



JOINT OSP AMENDMENT PROPOSAL

Joint Decision C(2019) 5685 – Local Agent Provident Fund (LAPF)

Position Paper for Social Dialogue with EEAS RM.BHR.5

September 2026

Note: This document incorporates outcomes of the Joint Staff Committees and BHR.5 meeting of 18 March 2026 and the updated LAPF financial figures as at 31 December 2025. Survey references draw on the March 2024 LAPF Staff Survey (1,065 respondents, 36% participation rate). All proposed article texts are offered as a working basis for negotiation, not final positions.

1. BACKGROUND AND LEGAL CONTEXT

Joint Decision C(2019) 5685 entered into force on 1 June 2020. Article 10(3) requires a five-year implementation assessment, due by June 2025. That deadline has passed without a formal review being launched.

At the joint meeting with BHR.5 on 18 March 2026, BHR.5 confirmed that social dialogue on LAPF reform will commence no later than Q1 2027 as part of a comprehensive package covering four instruments simultaneously: the Conditions of Employment, the LAPF decision, the LA Medical decision, and the salary adjustment methodology. The budget-neutrality constraint will apply across the package.

The above OSPs do not agree to the Q1 2027 start date, and is of the opinion that, since this comprehensive document is now made available to the Administration, the social dialogue must start in September 2026 at the latest. Due to global economic instability, there should be no further slippage, and the social dialogue must address substance, not just process. This document is submitted in advance of that dialogue to allow BHR.5 to begin internal arbitration with full knowledge of the OSP position.

2. EVIDENCE BASE

2.1 Staff survey (March 2024)

The LAPF Staff Survey, conducted in March 2024 with 1,065 respondents (approximately 36% of all affiliated members), provides a statistically representative mandate for reform. Respondents mirror the broader Local Agent population across geography, function group, and age.

Issue	Result	Implication
Continue employer-provided Provident Fund	>81% YES	Strong mandate to improve, not abolish
Early withdrawal before end of employment	>70% YES (53% partial, 17% total)	Core amendment required; needs revised legal basis
Governance: change from Joint Advisory Committee	>85% want change	Co-decision model (48%) or broader member participation (38%)
Risk profile: describes self as risk-averse	64% risk-averse	Conservative mandate broadly aligned; capital guarantee needed
Smoothing mechanism for returns	53% YES (slight majority)	No consensus on method; reserve mechanism feasible
Centrally managed assets	~70% YES	Current model broadly supported; mandate review needed

2.2 Financial position as of 31 December 2025

BHR.5 presented the following figures at the 18 March 2026 meeting:

- Investment portfolio (DG BUDG managed): €112.4 million
- Extra-budgetary (HB) liquidity account: €11.9 million
- 2025 return: +2.6%; three consecutive positive years (~3.5%, ~3.5%, ~2.6%)
- Portfolio composition: predominantly high-quality sovereign bonds, 1–3-year maturity; YTM ~2.5%
- H1 2026 projected return: ~1.9% (95% CI: –1.2% to +5.0%)
- Monthly inflow (contributions): ~€1 million; outflow (settlements): ~€600,000

A limited number of members received less than their total contributions in 2022 (the most recent year of net negative performance). BHR.5 expressed confidence that the current position is materially stronger but cannot provide a formal guarantee under the existing legal basis.

Key finding from the 18 March 2026 meeting: BHR.5 confirmed that (a) a contribution guarantee mechanism and (b) early/emergency withdrawal rights are both recognised as priority items for the 2027 social dialogue package, but both require a revised legal basis. These two items form the minimum acceptable outcome for the above OSPs.

3. PROPOSED AMENDMENTS TO JOINT DECISION C(2019) 5685

Amendments A1 through A11 are presented as a single integrated package. The Joint Decision must be opened in its entirety for revision; partial amendment would leave structural deficiencies unaddressed. Each amendment is self-standing in legal terms, but the package is designed to be coherent. Where BHR.5 has explicitly acknowledged an item at the 18 March 2026 meeting, this is noted in the justification column.

In many countries, the Provident Fund constitutes the only retirement benefit available to Local Agents and may therefore represent their sole source of income throughout retirement. It is essential to safeguard the Provident Fund by ensuring that all contributions made by both the employee and the employer are protected against any contingencies and remain secure throughout the employee's service and until retirement.

Amendment A1: Contribution guarantee (Article 6 – new paragraph 6)

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 6 (new §6)	<i>Article 6 contains no guarantee that members will recover at minimum their own and employer contributions. Returns may be negative (as documented in 2022).</i>	<i>Add Article 6(6): 'The administrative manager shall ensure that, upon settlement of individual rights, the total amount received by the affiliated member shall not be less than the sum of employer and employee contributions made on their behalf over the entire period of affiliation. Where investment returns are insufficient to meet this guarantee, the shortfall shall be covered from the collective reserve fund established under Article 6a.'</i>	Survey: 64% risk-averse; BHR.5 explicitly confirmed this as an item requiring a revised legal basis (18 March 2026, Item 2). A limited number of members received less than contributions in 2022. LAPF constitutes deferred salary; loss of capital is structurally incompatible with Article 121 CEOS mandate.

Amendment A2: Collective reserve fund (Article 6 – new Article 6a)

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 6a (new)	<i>No collective reserve or smoothing mechanism exists. Positive returns above a threshold are fully credited to individual accounts without retention.</i>	<i>Add Article 6a: 'The administrative manager shall establish and maintain a Collective Reserve Fund. Annual returns exceeding a threshold agreed with the Inter-Institutional Joint Management Committee shall be partially retained in the Reserve Fund, up to a cap of 5% of total fund assets. The Reserve Fund shall be used to: (a) cover contribution guarantee shortfalls under Article 6(6); (b) fund emergency withdrawal processing; (c) smooth volatility over rolling three-year periods.'</i>	Survey: 53% support a smoothing mechanism (slight majority); no consensus on method. A reserve-based approach is more flexible than fixed-rate smoothing and does not require additional employer contributions in most years.

Amendment A3: Partial withdrawal during employment (Article 7 – new paragraph 1a)

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 7 (new §1a)	<i>Article 7(1) restricts settlement to employment termination. No mechanism exists for withdrawal during the contract period,</i>	<i>Add Article 7(1a): 'Affiliated members who have completed five or more years of continuous affiliation may request a partial withdrawal of up to 30% of their accumulated individual rights once per rolling three-year period.'</i>	Survey: >70% want withdrawal before end of employment (53% partial). BHR.5 explicitly confirmed early and emergency withdrawal rights as an item requiring a revised legal basis (18 March 2026, Item 2). Case of

	<i>regardless of length of service or financial need.</i>	<i>Minimum withdrawal: €1,000. The member shall provide 30 days advance written notice. Withdrawal shall be processed within 30 working days of the request. Following withdrawal, contributions resume at the standard rate and the withdrawn amount is not repaid to the fund.'</i>	member who died within one year of contract termination without access to fund raised at the same meeting by EEAS SC.
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Amendment A4: Emergency withdrawal (Article 7 – new paragraph 1b)

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 7 (new §1b)	<i>No emergency access exists. Current Article 7 provides no mechanism for life events such as medical emergencies, natural disaster or critical family circumstances.</i>	<i>Add Article 7(1b): 'An affiliated member may withdraw up to 100% of accumulated individual rights in any of the following documented emergency circumstances: (a) medical emergency requiring substantial and immediate expenditure; (b) natural disaster affecting the member's primary residence; (c) death of a dependent. Emergency requests shall be processed within 10 working days of submission of supporting documentation. The administrative manager shall publish a list of accepted documentary proofs.'</i>	BHR.5 explicitly confirmed early and emergency withdrawal rights as an item requiring a revised legal basis (18 March 2026, Item 2). Survey: >70% support early withdrawal. Emergency access carries a distinct humanitarian rationale independent of asset management preferences.

Amendment A5: Death benefit – immediate access for legal heirs (Article 7(3))

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 7(3)	<i>Article 7(3) provides only that amounts 'shall be paid to the legal heirs within a reasonable time in accordance with local law and practice.' No maximum deadline is specified; no provision for immediate partial payment pending probate.</i>	<i>Amend Article 7(3): 'In the event of the death of an affiliated member, the administrative manager shall make an immediate provisional payment of 50% of the estimated individual rights to the documented surviving spouse or primary dependant within 30 days, pending identification of legal heirs. Full settlement shall be completed within six months of the date of death. Where local probate procedures extend beyond six months, the administrative manager shall continue provisional payments at the request of the next of kin.'</i>	Case raised at 18 March 2026: member died within one year of contract termination without accessing fund. Current formulation 'within a reasonable time' is insufficiently protective of bereaved families. Provisional payment mechanism avoids hardship while probate is pending.

Amendment A6: Late payment interest (Article 7 – new paragraph 7)

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 7 (new §7)	<i>Article 7(1) requires payment ‘no later than three months from the last day of employment’ but prescribes no remedy for delays. Cases of 5–9 month settlement delays have been documented.</i>	<i>Add Article 7(7): ‘Where settlement of individual rights is not completed within the three-month deadline in Article 7(1), interest shall accrue automatically on the outstanding amount from the day following deadline expiry. The interest rate shall be the European Central Bank main refinancing rate plus two percentage points, calculated monthly. Interest shall be paid from the administrative budget of the responsible institution, not from fund assets. The administrative manager shall report annually to the Inter-Institutional Joint Management Committee on the number of delayed settlements and aggregate interest costs.’</i>	Consistent with EU Late Payment Directive principles. Interest charged to administrative budget (not fund assets) creates accountability incentive. Annual reporting requirement ensures transparency and escalation path.

Amendment A7: Reformed governance – strengthened staff representation (Article 4)

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 4	<i>The administrative manager ‘lays down General Rules after having consulted an Inter-Institutional Joint Management Committee.’ Staff representatives participate in consultation only; no co-decision or veto right.</i>	<i>Amend Article 4: ‘The administrative manager shall lay down and revise General Rules after reaching agreement with a Joint Advisory Board comprising equal representation of administrative managers (Commission and EEAS) and elected representatives of affiliated members nominated by the staff committees party to this Decision. Substantive amendments to investment guidelines, contribution rates, and withdrawal conditions shall require affirmative vote of the Board. For matters of day-to-day administration, the consultation procedure applies.’</i>	Survey: >85% want governance change; 48% specifically support co-decision Admin/Staff model. Current consultation-only model has demonstrably failed to prevent investment losses and delayed structural reforms. Agreement-based model mirrors Joint Committee structures in other EU social security instruments.

Amendment A8: Investment mandate review and transparency (Article 4 – new paragraph)

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 4 (new §2)	<i>The investment mandate (conservative: short-duration sovereign bonds, delegated to DG BUDG) is not specified in the Joint Decision itself. Any revision requires formal</i>	<i>Add to Article 4: ‘The investment mandate for the LA-Provident Fund shall be reviewed by the Joint Advisory Board no less than every three years, with reference to prevailing market conditions, membership risk preferences as</i>	Raised at 18 March 2026 by Staff Committees: questioned whether conservative mandate remains appropriate. Investment report visibility was reduced when reports were moved from intranet

	<i>consultation in the Joint Committee on Social Security; no transparency obligation to members exists in the Decision.</i>	<i>evidenced by periodic surveys, and the fund's long-term obligations. The administrative manager shall publish an annual investment report, including asset allocation, performance against benchmark, and projected contribution guarantee liability, in a format accessible to all affiliated members.'</i>	during a revamp. HR Hub module (due April 2026) is welcome but insufficient – individual statements do not replace fund-level transparency.
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Amendment A9: Double taxation of contributions (Article 6 – new paragraph)

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 6 (new §7)	<i>Contributions are made from post-tax salary in numerous jurisdictions, then taxed again upon settlement. In Bangladesh, for example, PF tax exemption requires NBR-recognised fund status with trustee structures structurally incompatible with EU financial rules, resulting in effective double taxation of approximately 30%+.</i>	<i>Add Article 6(7): 'The administrative manager shall, in cooperation with Delegations, take all reasonable measures to mitigate double taxation of LA-Provident Fund contributions and settlement payments. Where bilateral tax treaties or local regulatory frameworks create unavoidable double taxation, the administrative manager shall assess the feasibility of supplementary compensation mechanisms. The administrative manager shall report to the Inter-Institutional Joint Management Committee on identified double taxation situations and measures taken no later than two years from the entry into force of this revised Decision.'</i>	Raised in OSP/USHU plenary preparations (March 2026) and in delegation contributions (Bangladesh). Under Bangladesh Income Tax Act 2023, Section 6 Part 3 Second Schedule, PF tax exemption requires NBR-recognised fund structure incompatible with EU rules. This is a systemic equity issue affecting multiple countries.

Amendment A10: Periodic review obligation (Article 10(3))

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 10(3)	<i>'The implementation of this Decision will be assessed at the end of a period of five years following its entry into force. In light of the results of this assessment, this Decision may be reviewed as appropriate.'</i> Five-year review was due June 2025 and has not commenced.	<i>Amend Article 10(3): 'The implementation of this Decision shall be assessed every five years from its entry into force. The first assessment shall be completed no later than 31 December 2026. BHR.5 shall present findings to the Inter-Institutional Joint Management Committee and the staff committees party to this Decision within three months of the assessment's completion. Social dialogue on any revision shall commence within six months of the assessment. Where the assessment identifies material</i>	The review deadline of June 2025 passed without action. BHR.5 acknowledged at 18 March 2026 that the obligation is to start, not complete, by the deadline – but has not yet started. A revised, enforceable review cycle with explicit social dialogue trigger prevents recurrence of the current seven-year gap.

		<i>failures in contribution protection or member access rights, an emergency review may be triggered by the staff committees at any time, requiring a response from the administrative manager within three months.'</i>	
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Amendment A11: Transition to locally recognised provident fund scheme (Article 2 – new paragraph 4)

Article	Current Text (summary)	Proposed Amendment	Justification
Art. 2 (new §4)	<i>Article 2(2) permits the administrative manager to exceptionally authorise affiliation to an alternative local scheme, but only where LAPF affiliation is not possible or feasible. This is an administrative exception; no staff-initiated or majority-triggered pathway exists. Locally recognised PF schemes that would resolve structural issues such as double taxation cannot be accessed on member request.</i>	<i>Add Article 2(4): 'Where a majority of affiliated local staff at a Delegation formally request, through the Delegation Staff Representative, affiliation to a locally recognised provident fund scheme in lieu of the LA-Provident Fund, the administrative manager shall assess the request within three months. Approval shall be granted where: (a) the requested scheme is legally recognised under applicable local law; (b) employer contributions are no less than those applicable under the LA-Provident Fund; (c) individual rights already accrued under the LA-Provident Fund are transferred or preserved without loss. The administrative manager shall favour collective solutions consistent with Article 2(2). Once authorised, reversion to the LA-Provident Fund may be requested by the same majority procedure after a minimum period of five years.'</i>	Proposed by EEAS SC (Sumeet Thakkar and BEDBAK Srikrishna Bedbak). Complements A9 (double taxation): in jurisdictions such as Bangladesh, a locally recognised PF is the structural remedy that dissolves the double taxation problem where the central fund cannot obtain NBR recognition. The majority requirement ensures democratic legitimacy; the three conditions protect accrued rights and employer cost neutrality. The five-year lock-in before reversion prevents financial instability in the central fund. Where there is an obligation or an option (like the case of India) for local agents to contribute to a local provident fund, subject to appropriate safeguards, the Administration shall ensure that local agents have been properly informed and, where participation is not mandatory, have agreed to transfer to the local fund.

4. SUMMARY OF PROPOSED AMENDMENTS

The table below lists all eleven proposed amendments. The ‘BHR.5 signal’ column records explicit acknowledgements made at the joint meeting with BHR.5 on 18 March 2026 where applicable; all amendments require a revised Joint Decision regardless of whether BHR.5 has pre-signalled them.

Ref.		Article(s) affected	BHR.5 signal (18 Mar 2026)	Survey / evidence basis
A1	Contribution guarantee	<i>Art. 6 (new §6)</i>	Explicitly confirmed as requiring revised legal basis	64% risk-averse; deferred salary principle; 2022 losses documented
A2	Collective reserve / smoothing fund	<i>Art. 6a (new)</i>	Not yet addressed	53% support smoothing; reserve mechanism preferred over fixed indexation
A3	Partial withdrawal during employment	<i>Art. 7 (new §1a)</i>	Explicitly confirmed as requiring revised legal basis	>53% want partial withdrawal; >70% want pre-termination access
A4	Emergency withdrawal	<i>Art. 7 (new §1b)</i>	Explicitly confirmed as requiring revised legal basis	Humanitarian; >70% survey support; Staff Committees case raised at meeting
A5	Death benefit – provisional payment to heirs	<i>Art. 7(3)</i>	Not yet addressed; case raised by Staff Committees	Member died within 1 year of contract end; ‘reasonable time’ insufficient
A6	Late payment interest	<i>Art. 7 (new §7)</i>	Not yet addressed	Documented 5–9-month settlement delays; EU Late Payment principles
A7	Reformed governance – co-decision model	<i>Art. 4</i>	Not yet addressed	>85% want governance change; 48% support co-decision model
A8	Investment mandate review and transparency	<i>Art. 4 (new §2)</i>	Raised by Staff Committees; BHR.5 noted formal consultation required	Staff Committees questioned conservative mandate; report visibility reduced
A9	Double taxation remedy	<i>Art. 6 (new §7)</i>	Not yet addressed; raised in plenary preparations	Bangladesh (Income Tax Act 2023); systemic issue across multiple countries
A10	Revised review cycle	<i>Art. 10(3)</i>	June 2025 deadline acknowledged as passed	Five-year review overdue; legal accountability gap established
A11	Transition to locally recognised provident fund scheme	<i>Art. 2 (new §4)</i>	Not yet addressed; proposed by EEAS SC	Majority-triggered staff agency; complements A9 on double taxation; protects accrued rights and employer cost neutrality

5. PROCESS COMMITMENTS SOUGHT FROM BHR.5

In parallel with the substantive amendments, the above OSPs request the following process commitments:

- A firm timetable for the social dialogue: commencement date, indicative number of sessions, and expected timeline for conclusion.

- Confirmation that staff committees receive BHR.5's internal assessment document (reflecting internal arbitrations) at least eight weeks before the first social dialogue session.
- Prior to the social dialogue, a dedicated LAPF information session for all OSP members and Staff Committee representatives, covering updated financial figures and modelling of the proposed amendments' budgetary impact.
- Proactive notification, within two weeks, if the September 2026 start date cannot be met.
- Confirmation of the current delivery status of the HR Hub LAPF self-service module, which was committed for end-April 2026 at the 18 March 2026 meeting.