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Subject: COUNCIL REGULATION determining the emoluments of EU high-level
public office holders

COUNCIL REGULATION (EU) 2016/...

of ...

**determining the emoluments
of EU high-level public office holders**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 243 and Article 286(7) thereof,

Whereas:

- (1) It is for the Council to determine the salaries, allowances and pensions of EU high-level public office holders ('public office holders'), including the President of the European Council¹, the President and members of the Commission², the High Representative of the Union for Foreign Affairs and Security Policy³, the Presidents, Judges, Advocates-General and Registrars of the Court of Justice of the European Union⁴, the President and members of the Court of Auditors⁵, and the Secretary-General of the Council⁶, together with any payment to be made instead of remuneration.

¹ Council Decision 2009/909/EU of 1 December 2009 laying down the conditions of employment of the President of the European Council (OJ L 322, 9.12.2009, p. 35).

² Regulation No 422/67/EEC, No 5/67/Euratom of the Council of 25 July 1967 determining the emoluments of the President and Members of the Commission, of the President, Judges, Advocates-General and Registrar of the Court of Justice, of the President, Members and Registrar of the General Court and of the President, Members and Registrar of the European Union Civil Service Tribunal (OJ L 187, 8.8.1967, p. 1).

³ Council Decision 2009/910/EU of 1 December 2009 laying down the conditions of employment of the High Representative of the Union for Foreign Affairs and Security Policy (OJ L 322, 9.12.2009, p. 36).

⁴ Supra note 2.

⁵ Council Regulation (EEC, Euratom, ECSC) No 2290/77 of 18 October 1977 determining the emoluments of the members of the Court of Auditors (OJ L 268, 20.10.1977, p. 1).

⁶ Council Decision 2009/912/EU of 1 December 2009 laying down the conditions of employment of the Secretary-General of the Council of the European Union (OJ L 322, 9.12.2009, p. 38).

- (2) It is appropriate that the emoluments and other benefits of public office holders reflect their high responsibilities, and therefore such emoluments and other benefits may differ from those referred to in the Staff Regulations of Officials of the European Union ('Staff Regulations').
- (3) Some adjustments to the current emoluments and other benefits of public office holders are nonetheless appropriate in order to reflect the institutional developments in the Union and to modernise the structure of emoluments, in particular by reflecting, where necessary, the amendments introduced by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council¹ ('Staff Regulations'). In light of the reforms to the Staff Regulations, several amendments need to be made to Regulation No 422/67/EEC, No 5/67/Euratom of the Council. Similarly, Council Regulation (EEC, Euratom, ECSC) No 2290/77² also needs to be updated to take account of reforms to the Staff Regulations. In light of the number of substantial modifications to both Regulations (EEC, Euratom, ECSC) No 2290/77 and Regulation No 422/67/EEC, No 5/67/Euratom, regulating emoluments of various public office holders, it is appropriate, in the interests of clarity, transparency and good legislative practice, to merge the two Regulations.

¹ 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 (OJ L 287, 29.10.2013, p. 15).

² Supra note 5.

- (4) With a view to safeguarding a balance between EU staff members and public office holders, as regards emoluments, it is appropriate to include measures to align the treatment of public office holders with that of EU staff members in situations where the latter have benefited from a modernised structure of emoluments, such as with regard to automatic updates of allowances and to the possibility of joining the Joint Sickness Insurance Scheme, including after termination of a mandate.
- (5) Furthermore, it is appropriate to adjust the annual pension accrual rate and to align the pensionable age with the amendments to the Staff Regulations and the applicable accrual rate to be determined with reference to the Staff Regulations, to ensure automatic adjustment with regard to future amendments to the Staff Regulations.
- (6) Other amendments should ensure that the duration of the entitlement of former public office holders to the monthly transitional allowance should correspond directly to the period of service. However, this duration should not be less than six months and no more than two years, on the understanding that the purpose of the transitional allowance for public office holders is to ensure, for a limited period directly following their term of office, a certain level of financial security until their next paid employment with a similar level of remuneration, or other source of income such as their pension.

- (7) It is also appropriate to align the allowances and reimbursement of costs due upon taking up duties and when ceasing to hold office with those paid to officials and other servants under the Staff Regulations, while providing for some flexibility when it is necessary, in particular in the case of the reimbursement of removal costs that takes into account the representative functions of public office holders.
- (8) It is necessary to bring into line the conditions for sickness insurance cover for current and former public office holders by aligning them with the conditions of insurance cover applicable to officials and other servants under Articles 72 and 73 of the Staff Regulations.
- (9) For the same reasons, since the rules established by this Regulation should replace those laid down in Regulation No 422/67/EEC, No 5/67/Euratom, Regulation (EEC, Euratom, ECSC) No 2290/77, and Council Decisions 2009/909/EU, 2009/910/EU, and 2009/912/EU with the exception of Article 5 thereof, those acts should be repealed without prejudice to their continuing application to all public office holders to whom one or more of those acts apply and whose mandates are ongoing on, or have ended before, the date of entry into force of this Regulation,

HAS ADOPTED THIS REGULATION:

CHAPTER I

General provisions

Article 1

Scope

1. This Regulation shall apply to the following EU high-level public office holders ('public office holders'):
 - (a) the President of the European Council;
 - (b) the President and members of the European Commission, including the High Representative of the Union for Foreign Affairs and Security Policy;
 - (c) the President and members, as well as the Registrar, of the Court of Justice of the European Union, including those of the General Court and of specialised tribunals;
 - (d) the Secretary-General of the Council;
 - (e) the President and members of the Court of Auditors.

2. This Regulation shall apply to all public office holders who are appointed or reappointed with effect after ... [the date of entry into force of this Regulation].
3. For the purposes of this Regulation, non-marital partnerships shall be treated as marriage provided that all the conditions listed in Article 1(2)(c) of Annex VII to the Staff Regulations are fulfilled. The unmarried partner of a public office holder or former public office holder shall be considered as that holder's spouse under the sickness insurance scheme where the conditions set out in points (i), (ii) and (iii) of paragraph (2)(c) of that Article are met.

CHAPTER II

Remuneration

Article 2

Salaries

From the date of taking up their duties until the last day of the month in which they cease to hold office, public office holders shall be entitled to a basic salary equal to the amount resulting from application of the following percentages to the basic salary of an official of the Union on the third step of grade 16:

Salary						
Institution	President	Vice-President	High-Representative of the Union for Foreign Affairs and Security Policy	Member	Registrar	Secretary- General
European Council	138 %					
Council						100 %
European Commission	138 %	125 %	130 %	112,5 %		
Court of Justice	138 %	125 %		112,5 %	101 %	
General Court	112,5 %	108 %		104 %	95 %	
Specialised Tribunals	104 %			100 %	90 %	
Court of Auditors	115 %			108 %		

Article 3

Tax for the benefit of the Union - Solidarity levy

1. Council Regulation (EEC, Euratom, ECSC) No 260/68¹ shall apply to public office holders.
2. Article 66a of the Staff Regulations shall apply *mutatis mutandis* to public office holders.

CHAPTER III

Allowances

Article 4

Installation and resettlement allowances – Removal and travelling expenses

Public office holders shall be entitled to:

- (a) an installation allowance on taking up their duties as provided for in Article 5 of Annex VII to the Staff Regulations which is to apply *mutatis mutandis*;
- (b) a resettlement allowance on ceasing to hold office as provided for in Article 24(2) of the Conditions of Employment of Other Servants of the European Union which is to apply *mutatis mutandis*;

¹ Regulation (EEC, Euratom, ECSC) No 260/68 of the Council of 29 February 1968 laying down the conditions and procedure for applying the tax for the benefit of the European Communities (OJ L 56, 4.3.1968, p. 8.).

(c) reimbursement of travelling expenses incurred for themselves and for members of their family;

and

(d) reimbursement of the cost of removal of their personal effects and furniture, including insurance against ordinary risks, such as theft, breakage, and fire, up to the ceiling fixed for officials of the institution to which public office holders are appointed, pursuant to Article 9 of Annex VII to the Staff Regulations. Upon presentation of invoices, the institutions may provide for derogations for reimbursement of the effective removal costs that in any case shall not exceed by more than 50 % the ceiling fixed by the corresponding institutions for their staff.

If their term of office is renewed, public office holders shall not be entitled to any of the allowances set out in this Article. Nor shall they be so entitled if they are appointed as public office holders, or elected members, of another institution of the Union, if that institution has its seat in the town where they were formerly required to reside by reason of their office and if, at the time of the new appointment or election, they have not already effected their resettlement.

Article 5

Residence allowance

From the date of taking up their duties until the last day of the month in which they cease to hold office, public office holders shall be entitled to a residence allowance equal to 15 % of their basic salary.

Article 6
Family allowances

From the date of taking up their duties until the last day of the month in which they cease to hold office, public office holders shall be entitled to family allowances fixed by analogy with Article 67 of the Staff Regulations and Articles 1 to 3 of Annex VII to those Regulations.

Article 7
Entertainment allowance

Public office holders shall receive a monthly entertainment allowance, in euros, amounting to:

Institution	President	Vice-President	High-Representative of the Union for Foreign Affairs and Security Policy	Member	Registrar
European Council	1 418,07				
European Commission	1 418,07	911,38	911,38	607,71	
Court of Justice	1 418,07	911,38		607,71	554,17
General Court	607,71	573,98		554,17	471,37
Specialised Tribunals	554			500	400

Article 8
Special duty allowance

Presiding Judges of Chambers of the Court of Justice of the European Union and the First Advocate-General shall, in addition to the allowances set out in Articles 4 to 7, receive during their term of office a special duty allowance, in euros, per month as set out in the following table:

Special duty allowance		
Court of Justice	General Court	Specialised Tribunals
Presiding judges and First Advocate-General	Presiding judges	Presiding judges
810,74	739,47	500

Article 9
Mission expenses

Public office holders required in the course of their duties to travel away from the seat of their institution shall be entitled to:

- (a) reimbursement of travelling expenses;
- (b) reimbursement of hotel expenses (room, service and taxes only);
- (c) daily subsistence allowance while on mission equal, for each complete day of absence, to 105 % of the daily subsistence allowance as laid down in the Staff Regulations.

Article 10
Transitional allowance

1. From the first day of the month following that in which a public office holder ceases to hold office, a monthly transitional allowance shall be paid. The duration of the entitlement to the monthly transitional allowance shall be equal to the length of the period of service. However, this duration shall not be less than six months or more than two years.

The amount of the allowance shall be determined on the basis of the basic salary which the public office holder was receiving when that holder ceased to hold office and be as follows:

- 40 % if that period of service is less than or equal to two years;
- 45 % if that period is over two years but less than or equal to three years;
- 50 % if that period is more than three years but less than or equal to five years;
- 55 % if that period is more than five years but less than or equal to ten years;
- 60 % if that period is more than ten years but less than or equal to fifteen years;
- 65 % if that period is more than fifteen years.

2. Entitlement to the transitional allowance shall cease if a former public office holder is reappointed to office in the institutions of the Union, is elected to the European Parliament, reaches the pensionable age as defined in Article 11, or upon death. In the event of reappointment or of election to the European Parliament, the allowance shall be paid up to the date of taking up duties and, in the event of death, the payment for the month in which death occurred shall be the last.
3. If, during the period for which they are entitled to the monthly transitional allowance, the former public office holders concerned take up any gainful activity, the amount by which their gross monthly remuneration (i.e. before deduction of taxes), together with the allowance provided for in paragraph 1 of this Article, exceeds the remuneration, before deduction of taxes, which they were receiving as active public office holders under Articles 2, 5 and 6, shall be deducted from the allowance. In calculating the amount of remuneration received for the new activity, all forms of remuneration shall be included, except those representing the reimbursement of expenses.
4. On the date when they cease to hold office, on 1 January of each year thereafter, and in the event of any changes in their financial situation, former public office holders shall declare to the President of the institution in which they were previously employed all forms of remuneration received for their services, except those representing the reimbursement of expenses.

That declaration shall be made in good faith and shall be treated as confidential. The information contained in that declaration shall not be used otherwise than for the purposes of this Regulation and shall not be communicated to third parties.

Additional remuneration legitimately received by former public office holders in the course of their duty as active public office holders shall not be deductible from the transitional allowance.

5. The former public office holders entitled to the transitional allowance shall also be entitled to family allowances provided for in Article 6 if they satisfy the conditions set out in that Article.

CHAPTER IV

Pensions

Article 11

Pensionable age

1. After ceasing to hold office, former public office holders shall be entitled to a pension for life payable from the date when they reached the pensionable age laid down in Article 77 of the Staff Regulations which shall apply *mutatis mutandis*.
2. Former public office holders may, however, ask to start drawing such pension not earlier than six years before reaching the age referred to in paragraph 1. In that case, a coefficient shall be applied to the pension at the moment of the request as follows:

Between 6 and 4 years earlier	0,70
Between less than 4 and 3 years earlier	0,75
Between less than 3 and 2 years earlier	0,80
Between less than 2 and 1 years earlier	0,87
Less than 1 year earlier	0,95

Article 12

Pension

The first sentence of the second paragraph of Article 77 of the Staff Regulations shall apply *mutatis mutandis*. The amount of the pension shall be equal to two times the rate referred to in the second sentence of the second paragraph of Article 77 of the Staff Regulations as applied to the basic salary last received for each full year in office and one-twelfth of that sum for each complete month.

When the public office holders concerned have performed various duties in the institutions of the Union, the salary on which their pension is to be calculated shall be directly proportional to the time they served in each duty respectively.

Article 13

Budgetary coverage

Payment of the benefits under the pension scheme provided for in this Regulation shall be entered in the general budget of the Union. Member States shall jointly guarantee payment of those benefits in accordance with the scale laid down for financing such expenditure.

CHAPTER V

Social provisions

Article 14 *Disablement*

Public office holders suffering from disablement deemed to be total which prevents them from performing their duties and who, on those grounds, resign or are compelled to resign shall be entitled, from the date of resignation or compulsory resignation, to the following benefits:

- (a) where disablement is recognised as permanent, a pension for life calculated in accordance with Article 12, which shall be not less than 30 % of the basic salary last received. They shall be entitled to the maximum pension if the incapacity is the result of disablement that has occurred, or illness that has been contracted, in the performance of their duties;
- (b) where disablement is temporary, for the duration of the disability, a pension at the rate of 60 % of the basic salary last received, if the disablement occurred, or illness was contracted, in the performance of their duties, and 30 % in other cases. When the recipient of such disability pension reaches the pensionable age laid down in Article 11 or the disability pension has been in effect for seven years, it shall be replaced by a pension for life calculated in accordance with Article 12.

Article 15

Sickness and other forms of insurance, and benefits

1. Articles 72 and 73 of the Staff Regulations shall apply *mutatis mutandis* to public office holders. Public office holders entitled to the benefits under Article 72 of the Staff Regulations shall declare the amount of any reimbursements paid, or which they can claim, under any other sickness insurance scheme provided for by law or regulation for themselves or for persons covered by their insurance. Where the total which they would receive by way of reimbursement exceeds the sum of the reimbursements provided for in Article 72(1) of the Staff Regulations, the difference shall be deducted from the amount to be reimbursed pursuant to Article 72(1) of the Staff Regulations, with the exception of reimbursements obtained under a private supplementary sickness insurance scheme covering that part of the expenditure which is not reimbursable by the sickness insurance scheme of the Union.
2. Former public office holders who benefit under the pension scheme provided for in Article 12 of this Regulation, the transitional allowance provided for in Article 10 of this Regulation, or the disability pension scheme provided for in Article 14 of this Regulation, may request that the coverage under Article 72 of the Staff Regulations, as defined in paragraph 1 of this Article, also applies to them.

3. Former public office holders who do not benefit under the pension scheme provided for in Article 12 of this Regulation, the transitional allowance provided for in Article 10 of this Regulation, or the disability pension scheme provided for in Article 14 of this Regulation, may request to be covered by Article 72 of the Staff Regulations, as defined in paragraph 1 of this Article, on condition that they are not in gainful activity. They shall then pay the full amount of the contributions necessary for such coverage. These contributions shall be calculated on the basis of the amount of the monthly transitional allowance under Article 10 of this Regulation, with due regard being had to the successive updates of this amount.
4. Articles 74 and 75 of the Staff Regulations providing, *inter alia*, for birth and death benefits shall apply *mutatis mutandis* to public office holders.

Article 16

Death in service

Where a public office holder dies during the term of office, the surviving spouse or dependent children shall be entitled, until the end of the third month following that in which death occurs, to the remuneration to which the public office holder would have been entitled under Articles 2, 5 and 6.

Article 17
Subrogation of rights

Where a third party is responsible for the disablement or death of a public office holder, the rights of that public office holder, or those entitled under that public office holder to bring legal proceedings against the third party, shall devolve on the Union to the extent to which it incurs obligations under the pension scheme.

Article 18
Survivor's pension

1. The surviving spouse and children dependent at the time of death of the public office holder or former one to whom pension rights have accrued at the time of death shall be entitled to a survivor's pension.

That pension shall be equal to a percentage of the pension accruing to the public office holder or former one under Article 12 at the date of death, namely:

For a surviving spouse	60 %
For each child where either parent is dead	10 %
For each child where both parents are dead	20 %

However, when public office holders die during their term of office:

- the survivor’s pension for the surviving spouse shall be equal to 36 % of the basic salary received at the time of death,
 - the survivor’s pension for a first orphan of both parents shall not be less than 12 % of the basic salary received at the time of death. Where several orphans of both parents are left, the total amount of the survivor’s pension shall be divided equally among those orphans.
2. The total amount of these survivor’s pensions shall not exceed the amount of the pension of the public office holder or former one on which they are calculated. The maximum total survivor’s pensions payable shall be divided, where applicable, between the beneficiaries in accordance with the percentages set out in paragraph 1.
 3. The survivor’s pensions shall be granted from the first day of the calendar month following the date of death. However, where Article 16 is applied, eligibility shall not commence until the first day of the fourth month following that in which death occurred.
 4. Entitlement to a survivor’s pension shall cease at the end of the calendar month in which the person entitled dies. Moreover, entitlement to an orphan’s pension shall cease at the end of the month in which the child reaches the age of 21 years. However, entitlement shall be extended while the child is receiving educational or vocational training, though not beyond the end of the month in which the child reaches the age of 25 years.

The pension shall remain payable to an orphan who is prevented, through illness or disablement, from earning a livelihood.

5. Where a former public office holder marries and at the date of marriage has accrued pension rights under this Regulation, the spouse and any children of the marriage shall not be entitled to a survivor's pension save where the marriage precedes the death of the former public office holder by five years or more.
6. A surviving spouse's entitlement to a survivor's pension shall cease on remarriage. The surviving spouse shall then be entitled to immediate payment of a lump sum equal to twice the annual amount of the survivor's pension.
7. Where public office holders leave a surviving spouse and also orphans of a previous marriage or other persons entitled under them, or orphans of other marriages, the total pension shall be apportioned by analogy with Articles 22, 27 and 28 of Annex VIII to the Staff Regulations.
8. The surviving spouse and dependent children of public office holders shall be entitled to sickness benefits under the social security scheme provided for in the Staff Regulations.

They shall declare the amount of any reimbursements paid or which they can claim under any other sickness insurance scheme provided for by law or regulation for themselves or for persons covered by their insurance. Where the total which they would receive by way of reimbursement exceeds the sum of the reimbursements provided for in Article 72(1) of the Staff Regulations, the difference shall be deducted from the amount to be reimbursed pursuant to Article 72(1) of the Staff Regulations, with the exception of reimbursements obtained under a private supplementary sickness insurance scheme covering that part of the expenditure which is not reimbursable by the sickness insurance scheme of the Union.

CHAPTER VI

Updates and calculation methods

Article 19

Benefits and pensions update

The allowances provided for in Articles 7 and 8 of this Regulation and pension benefits provided for in Articles 12, 14 and 18 of this Regulation shall be updated by the amount of the update resulting from the application of Article 65 of the Staff Regulations and Annex XI thereto which shall apply *mutatis mutandis*.

This provision shall apply to the pension benefits of public office holders whose mandates are ongoing on, or have ended before, ... [the date of entry into force of this Regulation].

Article 20

Correction coefficients

The basic salaries referred to in Article 2 of this Regulation, the allowances referred to in Article 5 of this Regulation, and the family allowances referred to in Article 6 of this Regulation shall be weighted, where applicable, pursuant to Article 64 of the Staff Regulations.

Article 21

Non-accumulation

The transitional allowance provided for in Article 10, the pension provided for in Article 12 and the pensions provided for in Article 14 shall not be drawn concurrently by the same person. Where a public office holder is entitled to claim benefit under more than one of those provisions, only that provision which is the most favourable to the claimant shall be applied. However, when a public office holder reaches the pensionable age as defined in Article 11, entitlement to the transitional allowance shall cease.

CHAPTER VII

Payment arrangements

Article 22

Place and operation of payment

1. Payment of the sums due under Articles 2, 4, 5, 6, 7, 15 and 16 shall be made in, and in the currency of, the country where the public office holders carry out their duties or, at their request, in euros into a bank account in the Union.
2. Article 17(2) to (4) of Annex VII to the Staff Regulations shall apply *mutatis mutandis* to public office holders.

3. No weighting shall be applied to the sums due under Articles 10, 12, 14 and 18. These sums shall be paid to beneficiaries residing in the Union in euro, into a bank account in the Union.

For beneficiaries residing outside the Union, pensions shall be paid, in euro, into a bank account in the Union or the country of residence. The pension may, by way of exception, be paid in a foreign currency in the country of residence of the pensioner, converted at the most up-to-date exchange rates used for the implementation of the general budget of the European Union.

CHAPTER VIII

Final provisions

Article 23

Disqualification

Public office holders who are relieved of their duties on grounds of serious misconduct in accordance with the relevant Treaty provisions may accordingly be deprived of any right to transitional allowance or pension. This shall not, however, affect those entitled under those public office holders.

Article 24

Opt-in clause - Transitional provisions

1. Without prejudice to Article 1(2), public office holders holding office before ... [the date of entry into force of this Regulation], as well as former ones who held office before that date, may request that Article 15 applies to them. The request shall be made within the period of six months from ... [the date of entry into force of this Regulation].
2. Articles 20, 24, 25, and the first sentence of Article 24a, of Annex XIII to the Staff Regulations shall apply *mutatis mutandis* to the beneficiaries of the sums due under Articles 10, 11, 12, 14 and 18 of this Regulation. However the date of 1 January 2014 referred to in Article 24a of Annex XIII to the Staff Regulations shall be deemed to be the date of ... [the date of entry into force of this Regulation].

Article 25

Repealing provisions and provisions remaining in force

1. The following acts are hereby repealed without prejudice to their continuing application to public office holders whose mandates are ongoing on, or have ended before, ... [the date of entry into force of this Regulation]:
 - (a) Regulation No 422/67/EEC, No 5/67/EURATOM;
 - (b) Regulation (EEC, EURATOM, ECSC) No 2290/77;

- (c) Decision 2009/909/EU;
- (d) Decision 2009/910/EU;
- (e) Decision 2009/912/EU, with the exception of Article 5 thereof.

2. References to the repealed acts shall be construed as references to this Regulation.
3. Council Regulations No 63 (EEC)¹ and No 14 (EAEC)², the Decision of the Special Council of Ministers of the European Coal and Steel Community of 22 May 1962³, and Regulation of the Councils No 62 (EEC), 13 (EAEC)⁴, with the exception of Article 20 thereof, are hereby repealed.
4. The Decision of the Special Council of Ministers of the European Coal and Steel Community of 13 and 14 October 1958 shall remain in force.

¹ Regulation No 63 of the Council determining the emoluments of members of the Commission (OJ No 62, 19.7.1962, p. 1724/62).

² Regulation No 14 of the Council determining the emoluments of members of the Commission (OJ No 62, 19.7.1962, p. 1730/62).

³ Decision of the Special Council of Ministers of the European Coal and Steel Community determining the emoluments of members of the High Authority (OJ No 62, 19.7.1962, p. 1734/62).

⁴ Regulation No 62/EEC, No 13/EAEC of the Councils determining the emoluments of members of the Court of Justice (OJ No 62, 19.7.1962, p. 1713/62).

Article 26
Entry into force

This Regulation shall enter into force on ... [date of publication in the Official Journal].

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

Done at ...,

For the Council
The President
