EU Civil Service Tribunal: temporary judges

2011/0902(COD) - 28/03/2011 - Legislative proposal

PURPOSE: to lay down the rules governing the appointment of temporary Judges to the European Union Civil Service Tribunal, their rights and duties, the conditions under which they may perform their duties and the circumstances in which they would cease to perform those duties.

PROPOSED ACT: Regulation of the European Parliament and of the Council (at the request of the Court of Justice of the EU.)

LEGAL BASIS : Article 257 of the Treaty on the Functioning of the European Union (TFEU) and Article 106(a) of the Treaty establishing the European Atomic Energy Community;

Protocol on the Statute of the Court of Justice of the European Union, and in particular Article 62c thereof and Article 2(2) of Annex I thereto.

BACKGROUND: the Court of Justice submits to the European Union legislature a proposal for amendments to the Statute of the Court and Annex I thereto. This single text incorporates separate proposals in respect of each of the three jurisdictions which comprise the Court of Justice of the European Union. The European Union Civil Service Tribunal comprises seven Judges. Owing to that limited composition, the functioning of the Tribunal can be seriously affected if one of its members, for an extended period of time, is prevented on medical grounds from performing his duties, without however suffering from disablement within the meaning of Article 10 of Council Regulation No 422/67/EEC, No 5 /67/Euratom.

In order to ensure that the Civil Service Tribunal is not placed in a situation of difficulty such as to prevent it from carrying out its judicial functions, it is proposed to amend Article 62c of the Statute of the Court by providing, in general terms, for the possibility of attaching temporary Judges to the specialised courts.

In accordance with Article 62c of the Statute, as thus amended, the actual attachment of temporary Judges to the Civil Service Tribunal requires an amendment to Annex I [1] to the Statute.

CONTENT: at the Court of Justice's request, this proposal aims to lay down the rules governing the appointment of temporary Judges of the Tribunal, their rights and obligations, the conditions under which they are to perform their duties and the circumstances in which they will cease to perform those duties. This draft Regulation is linked to the draft amendments to the Statute of the Court and Annex I thereto. Its main points are as follows:

- on a proposal from the President of the Court of Justice, the Council of the European Union shall draw up **a list of three persons to be temporary Judges. Temporary Judges** shall be chosen from among former Members of the Court of Justice of the European Union who are able to place themselves at the disposal of the Civil Service Tribunal. Temporary Judges shall be appointed for a period of four years and may be reappointed;
- the Civil Service Tribunal may decide to avail itself of the assistance of a temporary Judge if it determines that a Judge is or will be prevented, on medical grounds, from participating in judicial business and that **the situation will be or is likely to be of at least three months' duration,** and if it takes the view that that Judge is nevertheless not suffering from disablement deemed to be total. In this case, the President of the Tribunal shall call upon a temporary Judge to undertake judicial duties;
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temporary Judges who are called upon to take up their duties shall exercise the prerogatives of a Judge **solely in the context of dealing with cases to which they are assigned.** This implies that temporary Judges would be able to perform only strictly judicial duties and would not be entitled to participate in the administration of the Civil Service Tribunal or in the election of the President of the Tribunal or Presidents of Chambers;

- with regard to **emoluments**, the proposal provides that temporary Judges shall receive remuneration of an amount equal to 1/30th of the basic monthly salary allocated to Judges under Article 21c(2) of Regulation No 422/67/EEC and No 5/67/Euratom for each day. Temporary Judges would also be entitled to reimbursement of their travel and hotel expenses, as well as to payment of a daily subsistence allowance, in respect of journeys to Luxembourg in the course of their duties. The amount by which the remuneration together with the pension provided for in Article 8 of Regulation No 422/67/EEC and No 5/67/Euratom exceeds the remuneration, before deduction of taxes, which the temporary Judge was receiving as a member of the Court of Justice of the European Union shall be deducted from that pension;
- lastly, the draft regulation sets out the **circumstances under which the duties of temporary judges will cease**. This will take place on his death or resignation, or by decision to deprive him of his office as provided by the Statute. The duties of a temporary Judge shall also end when the Judge whom he has replaced is no longer prevented from acting.