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(Acts whose publication is obligatory)

REGULATION (ECSC, EEC, EURATOM) No 1543/73 OF THE COUNCIL

of 4 June 1973

introducing special measures temporarily applicable to officials of the European Communities paid from research and investment funds

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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 from the Commission, submitted after consulting the Staff Regulations Committee;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Court of Justice;

Whereas in Regulation (Euratom, ECSC, EEC) No 2530/72 [1], the Council adopted special temporary measures concerning the Staff Regulations of officials of the European Communities, affecting only such officials as are paid out of credits under Title I of the Section of the Budget relating to the Commission; whereas certain special measures temporarily applicable to officials paid from research and investment funds should also be adopted;

Whereas special provision must be made to enable officials affected by such measures to overcome the serious financial difficulties resulting from loss of employment and to transfer to other duties as smoothly as possible;

HAS ADOPTED THIS REGULATION:

CHAPTER I

Special and temporary measures applicable to the recruitment of officials of the European Communities in consequence of the Accession of new Member States

Article 1

1. Notwithstanding the second and third subparagraphs of Article 4, the third subparagraph of Article 27, Article 28 (d) and Article 29 of the Staff Regulations of Officials of the European Communities, provision may be made until 30 June 1974 for vacant posts in grades A 1 and A 2 paid from research and investment funds to be filled by nationals of the new Member States up to the number of budgeted posts reserved for this purpose in the list of posts or made available by the application of measures for the termination of service provided for in this Regulation.

During the same period, notwithstanding the third subparagraph of Article 27 of the Staff Regulations of Officials of the European Communities, provision may be made for vacant posts in grades other than A 1 and A 2 paid from research and investment funds to be filled by nationals of the new Member States up to the number of budgeted posts reserved for this purpose in the list of posts or made available by the application of measures for the termination of service provided for in this Regulation.

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[1] OJ No L 272, 5. 12. 1972, p. 1.

2. However, provision may be made, during the same period and under the same conditions laid down in paragraph 1, for vacant posts in Grades A 1 to A 2 to be filled by nationals of the original Member States.

CHAPTER II

Special and temporary measures for the termination of service of officials of the European Communities

Article 2

1. In order to deal with exceptional problems arising from the adoption of research programmes involving a reduction in the number of posts provided in the plan of staff paid from European Atomic Energy Community research and investment funds, and problems arising from the accession of new Member States to the European Communities, the Commission is hereby authorized until 31 December 1973 and within the limit of the number of posts affected, to take measures to terminate the service, within the meaning of Article 47 of the Staff Regulations, of those of its officials who are paid from research and investment funds, under the conditions laid down below.

In exceptional cases, when the needs of the service so require, this provision may be applied up to 30 June 1974.

The same conditions shall apply when, in the interests of the service, the Commission exercises the option provided for in Article 1 (2).

2. The Commission shall determine which posts are to be affected by the measures provided for in paragraph 1.

The Commission shall draw up a list of officials according to grade, affected by these measures after consulting the Joint Committee, which shall accord a hearing to the official when he so requests. It shall take into account the interests of the service and take into consideration the official's age, ability, efficiency, conduct in the service, family circumstances and seniority.

Notwithstanding Article 4 (2 and 3), and Articles 29 and 45 (2) of the Staff Regulations, an official whom the Commission intends to include in the abovementioned list and who has not asked for his employment to be terminated may, at his own request, be appointed to a vacant post of a corresponding grade that is not paid for from research and investment funds, provided always that he possesses the necessary qualifications for such a post. Following such appointment, the special provisions relating to scientific or technical officials of the Communities shall no longer apply to the official concerned.

The Commission shall, where the interest of the service so permits, accord priority treatment to applications from officials who request termination of service under paragraph 1. When such an application is rejected, the rejection must indicate the reasons and be communicated in writing to the person concerned.

However, requests made by officials of 60 years of age or more for the termination of their service shall be granted automatically by the Commission.

3. An official other than those in Grade A 1 or A 2, whose name appears on the list provided for in paragraph 2 must opt either for the application of Article 3 or Article 4 within two months from the date on which he was informed that his name had been entered on the list. The appointing authority shall apply Article 3 where an official has not communicated his choice within this time limit.

4. An official other than those in Grade A 1 or A 2, whose name appears on the list provided for in paragraph 2 may opt either for termination of service as laid down in paragraph 1 or for non-active status. If the latter, Article 41 (3), (4) and (5) of the Staff Regulations shall apply. An official who proposes to opt for non-active status shall declare his choice within two months from the date on which he was informed that his name had been entered on the list; in default, he shall forgo the right to opt.

5. The measures provided for in paragraph 1 are in no way disciplinary.

6. Up to 30 June 1974, and without prejudice to paragraph 4, the Commission shall not take any decision in respect of officials to whom this Regulation applies, to place on non-active status or to retire such official in the interests of the service under the conditions laid down in Articles 41 and 50 respectively of the Staff Regulations.

Article 3

1. An official whose service is terminated pursuant to Article 2 (1) shall be entitled:

(a) for a period of one year, to a monthly allowance equal to his last remuneration,

(b) for a period fixed in accordance with the table in paragraph 2, to a monthly allowance equal to:

— 80 % of his basic salary, for the 30 following months;

— 70 % of his basic salary thereafter.

Entitlement to that allowance shall cease not later than the day on which the official reaches the age of 65. Where the official is entitled to the maximum pension before the age of 65, he may continue to receive the allowance until the end of the month in which he attained the age of 65. The basic salary to be taken into account when fixing the allowances provided for under this paragraph is that applicable on the first day of the month for which the allowance is payable.

2. In order to determine on the basis of the official's age the period during which he shall receive the allowance provided for in paragraph 1 (b), the coefficient fixed in the following table shall be applied to the length of his service, including continuous service as a member of the temporary or auxiliary staff; this period is rounded off, where appropriate, to the earlier month.

Age	%	Age	%	Age	%	Age	%	Age	%
20	18	30	33	40	48	50	63	60	78
21	19·5	31	34·5	41	49·5	51	64·5	61	79·5
22	21	32	36	42	51	52	66	62	81
23	22·5	33	37·5	43	52·5	53	67·5	63	82·5
24	24	34	39	44	54	54	69		
25	25·5	35	40·5	45	55·5	55	70·5		
26	27	36	42	46	57	56	72		
27	28·5	37	43·5	47	58·5	57	73·5		
28	30	38	45	48	60	58	75		
29	31·5	39	46·5	49	61·5	59	76·5		

3. The allowance provided for in paragraph 1 shall be weighted, in accordance with the second subparagraph of Article 82 (1) of the Staff Regulations, for the Community country where the recipient provides proof of residence.

If the recipient of that allowance resides outside the Community countries the weighting to be applied to the allowance shall be that valid for Belgium.

The allowance shall be expressed in Belgian francs. It shall be paid in the currency of the country of residence of the recipient.

Allowances paid in a currency other than Belgian francs shall be calculated at the exchange rate specified in the third subparagraph of Article 63 of the Staff Regulations.

4. The income accruing to the official concerned from any new employment during the period specified in paragraph 1 (b) above shall be deducted from the allowance provided for during that period, in so far as that income plus that allowance exceeds the total remuneration last received by the official calculated on the basis of the salary scale in force on the first day of the month for which the allowance is payable. That remuneration shall be weighted as provided for in paragraph 3.

The official concerned shall provide any written proof which may be required and shall notify the Commission of any factor which may alter his right to payment.

5. All family allowances shall remain payable where the official receives the allowance provided for in paragraph 1. Article 67 (2) of the Staff Regulations shall apply.

6. The official shall be entitled, in respect of himself and persons covered by his insurance, to social security benefits under the scheme laid down in Article 72 of the Staff Regulations, provided he pays the contribution calculated on the basis of the basic salary attaching to his grade and step or that proportion of it specified in paragraph 1 and he is not covered against the same risks by another public

scheme. At the end of the period during which the official is entitled to the allowance, his contribution shall be calculated on the basis of the last monthly allowance he receives.

Where the official benefits from a pension under the pension scheme provided for in the Staff Regulations of Officials of the Communities, he shall, for the purposes of Article 72, be treated in the same way as an official who has remained in service until the age of 60.

7. During the period for which he is entitled to receive the allowance the official shall continue to acquire further rights to retirement pension based on the salary attaching to his grade and step, provided that he pays the contributions provided for in the Staff Regulations during that period and provided that the total pension does not exceed the maximum amount laid down in the second subparagraph of Article 77 of the Staff Regulations. For the purposes of Article 5 of Annex VIII to the Staff Regulations and Article 108 of the former general Regulations of the ECSC such period shall be considered to be a period of service.

An official falling within the provisions of Article 2 (1) shall receive a retirement pension amounting to 35 % of his basic salary, if, under the provisions of the Staff Regulations and this Regulation, his pension is more than 30 % but less than 35 %; where his pension under the provisions of the Staff Regulations and this Regulation is more than 20 % but less than 30 %, it shall be increased by 15 %.

If the official is reinstated in an institution of the European Communities and thus acquires further pension rights, he shall cease during this further period of service to benefit from the provisions provided for in the first subparagraph above. However, for that part of the period referred to in the first subparagraph which is not yet completed at the time of reinstatement, the official may request that both his contribution to the pension scheme and his pension rights be calculated on the basis of the basic salary attaching to the grade and step reached in his previous post.

For the purposes of Article 77 of the Staff Regulations an official receiving the allowance provided for in paragraph 1 shall be treated as an official removed from his post in the interests of the service.

An official who, at the time of termination of service, has served a minimum of 10 years and who is no longer entitled to the allowance provided for in paragraph 1 may, on attaining the age of 55, claim immediate payment of his retirement pension, without any reduction thereof being made under Article 9 of Annex VIII of the Staff Regulations.

In fixing the amount of the survivor's pension, to which the widow of an official who has died during such period is entitled, the provisions of the second subparagraph of Article 79 of the Staff Regulations shall apply *mutatis mutandis*.

8. If, in application of these provisions, the official is entitled to receive a pension before the age of 60, he shall be entitled to the family allowances provided for in Article 67 of the Staff Regulations.

9. In order to receive the resettlement allowance the official shall not be required to satisfy the condition of length of service laid down in the first subparagraph of Article 6 (1) of Annex VII to the Staff Regulations.

10. For the purposes of Article 107 of the Staff Regulations and of Article 102 (2) of the Staff Regulations of Officials of the European Coal and Steel Community, an official affected by measures provided for in Article 2 (1) shall be treated as an official to whom the provisions of Articles 41 and 50 of the Staff Regulations have been applied.

Article 4

An official below the age of 55 on the day of his termination of service, and entitled to the allowance provided for in Article 3 (1) (b) during a period of at least 18 months, who can prove regular attendance at re-adaptation or retraining lectures or courses approved by the Commission may request that the allowance paid him under the first indent of Article 3 (1) (b) shall be equal to 100 % of his basic salary while he is attending such lectures or courses during a period not exceeding the first 12 months of the period referred to in Article 3 (1) (b).

However, where an amount paid in this way exceeds the amount resulting from the application of the first indent of Article 3 (1) (b), the excess shall be recovered either by means of a proportional reduction in the rate of the allowance, or by means of a refund from the official concerned.

Article 5

1. An official affected by the measures provided for in Article 2 (1) who has not completed 15 years' service may renounce irrevocably his pension rights. In this case he shall receive a grant fixed under the conditions laid down in Article 12 of Annex VIII to the Staff Regulations. The provisions of Article 3 (7) and (8) and Article 6 of this Regulation shall not apply to him.

For the purposes of Article 12 (c) of Annex VIII to the Staff Regulations, the actual length of service shall include the period in which the official is entitled to the grant provided for in Articles 3 and 4 and, where appropriate, the extended period allowed him in accordance with Article 3 (10).

2. An official who proposes to opt for application of the provisions provided for in paragraph 1 must declare his choice within six months from the date of notification of the measure referred to in Article 2 (1); in default, he shall forgo the right to opt.

Any sums which may have been paid by way of pension to the application of the provisions of this Article shall be deducted from the grant provided for in paragraph 1.

Article 6

1. The officials referred to in the last subparagraph of Article 2 of Regulation (EEC, Euratom, ECSC) No 259/68 [1] and in Article 102 (5) of the Staff Regulations, with the exception of those who before 1 January 1962 held Grade A 1 or A 2 posts under the Staff Regulations of the European Coal and Steel Community, to whom the measures provided for in Article 2 (1) are supplied, may request that their remuneration be determined in accordance with the provisions of Article 34 of the Staff Regulations of the European Coal and Steel Community and Article 50 of the Rules and Regulations of the European Coal and Steel Community.

2. Officials who before 1 January 1962 held Grade A 1 or A 2 posts under the Staff Regulations of the European Coal and Steel Community, to whom the termination of service arrangements provided for in Article 2 (1) are applied, may request that their remuneration be determined in accordance with the provisions of Article 42 of the Staff Regulations of the European Coal and Steel Community.

3. However, paragraphs 3, 5 and 6, the 5th subparagraph of paragraph 7 and paragraph 8 of Article 2 shall continue to apply to the officials referred to in this article.

CHAPTER III

Final Provision

Article 7

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 Luxembourg, 4 June 1973.

For the Council

The President

R. VAN ELSLANDE

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[1] OJ No L 56, 4. 3. 1968, p. 1.