



**Information meeting – New delegation of programmes to Executive Agencies  
Brussels, 13 November 2020 16:00  
(Video Conference)**

**SUMMARY OF QUESTIONS TO ADDRESS**

During the information meeting, several questions were raised by the OSP/CdP for which DG HR is committed to provide written answers:

- Request to set-up an accompanying committee for CHAFEA staff involving staff representatives in order to address individual situation
  - *As stated by Director General HR on behalf of Commissioner Hahn, on her note of 27/10/2020 (Ares(2020)5970451) to the Central Staff Committee, the appropriate follow-up to the request to support CHAFEA staff will be provided when the process of the legal requirements for the transfer is sufficiently advanced (e.g. approval of the budget 2021 and the positive opinion of the proposed delegation package by the Member states represented in the Council Committee on executive agencies). DG HR committed however to contact the President of the staff Committee before Christmas for a first discussion.*
- Overall need of an increased and support to CHAFEA staff by DG HR – without waiting for the final decision;
  - *Discussions needed to address the possibility of recruitment of CHAFEA staff members that are not willing to move to Brussels in other European institutions or DGs in Luxembourg. We cannot but repeat what Director General HR already stated in her note to the Central Staff Committee The requested support will be provided in due time (see the reply to the question above). DG HR cannot advance this assistance in time because 1) the interest of the service being to ensure the continuity of operations, the priority of the Commission is to assist staff members who will follow the programmes to the receiving agencies; and 2) any support for redeployment before the definitive College decision is taken may have serious consequences for both staff and CHAFEA.*
- Employment contracts are with the Agency, not the programmes. What is the legal basis for the “en bloc” move of contracts to follow the programmes and not the entity?
  - *The legal basis will be the Commission decision establishing the executive agencies. Delegation of programmes results in the reorganisation of the agencies concerned.*

*The reorganisation means that the part(s) of an agency, corresponding to programme(s), is/are taken over by the successor agency. This succession covers also the transfer 'en bloc' of staff working on the programmes taken over (an automatic transfer without a new entry into service). That way, the contracts of employment remain unchanged, thus allowing for the full contractual continuity, including pension rights. If on the contrary, new contacts were established to change the employer, new entry into service would occur, which would have meant the application of the current Staff Regulations, including the current pension rights conditions.*

- Need for further explanation on the logic of closing CHAFEA, whereas the same tasks would be performed under the newly created agency. Reorganisation could have taken place, with less negative effect on business continuity. Risk of a loss of skills and experience for the programmes transferred from CHAFEA if the number of staff not moving in Brussels is high
  - *The proposal for transfer of CHAFEAs programmes to Brussels based agencies was based on the conclusions of the compulsory Cost-benefit analysis that must be carried out before a new delegation by the Commission to the executive agencies and on efficiency reasons. The transfer proposal was adapted to take into account Commission response to the Covid crisis but the need to transfer CHAFEA programmes to Brussels based agencies for efficiency, coherent agency portfolios and synergy reasons did not change. Other alternatives for CHAFEA were discussed but were considered less advantageous both for interest of the service and staff.*
  
- Is the staffing of the new agency sufficient given the overload of work expected with the new budget?
  - *The new portfolios ensure that each agency is sufficiently staffed to operate efficiently, and allow synergies between EU programmes to be more fully exploited. Some horizontal staff (eg HR, IT, Legal Communication people) from EASME and INEA will also be offered to join the new agency allowing this agency to quickly kick off its activities.*
  
- Feeling of CHAFEA staff to be considered as a piece of furniture that EC can move from a place to other site without consideration for human situation
  - *It should be stressed that the decision to create a new agency dedicated to Health and Digital in Brussels further strengthen the case for the transfer of CHAFEA's tasks to Brussels-based agencies since setting up the new Health and Digital agency in Luxembourg would have entailed significantly greater transfers of staff from Brussels to Luxembourg than the currently envisaged transfer of CHAFEA tasks to Brussels. This being said, DG HR acknowledges that the transfer of CHAFEA programmes and staff to Brussels came as a unexpected and that this has important consequences for their private lives. DG HR sympathizes with CHAFEA staff feelings of uncertainty and will continue taking all the appropriate accompanying measures to ease this transition:*

- *6 months transition period, from the closure of CHAFEA, during which staff members will be able to telework 100 % from Luxembourg;*
  - *information sessions organised with receiving agencies to present their work and working environment;*
  - *continued support from a dedicated cross-unit team in DG HR on any HR issue related to the transfer including assistance for enrolling children in nurseries and European Schools or for facilitating info session with the Welcome office.*
- Clarifications are requested with regard to the timeline of transfers of programmes.
- *There remain several further steps to be taken before the new delegations can take place. The Commission will now consult the budgetary authority and the Committee for Executive Agencies. The budgetary authority has 6 weeks to react and the Committee is expected to deliver its opinion within the same time period. In addition, the legal bases of the future EU programmes to be delegated must be adopted. Finally, the delegation package (establishment act and delegation instruments) must also be formally adopted by the College.*

*Given these remaining steps, some of them being out of the control of the Commission, it is difficult to have a clear and definitive timeline to communicate to staff. For the time being, the Commission expects a definitive College decision to be taken in the course of January with an indicative date of entry into force at the beginning of March. This timeline is subject to modifications and will be communicated to CHAFEA staff as well as all concerned staff as soon as there is a clearer view on it.*

- Rights of staff representation in Agencies. Quid of exemptions? Has DG HR foreseen in the new staffing of Executive Agency posts/credits for the exempted staff representatives?
- *The Staff regulations foreseen in article 1 of Annex II : “The duties undertaken by members of the Staff Committee and by officials appointed by the Committee to organs set up under the Staff Regulations or by the institution shall be deemed to be part of their normal service in their institution. The fact of performing such duties shall in no way be prejudicial to the person concerned”.*

*For your information, the staffing of the European Commission is not foreseen with additional posts/credits for the exempted staff representatives.*

- *When a contract agent is exempted full time or part-time the credits are lost for DGs or Services in which the contract agent is affected*
- *When a temporary agent is exempted full time, he is assigned to a post in “surcharge” and the original service may replace an exempted staff member.*
- *When a temporary agent is exempted part-time, he shall continue to occupy their post in their original directorate-general or service.*

- What will be the ratio TA/seconded officials? Wondering how transfers of TA from the Commission to agencies are compatible with Staff Regulations / GIPs. There are reserve lists in Executive agencies. Quid of the career perspective? Worries for tensions and disappointments. Need to explain the restrictions to staff.
  - *Regarding officials, parent DGs identify staff concerned who, if agree, will be transferred. Regarding TA, the only transfer 'en bloc' in this category of staff, covers four TA 2a from EIC Pilot project who were recruited by the Commission to work exclusively in this project. The delegation of these tasks to an executive agency results in transfer of these TA who are highly specialised in the domain EIC. This transfer had already been foreseen when the Commission published the call for expression of interest to engage TA. The engagement of the Commission's TA will be for limited duration only – no indefinite contract and career perspective in the receiving agency. Moreover, as no other TA will be transferred to the executive agencies, the transfer of a very limited number of specialised TA from the Commission will put in question neither the use of existing reserve list, nor the career perspective of the agency staff in place.*
- Recruitment and contracts of indefinite durations without selection procedures are questioned with regard to the Staff regulations / GIPs
  - *Regarding transfer of Commission's CA to executive agencies, they should have successfully passed full EPSO CAST. Therefore, the only step missing is the panel provided for in the GIPs on CA. In order to ensure the continuity in implementation of programmes transferred, the corresponding staff should follow quickly. The mobility in this case is framed and responds to the interests of the service. Regarding transfer of four Commission's TA2a, they have successfully passed the selection at the Commission, organised to select staff for the EIC project, who were to be transferred to an agency implementing this project after delegation of programmes. Once, transferred to the agency, TA will have fixed-term contract only.*
- Need to rethink the working conditions/careers of CA in the framework of the new HR strategy.
  - *We suggest to propose this at the appropriate fora as it goes beyond the delegation of the programmes file.*
- If colleagues can be moved “en bloc” without losing their rights, such approach should also be taken with regard to mobility on a voluntary basis.
  - *As explained above, the mobility in bloc follows the specific framework of the legal succession between agencies concerned, which allows for the full continuity of contractual rights. This cannot be applied similarly to voluntary mobility, which implies the signature of a new contract and the new entry into service.*

- Request for modification of article 19 of the draft single establishment act (“to ensure” rather than “to facilitate”) and of article 18 which has been underlined as “brutal” and “lacking empathy”.
  - *See minutes of the meeting*
  
- Request for clarification with regard to staff members whose contracts are ending end of this year / early next year. What about their possibility to move if the process is delayed in March or later on? What about the implementation of disposition of CA GIPs on the interruption of contract less than 6 month?
  - *Only staff working in the Commission on the day of transfer may move to an agency to follow the programme. In case there is no employment contract between the Commission and the staff member concerned at the date of transfer, there is no the necessary link allowing the mobility to an agency taking over the programme.*

*The six-month’ interruption between CA’s contract does not apply since the entry into force of the current GIP in 2017. Indeed, the current GIP provide for the continuity in absence of interruption between the contracts, GIP refer to the contract “immediately after” the precedent contract.*

*CA whose contract has ended before the transfer of programmes may apply for CA position in the agency of destination. However, they will need to go through the normal selection procedure.*
  
- Why not create an agency with several places of employment (Brussels, Luxembourg)? The current experience of general teleworking shows that the physical presence in the office is no more required to deliver high standard of work.
  - *These two points (double seat for a single agency and telework) are two different issues. Double seat for one agency would need to respond to a substantial need and fully meet the principles of economy, efficiency and effectiveness, which is not the case here. Telework during Covid crisis is being a success and we all will take lessons from this experience to apply beyond the crisis. However, we also all agree that 100% telework is not the ideal situation and that it should be combined with presence in the office when the sanitary situation will allow for it.*
  
- Lack of clarification between the regulation activities and the executive activities with this new delegation of programmes and the creation of new entities for Health
  - *Regulatory and policy activities correspond exclusively to the Commission and the latter can delegate the management of programmes to the executive agencies. This does not change under the new delegation of programmes.*
  
- Only TAs 2a of the EC seems to be able to be transferred in the Agencies

- *Only four TA 2a from EIC task force may move to the agency, which will host EIC project. Please see more on this transfer under the question related to ratio between officials and TA, above.*