II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 22 July 2005

appointing Judges of the European Union Civil Service Tribunal

(2005/577/EC, Euratom)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 225a thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 140b thereof,

Having regard to Council Decision 2004/752/EC, Euratom of 2 November 2004 [1], and in particular Article 3(1) thereof,

Whereas:

(1) The European Union Civil Service Tribunal was established by Decision 2004/752/EC, Euratom, on the basis of Articles 225a and 245 of the EC Treaty and Articles 140b and 160 of the EAEC Treaty. To that end, that Decision added an Annex to the Protocol on the Statute of the Court of Justice (hereinafter referred to as Annex I to the Statute of the Court of Justice).

(2) Article 3 of Annex I to the Statute of the Court of Justice provides that:

'1. The Judges shall be appointed by the Council, acting in accordance with the fourth paragraph of Article 225a of the EC Treaty and the fourth paragraph of Article 140b of the EAEC Treaty, after consulting the committee provided for by this Article. When appointing Judges, the Council shall ensure a balanced composition of the Tribunal on as broad a geographical basis as possible from among nationals of the Member States and with respect to the national legal systems represented.

2. Any person who is a Union citizen and fulfils the conditions laid down in the fourth paragraph of Article 225a of the EC Treaty and the fourth paragraph of Article 140b of the EAEC Treaty may submit an application. The Council, acting by a qualified majority on a recommendation from the Court, shall determine the conditions and the arrangements governing the submission and processing of such applications.

3. A committee shall be set up comprising seven persons chosen from among former members of the Court of Justice and the Court of First Instance and lawyers of recognised competence. The committee's membership and operating rules shall be determined by the Council, acting by a qualified majority on a recommendation by the President of the Court of Justice.

4. The committee shall give an opinion on candidates' suitability to perform the duties of judge at the Civil Service Tribunal. The committee shall append to its opinion a list of candidates having the most suitable high-level experience. Such list shall contain the names of at least twice as many candidates as there are Judges to be appointed by the Council.'

(3) By its Decision 2005/150/EC, Euratom [2], the Council determined the conditions and arrangements governing the submission and processing of applications for appointment as a judge of the Civil Service Tribunal, as provided for in Article 3(2) of Annex I to the Statute of the Court of Justice.

(4) By its Decision 2005/49/EC, Euratom [3], the Council determined the operating rules of the committee provided for in Article 3(3) of Annex I to the Protocol on the Statute of the Court of Justice.

[1] OJ L 333, 9.11.2004, p. 7.

[2] OJ L 50, 23.2.2005, p. 7.

[3] OJ L 21, 25.1.2005, p. 13.

(5) By its Decision 2005/151/EC, Euratom [1], the Council appointed the members of the committee provided for in Article 3(3) of Annex I to the Protocol of the Statute of the Court of Justice.

(6) The public call for applications for the appointment of Judges to the Civil Service Tribunal was published on 23 February 2005 (in OJ C 47 A, p. 1); the deadline for the submission of applications expired on 15 April 2005. 243 applications were registered.

(7) The committee set up by Article 3(3) of Annex I to the Statute of the Court of Justice met on several occasions in May and June 2005. On completion of its discussions, it finalised the opinion and list provided for in Article 3(4) of Annex I to the Statute of the Court of Justice. The list contains 14 candidates.

(8) Under the fourth paragraph of Article 225a of the EC Treaty and the fourth paragraph of Article 140b of the EAEC Treaty, Judges of the Civil Service Tribunal are appointed by the Council.

(9) Seven of the persons included on the above list should accordingly be appointed, ensuring a balanced composition of the Tribunal on as broad a geographical basis as possible from among nationals of the Member States and with respect to the national legal systems represented, as provided for in Article 3(1) of Annex I to the Statute of the Court of Justice.

(10) Under the first sentence of the second paragraph of Article 2 of Annex I to the Statute of the Court of Justice, Judges of the Civil Service Tribunal are appointed for a period of six years. By way of derogation from that provision, Article 3(2) of Decision 2004/752/EC, Euratom provides that once all the Judges of the Tribunal have taken oath, the President of the Council is to choose by lot three Judges of the Tribunal whose duties are to end upon expiry of the first three years of their term of office. The outcome of the choice by lot should be given suitable publicity by being published in the *Official Journal of the European Union*.

(11) It should also be noted, with respect to the appointment of the first President of the Civil Service Tribunal, that under Article 3(1) of Decision 2004/752/EC, Euratom the Council has the possibility of applying the procedure laid down in Article 4(1) of Annex I to the Statute of the Court of Justice, which provides that the Judges are to elect the President of the Civil Service Tribunal from among their number for a period of three years. Use should be made of that possibility,

HAS DECIDED AS FOLLOWS:

Article 1

The following are hereby appointed Judges at the European Union Civil Service Tribunal:

— Irena BORUTA

— Stéphane GERVASONI

— Heikki KANNINEN

— Horstpeter KREPPEL

— Paul J. MAHONEY

— Charisios TAGARAS

— Sean VAN RAEPENBUSCH

Article 2

Four of these Judges are appointed for a period of six years, from 1 October 2005 to 30 September 2011.

The other three Judges are appointed for a period of three years, from 1 October 2005 to 30 September 2008.

The General Secretariat of the Council shall publish in the *Official Journal of the European Union* the outcome of the choice by lot by the President of the Council of the three Judges of the Tribunal whose duties are to end upon expiry of the first three years of their term of office.

Article 3

For the purposes of appointing the first President of the Civil Service Tribunal, the procedure laid down in Article 4(1) of Annex I to the Statute of the Court of Justice shall apply.

Article 4

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

Article 5

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 22 July 2005.

For the Council
The President
J. STRAW

[1] OJ L 50, 23.2.2005, p. 9.