

Decision of the Management Board 28/2019/MB

**ON REQUESTING COMMISSION'S AGREEMENT TO ADOPT GENERAL
PROVISIONS FOR IMPLEMENTING ARTICLE 42A OF THE STAFF
REGULATIONS CONCERNING PARENTAL LEAVE**

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 Conditions of Employment of Other Servants of the European Communities, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/681², as last amended by Regulation (EC, Euratom) No 723/2004³ of 22 March 2004, and in particular Article 42a and 110(2) of the Staff Regulations, and Article 16 and 91 of the CEOS,

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 Article 42a of the Staff Regulations on parental leave is concerned, CEPOL has been applying the Commission Decision C (2010) 7572 of 05 November 2010 on the general provisions for implementing Article 42a of the Staff Regulations concerning parental leave, *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) Therefore, before adopting a set of rules in relation to the implementation of Article 42a on parental leave, the Management Board needs to request the agreement of the Commission.
- (6) The set of rules annexed to the present Decision is largely based on Commission Decision C(2010)7572 of November 2010, with the exception of certain adaptations,

¹ OJ L319, 4.12.2015, p.1.

² OJ L 56, 4.3.1968, p. 1.

³ OJ L 124, 27.4.2004, p. 1.

Decision of the Management Board 28/2019/MB
ON REQUESTING COMMISSION'S AGREEMENT TO APPLY
GENERAL PROVISIONS FOR IMPLEMENTING ARTICLE 42A
OF THE STAFF REGULATIONS CONCERNING PARENTAL
LEAVE
Effective 21 November 2019



HAS ADOPTED THIS DECISION:

Article 1

The Agency shall request the agreement of the Commission to adopt the annexed rules on implementation of Article 42a on parental leave.

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

Article 1 General

1. Other servants shall be entitled to parental leave under the conditions laid down in Article 42a of the Staff Regulations.
2. Parental leave is an individual right and may not be refused. Where parental leave is requested for a period immediately following maternity leave, adoption leave or leave for the birth of a child, it may not be postponed by the authority authorised to conclude contracts ('AACC'). In all other cases it may, by way of exception, be postponed for a maximum of one month where duly justified by the interest of the service.
3. Where a servant is granted full-time parental leave during his/her probationary period, the probationary period shall be suspended for the duration of the parental leave.

Article 2 Procedure

1. The request for parental leave shall be submitted by the servant to his/her immediate superior for an opinion at least two months before the requested starting date; the period of two months is reduced to one month before the requested starting date if the duration of the requested leave is not more than two months or in the case of a request for parental leave to be taken directly after maternity or adoption leave; if the requested leave is to be taken directly after leave for the birth of a child the period is reduced to two weeks.
2. The request shall clearly indicate the name and the date of birth or adoption of the dependent child in respect of which parental leave will be taken, the exact duration, and whether parental leave is being requested on a full-time or half-time basis. In the case of an unborn child, the name and date of birth of the child must be supplied to the within a month of the birth.
3. The request for parental leave may be renewed under the same terms, subject to the maximum duration specified in Article 42a of the Staff Regulations.
4. The AACC may, at the request of the servant concerned, or in the case of a change in the circumstances which justified the granting of parental leave, withdraw the authorisation for parental leave before the expiry of the period for which it was granted. Both the AACC and the servant shall give at least one month's notice thereof, unless otherwise agreed between the servant and his/her department.

Article 3

Parental leave taken on a half-time basis

1. In the case of parental leave taken on a half-time basis, the working time arrangements shall require the agreement of the immediate superior, taking into account the interest of the service, and the rules on working time arrangements for standard part-time work shall apply.
2. During half-time parental leave the servant shall not be permitted to work overtime.

Article 3a

Withdrawal of authorisation for parental leave

1. Servants may request withdrawal of the authorisation for parental leave with retroactive effect due to illness. Such a request may be granted by the AACC in exceptional cases, taking into account the likely duration of the sick leave, the duration of the parental leave and the fact that the illness prevents the servant from performing the tasks for which he/she had requested parental leave. In such cases, the authorisation may be withdrawn with effect from the first day of illness as attested by a medical certificate, provided that the request is made to the AACC as quickly as possible. The original medical certificate shall be sent to the Medical Advisor as soon as possible after the first day on which the person was unfit for work and no later than the fifth calendar day of absence, as evidenced by the postmark. However, the date of withdrawal may not be before the first day of the month in which the request for withdrawal was sent to the AACC.
2. In cases of force majeure, where servants are unable to request the withdrawal of the authorisation for parental leave themselves, their consent shall be assumed and the withdrawal made on their behalf by the CEPOL HR team, acting on a special ad hoc decision by the AACC.

Article 4

Single parent

1. A single parent for the purposes of the first paragraph of Article 42a of the Staff Regulations is servant with a dependent child for which he/she has primary responsibility, and who exercises that responsibility alone, on condition that:
 - he/she is not married or, although married, is legally separated,
and
 - he/she is not in a registered partnership within the meaning of Article 1(2)(c) of Annex VII to the Staff Regulations.

2. A servant who requests parental leave as a single parent must declare on his/her honour that he/she has sole primary responsibility for the child. If necessary, the appointing authority may demand documentary proof thereof.
3. In exceptional circumstances, the AACC shall be able to conduct an assessment of any individual situation on the basis of a referral or on its own initiative.

Article 5

Leave entitlements during parental leave

For the annual leave entitlements for the servant spending part of the year on parental leave CEPOL follows the Commission Decision C(2013) 9051 final on leave (Section III.b.3 "Parental leave") *mutatis mutandis*.