

Decision of the Management Board 24/2019/MB

**ON REQUESTING COMMISSION'S AGREEMENT TO ADOPT GENERAL
PROVISIONS FOR IMPLEMENTING AND GIVING EFFECT TO ARTICLES
67 AND 68 OF THE STAFF REGULATIONS AND ARTICLES 1,2,3 OF
ANNEX VII THERETO**

Adopted by the Management Board

on 20 November 2019

THE MANAGEMENT BOARD,

Having regard to Regulation (EU) 2015/2219 of the European Parliament and of the Council of 25 November 2015 on the European Union Agency for Law Enforcement Training (CEPOL) and replacing and repealing Council Decision 2005/681/JHA¹, and in particular Article 9(1)(j) thereof,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68², and in particular Articles 67 and 68 of the Staff Regulations of officials and Articles 1, 2 and 3 of Annex VII thereto, as well as Articles 20 and 65 of the Conditions of Employment of other servants,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations [reference number of the Commission's Decision] of [date],

After informing the Staff,

Whereas:

- (1) As far as implementation of Articles 67 and 68 of the Staff Regulations and Article 1, 2 and 3 of Annex VII thereto is concerned, CEPOL has been applying the Commission Decision C (2004) 1364/4 of 15 April 2004 on general implementing provisions for giving effect to Articles 67 and 68 of the Staff Regulations and Articles 1,2,3 of Annex VII thereto, *mutatis mutandis*.
- (2) The above implementation has not been formalised by means of a Management Board decision.
- (3) In the interest of legal clarity and certainty, it is advisable to regularise the above-mentioned situation.
- (4) In accordance with Article 110(2), paragraph 5, of the Staff Regulations, CEPOL needs Commission's agreement before adopting implementing rules which concern subject other than the implementing rules informed of by the Commission.
- (5) The set of rules annexed to the present Decision is largely based on Commission Decision C (2001) 1364/4 with the exception of certain adaptations,

HAS ADOPTED THIS DECISION:

¹ OJ L319, 4.12.2015, p.1.

² OJ L 56, 4.3.1968, p. 1.

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GENERAL PROVISIONS FOR IMPLEMENTING AND GIVING
EFFECT TO ARTICLES 67 AND 68 OF THE STAFF
REGULATIONS AND ARTICLES 1, 2, 3 OF ANNEX VII THERETO
Effective 21 November 2019



Article 1

The Agency shall request the agreement of the Commission to adopt the annexed rules on implementation of Articles 67 and 68 of the Staff Regulations and Articles 1,2,3 of Annex VII thereto.

Article 2

The present Decision shall enter into force the day following its adoption.

Done at Tampere, on 20 November 2019

*For the Management Board
<< Signature on file >>*

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*Dr Kimmo Himberg
Chair of the Management Board*

ANNEX

CHAPTER ONE **Common provisions on family allowances**

Article 1

For the purposes of applying the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities, the term:

- "custody" or "alternating custody" shall be interpreted according to the national law under which custody was granted,
- "person other than the servant" shall mean any legal or natural person other than the servant to whom custody of one or more children has been granted in accordance with the law or pursuant to a court decision or decision of the competent administrative authority,
- "residence" shall mean the place where the person having custody of the child can prove that he or she actually and habitually lives.

Article 2

1. Servants in receipt of family allowances shall make a declaration stating whether or not they have custody of their children. If they receive family allowances for one or more children who have reached the age of majority, they shall indicate the marital status and place of residence of each of them.
2. Servants who state that they do not have custody of one or more of their children shall also specify in the declaration their family situation, the place of residence of the children of whom they do not have custody, the names and addresses of persons having custody of one or more of their children and the amounts of family allowances paid from other sources either to themselves, to the person having custody of one or more children or to the children direct.
3. Supporting documents must be attached to that declaration, failing which payment of the family allowances may be suspended.

Article 3

1. Payment of family allowances shall automatically be made in the name and on behalf of the servant to a person other than the servant who has custody of the child; that other person may also assert his or her right to be paid the family allowances direct by producing appropriate documentary evidence.
2. Where custody of the same child alternates between two persons and there is no court order or order of the competent administrative authority or, in the absence of such an order, no stable agreement between the persons

concerned laying down the precise pro rata duration of the custody, half of the family allowances shall be paid to each person. Visiting rights shall not be regarded as custody.

Article 4

1. Family allowances shall be paid to a person other than the servant irrespective of whether the servant is required to pay maintenance.
2. Where both family allowances and maintenance are paid to such a person, it shall be up to the servant to take the requisite measures to ensure that account is taken of family allowances paid direct.
3. However, in paying family allowances to a person other than the servant over a given period, the Agency shall take account of amounts which it is liable to pay or has paid to that person under a national attachment order pertaining to an obligation to make payments of the same nature.

Article 5

As provided in Article 85 of the Staff Regulations, the Agency shall recover sums wrongfully paid to a person other than the servant on behalf and in the name of the servant.

CHAPTER 2

Provisions on the household allowance

Article 6

The household allowance may be paid to a person other than the servant only where the servant does not have custody of any of the children. Where custody of the same child alternates and there is no court order or order of the competent administrative authority or, in the absence of such an order, no stable agreement between the persons concerned laying down the precise pro rata duration of the custody, half of this allowance shall be paid to each of the persons sharing custody of the child.

Article 7

Where more than one person has custody of the children of an servant, and one or more of those persons are entitled to the household allowance in their own right, the rule laid down in the third subparagraph of Article 1(5) of Annex VII to the Staff Regulations, whereby two such allowances may not be received concurrently, shall apply only to the amount of the household allowance divided pro rata in accordance with the second subparagraph of that same paragraph.

CHAPTER 3

Education allowance

Article 8

For the purposes of the third paragraph of Article 3(1) of Annex VII to the Staff Regulations:

- the concept of the place of employment shall be replaced by that of the place of residence of the person who has custody of the child,
- the concept of entitlement to the expatriation allowance and the terms “nationality” and “language” referred to in Article 3 of Annex VII to the Staff Regulations shall relate to the servant alone.

Article 9

Where custody of one or more children alternates and there is no court order or order of the competent administrative authority or, in the absence of such an order, no stable agreement between the persons concerned laying down the precise pro rata duration of the custody, the amounts paid under the education allowance shall be halved between the servant and the person or persons having custody of the child or children.

Article 10

Where transport costs are paid direct by the Agency, the relevant amounts shall be taken into account in calculating the ceilings referred to in Article 3 of Annex VII to the Staff Regulations.