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(Acts whose publication is obligatory)

COUNCIL REGULATION (EURATOM, ECSC, EEC) No 2274/87

of 23 July 1987

introducing special measures to terminate the service of temporary staff 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, by Regulation (ECSC, EEC, Euratom) No 3518/85 [2], the Council adopted special measures as a result of the accession of Spain and Portugal to terminate the service of officials of the European Communities;

Whereas, although the seniority requirement for eligible officials was set in principle at a minimum of 10 years, that minimum was lowered in the case of officials of the Court of Auditors to allow for the particular situation of that Institution, namely the fact that it was set up more recently;

Whereas, as a result of the accession of Spain and Portugal, it is also necessary to adopt similar measures for temporary staff with contracts of indefinite duration, by means of a Regulation couched as far as possible in similar terms;

Whereas the purpose of these measures is to enable preference to be given to Spanish and Portuguese nationals when the posts thus released are filled;

Whereas it is clear that temporary staff carrying out their duties under the conditions specified in Article 2 (c) of the conditions of employment of other servants, and in particular those working for the political groups in the European Parliament, would not be eligible for termination of service in order to enable Spanish and Portuguese nationals to be recruited in sufficient numbers and with normal career prospects if the age limit were set at 55 as was the case for officials and for temporary staff within the meaning of Article 2 (a) and (d) of the conditions of employment;

Whereas, in the interests of the institutions and to take account of the particular situation of the European Parliament, a sufficient number of Spanish and Portuguese nationals should be recruited to fill, with normal career prospects, the posts referred to in Article 2 (c); whereas the minimum age for termination of service of staff in that category should therefore be lowered to 50;

Whereas, moreover, in the case of certain officials in the scientific and technical services, Regulation (ECSC, EEC, Euratom) No 1679/85 [3] introducing special and temporary measures to terminate the service of such officials stipulated, in order to achieve the desired ends, an age limit of 50 for officials in grade A 3 or A 4 as opposed to 55 for the other grades,

HAS ADOPTED THIS REGULATION:

Article 1

In the interests of the service, and in order to meet requirements resulting from the accession of Spain and Portugal to the European Communities, certain institutions within the meaning of Article 1 of the Staff Regulations of officials of the European Communities fixed by Regulation (EEC, Euratom, ECSC) No 259/68 [4] are authorized until 31 December 1990 to adopt measures terminating the service of temporary staff within the meaning of Article 2 (a), (c) and (d) of the Conditions of Employment of Other Servants of the European Communities under the conditions specified below. The temporary staff in question, who hold a contract of indefinite duration, must have a total of at least 15 years' service and be aged at least 50 in the case of temporary staff within

[1] OJ No C 7, 12. 1. 1987, p. 299.
[2] OJ No L 335, 13. 12. 1985, p. 56.
[3] OJ No L 162, 21. 6. 1985, p. 1.
[4] OJ No L 56, 4. 3. 1968, p. 1.

the meaning of Article 2 (c) of the Conditions of Employment and at least 55 in the case of temporary staff within the meaning of Article 2 (a) and (d) of the Conditions of Employment.

Article 2

The numbers of temporary staff in respect of whom the measures referred to in Article 1 may be taken shall be 10 in the case of the European Parliament and 134 in the case of the Commission. These numbers shall be spread over the years of application of this Regulation as follows :

	European Parliament	Commission
1987	0	32
1988	3	32
1989	3	36
1990	4	34

Article 3

Having due regard to the interests of the service, the institution shall select, within the limits laid down in Article 2 and after consulting the Joint Committee, from temporary staff requesting the application of measures terminating their service under Article 1, those to whom such measures shall be applied. To this end it shall take into consideration their age, ability, efficiency, conduct in the service, family situation and seniority.

Article 4

1. A former member of the temporary staff affected by the measure 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 member of the temporary staff attains the age of 65 and in any event as soon as he becomes eligible for the maximum retirement pension.

At that point the former member of the temporary staff shall automatically receive a retirement pension calculated in accordance with Articles 39 and 40 of the Conditions of Employment, 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 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.

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

4. Gross income accruing to the former member of the temporary staff from any new employment shall be deducted from the allowance provided in paragraph 1, in so far as that income plus that allowance exceeds the total gross remuneration last received by him, 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 member of the temporary staff 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 to the Staff Regulations, family allowances 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 that allowance.

6. Recipients of the allowance shall be entitled, in respect of themselves and persons covered by their insurance, to under 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 statutory provisions.

7. During the period for which he is entitled to receive the allowance, the former member of the temporary staff 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 Title II, Chapter 6 of

the Conditions of Employment. 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 member of the temporary staff who dies while in receipt of the monthly allowance provided for in paragraph 1 shall be entitled, provided that he or she has been his or her spouse for at least one year when the former member of the temporary staff left the service of an institution, 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 member of the temporary staff if he had qualified for it at the time of death.

The amount of the survivor's pension referred to in the previous subparagraph shall not be less than the amounts specified in Title II, Chapter 6 of the Conditions of Employment. However, in no case may it exceed the amount of the retirement pension to which the former member of the temporary staff would have been entitled had he survived and been granted a retirement pension when he ceased to be eligible for the allowance referred to above.

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 member before he or she left the service, provided that the surviving spouse maintains or has maintained those children.

The same shall apply if the death of the former member of the temporary staff 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 member of the temporary staff 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 Title II, Chapter 6 of the Conditions of Employment 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.

Done at Brussels, 23 July 1987.

For the Council

The President

K.E. TYGESEN