

DECISION No 6/2020

**OF THE ADMINISTRATIVE BOARD OF THE EUROPEAN UNION AGENCY FOR
THE COOPERATION OF ENERGY REGULATORS**

of 17 June 2020

**on the adoption by analogy of Commission Decision C(2019)7822 of 30 October 2019 on
the duties of Commission drivers**

THE ADMINISTRATIVE BOARD OF THE EUROPEAN UNION AGENCY FOR THE
COOPERATION OF ENERGY REGULATORS,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of
5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators,¹

Having regard to the Staff Regulations of Officials ('Staff Regulations') and the Conditions of
Employment of Other Servants ('CEOS') of the European Union, laid down by Council
Regulation (EEC, Euratom, ECSC) No 259/68², and in particular Article 110(2) of the Staff
Regulations,

Having regard to Commission Decision C(2019)7822 of 30 October 2019 amending
Commission Decision C(2004)1318 of 7 April 2004 on the duties of Commission drivers,

After consulting the Staff Committee on 29 April 2020,

Whereas:

- (1) On 12 November 2019, the Commission informed the European Union Agency for the
Cooperation of Energy Regulators (hereinafter referred to as 'the Agency') that it had
adopted its Decision C(2019)7822 of 30 October 2019 amending Commission Decision
C(2004)1318 of 7 April 2004 on the duties of Commission drivers.
- (2) In application of Article 110(2) of the Staff Regulations, in absence of derogation from
these implementing rules, Commission Decision C(2019) 6855 should apply by analogy
to the Agency within nine months after the date of notification.

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2019)7822 of 30 October 2019 amending Commission Decision
C(2004)1318 of 7 April 2004 on the duties of Commission drivers and Decision C(2004)1318
of 7 April 2004 on the duties of Commission drivers, hereby attached, shall apply by analogy
to the Agency.

¹ OJ L 158, 14.6.2019, p. 22–53.

² OJ L 56, 4.3.1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament
and of the Council of 22 October 2013, OJ L 287, 29.10.2013, p. 15.

Article 2

This Decision shall take effect on the day following that of its adoption.

Done at Ljubljana, 17 June 2020.

For the Administrative Board

The Chair

Dr. J. PENKER



Brussels, 30.10.2019
C(2019) 7822 final

COMMISSION DECISION

of 30.10.2019

**amending Commission Decision C(2004) 1318 of 7 April 2004 on the duties of
Commission drivers**

COMMISSION DECISION

of 30.10.2019

amending Commission Decision C(2004) 1318 of 7 April 2004 on the duties of Commission drivers

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials ('Staff Regulations') and the Conditions of Employment of Other Servants ('CEOS') of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 56 of the Staff Regulations, Article 3 of Annex VI and Article 31(5) of Annex XIII to the Staff Regulations, Article 16(1) and paragraph four of Article 91 of the CEOS,

After consulting the Joint Committee,

Whereas:

- (1) The implementation of the existing rules has shown that certain provisions on the calculation of the flat-rate allowance for overtime paid to Commission drivers should be clarified and adapted where needed,
- (2) It is therefore necessary to amend the Decision of 7 April 2004 on the duties of Commission drivers² as regards the rules for granting and calculating the flat-rate allowance for overtime,

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2004) 1318 is amended as follows:

- (1) Footnote 3 is replaced by the following:
'Basic monthly salary for the last step of the last grade in which remuneration for overtime may be paid in the form of a fixed allowance. For officials and temporary agents that grade shall be AST 4. For contract agents it shall be grade 7 in function group II.'
- (2) Article 13 is replaced by the following:
'Officials who were recruited prior to 1 May 2004 and are part of the AST function group shall continue to receive the flat-rate allowance for overtime until they cease to perform the duties of drivers. The flat-rate allowance shall be awarded and calculated under the conditions laid down in this Decision'.

¹ OJ L 56, 4.3.1968, p. 1.

² C(2004) 1318.

Article 2

This Decision shall take effect on the first day of the month following that of its adoption.

Done at Brussels, 30.10.2019

For the Commission
Günther H. OETTINGER
Member of the Commission



COMMISSION EUROPÉENNE

Secrétariat Général

C(2004) 1318

Bruxelles, le 31 mars 2004

O/97/2004

Réunion spéciale des Chefs de cabinet

TEXTE EN

ADAPTATION DES DISPOSITIONS D'APPLICATION SUITE A LA REVISION DU
STATUT DES FONCTIONNAIRES ET DU REGIME APPLICABLE AUX AUTRES
AGENTS DES COMMUNAUTES EUROPEENNES

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DECISIONS DE LA COMMISSION :

1. RELATIVE AUX PRESTATIONS DES CHAUFFEURS DE LA COMMISSION
2. RELATIVE AUX MODALITES DE MISE EN ŒUVRE DE LA PROCEDURE
D'ATTESTATION
3. MODIFIANT LA REGLEMENTATION RELATIVE AUX CONSEILLERS SPECIAUX
4. RELATIVE A L'APPLICATION DE L'ARTICLE 1^{ER} *QUINQUIES*, § 4 DU STATUT
5. RELATIVE A L'INDEMNITE DE CONDITIONS DE VIE
(ART.10 DE L'ANNEXE X DU STATUT)

Communication de M. KINNOCK

Cette question est susceptible d'être inscrite à l'ordre du jour de la 1653ème réunion de la Commission le mercredi 7 avril 2004.

Destinataires : Membres de la Commission
Directeurs Généraux et chefs de service



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, XX.XX.2004
C(2004) XXX

Proposal for a

COMMISSION DECISION

on the duties of Commission drivers

Proposal for a

COMMISSION DECISION

on the duties of Commission drivers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of officials of the European Communities and the conditions of employment of other servants of the European Communities laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 (the 'Staff Regulations')¹, and in particular Article 56 thereof and Article 3 of Annex VI thereto,

Having regard to Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time²,

Having regard to the Commission Decision of 1 February 1984 on remuneration in the form of a flat-rate allowance for overtime and the Commission Decision of 30 November 2000, which entered into force on 1 December 2000, on rules on the duties of Commission drivers,

Whereas, as a result of the amendment of Article 56 of and Annex VI to the Staff Regulations by Regulation (EC) No XXXX/XX of XX XXXX 2004, it is necessary to replace the above Decisions with a new Decision,

HAS DECIDED AS FOLLOWS:

COMMON PROVISIONS

Article 1

The general weekly timetable, including flexitime, shall apply to all Commission drivers.

Article 2

In accordance with Directive 93/104/EC, the weekly timetable, including overtime, may not exceed 48 hours. The working day shall include a minimum rest period of 11 consecutive hours in each 24-hour period (at the week-end: 24 hours + 11 hours). Any day started shall be regarded as a day served.

¹ OJ L 56, 4.3.1968, p.1. Regulation as last amended by Regulation ...

² OJ L 307, 13.12.1993, p. 18. Directive as last amended by Directive 2000/34/EC of the European Parliament and of the Council (OJ L 195, 1.8.2000, p. 41).

Article 3

In accordance with Article 3 of Annex VI to the Staff Regulations, drivers shall receive a flat-rate allowance for overtime.

In the context of Article 56 of the Staff Regulations, which stipulates that total overtime shall not exceed 150 hours in any six months, overtime is limited to 25 hours per month and the flat-rate allowance is calculated and due on that basis.

In this context, the principle of a flat-rate allowance implies that when in any given month a smaller amount of overtime is worked entitlement to the flat-rate allowance shall be maintained.

The monthly amount of the flat-rate allowance for overtime to be granted to the group of drivers designated below shall be determined as follows:

- drivers
 - (a) assigned to a Member
 - of the Commission:
[(0.56% x 1.5 x 3.5) + (0.56% x 2 x 21.5)] x DEGA³,
 - from the pool who are or may be designated:
[(0.56% x 1.5 x 3.5) + (0.56% x 2 x 21.5)] x DEGA,
 - (b) non-designated drivers:
 - [(0.56% x 1.5 x 20) + (0.56% x 2 x 5)] x DEGA,
 - (c) drivers for the central mail Service 0.56% x 1.5 x 25 x DEGA.

Article 4

The conditions governing the award of these allowances shall be as follows:

- payment from the date on which the person concerned is assigned, by decision of the appointing authority, to the duties giving entitlement to the allowance;
- payment terminating on the date on which the person concerned, by decision of the appointing authority, ceases to satisfy the conditions for award of the allowance;
- payment during leave and during sick leave up to a maximum of 30 days. This limit shall not apply to absence due to annual leave. In the event of sickness, the flat-rate allowance shall be suspended prorata to the number of days of absence from the 31st day. Without prejudice to this provision, the whole of the allowance shall be due for the month which was begun when service was interrupted. When

³ Last step of the grade to which the driver belongs.

work is resumed, the allowance shall be due prorata to the number of days served from the actual resumption of work.

- These provisions shall not apply if the absence of the official is the consequence of an accident at work related to the exercise of his or her duties or on the journey to or from work.

PROVISIONS APPLICABLE TO DRIVERS OTHER THAN THOSE ASSIGNED OR DESIGNATED OR ELIGIBLE FOR DESIGNATION

Article 5

Overtime worked shall be accounted for monthly. The monthly overtime shall be cleared each month.

- (a) Pool drivers: Article 56 of the Staff Regulations shall continue to apply and round-the-clock availability may not be required on official Commission holidays.

The monitoring introduced shall ensure a fair distribution of duties among these drivers and compliance with the limit of 20% on the monthly total of overtime compulsorily weighted at 200%⁴.

- (b) Mail drivers: Article 56 of the Staff Regulations shall continue to apply and round-the-clock availability shall not be required. The monitoring introduced shall ensure a fair distribution of duties among these drivers. There shall be no provision for overtime in the time periods enhanced (statutorily weighted) at 200%.

Article 6

The logbooks of drivers other than those assigned and designated must show the nature of the duties (work, mission, training) or the reasons why no duties were performed (leave, sickness, etc).

SPECIAL PROVISIONS APPLYING TO DRIVERS FOR MEMBERS OF THE COMMISSION

Article 7

In accordance with Directive 93/104/EC, the reference period shall be the week.

- During the week, drivers who are assigned and designated shall alternate between round-the-clock availability and rest; they shall be entitled to at least one free weekend in two.

⁴ The aims of these paragraphs are to put an end to the systematic full use of 25 hours overtime per month by pool drivers and to introduce an operational limit of 20% of 'enhanced' overtime. These provisions in no way affect the conditions for awarding the flat-rate allowance.

- The day-to-day management of assigned drivers and reserve drivers who are or may be designated – when they are working for a Member of the Commission – shall be the responsibility of the Member’s Head of Cabinet.

Article 8:

The weekly programme of the Member of the Commission shall act as a reference, consistent with Article 2, for coordinating during the week the duties of the assigned driver and the reserve driver who is or may be designated, with these two drivers coordinating between themselves to ensure full availability.

If during the week a driver reaches the limits set out in Articles 2 and 3, he shall be replaced by the designated driver from the reserve pool.

If the services of the designated reserve driver are not fully used, he shall remain available to the Commission’s transport pool.

If neither the assigned driver nor the designated reserve driver is available in accordance with Article 2 or because of leave or sickness, the duties of reserve driver shall be performed, under the same conditions as those applicable to assigned or designated drivers, by a driver eligible for designation by the Transport Unit who satisfies the conditions laid down.

SERVICE CLOTHING

Article 9

Drivers shall be provided with sober or classic service clothing, including shoes, purchased each year by the Administration. They shall be given a choice of colours of cloth of the same quality and cost.

MISSIONS

Article 10

A driver on mission must be covered by a duly completed travel order. A driver covered by a travel order to drive the official car of a Member of the Commission in the absence of that Member or a member of his Office is also on mission when returning the vehicle from or taking it to the site of an official journey. If the journey takes place outside the general weekly timetable, including flexitime, the corresponding time shall be counted as overtime subject to the ceiling fixed by the Staff Regulations and this Decision.

PROTECTION OF THE DRIVER

Article 11

Drivers shall comply with the road traffic laws of the country where they are driving.

The Commission shall, as far as possible, assist drivers in any proceedings brought against them by the national authorities for offences committed while exercising their duties.

Where drivers infringe the Highway Code in the exercise of their duties, the Commission shall consider the circumstances of the event and, if appropriate, notify the competent national authorities that it intends to invoke the Protocol on Privileges and Immunities⁵.

Where appropriate, the person carrying out the mission may give the driver, in writing, any instructions needed for the mission to proceed successfully.

APPLICATION TO OTHER SERVANTS

Article 12

Within the limits resulting from Articles 16, 57 and 88a of the conditions of employment of other servants of the European Communities and Article 56 of and Annex VI to the Staff Regulations, this Decision shall apply by analogy to temporary, auxiliary and contract staff.

TRANSITIONAL PROVISIONS

Article 13

1. For officials in grade AST 2 (for the period from 1 May 2004 to 30 April 2006: grade D*2) who were in grade D 3 before 1 May 2004, the flat-rate allowance shall be calculated on the basis of the fifth step in grade AST 3 (for the period from 1 May 2004 to 30 April 2006: grade D*3).

For officials in grade AST 3 (for the period from 1 May 2004 to 30 April 2006: grade D*3) who were in grade D 2 before 1 May 2004, the flat-rate allowance shall be calculated on the basis of the fifth step in grade AST 4 (for the period from 1 May 2004 to 30 April 2006: grade D*4).

For officials in grade D 1 or in category C before 1 May 2004, the flat-rate allowance shall be calculated on the basis of the fifth step in grade AST 5 (for the period 1 May 2004 to 30 April 2006: grade D*5).

2. Officials in Categories C and D before 1 May 2004 who do not become a member of the assistants' function group without restriction in accordance with Article 10(3) of Annex XIII to the Staff Regulations and who are or will be reclassified or promoted to grades AST 5, AST 6 or AST 7 (for the period from 1 May 2004 to 30 April 2006: grades C*5/D*5, C*6 and C*7), shall continue to receive the flat-rate allowance for overtime until they cease to perform the duties of driver.

The flat-rate allowance for those officials shall be calculated on the basis of the fifth step in grade AST 5 (for the period from 1 May 2004 to 30 April 2006: grade D*5).

3. Under no circumstances shall the amount of the flat-rate allowance be less than that received before 1 May 2004.

⁵ In practice, this provision will apply only to the Members of the Commission.

ENTRY INTO FORCE

Article 14

This Decision shall enter into force on 1 May 2004.

It hereby repeals and replaces the Commission Decision of 1 February 1984 on remuneration in the form of a flat-rate allowance for overtime and the Commission Decision of 30 November 2000 on rules on the duties of Commission drivers.

Done at Brussels, [...]

For the Commission

[...]

Member of the Commission