management of external staff contracts by the Directorates-General for Communication (DG COMM) and for Infrastructure and Logistics (DG INLO).
5. It should be recalled that employment contracts with external staff are governed by national law in the three places of work or, where applicable, of other Member States. **Consequently, these contracts generally benefit from a solid social protection under labour law and collective agreements.**
6. When assessing the status of external contracts in light of the COVID-19 pandemic and the aforementioned national containment measures, Parliament's services took into consideration the duty of care of the institution towards the staff working on the premises of the institution as well as the financial risk for Parliament in accordance with the principle of sound financial management.
7. The competent authorising officers by delegation inside the services are in charge of the corresponding contract management. In accordance with Article 74(1) of the Financial Regulation², the authorising officer is responsible for implementing expenditure in accordance with the principle of sound financial management. In the light of the Staff Regulations, the authorising officer might be held personally liable of the institution's losses in case of serious misconduct.
8. It follows that the competent authorising officers by delegation have the obligation to assess with great care the clauses of contracts that may be affected by COVID-19-related restrictions, including as to the possibility of limiting losses for the institution. They are not subject to hierarchical instructions in this respect. Guidance for authorising officers is provided in Parliament through the inter-DG network of the Public Procurement Forum, and tailor-made advice may additionally be provided by experts in the competent services.

II. MANAGEMENT OF EXTERNAL STAFF CONTRACTS BY THE DIRECTORATE-GENERAL FOR COMMUNICATION (DG COMM)

9. The Directorate-General for Communication (DG COMM) manages several contracts for the provision of external staff services in the visitors' facilities in Brussels, Strasbourg and other cities in the Member States (Tallinn, Berlin - that contract is also used by the European Commission). In yet other cities in the Member States, DG COMM procures floor staff services on the basis of contracts managed by the European Commission (Ljubljana, Copenhagen, Helsinki).

¹ See the ordinance of the French Ministry of Solidarities and Health of 14 March 2020, as supplemented by ordinance of 21 March 2020, on various measures relative to the fight against the spread of the virus Covid-19, Luxembourg's Grand-Ducal Regulation of 18 March 2020 on introduction of a series of measures in the framework of the fight against Covid-19, and the Belgian ministerial ordinance of 18 March 2020 on urgent measures for the limitation of the spread of coronavirus COVID-19.

² Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, OJ L 193, 30 July 2018, p. 1.

10. External staff contracts managed by DG COMM typically include a number of services, such as welcome and information to visitors; presentations to school groups and others; managing reservation requests; answering citizens' inquiries; communication tasks around the visitors offer; supervisory, counselling and facilitation services in the respective visitors' facilities; logistic and manual services; technical assistance services and miscellaneous other services corresponding to *ad hoc* operational needs of the visitors' facilities covered.
11. Bearing in mind the duty of care and applicable provisions, DG COMM decided to suspend in whole or in part the external staff contracts in Brussels and in the Member States. *Force majeure* was invoked, following guidance from Parliament's central financial services, to suspend such contracts as of the dates Member States have declared a state of emergency in which the presence at work is generally to be reduced to a minimum and non-essential meetings are to be avoided. This provision applies under the condition that Parliament is able to prove that the execution of the contractual obligations has become impossible.
12. The suspension or termination of a contract gives rise to the payment of the costs incurred by the contractor until the suspension/termination. These correspond to the real costs. Payment of unavoidable costs during the period of suspension may also be negotiated with the contractor. A claim for payment of compensation, referring to the reparation of the losses that a contractor may suffer due to non-performance of a contract, is not admissible in cases of *force majeure*.
13. Examples of management of external contracts by DG COMM include the following:
 - i. Floor staff contract for the visitors' facilities in Brussels - The performance of the contract was suspended as of the date of closure of the visitors' facilities. DG COMM and the contractor agreed on the financial aspects of the suspension in application of the *force majeure* principle. In addition, DG COMM asked the contractor to check the situation of floor staff, in particular the most vulnerable categories, with a view to ensuring that all staff would be entitled **to receive a temporary unemployment allowance during the suspension period.**
 - ii. Floor staff contract for the visitor's facilities in Strasbourg - An agreement was found with the contractor to continue the contract to a minimum level of services from 9 to 26 March 2020 and to suspend the implementation of the contract as of 27 March 2020. The contractor has informed DG COMM that the 18 external staff members **would be entitled to temporary unemployment benefits.**
 - iii. Floor staff contracts in the Europa-Experience centres in the Member States (Berlin, Copenhagen, Ljubljana, Tallinn, Helsinki) - DG COMM has assessed each situation on a case-by-case basis under the prevailing circumstances, in coordination with the European Commission representations involved in the running of the Europa Experience centres. Accordingly, DG COMM entered into discussions with the contractors in order to determine the level of services, as defined in the contracts, that could be maintained on-site or remotely during the epidemic.

III. MANAGEMENT OF EXTERNAL STAFF CONTRACTS BY THE DIRECTORATE-GENERAL FOR INFRASTRUCTURE AND LOGISTICS (DG INLO)

14. Following the COVID-19 outbreak, the Directorate-General for Infrastructure and Logistics (DG INLO) has been in constant contact with the contractors to remind them of their contractual obligations to respect the local labour laws, as well as to put in place preventive measures, especially regarding social distancing.
15. Moreover, where possible - such as with the food charity co-operation related to 'practical solidarity' initiatives - service requests have been added creating additional employment.
16. In Brussels, all maintenance and lift maintenance staff have full employment through Parliament's contracts. As for cleaning service providers, there is no loss of employment, quite the opposite, **as cleaning companies were requested to perform more activities on site** (e.g. a sanitizing crew of additional 46 people).
17. The only sector that has suffered from furlough measures is the restaurant service providers' staff. Altogether, the catering companies operating in the main restaurants and cafeterias in Brussels have been forced to put 170 people in furlough (temporary unemployment scheme, with **benefits from the national authorities**). In this context, the 'practical solidarity' measures put in place by Parliament will provide a concrete help for external staff. In fact, **the charity meals will allow the three restaurant companies to re-employ up to 25 persons.**
18. In Strasbourg, 19 staff members of the maintenance service provider have been put in furlough as well as 208 staff members of the cleaning service provider. However, since the launching of the cleaning and disinfection action of the site in April, the cleaning workforce has increased again, leaving only 64 in furlough.
19. As of 27 April 2020, the maintenance service provider will only have three staff members in furlough. In the restaurant services, 20 staff members have been put in furlough, with eight potentially reintegrated into full employment once the charitable food service will become operational.
20. In Luxembourg currently 80% of our service providers are not allowed to access Parliament's buildings due to travel restrictions applying to the Grand East Region. National schemes will provide unemployment/furlough benefits.
21. Among the different companies operating in maintenance and cleaning, 34 workers were put in furlough. As regards the restaurant contractor, the number of staff members in furlough is 41 today, with seven potentially re-employed thanks to the food service to be provided by Parliament for charity purposes.

IV. CONCLUSIONS

The members of the Bureau are invited to:

- take note of the information provided in this note



Klaus WELLE