

COUNCIL REGULATION (EC, EURATOM, ECSC) No 2689/95
of 17 November 1995

introducing special measures to terminate the service of temporary staff 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, by Regulation (EC, Euratom, ECSC) No 2688/95⁽⁵⁾, the Council adopted special measures to terminate the service of officials of the European Communities as a result of the accession of Austria, Finland and Sweden;

Whereas, as a result of the said accession, it is also advisable to adopt similar measures in respect of certain temporary staff on contracts of indefinite duration, by means of a Regulation couched as far as possible in similar terms;

Whereas the purpose of these measures is to enable preference to be given to Austrian, Finnish and Swedish nationals when the posts thus released are filled;

Whereas it is clear that temporary staff carrying out their duties, as specified in Article 2 (c) of the Conditions of Employment of Other Servants of the European Communities, in the political groups in the European Parliament would not be eligible for termination of service in order to enable Austrian, Finnish and Swedish nationals to be recruited in sufficient numbers and with normal career prospects if the age limit were set at 55 as was the case for officials;

Whereas, in the interest of the institution and to take account of the particular situation of the European Parliament, a sufficient number of Austrian, Finnish and Swedish nationals should be recruited to fill, with normal

career prospects, the posts referred to in Article 2 (c); whereas the minimum age for termination of service of staff in that category should therefore be lowered to 50,

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 authorized, until 30 June 2000, to adopt measures terminating the service of temporary staff within the meaning of Article 2 (c) of the Conditions of Employment of Other Servants of the European Communities as specified by this Regulation. The temporary staff in question, those on contracts for an indefinite period, must have a total of at least 15 years' service and be aged at least 50.

Article 2

The number of temporary staff in respect of whom the measures referred to in Article 1 may be taken shall be thirty.

This number shall be spread over the following periods:

- 2 for the period from 1 July 1995 to 30 June 1996,
- 7 for the period from 1 July 1996 to 30 June 1997,
- 6 for the period from 1 July 1997 to 30 June 1998,
- 9 for the period from 1 July 1998 to 30 June 1999,
- 6 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 temporary staff 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 their age, ability, efficiency, conduct in the service, family situation and seniority.

Under no circumstances may these measures be applied without the consent of the member of the temporary staff concerned.

⁽¹⁾ OJ No C 246, 22. 9. 1995, p. 26.

⁽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).

⁽⁵⁾ See page 1 of this Official Journal.

Article 4

1. A former member of the temporary staff 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 member of the temporary staff attains the age of 65 and in any event as soon as he becomes eligible, before that age, for the maximum retirement pension.

At that point, the former member of the temporary staff shall automatically receive a retirement pension calculated in accordance with Articles 39 and 40 of the Conditions of Employment, 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 member of the temporary staff from any new employment, when combined with the allowance provided for in paragraph 1, exceeds the total gross remuneration last received by him, 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 member of the temporary staff 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 payable 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 member of the temporary staff 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 Title II, Chapter 6 of the Conditions of Employment. For the purposes of Article 5 of Annex VIII to the Staff Regulations, 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 member of the temporary staff 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 member of the temporary staff 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 of age, would have been payable to the former member of the temporary staff 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 Title II, Chapter 6 of the Conditions of Employment. However, in no case may it exceed the amount of the first payment of the retirement pension to which the former member of the temporary staff 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 stipulated in the first subparagraph shall not be taken into account if there are one or more children of a marriage contracted by the former member of the temporary staff before he left the service, provided that the surviving spouse maintains, or has maintained, those children.

The same shall apply if the death of the former member of the temporary staff 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 member of the temporary staff 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 Title II, Chapter 6 of the Conditions of Employment and in Article 21 of Annex VIII to the Staff Regulations.

Article 5

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
