

AFRICAN UNION

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EXECUTIVE COUNCIL
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**REPORT ON THE FINANCIAL IMPLICATION OF THE
COMMISSION'S PROPOSALS ON THE DRAFT STAFF
REGULATIONS AND RULES (SRR)**

I. INTRODUCTION

1. According to the Rules of Procedure of the Specialized Technical Committee on Justice and Legal Affairs (STC-JLA), the Commission in consultation with the Bureau had convened the Fifth Extra Ordinary Ministerial Session of the STC-JLA from 13 to 14 June 2021 to consider various draft legal instruments.
2. The STC-JLA comprises Ministers of Justice and Attorneys General or Keepers of the Seals, Ministers responsible for Human Rights, Constitutionalism and the Rule of Law or such other Ministers or authorities duly accredited by the Governments of Member States.
3. The sitting considered the draft Revised African Union Staff Regulations and Rules among other draft legal instruments.
4. During the consideration of the draft legal instruments, the Commission made proposals on some of the Rules within the draft Staff Regulations and Rules, and the STC JLA referred the proposals to the Executive Council for consideration in line with Executive Council decision **EX.CL/Dec.1107(XXXVIII)**. In so doing, the Commission shall provide a report on the financial implications of the proposals, indicating the potential budgetary implications on the Member States.
5. In line with the request from the Ministers of Justice, the Commission hereby summarizes the draft proposals of the Commission and its financial implications.

II. AMENDMENTS PROPOSED BY THE COMMISSION

6. During the STC JLA, the Deputy Chairperson presented the following four (4) proposed amendments to the SRR:
 - a) **Review of Salaries, Allowances and other related benefits (Regulation 5(b))**
7. The draft rules provide for the review of salaries and benefits every five (5) years, except for Housing Allowance, Post Adjustment Allowance, and Non-Residence Allowance which shall be carried out every three (3) years unless determined otherwise.
8. The proposed amendment to the provision requested that the review of salaries and benefits of the AU Staff should be reduced from five (5) years to three (3) years in line with the best practice of comparable international organizations and a review of housing allowance, post adjustment allowance and non-residence allowance from three (3) years to one (1) year, in line with international best practice. She cited the European Union (EU), where on annual basis the European Commission submits a report to the Council of the EU on fixing the rate of allowance for living conditions; similarly, the African Development Bank (AfDB) reviews the level of remuneration of management and professional staff annually; in the Economic Community of West African

States (ECOWAS), there is a periodic review of general staff remuneration scale.

9. **Financial Implication:** The proposal does not present any financial implication as the current practice provides the same process where salary review is undertaken every three (3) years. It should be noted that the last study conducted by Birches Group recommended that AUC should review its salaries after every three (3) years and allowances on yearly basis to match and align with other international organizations. Salary review will align with the organization's objective of attracting, retaining, and motivating the best quality staff thus promoting the highest standards and optimal performance.
10. It should be noted that the review of salaries, of staff members, should be undertaken as a due process, to assess whether the compensation offered to staff members is sufficient when compared with the inflationary pressures of the duty station staff members work in. The consideration of salary review does not necessarily entail salary increase, as it will only be guided by the study on the salary scale which would be presented for the Member States consideration at the time of the review.
11. The lack of an adequate salary review, resulting in further delay in the review, will widen the salary gap with a similar organization which will attract more cost in the long term to re-align the same with similar organizations as it would be manageable to do a small increment periodically.

b) **Maximum Child Age - Education Allowance (Rule 17; 23.1(i)(b))**

12. The draft rules provide for education allowance to the dependents of eligible political appointees, special appointees, and regular staff members that are unmarried fully enrolled in a formal educational institution, and not more than twenty-one (21) years. The affected category of staff is those recruited after 1st July 2003.
13. The proposed amendment to the provision states that the AU should pay an education allowance for all eligible staff dependants, until the age of Twenty-Four (24) years, in line with international best practice. She cited the United Nations (UN) where a grant shall be payable in respect of the child up to the end of the fourth year of post-secondary studies; for the EU, the allowance shall continue until the child finishes his/her education or at the end of the month in which the child reaches the age of twenty-six(26) years, whatever is the earliest; and in ECOWAS, education grant shall cease at the end of the year in which a dependent child attains his/her twenty-fourth (24th) year.
14. Financial Implication: The proposal by the Commission, to increase the age limit for eligible children will attract an additional cost of USD 3,578,349.22 on member states.

Year	Actual Expenditure
2018	4,182,300.07
2019	3,976,720.93
2020	3,952,409.62

2021	2,201,966.65
Average Annual Expenditure from 2018 to 2021	3,578,349.22

15. While the proposal has financial implications, Member States should also note that the proposal will provide quality education to the beneficiaries and will allow them to finish their education during the prescribed period.

16. Member States should be assured that the entitlement will only be paid up to the completion of the first university degree of the beneficiary up to twenty-four (24) years of age as a maximum.

c) **Accrued leave days – Accumulated leave days (Rule 47.2(d):**

17. The draft rules provide that for eligible elected Officials and all categories of staff members, annual leave carried forward shall not be accumulated beyond forty-five (45) working days at the end of their career. Any balance beyond the stipulated number of leave days shall be forfeited at the separation of the eligible Official, special appointee, and staff member.

18. The proposed amendment to the provision states that the pertinent provision of the 2010 SRR to be maintained, whereby a staff member who at the time of his or her separation from service has accrued leave shall be entitled to payment in cash in lieu of leave. The accumulated leave shall not exceed one hundred and ten (110) days for regular staff members and fifty-six (56) days for short-term contracts. In the alternative, the DCP proposed 90 days to be applied for the incoming staff in line with international best practices in ECOWAS. She referenced the practice of the UN where staff members who hold fixed-term or continuing appointment may accumulate and carry forward up to sixty (60) working days of annual leave; at the African Development Bank (AfDB) the total amount of accumulated annual leave which may be carried forward is up to an aggregate maximum of sixty (60) days; in the ECOWAS it is provided that at the time of separation if a staff member has accrued annual leave, he/she should be paid a sum of money equal to his/her salary or wages for the period of such accrued leave up to a maximum of ninety (90) working days.

19. **Financial Implication:** The proposal of the Commission does not entail any financial obligation, as the proposal merely aligns the revised SRR to the current practice as reflected in the prevailing SRR Rule 74.3(b) which provides for, “*the accumulated leave shall not exceed one hundred and ten (110) days for regular staff members*”.

20. The proposal does not entail any additional cost to be incurred by the Member States.

d) **Statutory Retirement age (Rule 88.1):**

21. The draft rules provide that all staff members (regular, fixed-term, or appointment of limited duration), except for elected officials, political

appointees, and special appointees, shall not be retained in the service of the Union beyond the age of sixty (60) years following the last day of the month in which he or she celebrates his or her 60th birthday.

22. The proposed amendment to the provision states that the retirement age should be increased to sixty-three (63) years old in line with practice in other comparable international organizations. Alternatively, the retirement age should be set at sixty (60) years of age with an exceptional extension of twelve (12) months, twice in line with the current SRR and international best practices. She cited the current practice of the UN whereby the Joint Staff Pension Fund Regulations states that retirement age will be sixty-five (65) years of age; in the EU the retirement age is also sixty-five (65) years, while the pensionable age is sixty-six (66) years of age. In ECOWAS, staff members shall retire from service at the age of sixty (60), however, the President of the ECOWAS Commission may decide to retain them on a contract that shall not exceed an accumulated maximum of five (5) years.

23. **Financial Implication:** The proposal as presented by the Commission, can be divided into two options:

- a) If the current rules are maintained, where the age of retirement is at the age of sixty (60), wherein addition to 2 years as per the Chairperson approval under exceptional circumstances based on need basis this situation does not present any financial implication to member states.
- b) Where the age of retirement for staff members is increased to sixty-three (63) years old in line with practice in other comparable international organizations.

24. In addition, the number of staff members to be affected from 2021 till 2024 will be sixty -eight (68) staff members out of the staff strength of more than 1,300 staff members, with each year accounting for the following number of staff members retiring:

Year	Count of Employee to Retire
2021	9
2022	16
2023	22
2024	21

25. In both options, the increment of the retirement age only presents postponement of off-boarding and separation cost of the staff members affected.

26. The staff members who would have their retirement age extended will continue to provide service to the Union and their continued employment mostly in managerial positions does not in any way affect the youth participation in the service of the Union as decided by the Executive Council decision EX.CL/Dec.1107(XXXVIII), where the Council decided that "Positions

below P3 should favour Youth without prejudice to internal promotion procedures in line with the AU SRR”.

III. CONCLUSION

27. In order to attract the best African talents across the continent and in accordance with Executive council decision EX.CL/Dec.1107 (XXXVIII) adopted in February 2021 whereby the Executive Council requested the STC to consider the Staff Regulations and Rules taking into account the issue of conditions of service of the staff including promotion and upgrading of staff as well as staff benefit and allowances that are competitive and comparable of other international organizations as stipulated in Article 20 (12) of the Statute of the Commission.
28. Paramount consideration should be given to the fact that the acquired rights of the staff members should be guided by the conditions of service of which the staff was granted when they started their contractual obligation with the Union. The Commission would like to note that removal of some of the acquired rights, which was a principle that had been affirmed by various international tribunals, might attract legal cases against Management with substantial financial implications. Hence, the Commission appeals to the Member States to avoid any legal processes that may bring additional financial implications to the Member States and derail the reform process.
29. Therefore, in light of the minimal financial implication and to avoid legal proceedings, the Commission is requesting the Executive Council to adopt the four (4) proposals as part of the SRR related provisions as follows:

- a) **Review of Salaries, Allowances and other related benefits (Regulation 5(b))**

Current revised Rule:

Taking due account of the nature of duties and responsibilities, the Chairperson shall propose, one year in advance, to the Policy Organs a study on the review of salary and benefits (based on comparative market references) every five (5) years, except for Housing Allowance, Post adjustment Allowance and Non-Residence Allowance which shall be carried out every three (3) years unless determined otherwise.

Proposed Change:

Taking due account of the nature of duties and responsibilities, the Chairperson shall propose, one year in advance, to the Policy Organs a study on the review of salary and benefits (based on comparative market references) every three (3) years, except for Housing Allowance, Post adjustment Allowance, and Non-Residence Allowance which shall be carried out every one (1) year unless determined otherwise.

b) **Maximum Child Age - Education Allowance (Rule 17; 23.1(i)(b))**

Current revised Rule:

Rule 23.1(i)(b)
Education Allowance

23.1 (i) Education allowance for eligible political appointees, special appointees, and regular staff members on the approved and budgeted structure in respect of each eligible unmarried dependent child in full-time attendance in a formal educational institution shall be paid up to a maximum of four (4) children, provided such child is at least three (3) years old and not more than:

(b) Twenty-one (21) years of age where the parent staff member was recruited after 1st July 2003.

Proposed Change:

Rule 23.1(i)(b)
Education Allowance

23.1 (i) Education allowance for eligible political appointees, special appointees, and regular staff members on the approved and budgeted structure in respect of each eligible unmarried dependent child in full-time attendance in a formal educational institution shall be paid up to a maximum of four (4) children, provided such child is at least three (3) years old and not more than:

(b) Twenty-Four (24) years of age where the parent staff member was recruited after 1st July 2003.

c) **Accrued leave days – Accumulated leave days (Rule 47.2(d))**

Current revised Rule:

47.2 - Entitlement to Annual Leave

Pursuant to the provisions of Regulation 7:

(d) For eligible elected Officials and all categories of staff members, annual leave carried forward shall not accumulate beyond forty-five (45) working days at the end of their career. Any balance beyond the stipulated number of leave days shall be forfeited at the separation of the eligible Official, special appointee, and staff member.

Proposed Change:

47.2 - Entitlement to Annual Leave

Pursuant to the provisions of Regulation 7:

(d) For eligible elected Officials and all categories of staff members, annual leave carried forward shall not accumulate beyond one hundred and ten (110) working days at the end of their career. Any balance beyond the stipulated number of leave days shall be forfeited at the separation of the eligible Official, special appointee, and staff member.

d) **Statutory Retirement age (Rule 88.1):**

Current revised Rule:

Rule 88
Statutory Retirement

88.1 All staff members, except for elected officials, political appointees, and special appointees, shall not be retained in the service of the Union beyond the age of sixty (60) years following the last day of the month in which he or she celebrates his or her 60th birthday.

Proposed Change:

Rule 88
Statutory Retirement

88.1 (a) Staff members, except for elected officials and the Special and Political Appointees, shall not be retained in the service of the Union beyond the age of sixty (60) following the last day of the month in which he or she celebrates his or her 60th birthday.

(b) The Chairperson or the competent authority of any other Organ may, in exceptional cases determined by the work needs, grant him or her an eleven-month contract based on satisfactory performance in previous appraisal and the need for securing his or her services. Under no circumstance shall the said contract be renewed more than once.

ALTERNATIVELY

Rule 88
Statutory Retirement

88.1 All staff members, except for elected officials, political appointees, and special appointees, shall not be retained in the service of the Union beyond the age of **sixty-two (62) years** following the last day of the month in which he or she complete 62nd age.

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