

Comments of the Commission on a request for information from the European Ombudsman

- SI/1/2019/AMF on the leave rights of certain staff members and the best interests of the child

The Commission acknowledges receipt of the initiative letter sent by the European Ombudsman on 8 May 2019.

In answer to the questions raised by the European Ombudsman, the Commission would like to make the following comments:

1. If a woman in a same-sex couple becomes pregnant through artificial insemination and gives birth, what leave rights are provided to the non-biological mother of the child (assuming she is a staff member of your institution)?

Commission reply

Before addressing the leave rights of the ‘non-biological mother’, the Commission would like first to clarify the leave entitlements, under the Staff Regulations, of pregnant women.

Pursuant to Article 58 of the Staff Regulations, pregnant women shall be entitled to 20 weeks of leave¹ (“maternity leave”). To benefit from such entitlement, the staff member has to provide a medical certificate indicating the expected date of birth and, once the child is born, a copy of the birth certificate².

As regards the leave rights of the ‘non-biological mother’, reference should be made to the special leave of 10 working days³ for the "Birth of a child of an official" foreseen under point II.a.3 of the Commission decision C(2013)9051 on leave. To benefit from such entitlement, the staff member must provide his/her leave manager with a copy of the birth certificate issued by the relevant national administrative authority and any or other supporting document through which the relationship between the mother of the child and the official (marriage, partnership) can be established.

It derives from the above that the leave entitlements of both the ‘biological mother’ and the ‘non-biological mother’, as defined by the applicable rules, are the same irrespective of the gender of the members of the couple.

¹ The entitlement is extended to 24 weeks in the event of a multiple or premature birth or the birth of a child with a disability or serious illness

² See point II.a.14 of the Commission Decision C(2013)9051 on leave for further details on the applicable framework.

³ A single special leave entitlement of 12 working days is granted for multiple births (twins, triplets, etc.). In case of the birth of a disabled or seriously ill child, the entitlement is 20 days.

2. What is the current policy in your institution regarding leave made available to staff members who become parents through surrogacy? Please include, in your answer, details of the duration of the leave per parent, how such leave is approved and how relevant information is made available to staff. Please provide a copy of the relevant policy/policies.

Commission reply

a) Legal context

- Pursuant to Article 58 of the Staff Regulations, pregnant women are entitled to **20 weeks⁴ of maternity leave**. The adoption of a child also confers an entitlement of **20 weeks⁵** of special leave for (full) adoption (**‘adoption leave’**). (Article 6 of Annex V)
- The conditions for the entitlement of 20 weeks of maternity or adoption leave are further detailed in Commission Decision C(2013) 9051 of 16 December 2013 on leave.
- The Appointing Authority has to grant the above-mentioned types of leave once the statutory conditions are fulfilled (*“leave shall be granted”*).
- Besides such statutory leave entitlements, Article 57 of the Staff Regulations and Article 6 of Annex V give the Appointing Authority a discretionary power to grant special leave if it considers it appropriate.

b) Existing practice as regards surrogacy

- Since 2012, the administration has responded to requests for special leave from staff members who had recourse to surrogacy by applying the rules on adoption leave by analogy and on an ad hoc basis. Such a special leave has been granted based on Article 57 of the Staff Regulations and Article 6 of Annex V to the Staff Regulations.
- Such a 20-week special leave⁶ allows the concerned staff members to fully dedicate their time to take care and bond with the new-born child, in the same way as staff members who are entitled to maternity or adoption leave.

c) Proposed Commission Decision

- In its **Diversity and Inclusion Action Plan of 19 July 2018**, the Commission foresees the following:
“The existing legal framework on leave entitlements is fully in line with the principle of non-discrimination and equal opportunities. However, diversity and inclusion are concepts which go beyond those principles. Therefore, rules on leave entitlements will be reviewed to ensure the inclusive interpretation of the Staff Regulations. A proposal for review will be tabled before the end of 2018.”
- As explained above, the practice supported by DG HR since 2012 is to grant a special leave of 20 weeks by applying the rules on adoption leave by analogy on an **ad hoc basis**.

⁴ 24 weeks in the event of a multiple or premature birth or the birth of a disabled or seriously ill child

⁵ 24 weeks in the case of multiple adoptions on the same date or if the child is disabled or seriously ill

⁶ Extended to 24 weeks in the same instances as for the adoption leave.

- A codification of that practice in the form of a Commission Decision is proposed and has been subject to inter-services consultation within the Commission and will shortly be discussed as part of the social dialogue process. It will then need to be submitted to the College for formal adoption by the Commission. Concretely, the draft Commission Decision introduces a new type of special leave into the current Commission Decision C(2013) 9051 on leave (“**Special leave for welcoming a new-born in the household**”) and defines its conditions of application. The codification of the existing practice solidifies the legal basis and hence increases legal certainty for the staff members concerned.

d) The main aspects of the current draft Commission Decision

- **Conditions:**

1. The staff member who welcomes a new-born in the household **has become parent or has launched a procedure to this effect**, without being able to benefit from either a maternity leave or adoption leave.
2. The child in question **has to be a “dependent”**, which presupposes maintenance expenditures, including in the period where the legal parenthood has not yet been established.

- **Under the proposal, the rules for adoption leave would apply *mutatis mutandis***⁷. This means, in particular, that:

- a) The duration of the special leave is 20 weeks (140 calendar days) or 24 weeks in the case of multiple birth or if the child is disabled or seriously ill (168 calendar days).
- b) If both adopting parents are officials of an EU institution, the special leave may be shared between them as they wish.
- c) If the staff member is married or in a recognized partnership, the spouse or partner has to be engaged in a gainful activity at least half time.
- d) Comparable leave rights of the partner are deducted.
- e) Where an official is not entitled to 20 weeks or 24 weeks’ leave for adoption, he/she is granted special leave of 10 working days, 12 working days in the case of multiple adoptions on the same date or 20 days if the child is disabled or seriously ill.

- The draft Commission Decision makes it clear that parents who benefit from the present special leave **cannot be subsequently awarded an additional adoption leave** in case at least one of the parents adopts the child. This is to avoid double benefits.

- **Supporting documents:** Where the civil registry office has not yet recognised the parental link, the staff member has to prove that a procedure to this effect has been introduced.

- **Information to staff:** The decision will be published by administrative notice as soon as the decision is adopted. A specific article will then be published in the Staff Matters Newsletter and will refer to more detailed information on the dedicated pages of MyIntraComm.

⁷ Heading II.a.13 of the Commission decision C(2013)9051 on leave

Annex

- Commission decision C(2013)9051 on leave



EUROPEAN
COMMISSION

Brussels, 16.12.2013
C(2013) 9051 final

COMMISSION DECISION

of 16.12.2013

on leave

COMMISSION DECISION

of 16.12.2013

on leave

THE EUROPEAN COMMISSION,

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

Having regard to the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (CEOS) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, and in particular Articles 57, 58 and 61 of the Staff Regulations and Annex V thereto, and Articles 16 and 91 of the CEOS,

Whereas:

- (1) The Commission Decision of 5 November 2010 on implementing provisions on leave (C(2010) 7495 final) should be adapted to take account of the amendments to the Staff Regulations which enter into force on 1 January 2014 and to take into account the evolution of the case law in this area.
- (2) For reasons of clarity and legal certainty, Decision C(2010) 7495 final should be replaced by this Decision,

HAS DECIDED AS FOLLOWS:

Article 1

The Annex to this Decision establishing implementing provisions on leave is hereby approved.

Article 2

The Commission shall empower the Director-General for Human Resources to make all necessary routine amendments to the Annex to this Decision.

Article 3

The Commission Decision of 5 November 2010 on implementing provisions on leave (C(2010) 7495 final) is hereby repealed.

Article 4

This Decision shall take effect on 1 January 2014.

Done at Brussels, 16.12.2013

For the Commission
Maroš ŠEFČOVIČ
Vice-President



EUROPEAN
COMMISSION

Brussels, 16.12.2013
C(2013) 9051 final

ANNEX 1

ANNEX

to the

Commission Decision

on leave

ANNEX
to the
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on leave

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DEFINITIONS

SNE	=	SECONDED NATIONAL EXPERT
PARTNER/PARTNERSHIP	=	Under the penultimate paragraph of Article 6 of Annex V to the Staff Regulations, “the unmarried partner of an official shall be treated as the spouse where the first three conditions in Article 1(2)(c) of Annex VII [of the Staff Regulations] are met”.
CALENDAR YEAR	=	Begins on 1 January and ends on 31 December of the same year
CALENDAR DAYS	=	Calendar days correspond to the calendar (= seven calendar days in a week)
WORKING DAYS	=	All calendar days, with the exception of Saturdays, Sundays and Commission holidays
GECO	=	Leave and absences manager in the Directorate-General/department concerned
HRM	=	Head of Human Resources in the Directorate-General/department concerned
Appointing Authority (AIPN)	=	Appointing authority (see list of appointing authorities)
AHCC	=	Authority authorised to conclude contracts of employment
JSIS	=	Joint Sickness Insurance Scheme of the European Union
Leave management application	=	Commission IT system to allow the administration of leave and absences by all concerned (staff, appointing authority, etc.)
MS	=	Medical Service
Organisation devoted to furthering the Unions' interests	=	Organisation included on the list drawn up under the second indent of Article 37(b) of the Staff Regulations

INTRODUCTION

With the aid of these rules on leave, the Commission hopes to establish uniform and consistent practice within its Directorates-general, departments and offices. Any reference made in this Decision to an official should be deemed also to constitute a reference to a member of the contract staff or member of the temporary staff of the Commission. However, for staff employed in Delegations abroad, some leave is governed - by way of derogation - by Annex X to the Staff Regulations (hereinafter “Annex X”) and other appointing authority decisions relating to such staff.

A) Organisation

- (1) Management of leave has been decentralised and is therefore carried out by the Directorate-General, department or office to which the official belongs.
- (2) Any specific questions not answered in this document should therefore be referred to the leave manager (GECO) of the official's Directorate-General or department or the office to which the official belongs.
- (3) DG Human Resources will coordinate the work of the leave managers so as to harmonise practices and avoid differing applications of the rules on leave. DG Human Resources is therefore making a coordinator available to the DGs for this purpose. Only the leave manager or the appointing authority of his or her Directorate-General may refer general or specific questions not resolved at their level to DG Human Resources leave coordinator.
- (4) The leave coordinator makes contact as necessary or implements the appropriate procedures in order to find a suitable, harmonised solution as soon as possible. If a solution is needed to a general question, it may be submitted to all the appointing authorities and leave managers for an opinion.
- (5) On no account may the coordinator act as a substitute for the leave manager or the appointing authority.

B) General rules

The first paragraph of Article 60 of the Staff Regulations states that, except in the case of sickness or accident, an official may not be absent without prior permission from his immediate superior.

Officials are therefore not permitted to depart on annual or special leave until they have made sure that their immediate superior has signed their leave request in the computerised leave management application. In cases of *force majeure*, they must inform their immediate superior.

Except in cases of *force majeure*, officials must enter their request for annual leave or special leave in the leave management application.

If this is not technically possible, they must give a written delegation to the person they have authorised to enter an application in the system on their behalf.

The immediate superior must in turn take a decision as quickly as possible consistent with the criteria of sound personnel management. If the immediate superior fails to take a decision within this time, the decision will be taken by the appointing authority.

Any absence not covered by a prior authorisation is to be recorded as soon as possible - in practice during the first few hours of absence - by the immediate superior (or the official authorised by him/her) in the leave management application with the reference “absence”.

I. ANNUAL LEAVE

General principles

- (a) A day of annual leave is a working day (normally from Monday to Friday inclusive, not including public holidays) that is not worked.
- (b) Annual leave taken by an official must include at least one period of two consecutive weeks in accordance with Article 2 of Annex V to the Staff Regulations (hereinafter “Annex V”)
- (c) Any application for annual leave resulting in a negative balance of more than five days’ leave may be granted by the immediate superior only in exceptional circumstances and under his/her own responsibility. In the case of a member of staff on a fixed-term contract, a leave application resulting in a negative balance may be granted by the immediate superior under his/her own responsibility provided that the negative balance does not exceed the leave entitlement covered by the total duration of the contract.
- (d) For someone entering service part way through a calendar year, the basic entitlement (I.a), the additional entitlement for age and grade (I.b) and the supplementary home leave (I.c) are calculated pro rata for the number of months to be worked until 31 December.

I.a Basic entitlement (per month of service per calendar year)

Rules

Officials are entitled to two working days’ leave for each complete month of service.

Part of a month entitles an official to two working days’ leave if it is more than 15 calendar days and to one working day if it is 15 calendar days or less, in line with Article 1 of Annex V.

The basic annual leave entitlement for an official is 24 days, except for officials covered by the transitory provisions for 2014 and 2015 laid down in Article 6 of Annex X.

Other than in duly substantiated exceptional cases, officials may take annual leave only after completing three months’ service, as laid down in Article 2 of Annex V.

Once this three-month period is over, the total number of days' leave that officials may take during their probationary period is limited to the total entitlement acquired during that period.

On entry into service, the annual basic leave entitlement is calculated pro rata for the number of months to be worked until 31 December.

I.b Additional entitlement for age and grade

Grade			Age	
AD16 – AD15	=	3 days	over 55	=6 days
AD14 – AD13	=	2 days	50 - 54	=5 days
AD12 – AD9	=	1 day	45 - 49	=4 days
AST11 – AST10	=	1 day	40 - 44	=3 days
CA IV/18, III/12, II/7, I/3 = 1 day			35 - 39	=2 days
			under 35	=1 day

Rules

Officials are entitled to a number of days' leave in addition to their basic entitlement (heading I.a) depending on their grade and age up to a maximum of 30 working days per calendar year, in accordance with Article 57 of the Staff Regulations, except for officials covered by the transitory provisions for 2014 and 2015 as laid down in Article 6 of Annex X.

The age and/or grade to be taken into account is that on 31 December of the current year. The combined additional entitlement for age and grade shall under no circumstances exceed 6 days.

An official who is seconded in the interests of the service to the Private Office of a Commission Member receives the entitlement for the grade to which he/she is seconded.

On entry into service, the additional entitlement for age and grade is calculated pro rata for the number of months to be worked until 31 December.

I.c Supplementary home leave

2 ½ days of supplementary home leave are granted every year to officials entitled to the expatriation or foreign residence allowance for the purpose of visiting their home country.

For officials whose place of employment is outside the territories of the Member States, the duration of the supplementary home leave shall be fixed by special decision taking into account particular needs.

Rules

Supplementary home leave is granted once per calendar year to officials for the purpose of visiting their home country.

Supplementary home leave cannot be carried over or reimbursed.

Where the entitlement to expatriation or foreign residence allowance changes during the course of a year, the decision whether or not to grant the supplementary home leave will be based on the official's situation on 1 January of that year.

On entry into service, the supplementary home leave is calculated pro rata for the number of months to be worked until 31 December.

II. SPECIAL LEAVE

As well as annual leave (see part I above), in exceptional circumstances officials may, in particular, be granted special leave as summarised below.

Heading No.	Type of special leave	Number of days	Officials	Other staff	Travelling time
	A. Family reasons:				
II.a.1	Marriage of the official*	4	X	X	X
II.a.2	Marriage of a child*	2	X	X	X
II.a.3	Birth of one child*	10 days	X	X	X
	Birth of two or more children*	12 days	X	X	X
	Birth of a disabled or seriously ill child*	20 days	X	X	X
II.a.4	Serious illness of spouse/partner*	Up to 3 days	X	X	X
II.a.5	Serious illness of a child*	Up to 2 days	X	X	X
II.a.6	Very serious illness of a child*	Up to 5 days	X	X	X
II.a.7	Serious illness of a relative in the ascending line*	Up to 2 days	X	X	X
II.a.8	Death of spouse/partner*	4	X	X	X
II.a.9	Death of the mother during/before maternity leave*	Max. 24 weeks	X	X	N/A
II.a.10	Death of a child*	4	X	X	X
II.a.11	Death of a relative in the ascending line*	2	X	X	X
II.a.12	Death of a brother or sister	2	X	X	X
II.a.13	Adoption of a child*	Max. 24 weeks	X	X	N/A
II.a.14	Maternity leave	Max. 24 weeks	X	X	N/A
	B. Other				
II.b.1	Years of service	5	X	X	N/A
II.b.2	Fire picket	2	X	X	N/A

II.b.3	Shiftwork	Max. 5 days	X	X	N/A
II.b.4	Engaging in an unpaid outside activity	Max. 12 days/year	X	X	NO
II.b.5	Trade union leave	Max. 4 days/year	X	X	X
II.b.6	Summons	1 day Jury service: variable	X	X	X
II.b.7	Cure	Max. 7.5 days per 12 months	X	X	NO
II.b.8	Moving house*	Up to 2 days	X	X	conditions apply
II.b.9	Elections outside the place of employment and travelling time for elections	0.5 day 1 day if assessor, member or presiding officer	X	X	Fixed rate
II.b.10	Participating in an examination/competition/selection board organised by EPSO or by an Institution or European Agency, another body created under the EU Treaty, the TFEU or the Euratom Treaty, or an organisation devoted to furthering the Union's interests	Based on attendance	X	X	X
II.b.11	Training	Variable	X	X	conditions apply
II.b.12	Holding elected public office	Max. 12 days/year derogation subject to conditions	X	X	NO
II.b.13	Jobseeking at end of contract	Max. 4 days	N/A	X	NO
-II.b.14	Exceptional work which goes beyond an official's normal obligations	Variable	X	X	NO

The cases in the above table marked with an asterisk confer an automatic entitlement to special leave subject to the limits laid down in Article 6 of Annex V.

General principles

- (1) Special leave is granted in exceptional circumstances and on the basis of a duly substantiated application.
- (2) The appointing authority for all individual special leave is the Director-General/Head of Department/Director, or the official to whom he/she has delegated responsibility, in the DG/Department/Office in which the official is working.
- (3) Special leave must be taken at the time of the event giving rise to it, except in the cases expressly provided for in this Annex. If the official has not used special leave which he/she might have been granted, that leave may on no account be added to his/her annual leave entitlement in compensation.

- (4) The supporting documents must be supplied when applying for special leave or, failing that, at the latest when returning to work. In the latter case, the time limit for the transmission of supporting documents is a maximum of 15 calendar days following the return to work.
- (5) Special leave may be applied for and granted at any time, even during the first three months of service.
- (6) Special leave may cancel annual leave in whole or in part (see heading III.d below).
- (7) A day or days of leave granted during annual leave for an event occurring during that period is considered as special leave. Travelling time corresponding to the actual duration of the journey made from the place of leave to the place of the event may also be granted (see heading II.c below).
- (8) Further to the previous point, in the event of serious illness of a child, spouse or relative in the ascending line, special leave may be granted during annual leave only if one of the following two criteria is met:
 - (a) the place of the event must be at least 75 km from the place of the annual leave,
 - (b) failing that the Medical Service must deliver a favourable opinion.
- (9) Certain types of special leave for family reasons may also be granted to officials in a partnership within the meaning of the penultimate paragraph of Article 6 of Annex V.

II.a Family reasons

II.a.1 Marriage of the official

Basic principle: 4 working days.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

The special leave is taken at the official’s convenience:

- (1) either at the time of the civil marriage ceremony or registration of the partnership,
- (2) or at the time of the religious marriage ceremony,
- (3) or, by way of derogation from point 3 of the general principles governing special leave (see above), at some other time and within a maximum period of three months.

In cases (1) and (2) above, the special leave must be taken during the days preceding or following the marriage ceremony or the registration of the partnership.

In all three cases, the special leave may be split into days or half-days, but confers only a single entitlement to any travelling time for all the special leave.

Conditions

In the case of a civil marriage/partnership, the official must provide his/her leave manager with a copy of the marriage/partnership certificate or a certificate issued by the relevant national administrative authority.

In the case of a religious marriage ceremony, the above documents may be replaced by an official certificate issued by the relevant religious authority or any other supporting document.

II.a.2 Marriage of a child

Basic principle: 2 working days.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

Special leave is granted for the marriage of a child of an official and for the marriage of a child of the official’s spouse or partner.

Special leave is granted, on request, either at the time of the civil marriage ceremony or at the time of the religious marriage ceremony.

The special leave must be taken in the days before and/or after the marriage ceremony (e.g. if the marriage ceremony is on a Saturday, the Friday before and the Monday after).

The special leave may be split into days or half-days, in the days before and/or after the marriage ceremony, but confers only a single entitlement to any travelling time for all the special leave.

Conditions

In the case of a civil marriage, the official must provide his/her leave manager with a copy of the marriage certificate or a certificate issued by the relevant national administrative authority.

In the case of a religious marriage ceremony, the above documents may be replaced by an official certificate issued by the relevant religious authority or any other supporting document.

II.a.3 Birth of a child of an official

Basic principle: 10 working days per child. A single special leave entitlement of 12 working days is granted for multiple births (twins, triplets, etc.). In case of the birth of a disabled or seriously ill child the entitlement is 20 days.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

The special leave must be taken during the 14 weeks following the birth.

The special leave may be split into days or half-days, but confers only a single entitlement to any travelling time for all the special leave.

Conditions

The official must provide his/her leave manager with a copy of the birth certificate issued by the relevant national administrative authority any or other supporting document from which the relationship between the mother of the child and the official (marriage, partnership) can be established.

The decision to grant 20 days of special leave in case of the birth of a disabled or seriously ill child must be based on the opinion of the Medical Service.

II.a.4 Serious illness of spouse/partner (see also “family leave”)

Basic principle: up to 3 working days.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

An official is entitled, on request, to up to three working days' special leave in the event of serious illness of his/her spouse/partner.

In specific cases of chronic serious illness and exceptional family circumstances, the appointing authority may grant extensions up to a maximum of 9 working days per calendar year in total (see conditions below).

However, the appointing authority may derogate from this limit of a maximum of 9 days in total per calendar year on the basis of an opinion by the Medical Service. The Medical Service opinion is established on the basis of a detailed medical certificate and, if the MS judges it necessary and at its explicit request, a report by a Medical Service welfare officer on the support available to the person who is ill.

The special leave may be split into days or half-days.

The special leave confers only a single entitlement to travelling time for every three working days granted, whether split or not.

Conditions

The official must provide his/her leave manager with a certificate containing his/her name and that of the sick person, and confirming that he/she was with the sick person between the dates stated.

If this certificate contains information which the official considers to be confidential, the official should contact the Medical Service rather than his/her leave manager, notifying the leave manager that he/she has done so and providing the basic information contained in the certificate (his/her name and that of the sick person and the dates between which he/she was with that person).

For an extension beyond 3 working days, the official must submit the original of a detailed medical certificate to the Medical Service, which must provide the appointing authority with an opinion on the seriousness of the illness and, if applicable, its chronic nature. In the case of such extensions, the official must inform the leave manager that he/she has contacted the Medical Service.

For derogations beyond the maximum laid down for extensions, the Medical Service informs the appointing authority of the number of working days that can be granted, and the procedures for doing so.

In an emergency, a copy of the above documents may be sent to the Medical Service for prior approval by any appropriate means (fax., e-mail, etc.). The original must then be sent as soon as possible

II.a.5 Serious illness of child (see also “family and/or parental leave”)

Basic principle: up to 2 working days per child.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

An official is entitled, on request, to up to two working days' special leave per child in the event of serious illness of the child.

The appointing authority may grant extensions up to a maximum of 6 working days in total per child per calendar year.

The child must be considered to be dependent within the meaning of Article 2 of Annex VII to the Staff Regulations or confer entitlement to a tax abatement by virtue of Article 3(4) of Council Regulation No 260/68¹.

The appointing authority, following an opinion by the Medical Service issued on the basis of a detailed medical certificate, may grant additional days' leave beyond the six working days provided for above.

The special leave may be split into days or half-days.

The special leave confers only a single entitlement to travelling time for every two working days granted, whether split or not.

Conditions

The official must provide his/her leave manager with a certificate containing his/her name and that of the sick person, and confirming that he/she was with the sick person between the dates stated.

If this certificate contains information which the official considers to be confidential, the official should contact the Medical Service rather than his/her leave manager, notifying the leave manager that he/she has done so and providing the basic information contained in the certificate (his/her name and that of the sick person and the dates between which he/she was with that person).

II.a.6 Very serious illness of a child (see also "family and/or parental leave")

Basic principle: up to 5 working days per child.

Travelling time may be added if appropriate (see heading "Travelling time for special leave").

Rules

An official is entitled, on request, to up to 5 working days' special leave per child in the event of very serious illness or hospitalisation of a child.

The appointing authority may grant extensions up to a maximum of 15 working days in total per child per calendar year.

The child must be considered to be dependent within the meaning of Article 2 of Annex VII to the Staff Regulations or confer entitlement to a tax abatement by virtue of Article 3(4) of Council Regulation No 260/68, referred to above.

The appointing authority, following an opinion by the Medical Service issued on the basis of a detailed medical certificate, may grant additional days' leave beyond the 15 working days provided for above.

The special leave may be split into days or half-days.

The special leave confers only a single entitlement to travelling time for every five working days granted, whether split or not.

Conditions

For each request, the official must provide the Medical Service with a detailed medical certificate containing his/her name and personnel number, the name, first name and date of birth of the sick child, and the expected duration of the illness.

¹ OJ L 56, 4.3.1968, pp.8-10.

In the event of hospitalisation, the medical certificate must also state the dates on which hospitalisation is expected to start and finish.

The official must at the same time inform the leave manager.

In the event of a negative opinion by the Medical Service, it will inform the official and the leave manager. The leave manager will allocate the days taken as special leave for “serious illness of child” within the limits provided for (see heading II.a.5) and allocate any surplus as annual leave.

II.a.7 Serious illness of a relative in the ascending line (see also “family leave”)

Basic principle: up to 2 working days.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

A relative in the ascending line is defined as:

- the official's father, mother and grandparents,
- the spouse/partner's father and mother.

The spouse/partner's grandparents are not included.

Rules

An official is entitled, on request, to up to two working days' special leave per relative in the ascending line in the event of serious illness of that person.

In specific cases of chronic serious illness and exceptional family circumstances, the appointing authority may grant extensions up to a maximum of 6 working days per relative per calendar year in total (see conditions below).

However, the appointing authority may derogate from this limit of a maximum of 6 days in total per relative in the ascending line per calendar year on the basis of an opinion by the Medical Service. The Medical Service opinion is established on the basis of a detailed medical certificate and, if the MS judges it necessary and at its explicit request, a report by a Medical Service welfare officer on the support available to the sick person.

The special leave may be split into days or half-days.

The special leave confers only a single entitlement to travelling time for every two working days granted, whether split or not.

Conditions

The official must provide his/her leave manager with a certificate containing his/her name and that of the sick person, and confirming that he/she was with the sick person between the dates stated.

If this certificate contains information which the official considers to be confidential, the official should contact the Medical Service rather than his/her leave manager, notifying the leave manager that he/she has done so and providing the basic information contained in the certificate (his/her name and that of the sick person and the dates between which he/she was with that person).

For an extension beyond 2 working days, the official must submit the original of a detailed medical certificate to the Medical Service, which must provide the appointing authority with an opinion on the seriousness of the illness and, if applicable, its chronic nature. In the case of such extensions, the official must inform the leave manager that he/she has contacted the Medical Service.

For derogations beyond the maximum laid down for extensions, the Medical Service will inform the appointing authority of the number of working days that can be granted, and the procedures for doing so.

In an emergency, a copy of the above documents may be sent to the Medical Service for prior approval by any appropriate means (fax, e-mail, etc.). The original must then be sent as soon as possible

II.a.8 Death of spouse/partner

Basic principle: 4 working days.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

Special leave shall also be granted to officials in a partnership within the meaning of the penultimate paragraph of Article 6 of Annex V.

The special leave must be taken during the days following the death or at the time of the funeral.

If the death entails additional obligations (inquest, post-mortem, etc.) ordered by the relevant national authority, the special leave may be taken during a period following the official completion of those obligations.

The special leave may be split into days or half-days, but confers only a single entitlement to any travelling time for all the special leave.

Conditions

The official must provide his/her leave manager with a copy of the death certificate or any other supporting document.

II.a.9 Death of the mother during/before maternity leave

Basic principle: maximum possible of 20 weeks; in cases involving a multiple or premature birth or the birth of a child with a disability or serious illness the maximum is 24 weeks.

Implementation

Special leave shall also be granted to officials in a partnership within the meaning of the penultimate paragraph of Article 6 of Annex V.

This special leave cannot be combined with special leave for death of spouse.

This special leave is granted in cases where the mother has died and where the child or children survive her.

The duration of this special leave shall be equivalent to 140 calendar days (20 weeks) or 168 calendar days (24 weeks in the event of a multiple or premature birth or the birth of a child with a disability or serious illness) minus the number of calendar days between confinement and death.

The special leave must be taken as a single uninterrupted period.

Conditions

The official must provide his/her leave manager with a copy of the death certificate, a copy of the birth certificate of the child or children, a doctor’s certificate in the case of a premature birth or the birth of a child with a disability or serious illness, and any other supporting

document from which the relationship between the mother of the child or children and the official (marriage, partnership) can be established.

II.a.10 Death of a child

Basic principle: 4 working days.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

Special leave is granted both for the death a child of the official and for the death of a child of his/her spouse/partner.

The special leave must be taken during the days following the death or at the time of the funeral.

The special leave may be split into days or half-days, but confers only a single entitlement to any travelling time for all the special leave.

Conditions

The official must provide his/her leave manager with a copy of the death certificate or any other supporting document.

II.a.11 Death of a relative in the ascending line

Basic principle: 2 working days per relative in the ascending line.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

Special leave may also be granted to an official in the event of the death of a parent of his/her spouse/partner.

The special leave must be taken during the days following the death or at the time of the funeral.

Special leave is not granted for the death of the spouse/partner's grandparents or great grandparents.

The special leave may be split into days or half-days, but confers only a single entitlement to any travelling time for all the special leave.

Conditions

The official must provide his/her leave manager with a copy of the death certificate or any other supporting document.

II.a.12 Death of a brother or sister

Basic principle: 2 working days per brother or sister.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

The special leave must be taken during the days following the death or at the time of the funeral.

Special leave is not granted for the death of a brother-in-law or sister-in-law.

The special leave may be split into days or half-days, but confers only a single entitlement to any travelling time for all the special leave.

Conditions

The official must provide his/her leave manager with a copy of the death certificate or any other supporting document.

II.a.13 Adoption of a child

Basic principle: 20 weeks (140 calendar days) or 24 weeks in the case of multiple adoptions on the same date or if the child is disabled or seriously ill (168 calendar days).

No travelling time is granted.

Rules

Each child adopted confers entitlement to a single period of special leave, provided he or she is still a minor. The period begins with the arrival of the child or children at the place of employment or from the point at which the official actually takes charge of them. It may not be combined with any other period granted for another adoption (e.g. arrival of a child on 1 March: special leave from 1 March to 18 July; arrival of a second child on 1 June: special leave from 1 June to 18 October).

A child thus adopted is considered to be dependent within the meaning of Article 2(2) and (3) of Annex VII to the Staff Regulations.

If both adopting parents are officials of an EU institution, the special leave may be shared between them as they wish.

If one of the adopting parents is not an official of an EU institution and is eligible for comparable leave, the number of calendar days of such leave is deducted from the special leave granted to the official.

For the official to be granted this special leave, the spouse/partner (whether or not he/she is an official) must be in at least half-time paid employment.

Adopting the child or children of a spouse/partner is not considered to be adoption within the meaning of the Staff Regulations and does not entitle the official to special leave for adoption.

Where an official is not entitled to 20 weeks' or 24 weeks' leave for adoption, he is granted special leave of 10 working days, 12 working days in the case of multiple adoptions on the same date or 20 days if the child is disabled or seriously ill.

The period of special leave for adoption may not be split and must be taken as a single uninterrupted period. If an official takes less than the full period he/she will not be allowed to take the remainder at a later date.

Any illness or accident that would have prevented the official from carrying out his/her duties had he/she not been on adoption leave will result in the adoption leave being extended, provided the Medical Service approves the medical certificate to be sent to it within 48 hours of the start of the illness or of the accident occurring. The procedure laid down for absences on grounds of illness or accident during annual leave will apply.

If the legislation of the country of adoption requires a course of instruction or a stay there which would require the official to be absent from work, additional special leave may be granted for the length of the compulsory course or stay. If necessary, a single period of travelling time may be granted for the training course or stay.

Conditions

The official must provide the appointing authority with a copy of the adoption certificate or, pending receipt of the certificate, of an official document proving that he/she is legally responsible for the child/children.

For adoption of a disabled or seriously ill child, the official must send a detailed medical certificate to the Medical Service, which will then notify the appointing authority of the entitlement to 24 weeks' special leave.

The appointing authority determines the duration of the additional special leave, and if necessary of any extension to it, on presentation of the requisite supporting documents issued by the relevant national authorities.

If one of the adopting parents does not work in an EU institution, and is entitled to comparable leave, an official certificate must be provided stating the length of leave granted. If this leave has not been used, the official must provide the appointing authority with any official supporting documents.

Where the other adopting parent works in another EU institution, a document certifying the duration of the special leave granted must be provided.

All documents required for the granting of special leave for adoption and/or additional special leave must be provided in an EU language. Any original documents in a non-EU language must be submitted together with a translation carried out by a sworn translator.

II.a.14 Maternity leave

Basic principle: 20 weeks (140 calendar days) or 24 weeks in the event of a multiple or premature birth or the birth of a disabled or seriously ill child (168 calendar days).

No travelling time is granted.

Rules

Entitlement to maternity leave starts no earlier than six weeks before the expected date of confinement and ends no earlier than fourteen weeks after the actual date of confinement, in accordance with Article 58 of the Staff Regulations.

In the event of a multiple or premature birth or the birth of a child with a disability or serious illness, entitlement to maternity leave starts no earlier than six weeks before the expected date of confinement and ends no earlier than eighteen weeks after the actual date of confinement.

A premature birth is defined as a birth which takes place before the end of the 34th week of pregnancy.

Should she so wish, the official may continue working beyond the sixth week preceding the expected date of confinement and defer her maternity leave.

If maternity leave is taken elsewhere than at the place of employment (at the place of origin, for example), the official must inform the appointing authority accordingly.

During the six weeks preceding the expected date of confinement:

- (a) if maternity leave has not yet started:

Any absence during this period is treated in accordance with the generally applicable rules on absences and will not affect the duration of the maternity leave.

If the official is working medical part-time, that part of her time not spent working during this period is not deducted from her total maternity leave.

- (b) if maternity leave has already started:

Any illness or accident that would have prevented the official from carrying out her duties had she not been on maternity leave will result in maternity leave being extended, provided the Medical Service approves the medical certificate to be sent to it within 48 hours of the start of the illness or of the accident occurring. The procedure laid down for absences on grounds of illness or accident during annual leave will apply.

As of the actual date of confinement:

In all cases maternity leave will start at the latest on the actual date of confinement.

Any illness or accident that would have prevented the official from carrying out her duties had she not been on maternity leave will result in maternity leave being extended, provided the Medical Service approves the medical certificate to be sent to it within 48 hours of the start of the illness or of the accident occurring. The procedure laid down for absences on grounds of illness or accident during annual leave will apply.

Annual leave, leave on personal grounds, parental leave or part-time may be taken immediately, without interruption, after maternity leave.

The entitlement to maternity leave is retained in full if the child dies at birth or soon after.

The official may return to work before the end of her maternity leave, provided she submits a medical certificate showing that she is fit to carry out her duties.

Conditions

Before the start of her maternity leave the official must provide her leave manager with a document from her doctor giving the expected date of confinement. The leave manager forwards the information to the Medical Service.

After the birth, the official must submit a copy of the birth certificate as soon as possible to her leave manager, who will inform the Medical Service.

II.b Other

II.b.1 Years of service

Basic principle: 5 working days.

Rules

An official who has completed 20, 25, 30, 35, 40 or 45 years' service with an Institution or EU Agency, another body created under the EU Treaty, the TFEU or the Euratom Treaty, or an organisation devoted to furthering the Union's interests, receives 5 days of special leave.

The years of service include not only those served as an official or other servant, but also those served as a member of the auxiliary staff, an SNE or member of the local staff or as a member of staff employed under a private-law contract directly employed by the Commission. Periods spent as a trainee (*stagiaire*) or agency staff member are not included.

These 5 days for years of service must be taken as a single uninterrupted period and may not be split.

Conditions

When calculating the number of years of service completed, only periods spent in one of the following administrative statuses shall be taken into account:

- active employment,

- secondment in the interests of the service,
- leave for military service,
- parental leave or family leave.

These 5 days are added automatically in the leave management application, using a list based on the necessary criteria relating to the official's career, at the start of the year in which the official completes 20, 25, 30, 35, 40 or 45 years of service.

II.b.2 Fire picket

Basic principle: 2 working days.

Rules

The leave is granted annually to officials who are fire pickets and who actually take part in the exercises and prevention courses to which they are regularly invited.

These 2 days for fire pickets must be taken as a single uninterrupted period and may not be split.

Conditions

The leave is credited to the official automatically in the leave management application in the year following his/her participation in the exercises and courses.

The leave appears in the leave management application under "Rights" as "Leave team-member 1st intervention".

Every year the relevant units responsible for health and safety at work draw up a list of the officials who are to receive the leave and send it to DIGIT for action, with a copy for information to the appointing authorities concerned.

II.b.3 Shiftwork

Rules

An official who is engaged in shiftwork within the meaning of Article 56a of the Staff Regulations and Council Regulation (ECSC, EEC, Euratom) No 300/76² (*to be replaced in the future*) is entitled to a number of days of compensatory leave to be determined in accordance with the number of years of shiftwork as set out below:

MORE THAN 3 YEARS' SHIFTWORK	1 DAY
More than 6 years' shiftwork	2 days
More than 10 years' shiftwork	3 days
More than 15 years' shiftwork	4 days
More than 20 years' shiftwork	5 days

These days for shiftwork must be taken as a single uninterrupted period and may not be split.

Conditions

The days of compensatory leave for shiftwork are granted to officials who have worked shifts without interruption for the number of years shown above. Where entitlement to the

² OJ L 38 of 13.2.1976, p. 1

allowance is suspended, or if the allowance is not paid, under Article 1(2) and (3) of Council Regulation No 300/76 (*see above*) above the calculation of years of shiftwork is also suspended until payment of the allowance is resumed.

These days of compensatory leave are entered in the leave management application manually by the leave manager of the official's DG at the beginning of the month following that in which the entitlement was acquired.

II.b.4 Engaging in an unpaid outside activity

Basic principle: special leave may be taken to cover half the authorised absence during working days and official hours at the Commission, up to a maximum of 12 working days per calendar year.

The conditions for granting the leave are laid down in the provisions adopted by the Commission on outside activities and assignments.

No travelling time is granted.

Rules

The special leave may be granted only at the specific request of the official, giving reasons.

The number of working days to be considered as special leave must be explicitly specified in the appointing authority's decision authorising an outside activity.

Conditions

The official must provide his/her leave manager with a copy of the appointing authority's decision authorising the activity.

II.b.5 Trade union leave

Basic principle: maximum of 4 working days per calendar year.

Travelling time may be granted where appropriate (see heading "Travelling time for special leave")

Rules

The trade union or staff association concerned must provide the unit responsible for social dialogue in DG Human Resources, in writing and as far as possible at least 5 working days before the event on which the request for trade union leave is based, with the following information: the names of the delegates, the agreement of their immediate superior as required by the leave validation procedure, the number of days requested, the nature of the activity and the programme of the event for which the trade union leave is requested.

After checking that the conditions for granting trade union leave have been met, the social dialogue unit approves the request for trade union leave and notifies the appointing authority for the official concerned that he/she is entitled to special leave.

Finally, the duly designated official must submit a request for special leave via the leave management application, allowing sufficient time for the special leave to be granted prior to his/her departure.

Conditions

The special leave may be granted to officials designated by a representative trade union or staff association³, or a component part of such a body, to allow them to attend trade union meetings or congresses.

II.b.6 Court summons

Basic principle: one working day.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

Where an official is summoned by a court or other judicial authority (e.g. an examining magistrate) as a witness in a case which does not concern him/her directly or personally, one working day's special leave may be granted on presentation of the summons.

For an official called for jury service, special leave will be granted for the whole period during which he/she is required to sit.

Conditions

Special leave is to be granted only if the official is summoned to testify in a case in which he/she is not involved, in other words if he/she is not under investigation or is not a party bringing a civil action.

The supporting document shall be the summons issued by the court or competent judicial authority.

II.b.7 Cure

Basic principle: special leave for half the time needed for the cure up to a maximum of 7.5 working days.

No travelling time is granted.

Rules

In the case of a spa cure duly authorised by the Joint Sickness Insurance Scheme's medical officer, the appointing authority may grant special leave for half the time needed for the cure up to a maximum of 7.5 working days and provided that the cure is at an establishment approved by the relevant national bodies.

In the light of the report at the end of the cure, and on a proposal from the medical officer, the appointing authority may grant up to 7.5 working days' additional leave.

Special leave for a spa cure may be granted only once every twelve months.

A spa cure is calculated in calendar days from a medical viewpoint but in working days from a leave viewpoint; the leave manager therefore calculates half the length of the cure in working days.

Conditions (see also JSIS for rules on applying for a cure)

Having obtained prior authorisation under the Joint Sickness Insurance Scheme, the official applies via the leave management application for annual leave covering the whole period of the cure, which must not exceed 21 calendar days.

³ Within the meaning of Article 10c of the Staff Regulations of Officials and the Framework Agreement governing relations between the Administration and the Trade Unions.
http://www.cc.cec/home/dial_soc/fr/acteurs/osp/accord_cadre_08.pdf

On his/her return from the cure, the official must send the leave manager a copy of the certificate from the spa establishment giving the exact dates of the cure, together with a copy of the prior authorisation from the Joint Sickness Insurance Scheme.

After the number of working days has been calculated, half the period in question will be counted as special leave and deducted from the annual leave application submitted before the start of the cure.

II.b.8 Removal

Basic principle: up to 2 working days.

Travelling time is granted only on taking up duty or changing place of employment (see heading “Travelling time for special leave”).

Rules

Special leave is granted on taking up duty or changing place of employment.

Special leave is also granted at the time of the removal itself where the official proves that he/she has officially changed his/her principal address at the place of employment.

The special leave may be split into days or half-days, but confers only a single entitlement to any travelling time for all the special leave.

Any travelling time is granted only on the basis of the distance that must be covered for the purposes of the removal.

Conditions

The official must provide his/her leave manager with proof of his/her official change of principal address and notify DG Human Resources so that his/her personal file can be updated.

II.b.9 Elections outside the place of employment and travelling time for elections

Basic principle: 0.5 working day. This may be increased to 1 working day if the official provides proof that he/she has been appointed an assessor, or a member or presiding officer of an election board.

Rules

Special leave is granted for taking part in elections of the following types:

- referendum,
- presidential election,
- parliamentary election,
- European Parliament election,
- regional election (German Länder, Spanish Autonomous Communities, Italian regions, etc.),
- provincial, cantonal, municipal elections.

Special leave is granted only if voting must take place on a working day which is not a Commission holiday.

Special leave/standard travelling time may be combined with annual leave but this will have no impact on the standard travelling time granted, which is deemed to be taken immediately before and after the special leave or the day of the election.

If the election takes place in two rounds of voting, these will be considered as two separate elections for the purpose of these provisions, as long as the official provides supporting documents showing that he/she returned to his/her place of employment between the two rounds.

Conditions

The official must provide his/her leave manager with an official document certifying that he/she has actually voted outside the place of employment. If no such document is issued, the official may submit to the leave manager any other supporting document proving that he/she voted or was summoned to attend as an assessor or a member or presiding officer of an election board.

Travelling time for special election leave

Basic principle: set period of travelling time for special leave for “elections outside the place of employment” taking account of the geographical distance in km between the place of employment and the place of the election (see Rules and conditions below).

A set period of travelling time is granted for the outward and for the return journey in accordance with the table below (geographical distance in km between place of employment and place of election).

DISTANCE IN KM BETWEEN PLACE OF EMPLOYMENT AND PLACE OF ELECTION	NON-WORKING DAY (WEEKEND OR PUBLIC HOLIDAY)	WORKING WEEKDAY
0-200 km	None	None
201-600 km	None*	½ day
601-1 200 km	½ day	½ day
1201-km	1 day	1 day

* If the election takes place on a public holiday which is preceded and followed by a working day, and if the distance is between 201 and 600 km, by way of an exception from the time specified in the table half a day's travelling time will be granted for the outward and for the return journey.

“Day’s travelling time for special election leave” should be taken to mean the calendar day for the corresponding journey, within the limits laid down in the above table.

Thus, for an official authorised to work part time, the day will correspond to the timetable that he/she would normally have worked on the day of the journey.

Rules

If the election is to be held on a working day, the journey is deemed to take place immediately before and after the half day of special leave; one of the two journeys is thus deemed to take place partly or wholly on the day of the election.

If the election takes place on a non-working day, the journey is deemed to take place the day before and the day after the day of the election.

However, if the election takes place the day before or the day after a non-working day, travelling time will not be granted for the outward or return journey on the non-working day.

Special leave/standard travelling time may be combined with annual leave but this will have no impact on the standard travelling time granted, which is deemed to be taken immediately before and after the special leave or the day of the election.

Conditions

No supporting documents are required for the journey from the place of employment to the place of the election and/or back for the granting of travelling time, given that it is awarded on a flat-rate basis, on condition that the official provides the leave manager with a document certifying that he/she has voted outside the place of employment, or any other proof that he/she has voted.

II.b.10 Participating in an examination/competition/selection board organised by EPSO or by an Institution or European Agency, another body created under the EU Treaty, the TFEU or the Euratom Treaty, or an organisation devoted to furthering the Union's interests

Basic principle: the period of special leave shall correspond to the duration of the tests. This period is normally 0.5 working day for an oral test and 1 working day for a written test.

Travelling time may be added if appropriate (see heading “Travelling time for special leave”).

Rules

The appointing authority may assess the actual duration of these tests on the basis of the supporting documents provided and if necessary either reduce the entitlement or grant an additional entitlement.

Special leave is not granted for a preliminary job interview (this may be covered by a mission order).

Conditions

The official must provide his/her leave manager with a copy of the invitation to the tests and any other document providing proof of actual participation in the tests and stating their duration

II.b.11 Training

See the general implementing provisions on the application of Article 24a of the Staff Regulations.

II.b.12 Holding elected public office

Basic principle: maximum of 12 working days per calendar year.

No travelling time is granted.

Rules

Special leave is granted only to an official who has been authorised by the appointing authority to hold elected public office.

The special leave granted may be extended annually for the duration of the term of office and is calculated pro rata on a monthly basis if the term begins or ends part way through a calendar year.

Special leave is granted per day or half-day of meetings held during Commission working hours, subject to a limit of 12 working days per calendar year.

The special leave may not be carried over beyond the year for which it has been granted.

Conditions

When first applying for leave the official must provide his/her leave manager with a copy of the appointing authority's decision. He/she must then provide a certificate or certificates from the competent authority showing the date of the meeting and confirming his/her participation.

If the legislation of the State in question provides for reimbursement to the employer of an amount corresponding to the employee's gross remuneration plus the employer's social security contributions, during the period in which the employee absents himself or herself from work in order to hold the elected office, the appointing authority may grant special leave of up to 2 working days (16 hours) per week instead of the above-mentioned special leave of a maximum of 12 working days per calendar year. Apart from the limit of 12 working days per calendar year, the principles, terms and conditions laid down in this heading also apply in this case; however, this leave may be taken in hours rather than days or half-days.

II.b.13 Jobseeking at end of contract

Basic principle: 1 working day a week, up to a maximum of 4 working days, during the 10 weeks preceding the end of the staff member's contract.

No travelling time is granted.

Rules

The authority authorised to conclude contracts of employment may grant special leave of up to 4 working days for jobseeking during the 10 weeks preceding the end of the contract. However, this special leave is limited to one working day a week, which may be split into half-days.

The end of the contract means that an extension of the contract must not be in progress or officially planned. "Officially" means that the relevant authority empowered to conclude contracts of employment has formally agreed a contract, even if administrative procedures have yet to be launched. The contract must not have been terminated by voluntary decision of the staff member or without notice. In the absence of any supporting documents (see conditions below), the absence is counted as annual leave.

Conditions

The staff member must provide his/her leave manager, at the latest 24 hours after his/her return, with a document proving that he/she has attended a job interview with an organisation, firm or private individual (written confirmation of attendance, for example).

II.b.14 Exceptional work which goes beyond an official's normal obligations

On the basis of a reasoned note by the official's hierarchical superior, the appointing authority may on an exceptional basis grant special leave in the event the official has been obliged to carry out work going beyond his normal obligations. The length of the special leave is decided on an ad hoc basis depending on the specific circumstances.

No travelling time shall be granted.

II.c Travelling time for special leave

Travelling time for special leave does not apply to special election leave, which is covered by special provisions in heading II.b.9 above.

Based on the geographical distance between the place of employment and the place of the event in question, the maximum time authorized for a journey is::

0 - 300 km	None
301 – 1200 km	1 day
over 1201 km	2 days

A journey is defined as combined outward and return travel between the place of employment and the place of the event in question.

If the day of the special leave is preceded or followed by a weekend or a public holiday, only half the above time will be granted for travelling.

Basic principle

Travelling time is granted according to the geographical distance in km from the place of employment to or from the place of the event in question. The travelling time must be taken immediately before and after the special leave.

“Day of travelling time for special leave” should be taken to mean the calendar day for making the journey from the place of employment to or from the place of the event.

Thus, for an official authorised to work part time, the day will correspond to the timetable that he/she would normally have worked on the day of the journey.

Rules

Travelling time is always subject to assessment and decision by the appointing authority.

No travelling time may be granted if the outward and return journey takes place during the weekend or a public holiday.

Travelling time is granted only if the official leaves the place of employment to travel to the place of the event in question and then back to the place of employment.

Travelling time is calculated half for the outward and half for the return journey.

Travelling time must immediately precede (outward journey) or follow (return journey) special leave.

If the official is on annual leave, travelling time corresponding to the actual duration of the journey from the place of annual leave to the place of the event in question may be granted by the appointing authority in accordance with the above criteria.

Conditions

The official must provide the leave manager with all supporting documents showing the date of the journey, such as tickets, motorway toll tickets, till receipts for petrol, restaurant/hotel bills and/or boarding cards.

III. MISCELLANEOUS

III.a Part-time work

Basic principle: the annual leave entitlements (basic entitlement 24 days + additional entitlement for age + grade of up to 6 days) of an official authorised to work part time are

reduced proportionally for the period of part-time work. This reduction shall be calculated on the basis of a maximum entitlement of 30 days.

The amount of special leave is determined in calendar days and is the same for all officials whatever their working arrangements. Thus, for officials authorised to work part time, the period will correspond to the timetable worked on the day or days taken as special leave.

If medical part-time is granted during a period of part-time working within the meaning of Article 55a of the Staff Regulations, the latter must be suspended during the period of medical part-time.

III.b Administrative status other than active service

III.b.1 Secondment

III.b.1.a To an institution, a European agency or an organisation devoted to furthering the Union's interests

Management of leave is the responsibility of the host institution, European agency or organisation devoted to furthering the Union's interests, which will receive from the DG of origin a statement of annual leave at the time of secondment.

Leave acquired as compensation for time worked before the date of secondment (e.g. leave for fire pickets) must be put in order by the DG of origin before the date of secondment.

At the end of the secondment, the DG to which the official is reassigned takes over the management of his/her leave in accordance with the statement of annual leave provided by the institution, European agency or organisation devoted to furthering the Union's interests of secondment.

III.b.1.b: To a non-EU body

The leave balance is frozen by the DG of origin.

Annual leave entitlements are calculated taking into account the time worked at the Commission during the current year, in accordance with the principles laid down in I. Annual Leave.

If the outstanding balance is more than 12 working days (the maximum possible automatic carry-over from one year to the next), the official - if he/she wishes to recover all the balance on returning - is requested to submit to his/her appointing authority at the time of leaving on secondment an application for additional carry-over (see III.e: Carry-over of annual leave). In examining this request, the appointing authority will take account in particular of the date on which the secondment commences.

III.b.2 Leave on personal grounds (CCP)

The leave balance is frozen by the DG of origin during the period of leave on personal grounds.

III.b.3 Parental leave

During a period of full-time parental leave, the official's annual leave entitlement is frozen by the DG of origin and a pro rata calculation is applied for the period in question.

During a period of part-time parental leave, the official's annual leave entitlement continues to be administered by the DG of origin. The basic entitlement and additional entitlements for age and grade are reduced proportionally for the period of part-time work.

III.b.4 Family leave

During a period of full-time family leave, the official's annual leave entitlement continues to be administered by the DG of origin and no pro rata calculation is applied for the period in question.

During a period of part-time family leave, the official's annual leave entitlement continues to be administered by the DG of origin. The basic entitlement and additional entitlements for age and grade are reduced proportionally for the period of part-time work.

III.b.5 Leave for military service

The official's leave balance is frozen by the DG to which he/she belongs during the period of leave for military service.

This provision does not apply to an official in the event of a period of military instruction or recall to military service during which he/she retains entitlement to remuneration, despite this being reduced by the amount of the military pay received.

III.b.6 Long-term missions (fellowships or equivalent)

The official's leave balance is frozen by the DG to which he/she belongs during the long-term mission.

The Learning and Development Unit of DG Human Resources must send the leave manager a list of officials on long-term mission so that they can be identified and their leave entitlements during this period determined; this must be done manually by the leave manager.

III.b.7 Exchanges

Commission Decision C(1994) 3895 of 5 January 1995.

The official's leave balance is frozen by the DG to which he/she belongs during the exchange.

III.b.8 Suspension (Annex IX - disciplinary procedure)

The official's leave balance is frozen by the DG to which he/she belongs during the suspension.

III.b.9 Force majeure

Basic principle

The Director-General of DG Human Resources may, by way of exception, decide that collective special leave may be granted where, as a result of exceptional circumstances, a duly substantiated situation of *force majeure* exists which has prevented officials from reaching their place of work and hence performing their duties.

The Director-General of a particular DG may, by way of exception, decide that individual special leave may be granted where, as a result of exceptional circumstances, a duly substantiated situation of *force majeure* exists which has prevented officials from that DG from reaching their place of work and hence performing their duties.

Rules

Officials who are unable to reach their place of work in such circumstances may be granted exceptional special leave for a period equal to the period for which they are unable to go to work. However, except in exceptional circumstances, the maximum period of such special leave may not exceed 5 working days.

Any decision on collective special leave will be taken on the basis of supporting documents presented to the appointing authority.

Examples of events which are considered to constitute *force majeure* are as follows: natural disasters, war, hostage-taking, attacks and wildcat strikes by Commission outside staff which disrupt the smooth operation of the Commission.

Conditions

The leave manager is responsible for checking the supporting documents provided by officials as evidence of the cases of *force majeure* affecting them.

III.c Termination of service

Basic principle: officials are entitled, on termination of service, to payment for days of annual leave not taken.

The following are treated as termination of service:

- voluntary or compulsory resignation,
- end of contract with a break in career,
- retirement in the interests of the service,
- dismissal for incompetence,
- removal from post,
- retirement (retirement pension or invalidity allowance),
- death.

A change in employment status without a break in career (within the same institution) automatically gives rise to the transfer of days of annual leave not taken or taken in excess of entitlement. In exceptional circumstances, however, the official may submit a request in writing to the appointing authority for an equivalent amount to be paid to him/her or deducted from his/her salary as appropriate.

A direct transfer from the status of “seconded national expert” to a post covered by the Staff Regulations gives rise to the automatic transfer of days of annual leave not taken or taken in excess of entitlement. Payment in lieu of leave is not permitted in this case.

Transfer as a permanent official to another institution is not treated as termination of service. In this case, leave status is also transferred.

Rules

The number of days' annual leave to which the official is entitled is recalculated on termination of service as a pro rata of the number of months or days actually worked, in accordance with Article 1 of Annex V (see also I. Annual leave, General principles, point (d)).

Any parts of days are not rounded up or down. They are taken into account in full for the calculation of any amount that the official will receive or reimburse as appropriate.

Conditions

The leave manager draws up a balance of annual leave entitlements (basic entitlement and additional entitlements for age and grade) and sends it to the PMO department responsible. The latter arranges for payment in lieu of the days of annual leave not taken or, in the event of a negative balance, initiates the administrative formalities for recovery.

The amount to be paid to the official or reimbursed by him/her is calculated as a proportion of the final remuneration received (1 day = 1/30th of a month). In the event of resignation after

leave on personal grounds, for example, it is based on the remuneration received immediately prior to departure on leave on personal grounds.

III.d Cancellation of annual leave

III.d.1 At the official's request

Basic principle: a period of annual leave can be cancelled entirely or in part and replaced with sick leave (see specific Commission Decision introducing implementing provisions on absences as a result of sickness or accident) or special leave (see heading Special Leave – General principles and especially point 6).

Rules

The cancellation request must be submitted via the leave management application, stating the exact period to be cancelled and the reasons for cancellation.

The request must be signed by the immediate superior authorised to do so and approved by the appointing authority.

III.d.2 At the immediate superior's request

Basic principle: annual leave may be cancelled in whole or in part by the immediate superior in the interests of the service.

Rules

In the case of annual leave not yet started, the immediate superior who granted the leave must, in coordination with the appointing authority, notify the official as soon as possible in writing that his/her leave has been cancelled in whole or in part (the exact period must be stated) in the interests of the service (which must be explained).

Where the annual leave has already started, the immediate superior who granted the leave must, in agreement with the appointing authority, notify the official in writing that his/her annual leave has been interrupted (the date of return to work and the duration of the interruption must be stated) in the interests of the service (which must be explained).

The immediate superior must at the same time also inform the leave manager and the PMO department responsible.

The official concerned must contact his/her leave manager regarding the procedures and formalities for reimbursement of the amount of the expenses (to be substantiated by the submission of the originals of the supporting documents) which he/she has incurred through the cancellation or interruption of the annual leave.

He/she will also be credited by the leave manager with the number of days' leave cancelled or interrupted.

III.e Carry-over of annual leave

Basic principle: an official who has not used up all his/her annual leave by 31 December may have the balance carried over to the following year; this occurs automatically for a balance of up to 12 days and by decision of the appointing authority beyond 12 days.

Rules

Reminder: leave taken during a calendar year, i.e. between 1 January and 31 December, is deducted from the leave entitlements for that year.

A maximum of 12 days is carried over automatically and added in January of the following calendar year to the official's entitlements.

As a general rule, more than 12 days may only be carried over if it has been established that the official has been unable to take all the annual leave to which he/she is entitled during the current calendar year for reasons which are attributable to the requirements of the service; evidence for this must be provided in writing by the official and his/her immediate superior. The leave carried over is added to the official's entitlements for the following calendar year after a decision by the appointing authority.

If the appointing authority withholds its approval, the carry-over is limited to 12 days.

In principle, no carry-over in excess of 12 days is allowed if the leave days have not been taken for reasons other than the requirements of the service (e.g. for health reasons: illness, accident, recovery of annual leave following an accident or illness during annual leave, or maternity leave, adoption leave, parental leave, family leave, leave on personal grounds, unpaid leave, leave for military service, etc.).

However, in the event an official has been prevented from taking his annual leave due to health reasons (illness or accident), he/she may submit a request to carry over more than 12 days. His/her appointing authority will decide, in light of the specific circumstances of the case and of the duration of the absence for health reasons, as well as having regard to the reasons which have prevented the official from taking his annual leave during the calendar year, whether a carry-over in excess of 12 days is justified and if so (1) how many days in excess of 12 days may be carried over to the next year and (2) the period during which the days in excess of 12 days carried over may be taken as annual leave (this period shall in principle correspond to 15 months).

Any carry-over in excess of 30 days' annual leave must be accompanied by a plan to use up the leave drawn up by mutual agreement between the official and his/her appointing authority. For carry-overs of between 30 and 90 days, the plan must cover a period of no more than three years. For carry-overs of more than 90 days, it must not exceed 5 years.

Any negative balance – which must have been duly authorised by the immediate superior - of annual leave days taken in excess of entitlement during the current calendar year is automatically carried over and deducted from the entitlements for the following calendar year.

Conditions

The carry-over request must be submitted via the leave management application.

It must state the number of days to be carried over and clearly explain the interests of the service or the health reasons which have prevented the official from using up his/her annual leave in excess of the 12 days carried over automatically.

The carry-over request and comments by the immediate superiors must reach the appointing authority no later than 31 January.

III.f Public holidays

Basic principle: each year, the Commission issues a list of public holidays in Brussels and Luxembourg for the following calendar year.

By consensus, the total number of public holidays is between 17 days (minimum) and 19 days (maximum).

The public holidays at the Commission's Representation in the Member States and the Joint Research Centre establishments are determined, according to the needs of the service, by the Director-General responsible for each of them or, failing that, by the management of those establishments.

FLEXIBILITY

Basic principle: an official may choose to work on Maundy Thursday, Good Friday and the day after Ascension Day, which are Commission holidays on which its offices nevertheless remain open.

Rules

The number of days worked is added to the annual leave balance for the current year.

Teleworking days are to be treated as normal working days conferring entitlement to flexibility.

Conditions

An official who wishes to work on those days must inform his/her immediate superior in advance.

By 31 July at the latest, the appointing authority must draw up a list of officials who worked during public holidays, with their personnel numbers and the days on which they worked (in days and half-days).

III.g End-of-year “permanence”

Basic principle

At the Commission in Brussels and Luxembourg, the days between Christmas and New Year are traditionally non-working days.

Non-working days at the Commission's Representation in the Member States and the Joint Research Centre establishments are determined, according to the needs of the service, by the Director-General responsible for each of them or, failing that, by the management of those establishments.

Nevertheless, in the interests of the service, Directors-General and Heads of Department decide which units must be staffed, with the exception of Christmas Day, New Year's Day and Saturdays and Sundays, which remain non-working days.

Rules

Staff who provide the end-of-year “permanence” are compensated on the basis of 1.5 days' leave for each whole day worked. For the purposes of that calculation, all half-days worked are added together. If the resulting total is not a whole number of days, the half-day left over is compensated by 1 day.

The compensatory days are added to the annual leave entitlements for the following calendar year.

Conditions

“Permanence” must be done at the office.

By 31 January at the latest, the appointing authority must draw up a list of officials who worked during the holiday period (“permanence”), with their personnel numbers and the days on which they worked (in days and half-days).