EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

The Staff Regulations and the Conditions of Employment of Other Servants require the Commission to present every two years a report on the financial situation of the unemployment insurance scheme. Independently of that report, the Commission may, by means of delegated acts, adjust the contributions to the Fund if this is necessary in the interests of the balance of the scheme[[1]](#footnote-1).

The proposed draft Delegated Regulation constitutes the first adjustment of the contribution to the Unemployment Fund by the Commission after it has been empowered to adopt delegated acts on that matter[[2]](#footnote-2). In the past it was for the Council to set this contribution that it had done for the last time with the reform of the Staff Regulations in 2004.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission has submitted a report on the financial situation of the unemployment benefit scheme for former members of the temporary or contract staff and accredited parliamentary assistants who are unemployed after the termination of their service in a European Union institution[[3]](#footnote-3). The report concludes that taking specific account of the accumulated balance of the Unemployment Fund during the period 2009-2015 and a number of risk factors that may influence the mid and long term situation[[4]](#footnote-4), the Commission should consider a limited increase in the contributions to the Unemployment Fund (around 0.1 % of basic salary) in order to ensure its financial equilibrium. Furthermore, the report also foresees that the Commission will establish a working group to ensure regular monitoring of the scheme's financial position.

In the process of the preparation of the draft Delegated Regulation a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council was ensured. An informal ad hoc expert meeting on the preparation of a draft delegated act was organised by the Commission services with the participation of experts from the Member States and the administration of the European Parliament[[5]](#footnote-5). Subsequently, the text of the draft Delegated Regulation which takes on board most of the contributions was also sent to the ad hoc expert group for a second consultation[[6]](#footnote-6).

The draft Delegated Regulation has been discussed with the staff representatives from the trade unions and staff associations of the Commission and the staff representatives of the other EU Institutions in accordance with the appropriate procedures[[7]](#footnote-7).

3. LEGAL ELEMENTS OF THE DELEGATED ACT

In accordance with Articles 28a, 96 and 135 of the Conditions of Employment of Other Servants, former members of the temporary staff, the contract staff and parliamentary assistants, who are unemployed when their service with an institution of the European Union has been terminated, are eligible for a monthly unemployment allowance under the conditions and for the period laid down by the Conditions of Employment of Other Servants.

Articles 28a(11) and 96(11) of the Conditions of Employment of Other Servants provide that the Commission shall present every two years a report on the financial situation of the unemployment insurance scheme. Independently of that report, the Commission may, by means of delegated acts, adjust the contributions to the Fund if this is necessary in the interests of the balance of the scheme

The Commission has drawn up the 2009-2015 report on the financial situation of the Unemployment Fund. Furthermore, based on the findings of the report it has been concluded that the contribution paid by the eligible staff shall be adjusted from 0.81% to 0.91% of the basic salary of the person concerned after deducing the standard allowance and without taking account of the correction coefficients provided for in Article 64 of the Staff Regulations. The remaining two thirds to be borne by the institution will increase accordingly.

The adjustment by the Commission of the contributions to the unemployment insurance scheme involves an assessment of complex economic and human resources policy factors. In such circumstances the case-law of the EU courts confirms that the legislator enjoys a wide margin of discretion.

The proposal concerns an area that falls within the exclusive competence of the Union. The principle of subsidiarity does not therefore apply.

4. BUDGETARY IMPLICATIONS

The adjustment entails additional expenditure on budget lines relating to the employer's contribution for the unemployment insurance for temporary agents, contract agents and parliamentary assistants. See the attached Financial Statement.

COMMISSION DELEGATED REGULATION (EU) …/...

of XXX

adjusting the contributions for the financing of the Special Unemployment Fund set out under Articles 28a and 96 of the Conditions of Employment of Other Servants

THE EUROPEAN COMMISSION,

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

Having regard to the Staff Regulations of officials and Conditions of Employment of Other Servants of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68[[8]](#footnote-8), and in particular Article 112 of the Staff Regulations and Articles 28a and 96 of the Conditions of Employment of Other Servants,

After consulting the Staff Regulations Committee,

After consulting the staff representatives from the institutions and other bodies of the European Union,

Whereas:

1. In accordance with Article 28a(11) and Article 96(11) of the Conditions of Employment of Other Servants, the Commission has submitted a report[[9]](#footnote-9) on the financial situation of the unemployment benefit scheme for former members of the temporary or contract staff and accredited parliamentary assistants who are unemployed after the termination of their service in a European Union institution.
2. This report shows that taking specific account of the accumulated balance of the Unemployment Fund during the examined period, an increase of 0.1 % of the contributions paid by temporary staff, contract staff and parliamentary assistants to the Fund from 0,81 to 0,91 % of the basic salary is necessary in the interests of the balance of the scheme.
3. The adjustment of the contributions to the unemployment insurance scheme involves an assessment of complex economic and human resources policy factors, in which the legislator enjoys a wide margin of discretion.

HAS ADOPTED THIS REGULATION:

Article 1

The contributions provided for in Article 28a(7) and in Article 96(7) of the Conditions of Employment of Other Servants of the European Union are adjusted as follows:

(1) In the second sentence of Article 28a(7) the contribution is adjusted to 0,91 % as follows:

‘That contribution shall be set at 0,91 % of the basic salary of the person concerned after deducting a standard allowance of EUR 1296,18 and without taking account of the correction coefficients provided for in Article 64 of the Staff Regulations.’

(2) In the second sentence of Article 96(7) the contribution is adjusted to 0,91 % as follows:

‘That contribution shall be set at 0,91 % of the basic salary of the person concerned after deducting a standard allowance of EUR 972,14 and without taking account of the correction coefficients provided for in Article 64 of the Staff Regulations.’

Article 2

This Delegated Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

 For the Commission

 The President
 J.-C. JUNCKER

1. Articles 28a(11) and 96(11) of the Conditions of Employment of Other Servants amended by Regulation N°1023/2013 of 22 October 2013. [↑](#footnote-ref-1)
2. Ibid. [↑](#footnote-ref-2)
3. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL - 2009-2015 report on the financial situation of the unemployment benefit scheme for former members of the temporary or contract staff and accredited parliamentary assistants who are unemployed after the termination of their service in a European Union institution, COM(2016) 754 final of 7 December 2016. [↑](#footnote-ref-3)
4. Ibid., p. 19. [↑](#footnote-ref-4)
5. On 1 March 2017. [↑](#footnote-ref-5)
6. …/../2017 (to be completed after the interservice consultation) [↑](#footnote-ref-6)
7. …/../2017 (to be completed after the interservice consultation) [↑](#footnote-ref-7)
8. OJ L 56, 4.3.1968, p. 1., as last amended by Regulation (EC, Euratom) No 1023/2013 (OJ L 287, 29.10.2013, p. 15). [↑](#footnote-ref-8)
9. REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL - 2009-2015 report on the financial situation of the unemployment benefit scheme for former members of the temporary or contract staff and accredited parliamentary assistants who are unemployed after the termination of their service in a European Union institution, COM(2016) 754 final of 7 December 2016. [↑](#footnote-ref-9)