EC staff regulation: weighting to payments (amending Regul. 259/68/EEC/Euratom/ECSC)

1998/0235(CNS) - 08/07/1998 - Legislative proposal

OBJECTIVE: to set at 100 the weighting to be applied to the pensions of Community officials living outside the EU in order to remedy the conflict of norms highlighted by the Court of First Instance ruling of 14 December 1995 in Case T-285/94. SUBSTANCE: pursuant to Council Regulation (ECSC/EEC /Euratom) 2175/88, a weighting of 100 is applied to payments made under the Community pension scheme and allowances paid pursuant to Article 50 of the Staff Regulations to recipients who have established their residence in a non-member country, and to family allowances paid for dependent children of officials and former officials or to other persons residing in a non-member country. In its judgment of 14 December 1995 in Case T- 285/94, the Court of First Instance found that Article 3 of the above regulation was unlawful because it conflicted with the provisions of the Staff Regulations, which provide that pensions are weighted at the rate fixed for the country where the recipient resides, whether inside or outside the Communities. By virtue of the principle of the hierarchy of norms, the Court ruled that a regulation such as the one under review (adopted without following the procedure laid down for the revision of the Staff Regulations) could not amend a specific provision of the Staff Regulations. It was therefore necessary to remedy the conflict of norms highlighted by the Court. Since the situation of former officials differs from that of serving staff, in particular with regard to the choice of place of residence, there are grounds for maintaining the distinction introduced by Regulation 2175/88 limiting the application of weightings exclusively to the remuneration of staff serving in non-member countries. This proposal therefore aims to make these various changes to the Staff Regulations by applying the procedure laid down for the purpose.