

INTERNAL RULES ON THE PROCEDURE FOR CONVENING THE INVALIDITY COMMITTEE

THE SECRETARY-GENERAL,

HAVING REGARD TO the Staff Regulations of Officials of the European Communities, and in particular Articles 9, 53, 59, 73 and 78 thereof and Annexes II (Section 3, Articles 7, 8 and 9) and VIII (Chapter 3, Articles 13, 14 and 15) thereto, and the Conditions of Employment of Other Servants of the European Communities (CEOS), and in particular Articles 16, 31, 32, 33, 39, 99, 100, 101, 102 and 136 thereof,

HAVING REGARD TO the Bureau decision of 3 May 2004 on determination of the powers of the Appointing Authority and of the Authority Empowered to Conclude Employment Contracts (AECEC),

HAVING REGARD TO the Procedural Handbook for Invalidation Committees approved by the College of Heads of Administration at its 253rd meeting on 10 September 2008,

HAVING REGARD TO the Legal Service's opinion of 16 July 2009,

HAVING REGARD TO the Staff Committee's opinion of 7 July 2010¹,

HAS ADOPTED THE FOLLOWING INTERNAL RULES²

All references to 'officials' shall also apply to other servants in accordance with the relevant articles of the CEOS. Likewise, all references to the Appointing Authority shall also apply to the AECEC.

¹ GEDA 202769.

² Definitive version of 12 July 2010.

I. Initiating the procedure (Article 59(4) of the Staff Regulations)

The service responsible for managing sick leave shall check and record the number of days of absence and shall communicate to the Appointing Authority the name of any official whose total period of absence on duly substantiated medical grounds exceeds that provided for in Article 59(4) of the Staff Regulations.

The Appointing Authority may decide to initiate the procedure in cases where an employee has been absent for medical reasons for more than 12 months (= 365 working days) during the three previous years.

(a) The Appointing Authority:

- may, before proceeding further, request that a final medical examination be carried out in order to be sure of the examining doctor's opinion;
- may seek the Medical Officer's opinion on the advisability of referring the case to the Invalidity Committee and, if appropriate, on selecting a doctor to represent Parliament; the Medical Officer shall provide the requested opinion within 10 working days;
- shall ascertain whether a reserve clause under Article 1(1) of Annex VIII to the Staff Regulations or Articles 32 or 100 of the CEOS, respectively, is applicable;
- shall take a decision within 10 working days of receiving the Medical Leave Service's communication or, if applicable, within 10 working days of receipt of the requested opinion(s).

(b) The Appointing Authority:

- **shall decide to initiate the procedure** and shall inform, by registered letter, the official and the directorate-general where he or she is employed; on the basis of the information available to it, it shall determine the Invalidity Committee's remit, which may be threefold:
 - A. to establish invalidity;
 - B. to determine its cause;
 - C. to indicate the need for, and frequency of, follow-up examinations.

If the Appointing Authority asks it to do so, the Invalidity Committee must rule on whether there is a **causal link** between the incapacity for work and one or more of the four grounds referred to in Article 78 of the Staff Regulations: an occupational accident, an occupational disease, a public-spirited act or the fact of the staff member risking his or her life to save another human being.

If the Invalidity Committee does not have all the information it needs to enable it to take a decision on the link between the staff member's incapacity for work and one or more of the four possible causes referred to above, it shall conclude its meeting by taking a decision as to whether the staff member is suffering from invalidity and, as regards the

cause of that invalidity, shall adjourn its proceedings pending receipt of all the medical evidence required for a decision on that matter.

or

- **shall decide not to initiate the procedure**, and in this case a decision, giving reasons, is placed in the medical file of the official concerned.
- (c) The official may request the Appointing Authority to initiate the procedure for retirement on invalidity grounds and to convene the Invalidity Committee to that end even if his or her total period of absence is less than that stipulated. The Appointing Authority shall accept the request except where one of the conditions set out in Article 78(1) of the Staff Regulations or Article 13(1) of Annex VIII thereto is not met or where the official's request is unjustified.

II. Stages in the procedure

1. Appointment of a doctor to represent Parliament

- (a) The Appointing Authority shall initiate the procedure and ask the Medical Service at the official's place of work to suggest a doctor who could represent Parliament in the procedure. If the official is not employed in one of Parliament's three normal places of work, the Director shall contact the Medical Service at the place of work where the official's medical file is held. The Appointing Authority shall then appoint the doctor to represent Parliament on the Invalidity Committee.

2. Appointment of a doctor by the official concerned

- (a) The relevant Medical Service shall draft a letter for signature by the Appointing Authority and shall send it to the official concerned, asking the official to choose a doctor to represent him or her during the procedure. The letter should contain a form to be filled in by the doctor agreeing to represent the official and an information note to the doctor on the procedure, his or her obligations and the conditions of payment pursuant to Article 8 of Annex II to the Staff Regulations.
- (b) The official shall have 10 working days from the date of dispatch of the letter under point (a) to send a reply, with the form duly completed by his or her doctor. If the official does not reply within this period, the Appointing Authority shall send a reminder and allow a further 10 working days for return of the form completed by the doctor.
- (c) If after this time the official has still not replied, the Appointing Authority shall ask the President of the Court of Justice to appoint a doctor to represent the official, pursuant to Article 7 of Annex II to the Staff Regulations.

3. Appointment of a third doctor

- (a) A third doctor shall be appointed by agreement between the two doctors representing respectively Parliament and the official concerned. Each doctor may propose one or more names. Neither the official nor Parliament shall be entitled to require that the doctor appointed by agreement stand down.
- (b) If there is no agreement on appointment of the third doctor within a period of two months following the appointment of the second doctor, the third doctor shall also be officially designated by the President of the Court of Justice at the request of one of the parties.
- (c) The doctor representing Parliament shall write to invite the third doctor to participate in the work of the Invalidity Committee, attaching a form with information on the procedure, his or her obligations and the conditions of payment. The third doctor shall return the completed form to signify acceptance.
- (d) The third doctor's fees shall be determined in advance between that doctor and the doctor representing Parliament. The amount of the fees shall then be agreed jointly and confirmed by the Appointing Authority. The doctor representing Parliament shall judge whether the fees envisaged are reasonable and whether it may be advisable at that stage to provide for further examinations. The doctor representing Parliament shall agree on such examinations with the other doctors on the committee, preferably before – or exceptionally during – its first meeting.
- (e) The Appointing Authority must ensure compliance with the time limits laid down for constituting the committee.

4. Constitution and work of the Invalidity Committee

The Invalidity Committee shall carry out its work in the Medical Service at the place where the official is employed. If the official is not employed in one of Parliament's three normal places of work, it shall do so in the Medical Service at the place of work where the official's file is kept.

- (a) The committee shall meet within two months of its constitution.
- (b) The doctor representing Parliament must notify the Appointing Authority of any problem in connection with the meeting and ask the Appointing Authority to take any necessary measures.
- (c) The Committee shall meet and take decisions by the majority of the doctors represented on it. It shall organise its work independently. Its proceedings shall be secret (Article 9 of Annex II to the Staff Regulations). Proceedings shall consist in considering the file presented by the official's doctor to the two other doctors on the Invalidity Committee, conducting clinical examinations and deliberating with a view to taking a decision on whether the official is fit or unfit for work. The Invalidity Committee may consult outside experts who are not committee members.
- (d) The official may submit to the Invalidity Committee any reports or certificates from his or her usual doctor or any other doctors whom he or she has chosen to consult. The Invalidity Committee shall determine the nature and duration of the official's clinical examination. In accordance with medical ethics, the official may not be subjected to examinations, tests or

treatment against his or her will.

- (e) On completion of its deliberations, the Invalidity Committee shall adopt its conclusions and forward them to the Appointing Authority. If the committee concludes that the official is suffering from invalidity, it must establish in its conclusions whether this invalidity is relevant to the medical reserve clause under Article I of Annex VIII to the Staff Regulations.
- (f) The third doctor shall be responsible for drawing up a summary report containing the medical considerations which have led to the Invalidity Committee's conclusions. A doctor who holds a different, minority view has the right to attach it to the report, or to sign the report indicating his or her disagreement with the conclusion. The doctors who agree with the conclusions shall sign the report. A copy of the report shall be forwarded to each doctor and a further copy shall be attached to the official's medical file.
- (g) The medical report shall be confidential. It may be communicated only to persons bound by medical confidentiality. Such medical confidentiality shall not, however, exempt those bound by it from their obligation to convey to the Court of Justice any relevant information enabling the Court to confirm the lawful nature of the conclusions based on the said report.
- (h) At the request of the official concerned, the Invalidity Committee's medical report shall be sent to the doctor representing the official on the Invalidity Committee or to another doctor of the official's choice. That doctor shall convey the report, in such form as he or she considers appropriate, to the official.
- (i) If the Invalidity Committee has concluded that retirement on invalidity grounds is not justified, it shall indicate in its opinion whether absence on medical grounds is justified and, if so, for how long.

5. The Appointing Authority's decision

- (a) The Appointing Authority shall take its decision on the basis of the conclusions of the Invalidity Committee. The Appointing Authority's draft decision and a note for the official concerned shall be drawn up by the units responsible for staff management and careers.
- (b) If it is recognised that the official suffers from invalidity as provided for in Article 78 of the Staff Regulations, the Appointing Authority shall establish in its decision that he or she is permanently incapacitated for the performance of his or her duties and shall automatically retire him or her on the last day of the month in which the decision is taken. Pursuant to Article 14(1) of Annex VIII to the Staff Regulations, the right to receive payment of an invalidity allowance begins from the first day of the calendar month following the official's retirement under Article 53 of the Staff Regulations.
- (c) If the official is not recognised as fulfilling the conditions under Article 78 of the Staff Regulations, the Appointing Authority shall establish this in its decision and shall inform the official that he or she is required to continue performing his or her duties.
- (d) The Appointing Authority shall forward its decision and the Invalidity Committee's conclusions to the official concerned. A copy of the decision shall be sent to the directorate-

general where the official is employed and, in the case of a decision as provided for in paragraph (b), to the relevant administrative units.

- (e) During the period following retirement on invalidity grounds Parliament may, pursuant to Article 15 of Annex VIII to the Staff Regulations, organise medical examinations.
- (f) If it is decided not to retire the official on invalidity grounds, the Appointing Authority may ask the Medical Officer:
- to propose measures to help the official concerned to return to work;
 - to evaluate the return to work six months after this decision.
- (g) If the official does not comply with the Appointing Authority's request under paragraph (c) to continue performing his or her duties, the Appointing Authority shall check whether the official's absence is authorised. Articles 59 and 60 of the Staff Regulations shall apply.

6. Costs

The costs generated by the proceedings of the Invalidity Committee – other than expenses incurred by a member of the committee in meeting specific requests from the staff member or institution he or she is representing, and/or in carrying out preparatory tasks, which are not recognised as necessary by the Invalidity Committee – shall be borne by Parliament.

Should the doctor appointed by the official/other servant be resident away from the latter's place of employment, the official/other servant shall bear the cost of the resulting additional fees, with the exception of travel expenses, which shall be reimbursed by Parliament.

7. Entry into force

These internal rules shall enter into force on the date on which they are signed and shall cancel the previous internal rules.

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Klaus Welle 24 September 2010