

II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 29 January 2007

amending Decision 2004/676/EC concerning the Staff Regulations of the European Defence Agency

(2007/215/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Council Joint Action 2004/551/CFSP of 12 July 2004 on the establishment of the European Defence Agency ⁽¹⁾, and in particular Article 11(3)(3.1.) thereof,

Having regard to the Council Decision 2004/676/EC of 24 September 2004 concerning the Staff Regulations of the European Defence Agency ⁽²⁾, and in particular Article 170(2) thereof,

Having regard to the proposal from the Steering Board of the European Defence Agency,

Whereas:

(1) In order to ensure a more harmonised approach to human resources in a European civil service, it is appropriate to align provisions of the Staff Regulations of the European Defence Agency with equivalent provisions of the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities, in particular as regards provisions concerning resettlement allowance, severance grant, dependent child allowance, respect of principle of non-discrimination and benefits for agents appointed head of unit, director or director-general. For the same reason, it is necessary to take into account the experience acquired in the application of those provisions of the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities.

- (2) It is appropriate to proceed to the alignment of provisions of the Staff Regulations of the European Defence Agency with equivalent provisions of the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants, whilst respecting the acquired rights of the staff of the European Defence Agency before the entry into force of these amendments and taking account of their legitimate expectations.
- (3) Since the initial adoption of the Staff Regulations of the European Defence Agency in 2004, several inconsistencies have been discovered in the text. It is necessary to correct them.
- (4) The Staff Regulations of the European Defence Agency, laid down in Decision 2004/676/EC, should therefore be amended accordingly,

HAS DECIDED AS FOLLOWS:

Article 1

Decision 2004/676/EC is hereby amended as follows:

1. in Article 5(4), the first subparagraph is replaced by the following:

‘4. For the purposes of paragraph 1, a person has a disability if he has a physical or mental impairment that is, or is likely to be, permanent. The impairment shall be determined according to the procedure set out in Article 37.’;

⁽¹⁾ OJ L 245, 17.7.2004, p. 17.

⁽²⁾ OJ L 310, 7.10.2004, p. 9.

2. Article 10(2) is replaced by the following:

'2. A member of temporary staff shall not without the permission of the AACC accept from any government or from any other source outside the Agency any honour, decoration, favour, gift or payment of any kind whatever, except for services rendered either before his appointment or during special leave for military or other national service and in respect of such service.'

3. in Article 21, the second subparagraph is replaced by the following:

'The provisions of the preceding subparagraph shall not apply to a member of temporary staff or former member of temporary staff giving evidence before the Appeal Board or before the Disciplinary Board on a matter concerning a member of temporary staff or former member of temporary staff.'

4. Article 27(1) point (b) is replaced by the following:

'(b) the member of temporary staff has previously disclosed the same information to the Agency and has allowed the Agency the period of time set by it, given the complexity of the case, to take appropriate action. The member of temporary staff shall be duly informed of that period of time within 60 days.'

5. Article 36 is amended as follows:

(a) the following subparagraph is added to paragraph 1:

'No posts shall be reserved for nationals of any specific Member State.'

(b) in paragraph 2, point (e) is replaced by the following:

'(e) he produces evidence of a thorough knowledge of one of the languages of the participating Member States and of a satisfactory knowledge of another language of the participating Member States to the extent necessary for the performance of his duties.'

6. Article 39 is amended as follows:

(a) the existing paragraph 2 is renumbered paragraph 3;

(b) the following new paragraph 2 is inserted:

'2. A member of temporary staff who has been at one step in his grade for two years shall automatically advance to the next step in that grade.'

If a member of temporary staff is appointed head of unit, director or director-general, and provided that he has performed his new duties satisfactorily during the first nine months, he shall retroactively benefit from advancement by one step in his grade at the time the appointment comes into effect. This advancement shall lead to an increase in his basic monthly salary corresponding to the percentage between the first and the second step in each grade.'

7. in Article 40, the second subparagraph is deleted;

8. in Article 59, paragraph 9 is deleted;

9. Article 63(2) is replaced by the following:

'2. The resettlement allowance provided for in Article 6 of Annex V shall be granted to temporary staff who have completed four years' service. A member of the temporary staff who has completed more than one year's, but less than four years' service shall receive a resettlement allowance proportionate to his length of service, incomplete years being disregarded.'

10. in Annex V, the following Article is added:

'Article 2a

Notwithstanding Article 2(1), the dependent child allowance is replaced by the following amounts for the following periods:

1.2.2007-31.12.2007 EUR 302,35;

1.1.2008-31.12.2008 EUR 315,53.

The above scale shall be reviewed each time remuneration is revised pursuant to Article 59 of the Staff Regulations.'

11. in Annex V, Article 3(2) is replaced by the following:

'2. For each dependent child within the meaning of Article 2(2) who is less than five years old or is not yet in regular full-time attendance at a primary or secondary school, the amount of this allowance is fixed as follows:

1.2.2007-31.8.2007 EUR 48,17;

1.9.2007-31.8.2008 EUR 64,24;

1.9.2008 and beyond EUR 80,30.

The above scale shall be reviewed each time remuneration is revised pursuant to Article 59 of the Staff Regulations.'

12. in Annex VI, Article 1 is replaced by the following:

'Article 1

1. A staff member whose service terminates otherwise than by reason of death or invalidity shall be entitled on leaving the service:

(a) where he has completed less than one year's service, to payment of a severance grant equal to three times the amounts withheld from his basic salary in respect of his pension contributions, after deduction of any amounts paid under Articles 90 and 131 of the Staff Regulations;

(b) in other cases, he shall be entitled:

1. to have the actuarial equivalent of his retirement pension rights in the Agency, updated to the actual date of transfer, transferred to the pension fund of an administration or organisation or to the pension fund under which he acquires retirement pension rights by virtue of the activity pursued in an employed or self-employed capacity, or

2. to the payment of the actuarial equivalent of such benefits to a private insurance company or pension fund of their choice, on condition such company or fund guarantees that:

(i) the capital will not be repaid;

(ii) a monthly income will be paid from age 60 at the earliest, and age 65 at the latest;

(iii) provisions are included for reversion or survivors' pensions;

(iv) transfer to another insurance company or other fund will be authorised only if such fund fulfils the conditions laid down in points (i), (ii) and (iii).

2. By way of derogation from paragraph 1(b), a staff member who, since taking up his duties, has, in order to establish or maintain pension rights, paid into a national pension scheme, a private insurance scheme or a pension fund of his choice which satisfies the requirements set out in paragraph 1, and whose service terminates for reasons other than death or invalidity, shall be entitled, on leaving the service, to a severance grant equal to the actuarial value of his pension rights acquired during service in the Agency. In these cases the payments made in order to establish or maintain his pension rights under the national pension scheme in application of Articles 90 or 131 shall be deducted from the severance grant.

3. Where a staff member's service has been terminated by removal from his post, the severance grant to be paid or, as the case may be, the actuarial equivalent to be transferred shall be determined by reference to the Decision taken in accordance with Article 146 of the Staff Regulations.'

Article 2

This decision shall take effect on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

Done at Brussels, 29 January 2007.

For the Council
The President
Horst SEEHOFER