

**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 181 E/16)

COM(2002) 136 final — 2001/0027(CNS)

*(Submitted by the Commission on 20 March 2002)*

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal made by the Commission after consulting the Staff Regulations Committee in accordance with Article 10a of the Staff Regulations of Officials of the European Communities <sup>(1)</sup>,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Justice,

Having regard to the opinion of the Court of Auditors,

Whereas:

- (1) A reform is now under way in the Commission designed in particular to refocus the use of resources on priority activities.
- (2) A communication from the Commission <sup>(2)</sup> has indicated, despite the successes already achieved in 1999 and 2000, some shortfalls in the staff assigned to certain priority activities.
- (3) The Commission intends to meet a significant part of those needs through internal rationalisation and redeployments.
- (4) The Commission intends to take steps, mainly through training, to help redeployed staff to adjust in the most satisfactory and effective way possible.
- (5) However, the skills of some officials, particularly older members of staff, are deemed not to be in line with the duties to be performed.
- (6) The Commission needs new skill profiles and a rebalancing of its establishment plan, but the number of officials retiring in the normal way will not be sufficient to allow the necessary skills to be acquired through recruiting new staff within a satisfactory timescale.
- (7) Special measures should accordingly be adopted with regard to termination of service together with internal administrative arrangements for effective monitoring of the implementation of this Regulation.

(8) These measures must be applied as far as possible with due regard for geographical balance, in compliance with the principles governing this Regulation.

(9) These measures must be budget neutral.

(10) The measures contained in this Regulation must be implemented as a matter of urgency in order to ensure the proper functioning of the Commission departments. While the measures are now ready in so far as the Commission is concerned, that is not the case with regard to the other institutions.

(11) Other specific one-off measures of the type contained in this Regulation must not be used by the Commission in the context of the reform, including where the measures proposed in this Regulation fail to produce the desired result,

HAS ADOPTED THIS REGULATION:

*Article 1*

The European Commission is hereby authorised, in the interests of the service and in order to take account of the need to renew skills arising from the refocusing of the use of its resources on priority activities, to adopt measures up to 31 December 2004 for terminating the service within the meaning of Article 47 of the Staff Regulations of officials who have reached the age of 55 and have completed at least 15 years' service, regardless of the budget (operating or research) from which they are paid, with the exception of those in Grades A1 and A2, under the conditions specified below.

*Article 2*

The total number of officials to be covered by the measures referred to in Article 1 shall be 600.

This measure shall be without prejudice to decisions to be taken under the annual budget procedures.

*Article 3*

Within the ceilings laid down in Article 2, and with due regard to the interests of the service, the Commission, after having consulted its Joint Committee, shall select from among the officials applying for termination of their service under Article 1 those to whom it wishes to apply this measure.

<sup>(1)</sup> Hereinafter called the 'Staff Regulations'.

<sup>(2)</sup> Doc. No 6343/00 INST 4.

It shall consider as a priority officials affected by the reorganisation measures and measures for refocusing the use of its resources on priority activities, in particular redeployment, whose skills are deemed not to be in line with the duties to be performed. It shall take account of the amount of training necessary for them to undertake new tasks, their age, ability, performance, conduct in the service, family circumstances and length of service.

#### Article 4

1. Former officials whose service is terminated under Article 1 shall be entitled to a monthly allowance set as a percentage of the last basic salary received according to age and length of service at the time of departure as shown in the table in the Annex to this Regulation. The last basic salary shall be that for the grade and step held by the official or member of the temporary staff concerned at the time of departure, determined by reference to the table in Article 66 of the Staff Regulations in force on the first day of the month for which the allowance is payable.

2. Such former officials may at any time, at their own request, receive a retirement pension on the terms and conditions laid down in the Staff Regulations. Entitlement to the allowance shall then cease. It shall cease in any event not later than the last day of the month in which the former official or member of the temporary staff concerned reaches the age of 65 years or as soon as he or she is eligible before that age for the maximum retirement pension of 70 % (Article 77 of the Staff Regulations).

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 adjusted by the weighting fixed for the country situated inside the Community in which the recipient proves that he is resident. Recipients shall provide evidence each year of their place of residence.

If the recipient resides in a country situated outside the Community, the weighting to be applied to the allowance shall be 100.

The allowance shall be expressed in euro. 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 euro.

An allowance paid in a currency other than euro shall be calculated on the basis of the exchange rates referred to in the second paragraph 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 or member of the temporary staff concerned, 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 above, mean sums paid after deduction of social security contributions but before deduction of tax.

The former official shall give a formal undertaking to provide any written proof which may be required, including an annual statement of income in the form of a salary statement or audited accounts, as appropriate, and a sworn or authenticated declaration that he or she is not in receipt of any other income from any new employment, and shall notify the institution of any other factor which may affect his or her right to the allowance, failing which he or she shall be liable to disciplinary action as provided for in Article 86 of the Staff Regulations.

5. As set out in Article 67 of the Staff Regulations and Articles 1, 2 and 3 of Annex VII thereto, the household allowance, dependent child allowance and education allowance 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 the allowance provided for in paragraph 1.

6. Provided they do not receive income from gainful employment, 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.

7. During the period for which they are entitled to receive the allowance, but for not more than 65 months, former officials shall continue to acquire further rights to retirement pension based on the salary carried by their 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 paragraph of Article 77 of the Staff Regulations. 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 official who dies while in receipt of the allowance provided for in paragraph 1 shall be entitled, provided that they have been the spouse of the former official for at least one year when he or she left the service of the Commission, 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 previous subparagraph shall not be less than the amounts specified in the second paragraph of Article 79 of the Staff Regulations. However, in no case may it exceed the amount of the retirement pension to which the former official would have been entitled had he or she survived and been granted a retirement pension when ceasing to be eligible for the allowance referred to above.

The minimum duration of the marriage as 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 official before he or she left the service provided that the surviving spouse maintains or has maintained those children.

Nor shall the duration of the marriage be taken into account if the death of the former official resulted from one of the circumstances referred to at the end of the second paragraph 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 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 paragraphs of Article 80 of the Staff Regulations 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.

### ANNEX

#### ALLOWANCE PERCENTAGE

The allowance percentage referred to in Article 4(1) of this Regulation will be determined on the basis of the age and length of service of officials at the time of departure as shown in the table below:

*Level of allowance depending on age and length of service*

Length of service \ Age	From 55 to 56 years	From 57 to 58 years	From 59 to 60 years	From 61 to 62 years	Over 63 years
	From 15 to 19 years	60,0 %	60,0 %	60,0 %	62,0 %
From 20 to 24 years	60,0 %	60,0 %	62,0 %	64,0 %	66,0 %
From 25 to 29 years	62,0 %	64,0 %	66,0 %	68,0 %	70,0 %
30 years and over	64,0 %	66,0 %	68,0 %	70,0 %	70,0 %

Age and length of service will be considered in relation to the actual date of departure of the official concerned.

Applying these conditions to the target group of officials on a weighted basis gives a maximum average allowance of 62,5 %.