

EUROPEAN PARLIAMENT

Working Documents

1984-1985

2 April 1984

DOCUMENT 1-106/84

Report

drawn up on behalf of the Legal Affairs Committee

on the proposal from the Commission of the European Communities to the Council (Doc. 1-642/83 - COM(83) 455 final) for a regulation (EEC, EURATOM, ECSC) amending the conditions of employment of other servants of the European Communities

Rapporteur: Mr D. ROGALLA

PE 88.364/fin.
Or. De.

By letter of 17 August 1983, the President of the Council of the European Communities requested the European Parliament, pursuant to Article 24 of the Treaty establishing a single Council and a single Commission of the European Communities, to deliver an opinion on the proposal of 14 July 1983 from the Commission of the European Communities to the Council for a regulation (EEC, Euratom, ECSC) amending the conditions of employment of other servants of the European Communities (COM(83) 455 final).

On 12 September 1983 the President of the European Parliament referred this proposal to the Legal Affairs Committee as the committee responsible and to the Committee on Budgets for its opinion.

On 21 September 1983 the Legal Affairs Committee appointed Mr ROGALLA rapporteur.

The Legal Affairs Committee considered the Commission's proposal and the draft report at its meeting of 1/2 February 1984.

At its meeting of 21/22 March 1984 the committee decided to recommend to Parliament that it approve the Commission's proposal with the following amendments.

The committee then adopted the motion for a resolution as a whole by 7 votes with 2 abstentions.

The following took part in the vote: Mrs Veil, chairman; Mr Turner, vice-chairman; Mr Rogalla, rapporteur; Mrs Cinciari Rodano, Mr D'Angelosante, Mr Ferri, Mr Geurtsen, Mr Tyrrell and Mr Vié.

The opinion of the Committee on Budgets is attached.

The report was tabled on 28 March 1984.

The deadline for the tabling of amendments to this report appears in the draft agenda for the part-session at which it will be debated.

C O N T E N T S

	<u>Page</u>
AMENDMENTS TO THE COMMISSION'S PROPOSAL	5
A. MOTION FOR A RESOLUTION	9
B. EXPLANATORY STATEMENT	10
ANNEX I - Definition of temporary staff (Article 2 of the Conditions of employment of other servants of the European Communities)	15
ANNEX II - Number of posts for temporary staff in the institutions of the Community in the General Budget, 1984, Volume 1, C. Staff	16
ANNEX III - Opinion of the Committee on Budgets	18

The Legal Affairs Committee hereby submits to the European Parliament the following amendments to the Commission's proposal for a Council regulation (EEC, Euratom, ECSC) amending the conditions of employment of other servants of the European Communities and motion for a resolution together with explanatory statement:

Article of the proposal for a regulation	Applicable provision of the Conditions of employment of other servants	Text proposed by the Commission of the European Communities	Amendments tabled by the Legal Affairs Committee
<p><u>Article 1</u></p> <p>Point 1</p>		<p>The following paragraph is added to Article 8:</p> <p><u>'The contracts of temporary staff engaged for a fixed period may be renewed not more than once for a fixed period. Any further renewal shall be for an indefinite period'.</u></p>	<p><u>Amendment No. 1</u></p> <p>'The contracts of temporary staff engaged for a fixed period may be renewed not more than once for a fixed period. Any further renewal shall be for an indefinite period'.</p> <p><u>After any further renewal the contract shall become a contract for an indefinite period, provided that the employee's total period of service amounts to 8 years.</u></p>
<p><u>Article 1</u></p> <p>Point 4</p>	<p><u>Article 17</u></p> <p>In exceptional circumstances a member of the temporary staff may at his own request be granted unpaid leave on compelling personal grounds. The authority referred to in the first paragraph of Article 6 shall determine the length of such leave, which shall not exceed one quarter of the length of time already worked by the servant or three months, whichever is the shorter.</p>	<p>In exceptional circumstances a member of the temporary staff may at his own request be granted unpaid leave on compelling personal grounds. The authority referred to in the first paragraph of Article 6 shall determine the length of such leave, which shall not exceed one quarter of the length of time already worked by the servant or <u>six months</u>, whichever is the shorter.</p>	<p><u>Amendment No. 2</u></p> <p>In exceptional circumstances a member of the temporary staff may at his own request be granted unpaid leave on compelling personal grounds. The authority referred to in the first paragraph of Article 6 shall determine the length of such leave which, <u>in the case of a member of temporary staff holding a contract for a fixed period</u>, shall not exceed one quarter of the length of time already worked by the servant or <u>three months</u>, whichever is the shorter. <u>In the case of a member of temporary staff holding a contract for an indefinite period such leave shall not exceed one quarter of the length of time already worked by the servant or six months, whichever is the shorter.</u></p>

Article of the proposal for a regulation	Applicable provision of the Conditions of employment of other servants	Text proposed by the Commission of the European Communities	Amendments tabled by the Legal Affairs Committee
	<p>Any period of leave granted in accordance with the preceding paragraph shall not count for the purposes of the application of the third paragraph of Article 20.</p>	<p>Any period of leave granted in accordance with the preceding paragraph shall not count for purposes of the application of the third paragraph of Article 20.</p>	<p>Any period of leave granted in accordance with the preceding paragraph shall not count for purposes of the application of the third paragraph of Article 20.</p>

Article of the proposal for a regulation	Applicable provision of the Conditions of employment of other servants	Text proposed by the Commission of the European Communities	Amendments tabled by the Legal Affairs Committee
<p><u>Article 1</u> Point 5</p>	<p><u>Article 18</u></p> <p>A servant who is recalled to serve in the armed forces and whose employment is not terminated under Article 48 shall be placed on leave with full remuneration, for a period equal to the length of time worked by him, up to a maximum of three months. At the end of this period he shall, for the remainder of his service in the armed forces and up to a maximum of half the length of time worked by him, receive compensation equal to one third of his basic salary. At the end of this further period the servant shall be placed on unpaid leave.</p> <p>However, the payments provided for in the preceding paragraph shall be reduced by the amount of service pay received by the servant concerned during the relevant period.</p>	<p><u>The contract of a member of the temporary staff who is called up for military service or for reserve training or is recalled to serve in the armed forces shall be suspended; for temporary staff engaged for a fixed period the suspension may in no circumstances exceed the duration of the contract.</u></p> <p><u>A member of the temporary staff who is called up for military service shall cease to receive his remuneration but shall retain his right under these Conditions of Employment to advancement to a higher step. He shall also retain his right to retirement pension if, after completing his military service, he pays up his pension contributions retroactively.</u></p> <p><u>A member of the temporary staff who is called up for reserve training or is recalled to serve in the armed forces shall, during the period of training or recall, continue to receive his remuneration subject to deduction of an amount equal to his service pay.</u></p>	<p><u>Amendment No. 3</u></p> <p>The contract of a member of the temporary staff who is called up for military service or <u>alternative service</u> or for reserve training or is recalled to serve in the armed forces shall be suspended; for temporary staff engaged for a fixed period the suspension may in no circumstances exceed the duration of the contract.</p> <p>A member of the temporary staff who is called up for military service or <u>alternative service</u> shall cease to receive his remuneration but shall retain his right under these Conditions of Employment to advancement to a higher step. He shall also retain his right to retirement pension if, after completing his military service or <u>alternative service</u> he pays up his pension contribution retroactively.</p> <p>A member of the temporary staff who is called up for reserve training or <u>alternative service</u> or is recalled to serve in the armed forces shall, during the period of training or recall, continue to receive his remuneration subject to deduction of an amount equal to his service pay.</p>

Article 2

The provisions of this regulation shall apply to temporary staff in service when this regulation comes into force.

Article 2

Amendment No. 4

The provisions of this regulation shall apply to temporary staff in service when this regulation comes into force, with effect from 1 January 1984.

All the other articles and points of the proposal for a regulation are adopted without amendment.

MOTION FOR A RESOLUTION

closing the procedure for consultation of the European Parliament on the proposal from the Commission of the European Communities to the Council for a Council Regulation (EEC, Euratom, ECSC) amending the conditions of employment of other servants of the European Communities

The European Parliament,

- having regard to the proposal from the Commission to the Council¹,
 - having been consulted by the Council pursuant to Article 24 of the Treaty establishing a single Council and a single Commission of the European Communities (Merger Treaty) (Doc. 1-642/83),
 - having regard to the report of the Legal Affairs Committee and the opinion of the Committee on Budgets (Doc. 1-106/84),
 - having regard to the result of the vote on the Commission's proposal,
1. Welcomes the aim of this proposal to bring the conditions of employment of temporary staff of the European Communities into line with the corresponding legal developments concerning similar public servants in the Member States;
 2. Considers, however, that as regards the period of leave on personal grounds, it is appropriate to make a distinction between temporary staff holding a contract for a fixed period and temporary staff holding a contract for an indefinite period;
 3. Requests the Commission to incorporate in its proposal for a regulation the amendments adopted in plenary sitting, pursuant to the second paragraph of Article 149 of the EEC Treaty;
 4. Instructs its President to forward to the Council and the Commission, as Parliament's opinion, the Commission's proposal as voted by Parliament and the corresponding resolution.

¹ OJ No. C 213 of 9 August 1983, p. 7

EXPLANATORY STATEMENT

1. Regulation (EEC, Euratom, ECSC) No. 259/68 of the Council of 29 February 1968 laid down the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities. This basic regulation has been repeatedly amended so as to take account of legal developments and developments with regard to social security and the cost of living.

For example, amendments of this kind were made in 1983 by the following Council Regulations:

- No. 440/83 of 21 February 1983 adjusting the remunerations and pensions of officials and other servants¹,
- No. 1819/83 of 28 June 1983 adjusting daily subsistence allowances²,
- No. 2022/83 of 18 July 1983 adjusting the weightings³, *
- No. 2023/83 of 18 July 1983 in respect of shiftwork allowances⁴, *
- No. 2074/83 of 21 July 1983 amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities⁵. *

2. Under the second subparagraph of Article 24(1) of the Merger Treaty, the Council may, acting by a qualified majority on a proposal from the Commission and after consulting the other institutions concerned, amend the Staff Regulations of Officials and the Conditions of Employment of Other Servants.

The Commission considers that the amendment to the Staff Regulations submitted in its proposal for a regulation of 14 July 1983 is advisable in view of what it has learnt from implementing the Staff Regulations of Officials and the Conditions of Employment of Other Servants in the past.

Reference should be made to Annex II for the number of existing posts for temporary staff in the Community institutions.

¹ OJ No. L 53 of 26.2.1983, p.1

² OJ No. L 180 of 5.7.1983, p.1

³ OJ No. L 199 of 22.7.1983, p.1)

⁴ OJ No. L 199 of 22.7.1983, p.3)

⁵ OJ No. L 203 of 27.7.1983, p.1)

* These amendments were made after the proposal for a regulation of 14 July 1983 discussed in this report had been submitted

3. The proposed amendments in detail:

(a) Article 1, point 1 of the proposal for a regulation, relating to Article 8

This paragraph aims to add a further paragraph to Article 8 so that is harmonizes more closely with the social security law of the Member States. The proposal for a regulation seeks to achieve this laudable aim by stipulating that when a contract of employment for a fixed period is renewed, which may occur only once, it becomes a contract of employment for an indefinite period to which, under Article 1, point 11, a six-month period of notice will then apply.

This is a commendable proposal, but to prevent abuse the suggestion made in the opinion of the Committee on Budgets should be followed. The Legal Affairs Committee therefore takes the view that after any further renewal the contract should become a contract for an indefinite period, provided that the employees's total period of service amounts to 8 years (Amendment No. 1).

(b) Article 1, point 2 of the proposal for a regulation, relating to the first paragraph of Article 11, concerns leave on personal grounds taken by a member of temporary staff who has been elected to public office. This right, laid down in the second paragraph of Article 15 of the Staff Regulations, did not previously apply to temporary staff.

As shown by Article 2(c) of the Conditions of Employment of Other Servants, certain members of temporary staff work in the politically charged atmosphere surrounding members of the Community institutions. They are therefore especially interested in standing for public office when the occasion arises and in being able to be elected to such office without infringing their contract of employment.

Putting the terms of employment of temporary staff in this respect on a par with those of officials elected to public office is approved by it helps to enlarge the professional experience of members of temporary staff.

(c) Article 1, point 3 of the proposal for a regulation, relating to the third paragraph of Article 14, aims to make it compulsory, under Article 14 of the Conditions of Employment of Other Servants as under the first and second subparagraphs of Article 34(2) of the Staff Regulations, for the appointing authority to deliver, not less than one month before the expiry of the probationary period, a report on the ability of the member of temporary staff.

This amendment of the Conditions of Employment of Other Servants should be approved. It replaces the previous third paragraph of Article 14 by three new paragraphs taken from the general Staff Regulations (Article 34(2)). The amendment leads to greater legal certainty and legal clarity.

- (d) Article 1, point 1(a) of the proposal for a regulation, relating to Article 17, aims to increase the period of leave on compelling personal grounds from three months, as it has been hitherto, to six months.

In the case of a contract of employment for a fixed period, which may be for a maximum of three years under the second paragraph of Article 8, the possibility of taking six months' leave on personal grounds seems to be excessively long. A distinction should therefore be made, in the case of this proposal for amendment, between leave on personal grounds taken by members of temporary staff holding contracts for a fixed period (three months, as before) and members of temporary staff holding contracts for an indefinite period (new rule: six months - Amendment No. 2).

- (e) Article 1, point 4(b) of the proposal for a regulation, which concerns social security arrangements for temporary staff in case of sickness and accident, should be approved without reservation.
- (f) Article 1, point 5 of the proposal for a regulation, which concerns Article 18, incorporates in the conditions of employment of temporary staff the rules laid down in the Staff Regulations of Officials (Article 42) with regard to leave for military service. This amendment should be approved but should be extended so as to include alternative service and treat it in the same way as military service. The Legal Affairs Committee has noted with approval the fact that in practice the Commission's departments already treat military service and alternative service in the same way. The committee recommends that the Staff Regulations should be amended in the future to ensure that the provisions of Article 18 of the Conditions of Employment and Article 42 of the Staff Regulations relating to military service and alternative service are identical (see Amendment No. 3).
- (g) Article 1, point 6 of the proposal for a regulation, which concerns Article 20, proposes to delete the fourth paragraph of Article 20 and the scale of basic monthly salaries.

This seems to be one of the main points of the proposed amendments to the conditions of employment. The other amendments proposed seem to be dealt with on this occasion for the sake of simplicity.

This scale of basic monthly salaries applies only to temporary staff who are engaged to fill temporarily a permanent post paid from research and investment appropriations (Article 2(d) of the Conditions of Employment of Other Servants).

If one compares the scale with that applicable to officials under Article 66 of the Staff Regulations it is clear that in both scales the remuneration of categories A, LA and B is identical and only in the case of categories C and D is there a difference of approximately 5%. The remuneration applicable hitherto to categories C and D under the Conditions of Employment of Other Servants, which is lower than the remuneration of officials in categories C and D under the Staff Regulations, will in future no longer apply. Different remuneration can no longer be justified for equal work and the same duties.

The proposed amendment should therefore be approved.

It should however be ensured, by means of appropriate wording, that equal remuneration applies as from 1 January 1984 (Amendment No. 4).

(h) Article 1, points 7 to 11

- Point 7 of the proposal for a regulation relates to removal expenses (Article 23),
- Point 8 of the proposal for a regulation relates to the amount of installation and resettlement allowance (Article 24),
- Point 9 of the proposal for a regulation concerns the rules relating to daily subsistence allowance (Article 25),
- Point 10 of the proposal for a regulation relates to social security in case of sickness and accident (Article 28),
- Point 11 of the proposal for a regulation concerns the period of notice, which is to be six months in the case of temporary staff whose engagement has been renewed (Article 47).

These amendments can be accepted, as they are based on ascertainable developments in social security law or are aimed at bringing up-to-date the reimbursement of expenses.

- (i) Article 1, point 12 of the proposal for a regulation amends Article 48 of the Conditions of Employment concerning termination of employment without notice. This takes into account the amendment of Article 14 (probationary report) and Article 18 (military service) which this proposal for a regulation aims to achieve.

(j) Article 2 of the proposal for a regulation governs the substantive scope of the regulation. The Legal Affairs Committee recommends that the regulation should take effect as from 1 January 1984 (Amendment No. 4).

Conclusions

The proposal for a regulation is approved subject to the amendments which should be made to the following:

1. Article 1, point 1, concerning Article 8 (contracts of employment of temporary staff);
2. Article 1, point 4 concerning Article 17 (leave on personal grounds);
3. Article 1, point 5 concerning Article 18 (military service and alternative service);
4. Article 2 (substantive scope and date from which the regulation takes effect).

CONDITIONS OF EMPLOYMENT
OF OTHER SERVANTS OF THE EUROPEAN COMMUNITIES

Definition of temporary staff:

Article 2

For the purposes of these Conditions of Employment, 'temporary staff' means:

- (a) staff engaged to fill a post which is included in the list of posts appended to the section of the budget relating to each institution and which the budgetary authorities have classified as temporary;
- (b) staff engaged to fill temporarily a permanent post included in the list of posts appended to the section of the budget relating to each institution;
- (c) staff, other than officials of the Communities, engaged to assist either a person holding an office provided for in the Treaties establishing the Communities, or the Treaty establishing a Single Council and a Single Commission of the European Communities, or the elected President of one of the institutions or organs of the Communities or the Elected Chairman of one of the political groups in the European Parliament.
- (d) Staff engaged to fill temporarily a permanent post paid from research and investment appropriations and included in the list of posts appended to the budget relating to the institution concerned.

C. STAFF

The number of staff who can be paid out of the staff appropriations during the financial year 1984 is limited to the following figures :

Institution	Permanent posts	Temporary posts
Parliament	2 635	323
Council	1 790	2
Economic and Social Committee	398	—
Commission		
Operation	9 642	395
Research and investment	2 550	175
Office for Official Publications	312	—
European Centre for the Development of Vocational Training	43	—
European Foundation for the Improvement of Living and Working Conditions	37	—
Court of Justice	466	11
Court of Auditors	273	30

The distribution per category and grade for these members of staff must be kept within the limits shown in the following staff lists.

Research and investment activities

I. Joint Research Centre

Category and grade	Staff authorized for 1984		
	Scientific and technical ⁽¹⁾	Administrative ⁽²⁾	Total
A 1	1 ⁽³⁾	—	1
A 2	9 ⁽⁷⁾	1	10
A 3	31	7	38
A 4	152	12	164
A 5	199	13	212
A 6	83	1	84
A 7	23	1	24
A 8	—	—	—
Total	498	35	533
B 1	14	25	139
B 2	148	30 ⁽⁴⁾	228
B 3	171	28 ⁽⁵⁾	199
B 4	146	19 } ⁽⁶⁾	165
B 5	33	15 }	48
Total	662	117	779
C 1	272	120	392
C 2	255	121	376
C 3	36	45	81
C 4	—	8	8
C 5	—	—	—
Total	563	294	857
D 1	19	29	48
D 2	1	4	5
D 3	—	—	—
D 4	—	—	—
Total	20	33	53
Grand Total	1 743 ⁽³⁾ ⁽⁸⁾	479	2 222

⁽¹⁾ All staff employed in scientific or technical departments and performing either scientific, technical or general work (including managerial staff) are considered as occupying scientific or technical posts.
⁽²⁾ The following are considered in principle as occupying administrative posts: all staff assigned to administrative, financial and supply departments of the establishments; all secretaries, whatever the department to which they have been assigned; and the small number of staff assigned to scientific and technical departments who are made available to the supply departments of the establishments.
⁽³⁾ Including one official under the provisions of Article 93 of the Staff Regulations.
⁽⁴⁾ Including two posts of senior secretarial assistant.
⁽⁵⁾ Including four posts of secretarial assistant.
⁽⁶⁾ Including five posts of senior secretarial assistant.
⁽⁷⁾ Including one A 1 *ad personam*.

OPINION OF THE COMMITTEE ON BUDGETS

Letter from the chairman of the committee to Mrs Simone VEIL,
chairman of the Legal Affairs Committee

Brussels, 26 March 1984
8408938

Dear Madam Chairman,

Subject: Opinion of the Committee on Budgets to the proposal for a Council Regulation amending the conditions of employment of other servants of the European Communities (COM(83) 455 final)

At its meeting of 21 March 1984, the Committee on Budgets considered this proposal for a regulation.

It noted that given the relatively minor financial repercussions of this proposal (approx. 1 m ECU), the proposed measures could be applied in full as soon as the proposal for a regulation has been adopted.

As far as the applicability of Article 1 of the proposal for a regulation is concerned, the Committee on Budgets remains convinced that the administrative regulations applicable to scientific staff should still not be the same as those applied to administrative staff.

It therefore insists that in Article 1 of the proposal for a regulation, renewal for an indefinite period of a contract which has already been renewed twice should not become automatic in the case of scientific staff but should be provided for as a possibility. For such staff, therefore, the second sentence of Article 1 should read as follows:

'Any further renewal may be for an indefinite period'.

The Committee on Budgets also wishes specific provision to be made that the change-over from a fixed period contract which has been renewed once to a contract for an indefinite period should only take place after a certain number of years. It believes that transition to the conditions governing contracts for an indefinite period is reasonable after a sufficient number of years. It believes that this should happen after the employees have been given two five-year contracts.

Provisions to this effect should also appear in Article 1 of the proposal for a regulation to avoid any abuse and misuse of the procedure to allow temporary staff who have been given two consecutive temporary short-term contracts to be employed for an indefinite period.

The Committee on Budgets also believes that the provisions under Article 18 for leave for military service should also apply to persons who perform alternative service in place of military service.

Yours sincerely,

(sgd) Erwin LANGE

Present: Mr LANGE, chairman, Mr NOTENBOOM, Mrs BARBARELLA, vice-chairmen, Mr ABENS, Mr ADONNINO, Mr GOUTHIER, Mr HELMS (deputizing for Mr PFENNIG), Mr KELLETT-BOWMAN, Mr LALUMIERE, Mr LANGES, Mr LOUWES, Mrs NIKOLAOU and Mr ORLANDI.