

I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC, EURATOM, ECSC) No 2688/95

of 17 November 1995

introducing special measures to terminate the service of officials of the European Communities as a result of the accession of Austria, Finland and Sweden

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing a Single Council and a Single Commission of the European Communities, and in particular Article 24 thereof,

Having regard to the proposal made by the Commission after consulting the Staff Regulations Committee⁽¹⁾,

Having regard to the opinion of the European Parliament⁽²⁾,

Having regard to the opinion of the Court of Justice⁽³⁾,

Having regard to the opinion of the Court of Auditors⁽⁴⁾,

Whereas, following the accession of Austria, Finland and Sweden, the composition of the Community civil service needs to be adjusted;

Whereas new posts have been granted to the institutions by the budgetary authority for this purpose;

Whereas, however, the European Parliament has made known that, as far as it is concerned, it intends to carry out this adjustment by resorting almost exclusively, as from 1996, to special measures to terminate service;

Whereas it is therefore appropriate to adopt such special measures for officials of the European Parliament,

HAS ADOPTED THIS REGULATION:

Article 1

In the interests of the service, and in order to take account of requirements resulting from the accession of

Austria, Finland and Sweden to the European Union, the European Parliament is hereby authorized, until 30 June 2000, to adopt measures terminating the service of officials who have reached the age of 55, with the exception of those in grades A1 and A2, under the conditions specified in this Regulation.

Article 2

1. The number of officials regarding whom the measures referred to in Article 1 may be taken shall be seventy.

2. The number of officials eligible for such termination of service measures in each of the following periods shall be as follows:

- 14 for the period from 1 July 1995 to 30 June 1996,
- 14 for the period from 1 July 1996 to 30 June 1997,
- 14 for the period from 1 July 1997 to 30 June 1998,
- 14 for the period from 1 July 1998 to 30 June 1999,
- 14 for the period from 1 July 1999 to 30 June 2000.

Article 3

In the interests of the service in connection with enlargement, the European Parliament shall, within the limits laid down in Article 2 and after consulting the Joint Committee, select officials to whom the measures terminating their service under Article 1 shall be applied, after giving staff the opportunity to express their interest.

For this purpose it shall take into consideration the age, ability, efficiency, conduct in the service, family situation and seniority of the officials. Minimum seniority of 10 years shall be required.

Under no circumstances may these measures be applied without the consent of the official concerned.

⁽¹⁾ OJ No C 246, 22. 9. 1995, p. 23.

⁽²⁾ OJ No C 287, 30. 10. 1995.

⁽³⁾ Opinion delivered on 25 September 1995 (not yet published in the Official Journal).

⁽⁴⁾ Opinion delivered on 26 October 1995 (not yet published in the Official Journal).

Article 4

1. A former official affected by the measure provided for in Article 1 shall be entitled to a monthly allowance equal to 70 % of the basic salary for the grade and step held at the time of departure, determined by reference to the table set out in Article 66 of the Staff Regulations, in force on the first day of the month for which the allowance is payable.

2. Entitlement to the allowance shall cease not later than the last day of the month in which the former official attains the age of 65 and in any event as soon as the former official, before reaching that age, is eligible for the maximum retirement pension.

At that point, the former official shall automatically receive a retirement pension, which shall take effect on the first day of the calendar month following the month in which the allowance was paid for the last time.

3. The allowance provided for in paragraph 1 shall be weighted at the rate fixed in accordance with the second subparagraph of Article 82 (1) of the Staff Regulations for the country situated inside the Community where the recipient proves he has his residence.

If the recipient of the allowance establishes his residence in a country outside the Community, the weighting of 100 shall be applied.

The allowance shall be expressed in Belgian francs. It shall be paid in the currency of the country of residence of the recipient. However, if it is subject to the weighting of 100 under the second subparagraph, it shall be paid in Belgian francs.

Allowances paid in a currency other than the Belgian franc shall be calculated on the basis of the exchange rates specified in the second subparagraph of Article 63 of the Staff Regulations.

4. Where gross income accruing to the former official from any new employment, when combined with the allowance provided for in paragraph 1, exceeds the total gross remuneration last received by the official, determined by reference to the salary scales in force on the first day of the month for which the allowance is payable, the amount of the excess shall be deducted from that allowance. That remuneration shall be weighted as provided for in paragraph 3.

Gross income and total gross remuneration last received, as referred to in the first subparagraph, shall mean sums paid after deduction of social security contributions but before deduction of tax.

The former official concerned shall provide any written proof which may be required and shall notify the institution of any factor which may affect his right to the allowance.

5. As set out in Article 67 of the Staff Regulations and Articles 1, 2 and 3 of Annex VII to the Staff Regulations, family allowances shall be paid either to the recipient of the allowance provided for in paragraph 1 or to the person or persons to whom custody of the child or children has been entrusted by law or by an order of court or of the competent administrative authority; the household allowance shall be calculated by reference to that allowance.

6. Recipients of the allowance shall be entitled, in respect of themselves and persons covered by their insurance, to benefits under the sickness insurance scheme provided for in Article 72 of the Staff Regulations, provided they pay the relevant contribution, calculated on the basis of the allowance provided for in paragraph 1, and are not covered by another sickness insurance scheme by virtue of legal or statutory provisions.

7. During the period for which he is entitled to receive the allowance, the former official shall continue to acquire further rights to retirement pension based on the salary attaching to his grade and step, provided that the contribution provided for in the Staff Regulations by reference to that salary is paid during that period and provided that the total pension does not exceed the maximum specified in the second subparagraph of Article 77 of the Staff Regulations. For the purposes of Article 5 of Annex VIII to the Staff Regulations and Article 108 of the former Rules and Regulations of the European Coal and Steel Community, such period shall be considered to be a period of service.

8. Subject to Articles 1 (1) and 22 of Annex VIII to the Staff Regulations, the surviving spouse of a former official who dies while in receipt of the monthly allowance provided for in paragraph 1 shall be entitled, provided that he or she has been his or her spouse for at least one year when the former official left the service of the institution, to a survivor's pension equal to 60 % of the retirement pension which, irrespective of length of service or age, would have been payable to the former official if he or she had qualified for it at the time of death.

The survivor's pension referred to in the first subparagraph shall not be less than the amounts specified in the second subparagraph of Article 79 of the Staff Regulations. However, in no case may it exceed the amount of the first payment of the retirement pension to which the former official would have been entitled had he survived and been granted a retirement pension when he ceased to be eligible for the allowance referred to above.

The duration of the marriage referred to in the first subparagraph shall not be taken into account if there are one or more children of a marriage contracted by the former official before he or she left the service, provided that the surviving spouse maintains, or has maintained, those children.

The same shall apply if the former official's death resulted from one of the circumstances referred to at the end of the second subparagraph of Article 17 of Annex VIII to the Staff Regulations.

9. On the death of a former official in receipt of the allowance provided for in paragraph 1, dependent children within the meaning of Article 2 of Annex VII to the Staff Regulations shall be entitled to an orphan's pension on the conditions set out in the first, second and third subparagraphs of Article 80 of the Staff Regulations and in Article 21 of Annex VIII to the Staff Regulations.

10. For the purposes of Article 107 of the Staff Regulations and of Article 102 (2) of the Staff Regulations of Officials of the European Coal and Steel Community, an official affected by the measure provided for in Article 1 shall be treated as an official who has remained in service until the age of 65 provided he continues to pay the contribution during the period of receipt of the allowance referred to in paragraph 1 of this Article.

Article 5

1. Officials referred to in the last subparagraph of Article 2 of Regulation (EEC, Euratom, ECSC) No 259/68

and in Article 102 (5) of the Staff Regulations, with the exception of those who occupied an established post in grades A1 or A2 under the Staff Regulations of the European Coal and Steel Community before 1 January 1962 and to whom the measures under Article 1 are applied, shall be entitled to ask for their pecuniary claims to be settled in accordance with Article 34 of the Staff Regulations of the European Coal and Steel Community and Article 50 of the Rules and Regulations of the European Coal and Steel Community.

2. Nevertheless, Article 4 (3) and (5) and (9) of this Regulation shall continue to apply to the officials referred to in this Article and their entitled beneficiaries.

Article 6

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 17 November 1995.

For the Council

The President

P. SOLBES MIRA