II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation (EEC) introducing special and temporary measures to terminate the service of officials of the European Communities

COM(88) 513 final

(Submitted by the Commission on 4 October 1988)

(88/C 267/02)

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,

Having regard to the opinion of the Court of Justice,

Whereas performance of future activities and the specific research programmes of the Joint Research Centre call for a radical restructuring of the Centre designed to ensure that it has adequate skills at its disposal;

Whereas this restructuring must be carried out with no increase in staffing and the number of retirements is far from sufficient to allow the recruitments needed to attain the Centre's new objectives;

Whereas in order to ensure that the restructuring and the attainment of these new objectives are not impeded by inadequate staff skills, special termination-of-service measures must be adopted;

Whereas these special measures could prove ineffective if in every case their application required the prior agreement of the officials concerned; and whereas, if dictated by the interests of the service, it must be possible for such measures to be mandatory and not subject to such agreement,

HAS ADOPTED THIS REGULATION:

Article 1

1. In the interests of the service the Commission is authorized until 31 December 1989, 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 active employment or on secondment, in grades other than A 1 and A 2, who are aged at least 50, have completed at least 10 years' service, are paid from research and investment appropriations and are included in the establishment plan of the Joint Research Centre.

2. The number of officials in all categories to whom these measures may be applied shall not exceed 100.

Article 2

1. After consulting the Joint Committee, which shall give a hearing to any official who so requests, the Commission shall draw up the list of officials affected by the measures referred to in Article 1.

2. However, the Commission shall grant any requests for termination of service under this Regulation from officials aged 60 and over.

3. The measures provided for in Article 1 and in paragraph 1 above shall in no way be disciplinary in nature.

Article 3

1. A former official 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 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 weighted at the rate fixed in accordance with the second subparagraph of Article 82 (1) of the Staff Regulations for the country situated inside or outside the Community where the recipient proves he has his residence

If the recipient of the allowance establishes his residence in a country outside the Community, the weighting of 100 shall be applied

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 previous 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 exchange rates specified in the second paragraph of Article 63 of the Staff Regulations

4 Gross income accruing to the former official 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 to the Staff Regulations, family allowances shall be payable either to the recipient of the allowances provided for in paragraph 1 or in his name and on his behalf 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 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 statutory 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 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 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 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 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 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 and of Article 102 (2) of the Staff Regulations of Officials of the European Coal and Steel Community, an official affected by the measure provided for 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 of this Article.

Article 4

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