I

(Acts whose publication is obligatory)

COUNCIL REGULATION (ECSC, EEC, EURATOM) No 1679/85

of 19 June 1985

introducing special and temporary measures to terminate the service of certain officials in the scientific and technical services of the European Communities

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 made after consulting the Staff Regulations Committee,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Court of Justice,

Whereas Article 4 of Council Decision 84/1/Euratom, EEC of 22 December 1983 adopting a research programme to be implemented by the Joint Research Centre for the European Atomic Energy Community and for the European Economic Community (1984 to 1987) (2) provides for the implementation of termination-of-service measures affecting the staff of the Centre, designed to permit the introduction of new skills and a reduction in the average age of the present staff ;

Whereas, to achieve the objectives thus defined, special termination-of-service measures should be temporarily adopted which would be valid until 31 December 1986, thus enabling the skills of the staff as a whole to be better adapted to the requirements of the research programmes carried out by the Centre ;

Whereas, although in this context application of the termination-of-service measures must generally be made conditional on the officials willingness to terminate their service, such measures may, by way of exception and if the exclusive interest of the services so requires, also be taken in a mandatory fashion with regard to officials holding posts corresponding to a particularly high degree of scientific and technical responsibility in the execution of programmes,

HAS ADOPTED THIS REGULATION :

Article 1

1. In the interests of the service, and in order to take account of the adjustment of skills required by the new structure of the Joint Research Centre, the Commission is hereby authorized until 31 December 1986 to adopt, within the meaning of Article 47 of the Staff Regulations of officials of the European Communities, hereinafter referred to as 'the Staff Regulations', and on the conditions set out in this Regulation, measures terminating the service of officials in the scientific and technical services who are in active employment or on secondment, who are paid from research and investment appropriations and who are included in the list of posts of the Centre.

2. The number of officials to whom the measures are to be applied shall not exceed 120.

Article 2

1. After consulting the Joint Committee, the Commission shall :

(a) draw up the list of grade A 3 or A 4 officials, aged 50 or over, exercising responsibility for the conduct of scientific programmes or performing management tasks, to whom the measures referred to in Article 1 are to be applied. To this end it shall :

— give priority, showing due regard to the interests of the service, to those officials who request application of these measures, and

(1) OJ No C 46, 18. 2. 1985, p. 102.
(2) OJ No L 3, 5. 1. 1984, p. 21.

— in all cases, take account of the age, ability efficiency, conduct in the service, marital status and seniority of officials, and, where appropriate, of the arduous nature of certain duties they have to perform ;

(b) draw up the list of grade A 7, A 6, A 5 and category B and C officials aged 55 years or over who request application of these measures, giving priority to officials who have reached the final step of their grade and taking account of the criteria set out in the second indent of subparagraph (a).

Article 3

1. A former official affected by the measures provided for in Article 1 shall be entitled to a monthly allowance equal to 70 % of the basic salary for the grade and step held at the time of departure, determined by reference to the table set out in Article 66 of the Staff Regulations in force on the first day of the month for which the allowance is payable.

2. Entitlement to the allowance shall cease not later than the last day of the month in which the former official attains the age of 65 and in any event as soon as the former official is eligible for the maximum retirement pension.

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 inside or outside the Communities in which the recipient proves that he is resident.

If the recipient of the allowance resides in a country for which no weighting has been fixed, the weighting to be applied to the allowance shall be equal to 100.

The allowance shall be expressed in Belgian francs. 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 Belgian francs.

The allowance paid in a currency other than the Belgian franc shall be calculated on the basis of the exchange rates specified in the second paragraph of Article 63 of the Staff Regulations.

4. Gross income acruing to the former official concerned from any new employment shall be deducted from the allowance provided for in paragraph 1, in so far as that income plus that allowance exceeds the total gross remuneration last received by the official, determined by reference to the salary scales 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.

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 concerned shall provide any written proof which may be required and shall notify the institution of any factor which may affect his right to the allowance.

5. Under the conditions set out in Article 67 of the Staff Regulations and Articles 1, 2 and 3 of Annex VII thereto, family allowances shall be payable to recipients of the allowance provided for in paragraph 1 ; the household allowance shall be calculated by reference to that allowance.

6. Recipients of the allowance shall be entitled, in respect of themselves and persons covered by their insurance, to benefit 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, and are not covered by another sickness insurance by virtue of legal or regulatory provisions.

7. During the period for which he is entitled to receive the allowance, the former official shall continue to acquire further rights to retirement pension based on the salary attaching to his 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 and Article 108 of the former Rules and Regulations of the European Coal and Steel Community, 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 monthly allowance provided for in paragraph 1 shall be entitled, provided that he or she had been his or her spouse for at least one year when the former official left the service of an institution, to a survivor's pension equal to 60 % of the retirement pension which, irrespective of length of service and age, would have been payable to the former official if he had qualified for it at the time of death.

The amount of the survivor's pension referred to in the first 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 first payment of retirement pension to which the former official would have been entitled had he survived and been granted a retirement pension when he ceased to be eligible for the allowance provided for.

The duration of the marriage 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.

The same shall apply if the former official's death 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 in 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 under 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.

10. For the purposes of Article 107 of the Staff Regulations of officials of the European Communities and of Article 102 (2) of the Staff Regulations of officials of the European Coal and Steel Communities, an official affected by the measure referred to in Article 1 shall be treated as an official who has remained in service until the age of 65 provided he continues to pay the contribution during the period of receipt of the allowance referred to in paragraph 1.

Article 4

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, 19 June 1985.

For the Council

The President

G. ANDREOTTI