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## Information and Notices

<u>Notice No</u>	<u>Contents</u>	<u>Page</u>
	I <i>Information</i>	
	<b>Court of Auditors</b>	
2002/C 236/01	Opinion No 5/2002 of the Court of Auditors of the European Communities on an amended proposal for a Council Regulation introducing special measures to terminate the service of officials of the Commission of the European Communities as part of the reform of the Commission .....	1
2002/C 236/02	Opinion No 6/2002 of the Court of Auditors of the European Communities on a proposal for a Council Regulation introducing special measures to terminate the service of officials of the General Secretariat of the Council of the European Union .....	4
2002/C 236/03	Opinion No 7/2002 of the Court of Auditors of the European Communities on a proposal for a Council Regulation introducing special measures to terminate the service of European Parliament officials and temporary staff working in the Political Groups.....	7

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## I

*(Information)*

## COURT OF AUDITORS

## OPINION No 5/2002

**of the Court of Auditors of the European Communities on an amended proposal for a Council Regulation introducing special measures to terminate the service of officials of the Commission of the European Communities as part of the reform of the Commission**

(2002/C 236/01)

## EXPLANATORY MEMORANDUM

On 20 March 2002 the Commission presented an amended proposal for a Council Regulation introducing special measures to terminate the service of officials of the Commission of the European Communities as part of the reform of the Commission <sup>(1)</sup>.

In a letter received at the Court on 11 April 2002 the Council requested the Court's opinion on this amended proposal.

The purpose of the amended proposal is to authorise a termination-of-service scheme for 600 Commission officials, with 200 departing every year from 2002 to 2004, in order to take account of the need to renew professional skills.

The Court has examined the amended proposal and issued the present opinion, based on the following reasons:

1. In its explanatory memorandum the Commission states that the termination-of-service scheme for 600 Commission officials would make it possible for 273 new officials to be recruited with a neutral impact on the budget, as the cost of the recruitment would be balanced by the savings generated by the scheme. According to the explanatory memorandum, the figure of 600 members of staff has been established on the basis of an analysis of the specialised profiles and skills required in the Commission. No indication about the nature of such profiles and skills is given, nor is the figure (600) further explained.

2. The original proposal, on which the Court issued its opinion No 3/2001 <sup>(2)</sup>, provided for a termination-of-service allowance to be granted to 600 officials who had reached the age of 50 and had completed at least 10 years' service. According to the amended proposal, the termination-of-service scheme relates to 600 officials who have reached the age of 55 and have completed at least 15 years' service.

3. The amended proposal provides for a lower average level of the termination-of-service allowance (62,5 % of the basic salary, instead of 65 %).

4. The annual savings and costs set out in the financial statement annexed to the amended proposal summarise for both 'departures' and 'arrivals' the main salary costs and revenue charged to the budget each year. The differences with respect to the original proposal are due to the forecast of higher savings and the consequent possibility of recruiting a larger number of new officials (273, compared with 258 in the original proposal).

5. The Commission's calculation has been made using the same methods as for the original proposal. In its previous opinion the Court has considered that the calculation could have been more sophisticated, but that the way in which the direct budgetary impact is presented is essentially reasonable. Nevertheless, the increase in future pension costs due to the appointment of the new officials seems not to have been taken into consideration. As

<sup>(1)</sup> COM(2002) 136 final of 20 March 2002.

<sup>(2)</sup> OJ C 162, 5.6.2001.

the Court has noted in its previous opinion, 'this implies the long-run full cost (but not the immediate cash cost) of the newly recruited officials would be some 25 % higher than shown in the Commissions calculation.'

6. The budgetary savings will be achieved by not filling 327 posts out of the 600 made free through the early retirements and by recruiting, for the remaining posts, officials in lower career brackets and remuneration grades. The proposal does not explain which budgetary mechanisms will be used to ensure that the savings will be safeguarded in the long term.

7. The proposed termination-of-service scheme (in fact, an early retirement scheme) appears to conflict with the employment policy objective, proposed by the Commission and adopted by the Council <sup>(1)</sup>, of increasing the employment rate of older workers (aged 55 to 64). At its meeting of 15 and 16 March 2002 in Barcelona, the European Council confirmed this objective and recommended increasing opportunities for older workers to remain in the labour market, for instance, through flexible and gradual retirement formulas.

8. According to the fifth recital of the preamble to the proposed regulation 'the skills of some officials, particularly old members of staff, are deemed not to be in line with the duties to be performed'. This is the reason why they should benefit from an early retirement scheme. Out of the targeted group of 600 members of staff, 312 are deemed to be senior officials in grade A3 (Head of Division) and grades A5/A4 (Principal Administrator, Head of Unit). This shows that an improvement of the staff management policy is needed.

9. Considering the salary level of A5 to A3 officials an allowance corresponding to 62,5 % of the basic salary would probably allow, in certain cases, a fairly good living standard. Furthermore, a beneficiary of a termination-of-service allowance will be free to take up a new occupation to make up for the loss of a part of the basic salary. This could make the termination-of-service allowance attractive to well performing staff.

<sup>(1)</sup> Council Decision of 18 February 2002 on guidelines for Member States' employment policies for the year 2002 (2002/177/EC) and Council Recommendation of 18 February 2002 on the implementation of Member States' employment policies (2002/178/EC), both published in OJ L 60, 1.3.2002.

10. The scheme would fail to meet its objectives if it were also applied to well performing officials attracted by the financial conditions offered. The Court takes note of the fact that no appropriate and clear selection criteria are established.

11. The implementation of the scheme should ensure that staff who are able to update their skills are fairly treated.

12. In connection with considerations on flexible retirement Mr Jan O. Karlsson, the former President of the Court, noted in a letter of 10 September 2001 to Mr Neil Kinnock, Vice-President of the Commission, that it would be appropriate to establish a fair and transparent pension system that gives sufficient impetus for early retirement. It was considered that the present system for retirement was inflexible and penalised those who wished to leave service before the age of 60 years. In the same letter it was also stated that "indeed "dégagement" is not only costly but also unfair because financial compensations are given regardless of the number of years service. Such a system should only be used as a last recourse (e.g. in the case of important reorganisations of the institutions) and the use of more economical and fairer systems such as an attractive early retirement (i.e. with no reduction coefficient) on the initiative of the organisation should also be considered'.

13. Aware of the need of having an adequate monitoring system of human resources to ensure a necessary and regular renewal of staff, the Court notes that the proposal included in the draft staff regulations' reform <sup>(2)</sup> to make termination-of-service conditions easier after 55 years of age would fit better in requirements of flexibility and sound financial management at a lower budgetary cost <sup>(3)</sup>. The implementation of the abovementioned scheme is likely to reduce in the future the use of early retirement procedures.

THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 283 thereof,

Having regard to the amended Commission proposal of 20 March 2002 <sup>(4)</sup>,

Having regard to the Council's request for an opinion on this amended proposal, received at the Court on 11 April 2002,

<sup>(2)</sup> Document COM(2002) 213 final.

<sup>(3)</sup> This possibility that the Court has advocated all along the discussions about the administrative reform plan is foreseen only 'in the interest of service, based on objective criteria and transparent procedures'. It does not contain any 'handshake premium', but only aims at reducing, even in some cases, at suppressing weightings foreseen in the Staff Regulations.

<sup>(4)</sup> COM(2002) 136 final of 20 March 2002.

HAS ADOPTED THE FOLLOWING OPINION:

1. As the Court has already noted in its opinion No 3/2001, the increase in future pension costs due to the appointment of the new officials seems not to have been taken into consideration.

2. The proposal should define which budgetary mechanisms will be used to ensure that the savings will actually be safeguarded in the long term.

3. The preamble to the proposed regulation should explain the coherence of the scheme with the European employment policy objective of increasing the employment rate of older workers through flexible and gradual retirement formulas.

4. The Court takes note of the fact that no appropriate and clear selection criteria are established.

5. The implementation of the scheme should ensure that staff who are able to update their skills are fairly treated.

6. The Court is of the opinion that an early retirement system such as the one proposed should only be a one-off solution. In the future the focus should be on improvement of staff development policy.

This opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 17 and 18 July 2002.

*For the Court of Auditors*

Juan Manuel FABRA VALLÉS

*President*

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**OPINION No 6/2002****of the Court of Auditors of the European Communities on a proposal for a Council Regulation introducing special measures to terminate the service of officials of the General Secretariat of the Council of the European Union**

(2002/C 236/02)

## EXPLANATORY MEMORANDUM

On 20 March 2002 the Commission presented a proposal for a Council Regulation introducing special measures to terminate the service of officials of the General Secretariat of the Council of the European Union <sup>(1)</sup>.

In a letter received at the Court on 11 April 2002, the Council requested the Court's opinion on this proposal.

The purpose of the proposal is to authorise a termination-of-service scheme for 94 officials of the General Secretariat of the Council between 2002 and 2004 in order to take account of the need to renew professional skills.

The Court has examined the proposal and issued the present opinion, based on the following reasons:

1. According to the explanatory memorandum to the proposal, the termination-of-service scheme for 94 officials would make it possible for 46 new officials to be recruited with a neutral impact on the budget, as the cost of the recruitment would be balanced by the savings generated by the scheme. No indication is given about how the figure of 94 officials has been established.

2. According to the proposal, the termination-of-service scheme relates to officials who have reached the age of 55 and have completed at least 15 years' service. The proposal provides for a termination-of-service allowance corresponding, on average, to 62,5 % of the basic salary.

3. The annual savings and costs set out in the financial statement annexed to the proposal summarise for both 'departures' and 'arrivals' the main salary costs and revenue charged to the budget each year.

4. The calculations have been made using the same methods as for the proposal relating to the Commission's officials. The Court considers that the way in which the direct budgetary impact is presented is essentially reasonable. Nevertheless, the increase in future pension costs due to the appointment of the new officials seems not to have been taken into consideration.

5. The budgetary savings will be achieved by not filling 48 posts out of the 94 made free through the early retirements and by recruiting, for the remaining posts, officials in lower career brackets and remuneration grades. The proposal does not explain which budgetary mechanisms will be used to ensure that the savings will be safeguarded in the long term.

6. The proposed termination-of-service scheme (in fact, an early retirement scheme) appears to conflict with the employment policy objective, proposed by the Commission and adopted by the Council <sup>(2)</sup>, of increasing the employment rate of older workers (aged 55 to 64). At its meeting of 15 and 16 March 2002 in Barcelona, the European Council confirmed this objective and recommended increasing opportunities for older workers to remain in the labour market, for instance, through flexible and gradual retirement formulas.

7. According to the fourth recital of the preamble to the proposed regulation, 'the skills of some officials, particularly old members of staff, are deemed not to be in line with the duties to be performed'. This is the reason why they should benefit from an early retirement scheme. The targeted group of 94 members of staff consists of senior officials of the A4/LA4 grade and of officials in the B, C, and D categories who have achieved the highest grade in their category. This shows that an improvement of the staff management policy is needed.

<sup>(1)</sup> COM(2002) 136 final of 20 March 2002.

<sup>(2)</sup> Council Decision of 18 February 2002 on guidelines for Member States' employment policies for the year 2002 (2002/177/EC) and Council Recommendation of 18 February 2002 on the implementation of Member States' employment policies (2002/178/EC), both published in OJ L 60, 1.3.2002.

8. An allowance corresponding to 62,5 % of the basic salary would probably allow, in certain cases, a fairly good living standard. Furthermore, a beneficiary of a termination-of-service allowance will be free to take up a new occupation to make up for the loss of a part of the basic salary. This could make the termination-of-service allowance attractive to well performing staff.

9. The scheme would fail to meet its objectives if it were also applied to well performing officials attracted by the financial conditions offered. The Court takes note of the fact that no appropriate and clear selection criteria are established

10. The implementation of the scheme should ensure that staff who are able to update their skills are fairly treated.

11. In connection with considerations on flexible retirement Mr Jan O. Karlsson, the former President of the Court, noted in a letter of 10 September 2001 to Mr Neil Kinnock, Vice-President of the Commission, that it would be appropriate to establish a fair and transparent pension system that gives sufficient impetus for early retirement. It was considered that the present system for retirement was inflexible and penalised those who wished to leave service before the age of 60 years. In the same letter it was also stated that 'indeed "dégagement" is not only costly but also unfair because financial compensations are given regardless of the number of years service. Such a system should only be used as a last recourse (e.g. in the case of important reorganisations of the institutions) and the use of more economical and fairer systems such as an attractive early retirement (i.e. with no reduction coefficient) on the initiative of the organisation should also be considered'.

12. Aware of the need of having an adequate monitoring system of human resources to ensure a necessary and regular renewal of staff, the Court notes that the proposal included in the draft Staff Regulations' reform <sup>(1)</sup> to make termination-of-service conditions easier after 55 years of age would fit better in requirements of flexibility and sound financial management at a lower budgetary cost <sup>(2)</sup>. The implementation of the abovementioned scheme is likely to reduce in the future the use of early retirement procedures.

THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 283 thereof,

Having regard to the Commission proposal of 20 March 2002 <sup>(3)</sup>,

Having regard to the Council's request for an opinion on this proposal, received at the Court on 11 April 2002,

HAS ADOPTED THE FOLLOWING OPINION:

1. The increase in future pension costs due to the appointment of the new officials seems not to have been taken into consideration.
2. The proposal should define which budgetary mechanisms will be used to ensure that the savings will actually be safeguarded in the long term.
3. The preamble to the proposed regulation should explain the coherence of the scheme with the European employment policy objective of increasing the employment rate of older workers through flexible and gradual retirement formulas.
4. The Court takes note of the fact that no appropriate and clear selection criteria are established.
5. The implementation of the scheme should ensure that staff who are able to update their skills are fairly treated.
6. The Court is of the opinion that an early retirement system such as the one proposed should only be a one-off solution. In the future the focus should be on improvement of staff development policy.

<sup>(1)</sup> Document COM(2002) 213 final.

<sup>(2)</sup> This possibility that the Court has advocated all along the discussions about the administrative reform plan is foreseen only 'in the interest of service, based on objective criteria and transparent procedures'. It does not contain any 'handshake premium', but only aims at reducing, even in some cases, at suppressing weightings foreseen in the Staff Regulations.

<sup>(3)</sup> COM(2002) 136 final of 20 March 2002.

This opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 17 and 18 July 2002.

*For the Court of Auditors*

Juan Manuel FABRA VALLÉS

*President*

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**OPINION No 7/2002****of the Court of Auditors of the European Communities on a proposal for a Council Regulation introducing special measures to terminate the service of European Parliament officials and temporary staff working in the Political Groups**

(2002/C 236/03)

## EXPLANATORY MEMORANDUM

On 20 March 2002 the Commission presented a proposal for a Council Regulation introducing special measures to terminate the service of European Parliament officials and temporary staff working in the Political Group <sup>(1)</sup>.

In a letter received at the Court on 11 April 2002 the Council requested the Court's opinion on this proposal.

The purpose of the proposal is to authorise a termination-of-service scheme, between 2002 and 2004, for 100 Parliament officials and 24 temporary staff working in the Political Groups in order to take account of the need to renew professional skills.

The Court has examined the proposal and issued the present opinion, based on the following reasons:

1. According to the explanatory memorandum to the proposal, the termination-of-service scheme for 100 officials and 24 temporary staff would make it possible for 47 new officials and 11 new temporary staff to be recruited with a neutral impact on the budget, as the cost of the recruitment would be balanced by the savings generated by the scheme. No indication is given about how the figures of 100 officials and 24 temporary staff have been established.

2. According to the proposal, the termination-of-service scheme relates to officials and temporary staff who have reached the age of 55 and have completed at least 15 years' service. The proposal provides for a termination-of-service allowance corresponding, on average, to 62,5 % of the basic salary.

3. The annual savings and costs set out in the financial statement annexed to the proposal summarise for both 'departures' and 'arrivals' the main salary costs and revenue charged to the budget each year.

4. The calculations have been made using the same methods as for the proposal relating to the Commission's officials. The Court considers that the way in which the direct budgetary impact is presented is essentially reasonable. Nevertheless, the increase in future pension costs due to the appointment of the new staff seems not to have been taken into consideration.

5. The budgetary savings will be achieved by not filling a part of the posts made free through the early retirements and by recruiting, for the remaining posts, officials and temporary staff in lower career brackets and remuneration grades. The proposal does not explain which budgetary mechanisms will be used to ensure that the savings will be safeguarded in the long term.

6. Temporary staff are engaged on the basis of contracts for a fixed period or of contracts for an indefinite period that can be terminated at the end of a period of notice. A temporary staff contract does not grant a right to employment until the age of retirement. The preamble to the proposed regulation does not explain why the contracts of temporary staff whose skills are deemed not to correspond to the duties to be performed are not terminated.

7. The proposed termination-of-service scheme (in fact, an early retirement scheme) appears to conflict with the employment policy objective, proposed by the Commission and adopted by the Council <sup>(2)</sup>, of increasing the employment rate of older workers (aged 55 to 64). At its meeting of 15 and 16 March 2002 in Barcelona, the European Council confirmed this objective and recommended increasing opportunities for older workers to remain in the labour market, for instance, through flexible and gradual retirement formulas.

<sup>(2)</sup> Council Decision of 18 February 2002 on guidelines for Member States' employment policies for the year 2002 (2002/177/EC) and Council Recommendation of 18 February 2002 on the implementation of Member States' employment policies (2002/178/EC), both published in OJ L 60, 1.3.2002.

<sup>(1)</sup> COM(2002) 136 final of 20 March 2002.



8. According to the fourth recital of the preamble to the proposed regulation 'the skills of some officials ..., particularly old members of staff, are deemed not to be in line with the duties to be performed'. This is the reason why they should benefit from an early retirement scheme. The targeted group of 100 officials consists of senior officials in grade A3/LA3 (Head of Division, normally charged with management tasks), senior officials in grade A4/LA4 and officials in the B, C, and D categories who have achieved the highest grade in their category. This shows that an improvement of the staff management policy is needed.

9. An allowance corresponding to 62,5 % of the basic salary would probably allow, in certain cases, a fairly good living standard. Furthermore, a beneficiary of a termination-of-service allowance will be free to take up a new occupation to make up for the loss of a part of the basic salary. This could make the termination-of-service allowance attractive to well performing staff.

10. The scheme would fail to meet its objectives if it were also applied to well performing officials attracted by the financial conditions offered. The Court takes note of the fact that no appropriate and clear selection criteria are established

11. The implementation of the scheme should ensure that staff who are able to update their skills are fairly treated.

12. In connection with considerations on flexible retirement Mr Jan O. Karlsson, the former President of the Court, noted in a letter of 10 September 2001 to Mr Neil Kinnock, Vice-President of the Commission, that it would be appropriate to establish a fair and transparent pension system that gives sufficient impetus for early retirement. It was considered that the present system for retirement was inflexible and penalised those who wished to leave service before the age of 60 years. In the same letter it was also stated that 'indeed "dégagement" is not only costly but also unfair because financial compensations are given regardless of the number of years service. Such a system should only be used as a last recourse (eg in the case of important reorganisations of the institutions) and the use of more economical and fairer systems such as an attractive early retirement (ie with no reduction coefficient) on the initiative of the organisation should also be considered'.

13. Aware of the need of having an adequate monitoring system of human resources to ensure a necessary and regular renewal of staff, the Court notes that the proposal included in the draft staff regulations' reform <sup>(1)</sup> to make termination-of-service conditions easier after 55 years of age would fit better in requirements of flexibility and sound financial management at a lower budgetary cost <sup>(2)</sup>. The implementation of the abovementioned scheme is likely to reduce in the future the use of early retirement procedures.

THE COURT OF AUDITORS OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 283 thereof,

Having regard to the Commission proposal of 20 March 2002 <sup>(3)</sup>,

Having regard to the Council's request for an opinion on this proposal, received at the Court on 11 April 2002,

HAS ADOPTED THE FOLLOWING OPINION:

1. The increase in future pension costs due to the appointment of the new staff seems not to have been taken into consideration.

2. The proposal should define which budgetary mechanisms will be used to ensure that the savings will actually be safeguarded in the long term.

3. The preamble to the proposed regulation should explain the coherence of the scheme with the European employment policy

<sup>(1)</sup> Document COM(2002) 213 final.

<sup>(2)</sup> This possibility that the Court has advocated all along the discussions about the administrative reform plan is foreseen only 'in the interest of service, based on objective criteria and transparent procedures' It does not contain any 'handshake premium', but only aims at reducing, even in some cases, at suppressing weightings foreseen in the staff regulations.

<sup>(3)</sup> COM(2002) 136 final of 20 March 2002.

objective of increasing the employment rate of older workers through flexible and gradual retirement formulas

4. The Court takes note of the fact that no appropriate and clear selection criteria are established.

5. The implementation of the scheme should ensure that staff who are able to update their skills are fairly treated.

6. The preamble to the proposed regulation should explain why the scheme should apply to temporary staff whose contracts could simply be terminated.

7. The Court is of the opinion that an early retirement system such as the one proposed should only be a one-off solution. In the future the focus should be on improvement of staff development policy.

This opinion was adopted by the Court of Auditors in Luxembourg at its meeting of 17 and 18 July 2002.

*For the Court of Auditors*

Juan Manuel FABRA VALLÉS

*President*

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