COUNCIL REGULATION (ECSC, EEC, EURATOM) No 510/82

of 22 February 1982

amending Regulation (ECSC, EEC, Euratom) No 1860/76 laying down the conditions of employment of staff of the European Foundation for the Improvement of Living and Working Conditions

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1365/75 of 26 May 1975 on the creation of a European Foundation for the Improvement of Living and Working Conditions (1), and in particular Article 17 thereof,

Having regard to Council Regulation (ECSC, EEC, Euratom) No 1860/76 of 29 June 1976 laying down the conditions of employment of staff of the European Foundation for the Improvement of Living and Working Conditions (2), as amended by Regulation (EEC, Euratom, ECSC) No 1238/80 (3),

Having regard to the proposal from the Commission,

Whereas it is for the Council, acting by a qualified majority on a proposal from the Commission, to amend these Conditions of Employment;

Whereas staff at the Foundation and those entitled under them should be granted the same benefits as regards sickness, accident and occupational disease insurance and as regards the pension scheme as are granted to certain temporary staff of the European Communities and those entitled under them, with the exception, however, of the pension increase provided for under Article 5 of Annex VIII to the Staff Regulations of officials of the European Communities,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (ECSC, EEC, Euratom) No 1860/76 shall be amended as follows:

1. the last subparagraph of Article 30 (1) shall be replaced by the following:

   'However, where a staff member contracts an occupational disease or sustains an accident in the performance of his duties, he shall continue to receive his full remuneration throughout the period during which he is incapable of working until such time as he is awarded the invalidity pension provided for under Article 41b.';

2. the following second paragraph shall be added to Article 36:

   'In the event of a pensioner's death, the first paragraph shall apply to the pension of the deceased.';

3. the following shall be added to Article 47 (2):

   'and may also decide to limit the allowance provided for in Article 11 of Annex VI to repayment of the contribution provided for in Article 41h plus compound interest at 3·5 % per annum.';

4. the heading of Chapter 6 of Title II shall be replaced by the following:

   'Social security benefits and pensions';

5. in Title II, Chapter 6 shall be divided into:

   — Section A, entitled 'Sickness and accident insurance, social security benefits' consisting of Articles 38 to 41,

   — Section B, entitled 'Pension scheme and severance grant' consisting of Articles 41a to 41h;

6. Article 38 shall be replaced by the following:

   'Article 38

   1. Under the conditions laid down in the Rules to which the first Article of Annex V refers, a staff member, his spouse, his children and other

(1) OJ No L 139, 30. 5. 1975, p. 1.
(2) OJ No L 214, 6. 8. 1976, p. 24.
(3) OJ No L 127, 22. 5. 1980, p. 4.

dependants within the meaning of Article 7 of Annex IV shall be insured against sickness up to 80 % of the expenditure incurred, during his periods of service and of sick leave. However, the rate of 80 % shall be raised to 100 % in cases of tuberculosis, poliomyelitis, cancer, mental illness and other illnesses recognized by the Commission of the European Communities as being of comparable seriousness.

One-third of the contribution required to meet such insurance shall be charged to the staff member but so that the amount charged to him shall not exceed 2 % of his basic salary, the other two-thirds being borne by the Foundation.

If, however, the medical examination provided for in Article 24 shows the staff member to be suffering from sickness or invalidity, the Director may decide that expenses arising from such sickness or invalidity are to be excluded from the reimbursement of expenditure provided for in the first subparagraph.

2. If the staff member proves that he cannot obtain cover under another social security scheme, he shall continue to benefit under the sickness insurance scheme provided for in the first paragraph, without being required to contribute thereto, for a period of not more than 60 days after the expiry of his contract or while he is suffering from protracted serious illness contracted during his employment.

3. A staff member who has remained in the service of the Foundation until the age of 60 years or who is in receipt of an invalidity pension shall be entitled to the benefits provided for in paragraph 1 after he has left the service. The amount of contribution shall be calculated on the basis of his pension.

Those benefits shall also apply to the person entitled to survivor's pension following the death of a staff member who was in active employment or who remained in the service of the Foundation until the age of 60 years, or the death of a person entitled to an invalidity pension. The amount of contribution shall be calculated on the basis of his pension.

4. The following shall likewise be entitled to the benefits provided for in paragraph 1, provided that they cannot obtain cover under any other public scheme of sickness insurance:

— former staff members entitled to retirement pensions who left the service of the Foundation before the age of 60 years;

— persons entitled to survivor's pension as a result of the death of a former staff member who left the service of the Foundation before the age of 60 years.

The contribution shall be calculated by reference to the pension of the former staff member, half the contribution being borne by the person entitled.

However, a person entitled to orphan's pension shall not be entitled to the benefits provided for in paragraph 1, except at his request. The contribution shall be calculated on the basis of the orphan's pension.

5. Where the total expenditure not reimbursed for any period of 12 months exceeds half the staff member's basic monthly salary or pension, special reimbursement shall be allowed by the Director of the Foundation, with the assent of the settlements office, account being taken of the family circumstances of the person concerned, in manner provided for in the rules referred to in Article 1 of Annex V.

6. Persons entitled to the foregoing benefits shall declare the amount of any reimbursement which they may claim under another compulsory sickness insurance 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 paragraph 1, the difference shall be deducted from the amount to be reimbursed pursuant to paragraph 1, with the exception of reimbursements obtained under a private supplementary sickness insurance scheme covering that part of the expenditure which is not reimbursable under paragraph 1.';

7. the following Articles shall be inserted:

'*Article 38a*

1. Under the conditions laid down in the Rules referred to in Article 2 of Annex V, a staff member shall be insured, during the periods of service and of sick leave, against the risk of occupational disease and of accident. He shall contribute to the cost of insuring against non-occupational risks up to 0·1 % of his basic salary.

The Rules specify which risks are not covered.

2. The benefits payable shall be as follows:

(a) in the event of death:

Payment to the persons listed below of a lump sum equal to five times the deceased's annual basic salary calculated by reference to the monthly amounts of salary received during the 12 months before the accident:

— to the deceased staff member's spouse and children in accordance with the law of succession governing the staff member's estate; the amount payable to the spouse shall not, however, be less than 25 % of the lump sum,

— where there are no persons of the category above, to the other descendants in accordance with the law of succession governing the staff member's estate,

— where there are no persons of either of the two categories above, to the relatives in the ascending line in accordance with the law of succession governing the staff member's estate,

— where there are no persons of any of the three categories above, to the Foundation.

(b) in the event of total permanent invalidity:

Payment to the staff member of a lump sum equal to eight times his annual basic salary calculated on the basis of the monthly amounts of salary received during the 12 months before the accident.

(c) in the event of partial permanent invalidity:

Payment to the staff member of a proportion of the sum provided for in subparagraph (b), calculated by reference to the scale laid down in the rules referred to in Article 2 of Annex V.

As provided for in these rules an annuity may be substituted for the payments provided above.

The benefits listed above may be paid in addition to the benefits provided for by the pension scheme.

3. The following shall also be covered in manner provided for in the rules referred to in Article 2 of Annex V: medical, pharmaceutical, hospital, surgical, prosthesis, radiography, massage, orthopaedic, clinical and transport expenses and any other similar expenditure incurred as a result of the accident or occupational disease.

Reimbursement shall, however, only be made where the amount paid to the staff member under Article 38 does not fully cover the expenditure incurred.'

'*Article 40a*

1. Within the limits of the obligations devolving upon it under Article 40, the Foundation shall automatically assume the rights of redress of the official or of those entitled under him against the third party responsible for an accident involving the death of a staff member.

2. Within the limits of the obligations devolving upon them under Articles 38 and 38a the Communities shall automatically assume the rights of redress of the staff member or of those entitled under him against the third party responsible for an accident involving the death or injury of a staff member or a person covered by his insurance.';

'*Article 41a*

A staff member who has completed at least 10 years' service shall be entitled to a retirement pension. He shall, however, be entitled to such pension irrespective of length of service if he is over 60 years.

The maximum retirement pension shall be 70 % of the final basic salary carried by the last grade in which the staff member was classified for at least one year. It shall be payable to staff members who have completed 35 years' service reckoned in accordance with Article 3 of Annex VI. Where the number of years of service is less than 35, the above maximum shall be reduced proportionately.

Where a staff member is entitled to a retirement pension, his pension rights shall be reduced in proportion to the amounts paid in pursuance of Article 37 of Annex VI.

The amount of the retirement pension must not be less than 4 % of the minimum subsistence figure, within the meaning of Article 5 of Annex VI, per year of service in accordance with Article 3 of that Annex.

The pensionable age shall be 60 years.

The years of service referred to in the first paragraph shall be those accomplished as a staff member within the meaning of Article 1 (2) and shall include the years prior to ....., provided that the staff member is still serving in that capacity at the Foundation on that same date.

Article 41b

A staff member shall be entitled, in manner provided for in Chapter III of Annex VI, to an invalidity pension in the case of total permanent invalidity preventing him from performing his duties at the Foundation.

Where the invalidity arises from an accident in the course of or in connection with the performance of his duties, from an occupational disease, from a public-spirited act or from risking his life to save another human being, the invalidity pension shall be 70 % of the last basic salary of the staff member.

Where the invalidity is due to some other cause, the invalidity pension, calculated on his last basic salary, shall be equal to the retirement pension to which the staff member would have been entitled at the age of 65 years if he had remained in the service until that age.

The invalidity pension shall not be less than 120 % of the minimum subsistence figure as defined in Article 5 of Annex VI.

In the case of invalidity deliberately brought about by the staff member, the Director may decide that he should receive only the severance grant provided for in Article 11 of Annex VI.

Article 41c

The widow of a staff member or former staff member shall be entitled to a survivor's pension in manner provided for in Chapter IV of Annex VI.

The monthly amount of the survivor's pension payable to the widow of a staff member who died in service or on leave for military service, shall be equal to 35 % of the last basic salary received by the staff member and may not be less than the minimum subsistence figure as defined in Article 5 of Annex VI.

Article 41d

1. Where a staff member or person entitled to a retirement or invalidity pension dies leaving no spouse entitled to a survivor's pension, the dependent children within the meaning of Article 7 of Annex IV shall be entitled to an orphan's pension in accordance with Article 20 of Annex VI.

2. The same pension entitlement shall apply to children who fulfil the above conditions in the event of the death or remarriage of the spouse recipient of a survivor's pension, as provided for in Article 41c.

3. Where a staff member or person entitled to a retirement or invalidity pension dies but the conditions set out in the first paragraph are not satisfied, the dependent children within the meaning of Article 7 of Annex IV shall be entitled to orphan's pension in accordance with the conditions referred to in Article 20 of Annex VI. However, this pension shall be equal to half the pension calculated in accordance with that Article.

4. Each child being dependent within the meaning of Article 7 of Annex IV on a staff member whose spouse, not being a staff member, dies shall be entitled to an orphan's pension of twice the amount of dependent child allowance.

Article 41e

A person entitled to a retirement pension payable at the age of 60 years or later, or to an invalidity pension, or to a widow's pension shall be entitled to the family allowances specified in Articles 6, 7 and 8 of Annex IV. The household allowance shall be calculated by reference to the pension of the recipient.

The amount of the dependent child allowance payable to the person entitled to a widow's pension shall, however, be twice the amount of the allowance provided for in Article 7 of Annex IV.

Persons entitled to an orphan's pension shall be entitled to the education allowance in manner provided by Article 8 of Annex IV.

Article 41f

The payments and benefits provided for in Articles 41b to 41e shall be suspended if the pecuniary effects of the contract of employment of the staff member are temporarily suspended pursuant to the conditions of employment of staff of the Foundation.

Article 41g

The pensions shall be calculated by reference to salary scales in force on the first day of the month in which entitlement commences.

They shall be weighted at a rate greater, equal to, or below 100 %, depending on the living conditions in the pensioner's country of residence; these weightings shall be equal to those fixed by the Council of the European Communities pursuant to Article 64 and Article 65 (2) of the Staff Regulations of officials of the European Communities.

The pensions provided shall be subject to the same adjustments as are decided on by the Council of the European Communities in respect of pensions of officials of those Communities.

Pensions shall be paid in one of the currencies listed under Article 38 of Annex VI, on the basis of the rates of exchange referred to in Article 63 of the Staff Regulations of officials of the European Communities.

Article 41h

Staff members shall contribute one third of the cost of financing this pension scheme. The contribution shall be 6·75 % of the staff member's basic salary, the weightings provided for in Article 3 of Annex IV not being taken into account. It shall be deducted monthly from the salaries of staff members and entered as revenue in the Commission Section of the general budget of the European Communities.

For the payment of benefits under this pension scheme, the Director of the Foundation shall delegate his powers to the administrative authority responsible for clearance and payment of pensions to former officials of the Commission of the European Communities. These benefits shall be charged to the general budget of the European Communities.';

8. Annex I shall be replaced by the following:

'*ANNEX I*

COMPOSITION AND PROCEEDINGS OF THE STAFF COMMITTEE AND THE INVALIDITY COMMITTEE

CHAPTER 1

Staff Committee

Article 1

The Staff Committee shall consist of the members thereof, together with their alternates if any, whose term of office shall be two years. The Foundation may, however, decide to fix a shorter term of office which may not be less than one year.

The conditions for election to the Staff Committee shall be laid down by the general meeting of the staff in service at the relevant place of employment. Election shall be by secret ballot.

Membership of the Staff Committee shall be such as to ensure the representation of all categories of staff.

Elections to the Staff Committee shall be valid only if two-thirds of the staff entitled to vote take part. However, if this proportion is not attained, the second vote shall be valid if the majority of those entitled take part.

The duties undertaken by members of the Staff Committee and by staff appointed to organs set up by the Foundation shall be deemed to be part of their normal service. The fact of performing such duties shall in no way be prejudicial to the person concerned.

CHAPTER 2

Invalidity Committee

Article 2

The Invalidity Committee shall consist of three doctors: one appointed by the Foundation, one appointed by the staff member concerned, and one appointed by mutual agreement between the first two doctors.

Should the staff member concerned fail to appoint a doctor, the President of the Court of Justice of the European Communities shall appoint one.

In the event of failure to agree on the appointment of a third doctor within two months of the appointment of the second doctor, the third shall be appointed by the President of the Court of Justice of the European Communities at the request of one of the parties concerned.

Article 3

Expenses incurred in connection with the proceedings of the Invalidity Committee shall be borne by the Foundation.

Where the doctor appointed by the staff member concerned is resident elsewhere than at the place where the member is employed, the staff member shall bear the cost of the additional fees entailed, with the exception of first-class travel expenses, which shall be refunded by the Foundation.

Article 4

The staff member may submit to the Invalidity Committee any reports or certificates from his regular doctor or from any medical practitioners whom he may have consulted.

The Committee's conclusions shall be communicated to the Foundation and to the staff member concerned.

The proceedings of the Committee shall be secret.';

9. the following Annexes shall be added:

Annex V: 'Sickness, accident and occupational disease insurance' and Annex VI: 'Pension scheme'.

These Annexes appear in Annexes 1 and 2 respectively to this Regulation.

Article 2

Staff members serving at the Foundation on the date when this Regulation enters into force may elect to remain covered by the social security scheme originally provided for by Article 38 of Regulation (ECSC, EEC, Euratom) No 1860/76, if it was applicable to them, or to be affiliated to the new scheme provided for in this Regulation, whichever shall be the more beneficial to them. The choice must be made within the three months following the date of entry into force of this Regulation and shall be irreversible. The scheme originally provided under Article 38 of Regulation (ECSC, EEC, Euratom) No 1860/76 shall remain in effect for the period before such choice is made and thereafter if no choice is made within that three-month period unless it is not made for reasons beyond the staff member's control.

Article 3

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 22 February 1982.

For the Council

The President

L. TINDEMANS

ANNEX 1

'ANNEX V

SICKNESS, ACCIDENT AND OCCUPATIONAL DISEASE INSURANCE

Article 1

1. Staff of the Foundation and those persons satisfying the conditions laid down in Article 38 (2), (3) and (4) of the Conditions of Employment of staff of the Foundation shall be affiliated to the Joint Sickness Insurance Scheme of the institutions of the European Communities.

2. The Rules on Sickness Insurance for officials of the European Communities shall apply to the abovementioned staff and persons and those entitled under them.

Article 2

The Rules on insurance against the risk of accident and occupational disease for officials of the European Communities shall apply to staff of the Foundation.

For the settlement of claims arising from those Rules for staff who have sustained an accident or contracted an occupational disease, the Director of the Foundation shall delegate his powers to the administrative authority responsible for settling such claims in respect of accidents sustained or occupational diseases contracted by officials of the European Communities.

The European Communities shall ensure payment to staff of the Foundation and to those entitled under them of the benefits provided for under those Rules.'

ANNEX 2

'ANNEX VI

PENSION SCHEME

CHAPTER I

GENERAL PROVISIONS

Article 1

Where the medical examination made before a staff member takes up his duties shows that he is suffering from sickness or invalidity, the Director may, in so far as risks arising from such sickness or invalidity are concerned, decide to admit that staff member to guaranteed benefits in respect of invalidity or death only after a period of five years from the date of his entering the service of the Foundation.

CHAPTER II

RETIREMENT PENSION AND SEVERANCE GRANT

Section 1

Retirement pension

Article 2

A retirement pension shall be payable on the basis of the total number of years of pensionable service acquired by the staff member. Each year of service reckoned as provided for in Article 3 shall entitle him to one year of pensionable service and each complete month to one-twelfth of a year of pensionable service.

The maximum number of years of pensionable service which may be taken into account for the calculation of retirement pension rights shall be 35.

Article 3

For the purpose of calculating years of pensionable service within the meaning of the first paragraph of Article 2, the following shall be taken into account:

(a) the length of service as a staff member counted from ..... and time spent on leave for military service after that date, provided that the person concerned has paid his share of the pension contribution in respect of such periods of service;

(b) the period taken into account for retirement, in accordance with Article 10 (2), provided that the actuarial equivalent or the sums repaid have been paid, as stipulated in that Article.

Article 4

A staff member who after leaving the service of the Foundation takes up active employment again with the Foundation shall acquire further pension rights.

He may request that, for the purpose of calculating his retirement pension rights, the whole of his period of service in the Foundation be taken into account, subject to his repaying any sums paid to him pursuant to Article 11 or received by him by way of retirement pension, plus compound interest at the rate of 3·5 % per annum.

Where the staff member, being entitled to a retirement pension, does not repay the sums referred to in the preceding paragraph, a capital sum representing the actuarial equivalent of his retirement pension as at the date on which such pension ceased to be paid to him, together with compound interest at the rate of 3·5 % per annum, shall be paid to him in the form of a deferred retirement pension payable at the age when he ceases to perform his duties.

Article 5

The minimum subsistence figure for the purpose of calculating pension benefits shall correspond to the basic salary of a staff member in grade D 4, step one.

Article 6

The actuarial equivalent of the retirement pension shall not be less than the amount which the staff member would have received if Article 11 had been applied to him.

Where the actuarial equivalent of the retirement pension payable in accordance with the preceding provisions is less than this amount, the staff member shall receive a retirement pension the actuarial equivalent of which shall be equal to the amount provided for in the first paragraph.

Article 7

'Actuarial equivalent of the retirement pension' means the capital value of the benefits accruing to the staff member, calculated by reference to the latest morality tables compiled by the budgetary authorities of the European Communities as referred to in Article 32, the rate of interest applicable being 3·5 % per annum.

Article 8

A staff member leaving the service before reaching the age of 60 years may request that his retirement pension:

— be deferred until the first day of the calendar month following that in which he reaches the age of 60, or

— be paid immediately, provided that he is not less than 50 years of age. In this case, the retirement pension shall be reduced by an amount calculated by reference to the official's age when he starts to draw his pension, as shown in the following table:

Pension payable on early retirement expressed in terms of the pension payable on retirement at the age of 60 years

Early retirement age	Coefficient
50	0·50678
51	0·53834
52	0·57266
53	0·61009
54	0·65099
55	0·69582
56	0·74508
57	0·79936
58	0·85937
59	0·92593

Article 9

The right to receive payment of retirement pension shall have effect from the first day of the calendar month following that in which the staff member, whether automatically or at his own request, becomes eligible for that pension.

Article 10

1. A staff member who leaves the service of the Foundation to enter the service of a government administration or a national or international organization which has concluded an agreement with the Foundation shall be entitled to have the actuarial equivalent of his retirement pension rights in the Foundation transferred to the pension fund of the administration or organization.

2. A staff member who enters the service of the Foundation after leaving the service of a government administration or of a national or international organization or of an undertaking shall have the right, on completing the probationary period laid down by Article 25 of the Conditions of Employment, to pay to the Foundation either:

— the actuarial equivalent of retirement pension rights acquired by him in the government administration, national or international organization or undertaking, or

— the sums repaid to him from the pension fund of the government administration, organization or undertaking at the date of his leaving its service.

In such case the competent authority for the payment of pensions shall, taking into account his grade on establishment, determine the number of years of pensionable service with which he shall be credited under the current pension scheme, on the basis of the amount of the actuarial equivalent or sums repaid as aforesaid.

The option referred to in the first subparagraph shall also be open to staff members who entered the service before ....., with regard to pension rights corresponding to the period of their service with the Foundation before that date. The number of years of pensionable service shall, however, be determined on the basis of the grade and step held by the person concerned on .....

Section 2

Severance grant

Article 11

1. A staff member aged less than 60 years whose service terminates otherwise than by reason of death or invalidity and who is not entitled to a retirement pension and cannot benefit from the provisions of Article 10 (1) shall be entitled on leaving the service to payment of:

(a) the aggregate amount deducted from his basic salary in respect of his pension contributions, plus compound interest at the rate of 3·5 % per annum;

(b) provided that his contract of employment was not terminated pursuant to Article 47 of the Conditions of Employment, a severance grant proportionate to his actual length of service, calculated on the basis

of one and a half months for each year of service of the last basic salary before deductions. In cases covered by Article 10 (2), the period of former service shall likewise be deemed to be actual service, to the extent of the number of years of pensionable service credited to him in accordance with the second subparagraph of Article 10 (2);

(c) the total sum paid to the Foundation, in accordance with Article 10 (2), where that sum corresponds to periods before ....., and one-third of that sum for the periods after that date, plus compound interest at the rate of 3·5 % per annum.

2. The amounts paid pursuant to Article 37 below shall be deducted from the grant referred to in paragraph 1 (a), (b) and (c).

CHAPTER III

INVALIDITY PENSION

Article 12

Subject to the provisions of Article 1, a staff member aged less than 65 years who at any time during the period in which he is acquiring pension rights is recognized by the Invalidity Committee provided for in Annex I to be suffering from total permanent invalidity and who is obliged on these grounds to end his service with the Foundation shall be entitled, for so long as such incapacity persists, to invalidity pension as provided for in Article 41b of the Conditions of Employment.

Invalidity pension and retirement pension shall not be paid concurrently.

Article 13

Entitlement to invalidity pension shall take effect on the day following that on which the contract of employment of the staff member concerned was terminated pursuant to Articles 45 and 46 of the Conditions of Employment.

Article 14

The Director may at any time require proof that the recipient of an invalidity pension still satisfies the requirements for payment of the pension. Should the Invalidity Committee find that the requirements are no longer satisfied, entitlement to the pension shall cease.

If the person concerned is not reinstated in the service of the Foundation, he shall receive the grant provided for in Article 11, calculated on the basis of the period of service actually accomplished.

Article 15

Where a staff member who has been drawing invalidity pension is reinstated in the Foundation, the time during which he received such pension shall be included for the purpose of calculating his retirement pension, without payment by him of arrears of contributions.

CHAPTER IV

SURVIVOR'S PENSION

Article 16

Where a staff member dies in service or on leave for military service his widow shall be entitled, provided that she has been married to him for at least one year at the time of his death and subject to the provisions of Articles 1 and 21 hereafter, to a widow's pension equal to 35 % of the staff member's last basic monthly salary, which shall not be less than the minimum subsistence figure defined in Article 5.

The condition of duration of the marriage specified in the first paragraph shall not be taken into account if there are one or more children of the marriage or of a previous marriage of the staff member provided that the widow maintains or has maintained those children, or if the staff member's death resulted either from physcial disability or sickness contracted in the performance of his duties or from accident.

Article 17

Where a former staff member was in receipt of retirement pension his widow shall be entitled, provided that she had been married to him for at least one year when he left the service of the Foundation, and subject to the provisions of Article 21, to a widow's pension equal to 60 % of the retirement pension which he was receiving at the time of his death. The minimum widow's pension shall be 35 % of the staff member's last basic monthly salary and shall not be less than the minimum subsistence figure defined in Article 5; the amount of the widow's pension shall in no case, however, exceed the amount of the retirement pension which her husband was receiving at the time of his death.

The Condition of duration of the marriage specified in the first paragraph shall not be taken into account if

there are one or more children of a marriage contracted by the staff member before he left the service, provided that the widow maintains or has maintained those children.

Article 18

The widow of a former staff member who left the service before reaching the age of 60 years and requested that his retirement pension be deferred until the first day of the calendar month following that during which he reached the age of 60 years shall be entitled, provided that she had been married to him for at least one year when he left the service of the Foundation, and subject to Article 21 to a widow's pension equal to 60 % of the retirement pension which would have been payable to her husband at the age of 60 years. The minimum widow's pension shall be 35 % of the staff member's last monthly basic salary; the amount of the widow's pension shall in no case, however, exceed the amount of the retirement pension to which the staff member would have been entitled at the age of 60 years.

The condition of duration of the marriage specified in the first paragraph shall not be taken into account if there are one or more children of a marriage contracted by the staff member before he left the service, provided that the widow maintains or has maintained those children.

Article 19

For the purpose of Articles 17 and 18, the condition of the duration of the marriage shall not be taken into account where the marriage, though contracted after termination of the official's service, has lasted at least five years.

Article 20

1. The orphan's pension provided for in Article 41d (1) of the Conditions of Employment shall for the first orphan be equal to eight-tenths of the survivor's pension to which the staff member's widow would have been entitled, the reductions set out in Article 25 of this Annex being disregarded.

It shall not be less than the minimum subsistence figure, as defined in Article 5, subject to the provisions of Article 21.

2. The pension shall be increased, for each dependent child after the first, by an amount equal to twice the dependent child allowance.

3. The total amount of pension and allowance calculated in this way shall be divided equally among the orphans entitled.

Article 21

Where a staff member leaves a widow and also orphans of a previous marriage or other persons entitled under him, the total pension, calculated as if for a widow having all these persons dependent on her, shall be apportioned among the various persons concerned in proportion to the pensions which would have been payable to each category of them if treated separately.

Where a staff member leaves orphans of different marriages, the total pension, calculated as though all the children were of the same marriage, shall be apportioned among the various persons concerned in proportion to the pensions which would have been payable to each category of them if treated separately.

For the purposes of calculating this apportionment, dependent children within the meaning of Article 7 of Annex IV, of a previous marriage of either spouse, shall be included in the category of children of the marriage to the staff member.

In the case envisaged in the second paragraph, ascendants who are recognized as being dependants within the meaning of Article 7 (4) of Annex IV shall be treated in the same way as dependent children and, for the purpose of calculating the apportionment, included in the category of descendants.

Article 22

By special decision of the authority referred to in Article 41h of the Conditions of Employment, a pension calculated on the basis of Article 16 above may be granted to the widower of a female member of staff, who dies in service, provided he furnishes evidence that he has no income of his own and that at his wife's death he was permanently incapacitated by invalidity or serious illness from engaging in gainful employment.

Article 41e of the Conditions of Employment shall apply by analogy.

Payment of the pension shall cease if the surviving husband remarries.

Article 23

Those entitled under a deceased member of staff, as defined in this chapter, shall also receive the grant provided for under Article 11 above.

Where a member of staff dies leaving no survivors who qualify for a survivor's pension, the heirs shall be entitled to receive the grant provided for under Article 11.

However, amounts paid pursuant to Article 37 shall be deducted from the grant.

Article 24

The right to receive payment of survivor's pension shall take effect from the first day of the calendar month following that in which the staff member died. However, where the payment provided for in Article 36 of the conditions of employment is made on the death of the Conditions of Employment is made on the death pension, such right shall take effect on the first day of the fourth month following that in which death occurred.

The right to receive payment of survivor's pension shall cease at the end of the calendar month in which the recipient of the pension dies or ceases to satisfy the requirements for payment of the pension.

Article 25

Where the difference in age between the deceased staff member and his surviving spouse, less the length of time they have been married, is more than 10 years, the survivor's pension, calculated in accordance with the preceding provisions, shall be subject to a reduction, per full year of difference, amounting to:

— 1 % for the years between 10 and 20,

— 2 % for the years 20 up to but not including 25,

— 3 % for the years 25 up to but not including 30,

— 4 % for the years 30 up to but not including 35,

— 5 % for the years from 35 upwards.

Article 26

A widow's entitlement to survivor's pension shall cease on remarriage. She shall be entitled to immediate payment of a capital sum equal to twice the annual amount of her survivor's pension, provided that the second paragraph of Article 41d (2) of the Conditions of Employment does not apply.

Article 27

The divorced wife of a staff member shall be entitled on his death to a survivor's pension, as defined in this chapter, provided that the court which pronounced the decree of divorce did not find that the divorced wife in question was solely to blame. This entitlement shall cease if she remarries before her former husband dies. The provisions of Article 26 shall apply if she remarries after her former husband dies.

Article 28

Where a divorced staff member who has remarried leaves a widow entitled to survivor's pension, that pension shall be divided, in proportion to the duration of the marriages, between the divorced wife if she has not remarried and the widow, if the court which pronounced the decree of divorce did not find that the divorced wife was solely to blame. The amount to which the divorced wife is entitled if she has not remarried shall not be more than the amount of the maintenance awarded to her under the decree.

If any of the persons entitled to pension dies or renounces her share, her share shall accrue to the shares of the other persons, except where there are orphans' rights under Article 41d (2) of the Conditions of Employment.

Reductions in respect of difference in age, as provided for in Article 25, shall be applied separately to pensions divided in accordance with this Article.

Article 29

Where under Article 35 the divorced wife ceases to be entitled to a pension, the total pension shall be payable to the widow, provided Article 41d (2) of the Conditions of Employment does not apply.

CHAPTER V

FUNDING OF THE PENSION SCHEME

Article 30

Salaries shall in all cases be subject to deduction of the contributions to the pension scheme provided for in Articles 41a to 41h of the Conditions of Employment and in Annex VI hereto.

Article 31

Contributions properly deducted shall not be refunded. Contributions wrongly deducted shall not confer the right to receive a pension; they shall be reimbursed without interest at the request of the staff member or of those entitled under him.

Article 32

The mortality and invalidity tables and the assumed salary increases for use in calculating the actuarial values provided for in this Annex shall be those adopted by the budgetary authorities of the European Communities pursuant to Article 39 of Annex VIII to the Staff Regulations of officials of those Communities.

SECTION 6

SETTLEMENT OF CLAIMS OF STAFF MEMBERS

Article 33

The Director of the Foundation having delegated his powers, the administrative authority referred to in Article 41h of the Conditions of Employment shall be responsible for settling claims to retirement, invalidity, survivor's or provisional pension. A detailed statement of the settlement shall be communicated to the staff member or to those entitled under him and to the Foundation at the same time as the decision awarding the pension.

A retirement or invalidity pension shall not be paid concurrently with the salary payable by the Foundation or by one of the institutions of the European Communities.

The grant of a retirement, invalidity or survivor's pension shall not give entitlement to the expatriation allowance.

Article 34

The amount of pension may at any time be calculated afresh if there has been error or omission of any kind.

The pension shall be liable to modification or withdrawal if the award was contrary to the provisions of the Conditions of Employment and of this Annex.

Article 35

Where a staff member dies and those entitled under him do not apply for their pension within one year from the date of his death, they shall lose their entitlement, save where *force majeure* is duly established.

Article 36

A staff member or those entitled under him in favour of whom benefits arise under the pension scheme shall furnish such written proof as may be required and inform the administrative authority referred to in Article 41h of the Conditions of Employment of any facts liable to affect their entitlement.

Article 37

Under conditions to be established by the Commission of the European Communities, staff members may request the Foundation to make any payments necessary to constitute or maintain their pension rights in their country of origin.

These payments shall not exceed 13·5 % of basic salary and shall be charged to the budget of the Foundation.

CHAPTER VII

PAYMENT OF BENEFITS

Article 38

Benefits under the pension scheme shall be paid monthly in arrears.

Benefits shall be paid by the Commission of the European Communities out of the general budget of the European Communities.

Beneficiaries may elect to have their pensions paid in the currency either of their country of origin or of their country of residence or of the country where the Foundation has its seat; their choice shall remain operative for at least two years.

Where neither the country of origin nor the country of residence is a country of the Communities, benefits shall be paid in the currency of the country where the Foundation has its seat.

Article 39

Any sums due to the Foundation from staff members, at the date when a benefit is payable under the pension scheme, shall be deducted from the amount of their benefit or from the benefits payable to those entitled under them. The deduction may be spread over a number of months.

Article 40

Where the invalidity or death of a staff member is caused by a third party, the rights of action of the staff member or of those entitled under him against the third party shall vest in the European Communities within the limits of their obligations under the pension scheme.'