REGULATIONS OF THE EUROPEAN SPACE AGENCY

Staff Regulations

The attached Staff Regulations constitute together with the Convention for the establishment of the European Space Agency the basic legal framework for the employment conditions of the Agency’s staff.

The Staff Regulations apply to staff appointed pursuant to Article XII.3 of the Convention.
ESA Staff Regulations

European Space Agency
Agence spatiale européenne
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CHAPTER I

SCOPE OF APPLICATION
REGULATION 1

GENERAL

1.1 These Staff Regulations shall apply to staff appointed pursuant to Article XII.3 of the Convention for the establishment of the European Space Agency. They shall not apply to personnel governed by local labour legislation or to experts and consultants except in so far as may be provided for in the rules applicable to them or in the terms of their employment.

1.2 There shall be no discrimination against staff members on grounds of race, religion, or sex.

1.3 The Staff Regulations shall be adopted by the Council on a proposal of the Director General; they may be amended by the Council on a proposal submitted by the Director General after implementing the procedure for negotiation between the Director General and the Staff Association provided for in Regulations 42 et seq.

The procedures for applying the Staff Regulations shall be laid down in the Staff Rules which shall - apart from Chapter VIII which shall remain within the sole competence of the Council - be approved by the Administrative and Finance Committee on the proposal of the Director General; these Rules may be amended by the Administrative and Finance Committee on a proposal submitted by the Director General, after implementing the procedure for negotiation between the Director General and the Staff Association provided for in Regulations 42 et seq.

Detailed provisions for the implementation of the Staff Rules shall, as necessary, be set out in Instructions laid down by the Director General. These may be amended by the Director General after implementing the procedure for negotiation between the Director General and the Staff Association provided for in Regulations 42 et seq.

1.4 All amendments to the Staff Regulations, Rules and Instructions shall respect acquired rights.

1.5 The Director General shall keep in permanent contact with the Staff Association and its representatives. He shall keep the staff informed of the Agency’s activities and general policy and in particular of all matters relating to the staff. This information shall also be given to the Staff Association, which may ask for fuller details and may make appropriate comments to the Director General.
CHAPTER II

DUTIES, OBLIGATIONS AND PRIVILEGES
REGULATION 2

PROFESSIONAL OBLIGATIONS

2.1 The duties of staff members of the Agency are international in character; staff members shall carry out their duties and regulate their conduct with the interests of the Agency always in mind. In this respect they are subject to the authority of the Director General as determined by the Council within the framework of the Convention for the establishment of the European Space Agency, and shall be responsible to him alone for the discharge of their duties and the fulfilment of the obligations laid down by these Regulations.

2.2 Staff members shall neither seek nor accept instructions from any government, authority, organisation or person external to the Agency.

2.3 Staff members shall be responsible for the execution of the tasks entrusted to them. If, as a result of wilful acts or gross negligence during, or in connection with, the discharge of his duties, a staff member causes damage to the Agency, it may hold him financially responsible for all or part of the damage.

REGULATION 3

LOYALTY

3.1 A staff member may not accept any honour from a government or other source external to the Agency without the permission of the Director General.

3.2 Staff members shall abstain from all political activities and, more generally, from any public action or statement or publication if such activity, statement or publication is incompatible with the duties or obligations of an international civil servant or liable to involve the moral or material responsibility of the Agency.

3.3 A staff member shall not hold any posts or have any regular or paid occupation outside the Agency without the Director General's permission.

3.4 A staff member, or his spouse, may not directly or indirectly hold such interests in a commercial firm as could, by their nature, compromise his independence in the discharge of his duties in the Agency.
REGULATION 4

DISCRETION AND INTELLECTUAL PROPERTY

4.1 Staff members shall observe complete discretion with regard to all matters relating to the activities of the Agency. Except in the discharge of their duties, they shall not disclose any unpublished information acquired by them in the course of their official business unless authorised to do so by the Director General. This obligation shall continue after they have left the Agency.

4.2 All intellectual property rights, including copyright and patent rights, in any work produced by a staff member within the scope of his duty shall be the property of the Agency. However, the Director General shall, under the terms laid down in the Staff Rules:

- make an award to the inventor; or
- authorise him, if so requested, to exploit the rights arising from his work concurrently with the Agency; or
- waive those rights in favour of the inventor.

REGULATION 5

PRIVILEGES, IMMUNITIES AND PROTECTION

5.1 The privileges, immunities or facilities enjoyed by staff members are granted in the interests of the Agency and not for their personal benefit. In particular, they shall not excuse staff members from fulfilling their private obligations or from the strict observance of the law in force at the place where they are serving. Whenever there is any question of claiming immunity from legal action, the staff member concerned must immediately report this to the Director General, who will decide whether or not the immunity shall be waived.

5.2 Staff members are entitled to protection by the Agency in the discharge of their duties and in respect of possible consequences thereof.

1 Cf. Annex I to the Convention
CHAPTER III

RECRUITMENT, APPOINTMENT, PROMOTION, CESSATION OF DUTY
REGULATION 6

APPOINTING AUTHORITY AND STAFF CATEGORIES

6.1 Pursuant to Article XII.3 of the Convention for the establishment of the European Space Agency, the Appointing Authority referred to in these Regulations shall be:

(i) the Council, acting on the recommendation of the Director General, in the case of hors-classe staff and staff in grade A7;

(ii) the Director General in the case of staff in other grades and categories.

6.2 The staff governed by these Regulations shall be classified in accordance with the categories and grades of the Coordinated Organisations.

REGULATION 7

RECRUITMENT

7.1 Every vacancy shall be advertised in a vacancy notice stating the duties to be performed and the qualifications for the post. This vacancy notice shall be distributed within the Establishments of the Agency and to the delegations of the Member States, as specified in the Staff Rules.

7.2 Applicants are required to be physically fit to carry out their duties.

7.3 Staff shall be recruited on the basis of their qualifications, taking into account an adequate distribution of posts among nationals of the Member States.

REGULATION 8

LETTER OF APPOINTMENT

8.1 Staff members shall be notified of their appointment by a letter signed by the Director General or his authorised representative. The letter of appointment shall specify the terms of employment, and more especially:

(i) the professional specialisation (among those listed in the Director General's Instructions) which corresponds with the qualifications and aptitudes taken into consideration for the applicant's appointment;

(ii) the grade and step when taking up duty;
(iii) the corresponding emoluments;

(iv) the duration of the contract;

(v) the duties to be performed and the duty station, upon initial posting, as well as the Appointing Authority's powers to modify them within the limitations imposed by the Staff Rules under Regulation 11.

This letter shall be accompanied by a copy of the Staff Regulations, Rules and Instructions.

8.2 The letter of appointment shall specify that these conditions of employment are governed by the provisions of these Regulations and of any other Rules and Instructions applicable to the staff, including any amendments which may be made thereto, subject to staff members' retaining their vested rights.

8.3 Staff members appointed shall notify the Agency in writing of the acceptance of the terms set out in the letter of appointment; they shall state explicitly having taken cognizance of this letter and of the Staff Regulations, Rules and Instructions.

8.4 On the Agency's receipt of the staff member's letter of acceptance the letter of appointment shall take effect and shall be binding on both parties.

REGULATION 9

DURATION OF APPOINTMENT

9.1 Staff shall be appointed for a fixed term, or for an indefinite term.

9.2 It shall be stipulated in the letter of appointment of staff recruited for a fixed term, whether or not the appointment may be extended for an indefinite period, under conditions laid down in the Staff Rules.

REGULATION 10

PROBATIONARY PERIOD

10.1 The first six months of service by a staff member shall be a probationary period during which the appointment may be terminated at any time by either party at one month's notice. At the end of this probationary period, it shall be decided:

- to confirm the appointment, or

- exceptionally, to prolong the probationary period for a further maximum period of six months, or
to terminate the appointment of the staff member upon one month's notice.

10.2 The regrading of the staff member may also be decided upon at the end of the probationary period.

In the case of staff appointed by the Council itself, revision of grade or step and termination of the appointment shall be decided by the Council, acting on the proposal of the Director General.

10.3 The Director General shall have delegated authority to take all other relevant decisions at the end of the probationary period.

He may, however, refer to the Council the decision to confirm an appointment in the case of staff appointed by the Council itself. The Council's refusal to confirm an appointment shall give authority to the Director General to terminate it.

The Director General shall inform the Council, stating the reasons, if he exceptionally prolongs the probationary period of a staff member appointed by the Council.

REGULATION 11

REASSIGNMENT OF STAFF

11.1 Reassignment of staff shall be decided by the Appointing Authority.

11.2 Reassignment of a staff member shall not result in his downgrading; practical details of reassignment shall be laid down in the Staff Rules, with particular reference to the guarantees granted to the staff as regards maintenance of the field of specialisation and grading.

11.3 Where a staff member has, in conformity with this Regulation, been permanently reassigned to another post, the Appointing Authority may, if the staff member is unsuited to his new duties, cancel this posting within the next six months; in such event it shall reassign the staff member to a post carrying a grade not lower than that of the post he held before the above-mentioned assignment.

REGULATION 12

ADVANCEMENT AND BONUS UNITS

12.1 Normal advancement - i.e. progression from one step to another in the salary scale - will be granted when the conditions of length of service specified in the salary scales are fulfilled by the staff member.

12.2 An exceptional advancement may be granted by the Appointing Authority in recognition of high performance at a level of duties and responsibilities that demonstrates the potential of the staff member for career progression.
12.3 Bonus unit(s) may be granted by the Appointing Authority in order to recognise the special merits of a staff member during a given year or for a specific event.

12.4 Withholding of advancement may be decided by the Appointing Authority as a disciplinary measure pursuant to Regulation 25.2 (iii).

REGULATION 13

PROMOTION

13.1 A promotion in grade not resulting from assignment to a vacant post shall be decided on the basis of job performance, of ability to perform duties at the higher level and of the evolution of the level of duties and responsibilities of the staff member concerned.

13.2 The step in the grade awarded on promotion will be determined as specified in the Staff Rules.

REGULATION 14

PROFESSIONAL TRAINING

The Director General shall draw up an annual training programme in order to ensure the continuing education of the staff. This programme should provide the means of meeting the Agency's technical and administrative needs through the most efficient use of the staff, and of developing the qualifications and potential of each staff member.

REGULATION 15

TERMINATION OF APPOINTMENT

15.1 A staff member's appointment may be terminated by the Appointing Authority subject to the conditions applicable to the relevant cases, stated in the following paragraphs.

15.2 Dismissal on disciplinary grounds, pursuant to Regulation 25.2 (iv) shall be without notice.

15.3 A staff member's appointment may be terminated in the following cases, subject to the period of notice laid down in accordance with Regulation 10.1 or paragraph 5 below:

(i) During, or at the end of, the probationary period, in accordance with Regulation 10.1.
Because of his inability to carry out his duties on completion of sick leave in the cases covered by Regulation 23.4 (iii) or because he has been called up for more than two years' military service.

Because he does not give satisfactory service.

An appointment may be terminated in the following cases, subject to the period of notice laid down in accordance with paragraph 5 below and to the award of an indemnity calculated in accordance with the Staff Rules under Regulation 21.7:

(i) If a staff member's post is suppressed, including the case of staff reductions.

(ii) If a staff member's departmental unit is posted to another duty station and he refuses to be transferred with it.

(iii) If a country, of which a staff member appointed for an indefinite term is a national, withdraws from the Agency.

(iv) If the duties attaching to a staff member's post are modified in such a way that he no longer possesses the necessary qualifications for that post.

(v) If a staff member can no longer adapt to the requirements of his duties, without there being any question of professional failing under paragraph 3 (iii) above.

A staff member whose appointment is terminated on any of the above grounds other than case (iii) shall, provided he has the necessary qualifications, be given priority in the filling of any vacant post at the level of the one he occupied or at a level immediately below.

The indemnity provided under the first subparagraph above shall not be awarded where, before the expiry of the period of notice, the staff member has been reassigned to a post in the same grade.

The period of notice referred to in paragraphs 3 and 4 above shall be laid down in the Staff Rules.

The Appointing Authority may dispense a staff member from actual duty during his period of notice; however, payment of emoluments for the unexpired period of normal notice shall not constitute a right in the following cases:

(i) If the staff member asked to cease employment before the expiry of the period of notice.

(ii) If the staff member, returning to his previous employer pursuant to obligations entered into towards him by the latter, does so before the expiry of the period of notice.

Termination of appointment shall take place on conclusion of a procedure laid down in the Staff Rules, providing the staff member with an opportunity to submit his observations before the final decision is taken.

Any decision to terminate an appointment shall be notified in writing, with reasons.
REGULATION 16

RESIGNATION

16.1 Any staff member may resign upon giving the Director General notice equal to that laid down in accordance with Regulation 15.5.

16.2 The Director General may, however, accept a shorter period of notice, or dispense a staff member from actual duty during his period of notice, on the same conditions as are laid down in Regulation 15.5.

REGULATION 17

REGULATORY AGE LIMIT

17.1 The regulatory age limit is sixty-five. On an entirely exceptional basis, however, staff may remain in service for a maximum of two additional years (that is, up to sixty-seven) where there are strong operational imperatives, and where the staff member concerned and his hierarchy consent; the standard regulatory age limit nevertheless remains sixty-five.

Last update: May 2010

17.2 A staff member may claim his retirement benefits in accordance with the provisions laid down in the Pension Scheme Rules respectively referred to in Rules 22.2/1 and 22.2/2 of the Staff Regulations.

Last update: May 2010

REGULATION 18

NON-ACTIVE STATUS

18.1 A staff member may be granted non-active status by the Appointing Authority:

(i) for a period of not more than two years and a half upon the expiry of the sick leave provided for in Regulation 23.4 (iii).

(ii) for a period of not more than two years, for compulsory military service.

(iii) for a period of not more than two years, for personal reasons.
(iv) for a period of not more than two years, following the birth and up to the third birthday of a child or owing to the serious illness of the staff member's child, spouse, or parent.

(v) for a period of not more than two years, and extendable up to a total maximum duration of four years in exceptional cases, for reasons in the interest of the Agency.

(vi) for a period between two months and up to not more than twelve months, for sabbatical leave. Sabbatical leave cannot be granted before the initial appointment has been extended.

18.2 A staff member granted non-active status shall not be entitled to any salary or allowances, but may be granted benefits under the terms of Regulations 22.1 and 22.2 for the period covered by Regulation 18.1 (i). In the cases covered by Regulation 18.1 (iv), the staff member may continue to be entitled to sickness benefits (reimbursement of medical expenses) as well as to death benefits. In the cases covered by Regulation 18.1 (vi), the staff member may continue to be entitled to sickness benefits (reimbursement of medical expenses) provided the staff member has no access to such coverage for the duration of the non-active status. The period of non-active status shall not be considered as effective service with the Agency.

18.3 The post of a staff member granted non-active status shall fall vacant, unless otherwise decided by the Appointing Authority, in particular taking into consideration a short duration of a non-active status.

(i) In accordance with the principles laid down in Staff Regulation 11, the Appointing Authority shall at the planned end of the non-active status reinstate the staff member in a vacant post carrying a grade not lower than that of the post held before the period of non-active status. However, while maintaining their grade, staff members graded A5 and above cannot claim reinstatement in a post corresponding to their grade. Should a prolongation of the non-active status exceptionally be granted beyond two years on the basis of Regulation 18.1 (v), the Appointing Authority shall decide on any continued entitlement to reinstatement.

(ii) In the cases covered by Regulation 18.1 (iii), the staff member has no entitlement to reinstatement.

18.4 At the planned end of the period of non-active status, should reinstatement prove impossible, the contract shall be deemed to terminate without any indemnity for loss of job being due:

(i) at the end of the notice period laid down in Rule 15.5/1 running from the first day of the month following the non-active status, unless reinstatement becomes possible before the end of the notice period.

(ii) during the notice period laid down in paragraph (i), on the last day of the month in which a staff member refuses the reinstatement proposed by the Appointing Authority.
(iii) in the cases covered by Regulation 18.1 (iii), on the last day of the non-active status and, from that date, the staff member shall, without notice, cease to be a member of the staff of the Agency.

18.5 Non-active status shall not entail the prolongation of a fixed-term appointment.

18.6 The provisions governing non-active status may be excluded from a fixed-term contract.

**REGULATION 19**

**SECONDMENT**

19.1 Secondment is the position of a staff member who, in the interest of the service, is designated by the Appointing Authority, with his consent, to occupy temporarily a post outside the Agency.

19.2 The secondment should normally be for a period not exceeding one year, renewable with the staff member’s consent for a further period of not more than one year. Only in exceptional circumstances shall any one period of secondment be extended to more than two years in all.

19.3 On secondment a staff member shall retain his entitlement to advancement and to the emoluments, rights and benefits laid down in these Regulations. A seconded staff member must not suffer any financial disadvantage in comparison with his normal position within the Agency. The principles to be observed in this respect shall be laid down in the Staff Rules.

19.4 The post held by a seconded staff member may be declared vacant. At the end of secondment the staff member shall immediately be reinstated in the Agency, in the grade he held and in duties equivalent to those he performed at the time of his secondment.
CHAPTER IV

EMOLUMENTS AND BENEFITS
REGULATION 20

EMOLUMENTS

20.1 Emoluments shall comprise salary, allowances and indemnities. Any other remuneration shall be subject to the provisions of Regulation 3.3.

20.2 The Director General shall, in agreement with the other Coordinated Organisations, propose salary scales of categories, grades and steps, which shall be submitted, together with all other emoluments, to the Council for approval.

20.3 The level of the emoluments of the staff of the Agency shall be reviewed from time to time in accordance with the procedure and criteria laid down for the Coordinated Organisations in order to take account, in particular, of increases in the cost of living and in the standard of living in the member countries.

20.4 The emoluments and benefits due to a staff member from the Agency may, with the agreement of the Director General, be paid in, or transferred into, the currency of a member country other than that in which the staff member is serving, within limits and conditions laid down in the Staff Rules.

REGULATION 21

ALLOWANCES AND INDEMNITIES

Staff members shall be entitled to the following allowances as specified in the Staff Rules:

21.1 Family allowances¹;

21.2 Expatriation allowance;

21.3 Installation allowance;

21.4 Rent allowance;

21.5 Acting allowance;

21.6 Language allowance;

21.7 Indemnity for loss of job;

21.8 Supplementary allowances approved by the Council for specific posts and functions.

¹ Including Education Allowance
REGULATION 22

BENEFITS

Staff members shall be paid, under the conditions laid down in the Staff Rules:

22.1 Sickness, maternity, accident and disablement benefits: the Staff Rules shall specify who is to receive these benefits in the event of the staff member's death;

22.2 Benefits due from the Pension Scheme or

22.2bis from the Provident Fund;

22.3 Subsistence allowances, and reimbursement of travel and removal costs incurred in the service of the Agency.
CHAPTER V

WORKING HOURS AND LEAVE
REGULATION 23

WORKING HOURS AND LEAVES

23.1 The working time of the staff of the Agency shall be laid down in the Staff Rules.

23.2

(i) Staff members may be required to work overtime or outside normal working hours.

(ii) Staff members of categories B and C shall be entitled to compensatory leave or payment for such work.

(iii) Staff members of category A/L shall not be granted compensation except:

- as compensatory rest periods, for work done at night or on public holidays or at weekends;

- in connection with special operations

(iii) The procedures for applying these provisions shall be laid down in the Staff Rules.

23.3 The public holidays to which a staff member shall be entitled shall be determined in accordance with local practice.

23.4 Staff members shall be entitled, under conditions to be laid down in the Staff Rules, to:

(i) Paid annual leave at the rate of 2.5 working days for each month of service.

(ii) Paid home leave at the rate of 8 working days once in every two years of service.

(iii) Paid sick leave for up to 6 months, and paid maternity and paternity leave:

- for the first and second child, up to 18 weeks for the mother.

- for the third child onwards, up to 26 weeks (28 weeks in the case of multiple births) for the mother.

- up to ten working days for the father.

(iv) Unpaid leave for up to one month per year for a period of compulsory military duty.
(v) Unpaid family care leave for up to two months for serious illness of a staff member's child, spouse, or parent and parental leave for up to a maximum of six months after the birth of a child.

23.5 The Director General may grant, under conditions laid down in the Staff Rules:

(i) Paid leave for up to 8 days per year for family reasons or in special circumstances.

(ii) Unpaid leave for up to two months for imperative or private reasons not covered by the above provisions.

23.6 In the cases covered by paragraphs 4 and 5 above, the staff member's post shall not fall vacant, and his qualification for advancement shall not be affected, except in the case covered by paragraph 5 (ii).

23.7 Staff members may be authorised to work part-time, under conditions laid down in the Staff Rules.

REGULATION 24

WORKING CONDITIONS

The Director General shall issue Instructions ensuring that the work premises meet the necessary health and safety requirements.
CHAPTER VI

DISCIPLINE
REGULATION 25

DISCIPLINARY SANCTIONS

25.1 Any failure on the part of a staff member to carry out his duties and obligations may constitute an offence liable to disciplinary action. Disciplinary action may also be taken against staff members who have made false statements when applying for employment.

25.2 The following disciplinary sanctions may be imposed by the Appointing Authority:

(i) warning
(ii) reprimand,
(iii) postponement of periodical advancement for a maximum of one year,
(iv) dismissal.

25.3 One sanction only may be awarded for one and the same offence.

REGULATION 26

PROCEEDINGS

26.1 Disciplinary proceedings shall begin with notification to the staff member concerned of a request for explanations regarding the offence with which he is reproached; this notification shall be in writing, not later than 15 working days following establishment of the fact that may give rise to a disciplinary sanction.

26.2 The staff member concerned shall be given a time limit of 8 working days, to supply explanations and justifications in reply to the notification referred to in paragraph 1 above.

26.3 Pursuant to Regulation 30.1 (i), the opinion of an Advisory Board must be sought before the Appointing Authority pronounces dismissal in accordance with Regulation 25.2 (iv).

26.4 No disciplinary sanction may be taken after expiry of a maximum period of 30 working days following reception of

- the explanation duly furnished by the staff member concerned, or
- the opinion of the Advisory Board, where applicable.

26.5 All sanctions shall be notified to the staff member in writing, with the reasons therefore, and shall be signed by the Appointing Authority.
26.6 If the sanction is one of the three mentioned in Regulation 25.2 (i), (ii) and (iii), the staff member may, after a period of three years, request that all evidence concerning the sanction be deleted from his personal file.

REGULATION 27

STAFF MEMBER'S RIGHTS TO REQUEST DISCIPLINARY PROCEEDINGS

A staff member who considers that an offence punishable under Regulation 25 is alleged against him may request that disciplinary proceedings be initiated in order that his position be clarified.

REGULATION 28

SUSPENSION PENDING FURTHER ACTION

28.1 Where there is a strong presumption of serious failure on the part of a staff member to carry out his duties or obligations, he may be suspended by the Director General pending further action.

28.2 The case of a suspended staff member must be decided within three months from the date on which he receives notification of suspension, except where the Advisory Board has been asked for its opinion in the matter and considers that an additional enquiry is necessary, or pending the result of penal proceedings.

28.3 Suspension has no other effect than to suspend a staff member from the performance of his duties.

REGULATION 29

IMPLEMENTATION

The implementation of Chapter VI, on Discipline, shall be governed by the Staff Rules.
CHAPTER VII

ADVISORY BOARD
REGULATION 30

COMPETENCE

30.1 The Director General shall be advised by an Advisory Board set up to deliver an opinion as provided hereunder:

(i) The opinion of an Advisory Board shall be sought by the Director General before deciding on a termination of appointment pursuant to Regulations 15.3 (ii), (iii), and 15.4 (v) or on a disciplinary dismissal pursuant to Regulations 15.2 and 25.2 (iv).

(ii) The opinion of an Advisory Board shall be sought when a staff member considers that a decision, other than those referred to in subparagraph (i) above, taken by the Director General concerning him, should be rescinded on one of the grounds stated in Regulation 33, which defines the competence of the Appeals Board; however, the parties may agree not to seek the opinion of the Advisory Board and in such event the claimant may submit his case directly to the Appeals Board.

30.2 The opinion of an Advisory Board may not be sought more than once in connection with one and the same case.

REGULATION 31

COMPOSITION AND DELIBERATIONS

31.1 An Advisory Board set up to examine a case pursuant to Regulation 30 shall comprise six members appointed from among the staff of the Agency. Half the members shall be appointed by the Director General, and the other half by the Staff Association. The members of the Board shall elect one of their number as Chairman.

31.2 The Advisory Board shall deliver its reasoned opinion unanimously. Failing this, the individual opinions of its members shall be communicated to the Director General.

31.3 The Advisory Board shall be completely independent in its deliberations; its meetings and its work shall be confidential.

31.4 The Advisory Board's reasoned opinion shall be communicated to the staff member concerned.
32.1 The procedure governing the intervention of the Advisory Board shall be laid down in the Staff Rules. It must ensure on the one hand the independence of the Board's deliberations, and on the other hand the right of both the staff member concerned and the representative of the Agency to be heard by the Board and develop all their arguments orally. Neither party may produce evidence without giving advance notification of it to the other party.

32.2 If unable, on valid grounds, to appear before the Board, the staff member concerned may arrange to be represented by another staff member.

32.3 Each of the parties may be assisted by a staff member.

32.4 The Board shall meet and deliberate in private.

32.5 The Staff Rules shall lay down the time limits within which the request must be made for the Board's opinion and within which the Board must meet. The Board shall deliver its opinion within one month.
CHAPTER VIII

DISPUTES
REGULATION 33

APPEALS BOARD – COMPETENCE

33.1 There shall be set up an Appeals Board, independent of the Agency, to hear disputes relating to any explicit or implicit decision taken by the Agency and arising between it and a staff member, a former staff member or persons entitled under him.

33.2 The Appeals Board shall rescind any decision against which there has been an appeal if the decision is contrary to the Staff Regulations, Rules or Instructions or to the claimant's terms of appointment or vested rights, and if the claimant's personal interests are affected.

33.3 The Appeals Board may also order the Agency to repair any damage suffered by the claimant as a result of the decision referred to in paragraph 2 above.

33.4 Should the Agency - or the claimant - maintain that execution of a rescinding decision would raise major difficulties the Appeals Board may, if it considers the argument valid, award compensation to the claimant for the damage he has suffered.

33.5 The Appeals Board shall also be competent in the case where a staff member wishes to sue another staff member and such action has been prevented by the Director General's refusal to waive the immunity of the latter.

33.6 The Appeals Board shall also be competent to settle disputes concerning its jurisdiction, as defined in these Regulations, or any question of procedure.

REGULATION 34

COMPOSITION – INCOMPATIBILITIES

34.1 The Appeals Board shall consist of six members of different nationalities, appointed by the Council in accordance with a procedure to be laid down by the Council.

34.2 The members of the Appeals Board shall be independent; they shall not be members of the staff of the Agency nor of a delegation of a Member State. They shall not seek or accept instructions from anyone whatsoever.

34.3 The members of the Appeals Board shall be appointed by the Council for six years. Their appointments may be renewed.
REGULATION 35

PRIVILEGES AND IMMUNITIES

The members of the Appeals Board shall enjoy the privileges and immunities provided for in Article XVII of Annex I to the Convention for the establishment of the Agency.

REGULATION 36

APPOINTMENT

36.1 Before entering upon his duties, each member of the Appeals Board shall take an oath in the Council to perform his duties impartially and conscientiously and to preserve the secrecy of the Board's deliberations.

36.2 The detailed terms of appointment shall be laid down in a letter of appointment to be agreed by the Council and to be signed by the Chairman of the Council.

REGULATION 37

RESIGNATION

Should a member of the Appeals Board resign before the expiry of the period referred to in Regulation 34.3 his letter of resignation shall be addressed to the Chairman of the Council.

This notification shall constitute vacation of office; however, the member of the Appeals Board concerned may be required to continue in office until his successor has taken up his duties.

REGULATION 38

DISMISSAL

A decision to dismiss a member of the Appeals Board from office can only be taken by the Council upon a unanimous recommendation by all the other members of the Board.
REGULATION 39

CHAIRMANSHP

39.1 The members of the Appeals Board shall, every two years, designate two from amongst their number as their Chairman and his deputy.

39.2 The Chairman shall ensure observance of the rules of procedure and establish the agenda of the Board's meetings.

REGULATION 40

REGISTRAR – FACILITIES – OFFICIAL SEAT

40.1 The Council shall appoint a staff member to serve as the Registrar of the Appeals Board. The Registrar shall in particular be responsible for matters of current administration of the Appeals Board and for all communications. The Council shall appoint another staff member as deputy Registrar, who shall perform the same duties as the Registrar if the latter should be unavoidably prevented. Before taking up their duties the Registrar and deputy Registrar shall take an oath in the Council as laid down in Regulation 36.1.

In the discharge of his duties the Registrar shall be subject to the Authority of the Appeals Board only.

40.2 The Agency shall provide for all necessary facilities in order to ensure the functioning of the Appeals Board.

40.3 The Appeals Board shall have its official seat at the Headquarters of the Agency; it may meet at other places if necessary.

REGULATION 41

RULES OF PROCEDURE

Rules of procedure shall be laid down in the Staff Rules for the implementation of Chapter VIII of the Staff Regulations. They must conform with the following principles:

41.1 The sessions of the Appeals Board shall be arranged by the Chairman of the Appeals Board, bearing in mind the need to take decisions as soon as possible on all cases submitted to it.
CHAPTER IX

STAFF REPRESENTATION
REGULATION 42

TERMS OF REFERENCE OF THE STAFF ASSOCIATION

42.1 The Staff Association shall represent the whole of the staff of the Agency together with all other persons to whom these Regulations apply.

42.2 The Staff Association, acting through a Central Staff Committee for the staff as a whole and a Local Staff Committee for the staff of each Establishment, shall:

(i) protect the interests of staff members, especially as regards the conditions and continuity of their employment, and appoint the staff representatives on the bodies provided for this purpose;

(ii) promote cooperation between the staff and the Administration with a view to improving general working conditions, and to this end submit to the Director General any proposal it deems appropriate;

(iii) strive to help to improve the living standards of the staff and strengthen the links between staff members of different nationalities; to this end it shall take part in the management and supervision of all services set up in the interests of the staff, in accordance with the provisions of the Regulations creating these;

(iv) advise the Appointing Authority, at the request of a staff member, in all circumstances where the latter considers that an administrative decision is or could be unfair to him or her or conflict with the terms of his or her appointment;

(v) take part, under the procedure set out in Regulation 46, in amending the Regulations, Rules or Instructions; it may in particular propose any draft amendment. The Central Staff Committee may, via the Director General, make known to the Council or the Administrative and Finance Committee its view on a proposed amendment to the Regulations or Rules;

(vi) take part, under the procedure laid down for this purpose in Regulation 46, in the examination of any measure affecting the working conditions of the whole, a group or a category of the Agency’s staff.

It may, in conformity with this procedure, make known its opinion to the body invested with power of decision, via the Director General if appropriate;

(vii) attend, in the person of its Chairman or his representative, meetings of the body invested with the power of decision when proposed amendments to the Regulations or Rules or matters affecting the conditions of employment are being discussed. On such occasions the Staff Association representative shall be able to express the staff’s viewpoint, subject to the permission of the Chairman of the body concerned;

(viii) express the views of ESA staff at any meetings to which it has been invited.
REGULATION 43

WORK OF THE STAFF REPRESENTATIVES

The work of the members of the Staff Committees shall be considered to be part of their official duties. It shall be carried out under conditions laid down in the Staff Rules.

REGULATION 44

LOCAL COMMITTEES AND CENTRAL COMMITTEE

44.1 The members of each Local Committee shall be elected by the staff of the Establishment concerned, by secret ballot, for a period of three years, one third of the seats on the committee being filled each year.

44.2 The election of a Local Staff Committee shall be valid if at least one half of the staff of the Establishment has participated in the election. Failing this, a second ballot shall take place, the result of which shall be valid irrespective of the percentage of participation.

44.3 Staff representation shall be provided for at every duty station at which there are more than 20 staff members serving for more than a year.

44.4 The Central Staff Committee shall comprise one representative from each Establishment; if the Establishment has a staff of more than 200, it will send one or two additional representatives to the Central Committee, under terms laid down in the Staff Rules.

44.5 The representatives of the Local Staff Committees on the Central Staff Committee shall be elected by the Local Staff Committees; they shall hold office for one year but will be eligible for re-election.

REGULATION 45

CHAIRMANSHP

45.1 The members of each Local Staff Committee shall elect a chairman; furthermore, the Central Staff Committee shall elect its Chairman. The Chairmen of the Local Committees and of the Central Committee shall hold office for one year.
45.2 The Chairman of the Central Staff Committee shall ex officio be President of the Staff Association.

REGULATION 46

PROCEDURE FOR NEGOTIATION

46.1 Procedures shall be instituted for negotiation between the Director General and the Staff Association. For this purpose, a Central Joint Committee shall be set up at central level and a Local Joint Committee in each Establishment.

46.2 All measures that affect the conditions of employment of the whole, a group or a category of the Agency's staff, and in particular any draft amendment to the Staff Regulations, Rules and Instructions, shall form the subject of a procedure of negotiation within the Central Joint Committee.

All measures that affect the local employment and working conditions in an Establishment shall form the subject of a procedure of negotiation within the relevant Local Joint Committee.

46.3 When the Joint Committee concerned reaches a consensus, the Director General or Head of Establishment shall take the relevant decision or propose the draft amendment or measure to the body competent to take the decision, accompanied where appropriate with his own comments and/or those of the Staff Committee.

46.4 If no consensus is reached in the Central Joint Committee, recourse shall be had to a procedure of negotiation within a restricted body. A Joint Panel shall be set up for this purpose.

46.5 If no consensus is reached in the Central Joint Committee after it has examined the conclusions of the Joint Panel on any draft amendment submitted by the Central Staff Committee or on any other measure affecting the conditions of employment and proposed by either the Director General or the Central Staff Committee, the Director General shall submit the proposed measure or amendment to the body invested with the power of decision, accompanied where appropriate with his own comments and/or those of the Central Staff Committee.

This submission shall be made without delay, at the request of the party that has proposed the measure in question.

46.6 If no consensus is reached in the Central Joint Committee after it has examined the conclusions of the Joint Panel on any draft amendment proposed by the Director General, this draft shall be submitted to a conciliation procedure. A Conciliation Board, as defined in Regulation 49, shall be set up for this purpose. The report from the Conciliation Board shall be examined by the Central Joint Committee.

If no consensus is reached in the Central Joint Committee after it has examined the report from the Conciliation Board, the Director General may put his draft amendment to the Staff Regulations or Rules before the competent bodies. He shall at the same time forward the comments of the Central Staff Committee, together with the report from the Conciliation Board.
If no consensus is reached in the Central Joint Committee after it has examined the report from the Conciliation Board, the Director General may promulgate an amendment to the Instructions, setting out his reasons. He shall forward a statement of these reasons to the Central Staff Committee.

46.7 Any amendment to Regulations 46 and 49 and Rule 46/4 may be proposed to the competent body only with the agreement of the Central Joint Committee.

REGULATION 47

SPECIAL PROVISIONS

Special provisions designed to supplement Regulations 42 to 46 shall be laid down in Instructions issued by the Director General and shall state:

47.1 which staff members shall be entitled to elect representatives and to stand for election;

47.2 the conditions and frequency of elections of staff representatives;

47.3 the facilities to be granted by the Agency to the members of the Staff Association;

47.4 the time limit for the statement of an opinion, due account being taken of the complexity and urgency of the matter referred to the Association;

47.5 the voting rules regarding opinions for which the Association is asked.

REGULATION 48

RIGHT OF ASSOCIATION

The freedom of association of the staff is recognised; however, within the Agency, representation of the staff shall be exclusively assured by the Staff Association in conformity with Regulation 42.

REGULATION 49

CONCILIATION BOARD

49.1 The Conciliation Board shall be competent to draw up a report giving its proposals for a solution on drafts submitted by the Director General that have been unable to win a consensus during the negotiation procedure set out in Regulation 46.6.
49.2 The Conciliation Board shall comprise six members appointed by the Central Joint Committee in accordance with Rule 46/2 (ii). The Council shall be informed hereof and of appointments in accordance with Regulation 49.7.

49.3 The members of the Conciliation Board shall be independent; they may not be members of the Agency’s staff, nor of a delegation of a Member State. They shall neither seek nor accept instructions from whatever quarter.

49.4 The members of the Board shall be appointed for a period of 6 years; the conditions of appointment shall be set out in a letter, the terms of which shall be approved by the Central Joint Committee then signed by the Director General. Their term of office may be renewed.

49.5 Members of the Conciliation Board shall enjoy the privileges and immunities provided for under Article XVII of Annex I to the Convention establishing the European Space Agency.

49.6 Before taking office members of the Conciliation Board shall undertake in writing to carry out their duties impartially and conscientiously and to keep the Board’s deliberations secret.

49.7 If a member of the Board wishes to resign before the end of the term of office, a letter of resignation must be sent to the Director General. A replacement shall be appointed by the Central Joint Committee in accordance with Rule 46/2 (ii) at its next meeting following reception of the letter of resignation.

The same provision shall apply if a member of the Conciliation Board dies or becomes unable to carry out his duties.

Other than in cases of force majeure, a Board member resigning shall be obliged to take part in the examination of a matter if, prior to notifying resignation, he was appointed by the Chairman under Regulation 49.11.

49.8 A decision to remove one of the members of the Conciliation Board from office may be taken only by the Central Joint Committee, on the unanimous recommendation of the rest of the Board.

49.9 The members of the Conciliation Board shall, every two years, appoint two of their number as Chairman and Deputy Chairman respectively.

The Chairman shall ensure that the rules of procedure, and in particular Regulation 49.6, are observed.

49.10 The Director General shall appoint a staff member to act as Secretary to the Board, and shall make available to the latter all the material facilities he needs for carrying out his work.

Before taking office, the Secretary to the Conciliation Board shall undertake in writing to carry out his duties impartially and conscientiously and to keep the Board’s deliberations secret.
The Conciliation Board shall normally sit at ESA Headquarters; it may hold meetings elsewhere if necessary.

49.11 The Director General shall bring a matter to the Conciliation Board if the Central Joint Committee has been unable to reach a consensus after examining the conclusions of the Joint Panel.

He shall, to this end, pass the items in the file to the Secretary to the Board.

For examining each question the Board shall comprise its Chairman and two members appointed by the Chairman on the grounds of their special experience in the field on which the matter bears.

The Board shall hear the comments of the Director General and Central Staff Committee, who may also submit written comments. The Board may have any enquiries carried out that it deems necessary, and call on the parties to produce any document and supply any information it deems useful.

The Board shall draw up a report, giving its proposals for a solution. This report shall be adopted by majority vote. Each member of the Board may append his individual opinion.

The report shall be submitted to the Central Joint Committee.

The Conciliation Board shall meet in camera; its deliberations shall remain secret.

The Conciliation Board shall draw up its own rules of procedure, and shall be responsible for modifying them.
CHAPTER X

SPECIAL PROVISIONS FOR STAFF ON TRAINEESHIPS OR RESEARCH ASSIGNMENTS
REGULATION 50

STAFF ON TRAINEESHIPS OR RESEARCH ASSIGNMENTS

50.1 The term "young graduate trainees" refers to recently graduated scientists, engineers or administrators, appointed to traineeships within the Agency.

50.2 The term "internal research fellows" refers to scientists and engineers holding a doctorate or the equivalent, appointed to perform individual research or to participate in an existing research project within the Agency.

50.3 The Staff Regulations, Rules and Implementing Instructions shall apply to young graduate trainees and internal research fellows, except as otherwise provided in Regulation 51.

REGULATION 51

APPLICABLE REGULATIONS

The provisions in the following Regulations and the relevant implementing Rules and Instructions are not applicable to young graduate trainees and internal fellows, and are replaced by the Rules under this Chapter.

51.1 Regulation 6.2 "Appointing Authority and staff categories";

51.2 Regulation 7 "Recruitment";

51.3 Regulation 8 "Letter of appointment";

51.4 Regulation 9 "Duration of appointment";

51.5 Regulation 10 "Probationary period";

51.6 Regulation 11 "Re-assignment of staff";

51.7 Regulation 12 "Advancement";

51.8 Regulation 13 "Promotion";

51.9 Regulation 15 "Termination of appointment";

51.10 Regulation 16 "Resignation";

51.11 Regulation 17 "Age limit";

51.12 Regulation 18 "Non-active status";
51.13 Regulation 19 "Secondment";
51.14 Regulation 20.2, 20.3 and 20.4 "Emoluments";
51.16 Regulations 22.2 and 22.2 bis "Benefits";
51.17 Regulations 23.2, 23.4, 23.5 and 23.6 "Working hours and leaves".