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DOCUMENT 1-627/81

Report

drawn up on behalf of the Committee on Budgets

on the proposal from the Commission of the European Communities to the Council for a regulation amending the Staff Regulations of Officials and the conditions of Employment of other servants of the European Communities (Doc. 1-451/81)

Rapporteur: Mr S. LEGA

By letter of 17 August 1981 the President of the Council of the European Communities consulted the European Parliament on the proposal for a Council regulation (EEC) amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities.

By letter of 26 August 1981 the President of the European Parliament referred the proposals to the Committee on Budgets as the committee responsible and to the Legal Affairs Committee for an opinion.

On 23 September 1981 the Committee on Budgets confirmed the appointment of Mr Lega rapporteur.

The Committee on Budgets examined the proposal at its meetings of 23 September, 30 September and 12 October 1981; during the latter meeting the committee adopted the motion for a resolution and amendments by 15 votes in favour with 5 abstentions.

Present: Mr Lange, chairman; Mr Notenboom and Mr Spinelli, vice-chairmen; Mr Lega, rapporteur; Mr Brok (deputizing for Mr Aigner), Mr Cluskey, Mr Fich, Mr Georgiadis, Mr Hopper (deputizing for Mr Balfour), Mr Hord (deputizing for Mr Howell), Mr Robert Jackson, Mr Langes, Mr Newton Dunn, Mr Nord, Mrs Pruvot (deputizing for Mr Rossi), Mr Saby, Mrs Scrivener, Mr Simonnet, Mr Sutra (deputizing for Mrs Hoff), Mr Woltjer (deputizing for Mr Colla).

The opinion of the Legal Affairs Committee will be published separately.

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The Committee on Budgets hereby submits to the European Parliament the following amendments and motion for a resolution together with explanatory statement:

AMENDMENT N° 1

Proposal for a Regulation amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities
(Doc. 1-451/81)

Amend the First recital to read as follows:

Whereas the specific difficulties of the economic and social situation necessitate the introduction of a special crisis levy on the salaries of officials working for the Communities, assessed in the light of objective data for this purpose by the Commission;

AMENDMENT N° 2

Proposal for a Regulation amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities
(Doc. 1-451/81)

Amend the Second recital to read as follows:

Whereas the Council decision amending the method of adjusting the remuneration of officials and other servants of the Communities has no binding force and cannot be implemented unless the Staff Regulations are first amended in co-operation with the institutions concerned,

AMENDMENT N° 3

Proposal for a Regulation amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities (Doc. 1-451/81)

Article 1

Amend Article 66a(1) to read as follows:

A special temporary crisis levy shall be applied for a period expiring not later than 1 July 1986 to salaries; it shall be based on economic data reflecting the average gaps recorded in the Member States between the trend in real per capita wages and salaries and the trend in:

- . total productivity (GDP in volume terms per person employed);
- . productivity available for distribution, i.e. productivity corrected for the terms of trade;
- . productivity per member of the active population, i.e. including persons in employment and the unemployed.

AMENDMENT N° 4

Proposal for a Regulation amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities
(Doc. 1-451/81)

Article 1

Amend Article 66a(2)(b) to read as follows:

For subsequent years the Council shall reconsider the economic situation and shall decide by qualified majority whether or not to maintain the levy acting on a proposal from the Commission after consulting Parliament and the other institutions concerned.

The Commission proposal referred to in the foregoing subparagraph which shall be presented six months before the end of the fifth year shall be based on developments in the economic data referred to in paragraph 1.

AMENDMENT N° 5

Proposal for a Regulation amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities
(Doc. 1-451/81)

Article 1

Delete paragraph 3(b) of Article 66a.

AMENDMENT N° 6

Proposal for a Regulation amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities
(Doc. 1-451/81)

Article 1

Article 66a(3)(c)

Unchanged but becomes Article 66a(3)(b)

AMENDMENT N° 7

Proposal for a Regulation amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities
(Doc. 1-451/81)

Article 1

Article 66a(3)

Add after subparagraph (c) the following new sentence:

Taxes on salaries shall be calculated on the net taxable amount after deduction of the special crisis levy

AMENDMENT N° 8

Proposal for a Regulation amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities
(Doc. 1-451/81)

Article 1

Amend Article 66a(b) to read as follows:

Each new rate of levy shall be introduced annually by a Council decision taken in conjunction with the decision on the annual adjustment of remuneration pursuant to Council decision ... on the method; it shall be applied to arrears resulting from the adjustment.

AMENDMENT N° 9

Proposal for a Regulation amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities
(Doc. 1-451/81)

Chapter 2, Article 2

Amend paragraph 1 to read as follows:

The following subparagraph is inserted between the second and third subparagraphs of Article 20 of the Conditions of Employment:

'Article 66(a) of the Staff Regulations relating to the special crisis levy shall apply by analogy to temporary staff' (twenty words deleted).

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council on the proposal for a regulation amending the Staff Regulations of officials and the conditions of employment of other servants of the European Communities.

The European Parliament,

- having regard to the proposal from the Commission to the Council (COM (81) 460 final),¹
 - having been consulted by the Council (Doc. 1-451/81),
 - having regard to the report of the Committee on Budgets and the Opinion of the Legal Affairs Committee (Doc. 1-627/81),
 - whereas, contrary to the stance taken by Parliament, the Council has for years merely approved and promulgated partial measures to amend the Staff Regulations according to priorities of urgency which it unilaterally established, while it has neglected to take a decision on sounder coordinated measures proposed by the Commission and endorsed by Parliament,
 - whereas such an approach is bound to fail as a means of stabilizing relations between the Institutions and the staff;
 - whereas a coordinated policy on the European civil service is all the more essential at a time when substantial economic sacrifices are being asked of the staff who, in view of the difficulties of the general economic situation, have indicated their willingness to accept them, on condition that such sacrifices are temporary and are part of a more general revision of social and pensions policy,
1. Stresses, as it did in its January 1980 and April 1981 resolutions concerning partial measures to amend the Staff Regulations, that the Commission should propose and the Council approve in concert all amendments to the Staff Regulations that experience, the need to safeguard and develop the European civil service, and the need for rational management of staff recruitment, career, social security and retirement policies may show to be necessary;
 2. Delivers its opinion on the proposal for a regulation in view of the undertaking given by the Council to deliberate jointly on its provisions, those concerning the social measures considered by Parliament in January 1980 and the 'objective method' of calculating the salaries of officials called for by the staff representatives;
 3. Calls on the Council to remove, as soon as possible, all obstacles standing in the way of the adoption of the pension scheme reform on which Parliament likewise delivered an opinion in January 1980; stresses that such a reform is all the more necessary as it would provide a rational solution to the problem of staff retirement provisions;

¹ OJ N° C 239, 18.9.1981, p. 2

4. Agrees with the principle of a special crisis levy on salaries, but cannot accept that the proposed system should also apply to pensions as it would limit acquired rights - at least de jure; is convinced that the pension scheme should remain linked to the remuneration scheme as regards coordinated measures concerning emoluments in general; points out, however, that this principle cannot apply to the crisis levy which constitutes a further deduction from the entitlements acquired by virtue of the payments made by the staff over many years; also rejects the attempt to prolong excessively provisions relating to a crisis situation, whose duration is estimated in the proposal as at least ten years, whereas no such prediction is possible; consequently amends the proposal for a regulation;
5. Draws the Council's attention to the fact that, pursuant to paragraph 4 of the Joint Declaration on consultation signed by the Institutions, the consultation procedure comes into effect if the Council intends to depart from Parliament's opinion, and accordingly, pursuant also to paragraph 3 of the Declaration invites the Council to fulfil this obligation;
6. Invites the Commission to amend its proposal in accordance with the second paragraph of Article 149 EEC Treaty.

EXPLANATORY STATEMENTIntroduction

1. On 17 August 1981 the Council consulted Parliament on the abovementioned proposal for a regulation. This proposal, as the Commission explains in its brief explanatory memorandum, is a follow-up to the Council resolution of 23 June 1981 on staff remuneration.

The Council's decision reduces the remuneration of officials progressively over a period of five years. It then fixes what the Council has called the 'special temporary crisis levy applied to salaries, pensions and termination-of-service allowances' at 12.7% for the subsequent years.

2. The last recital of this proposal for a regulation clearly reveals, however, that the Council is in fact asking for a decision which it took some time ago (June 1981) to be incorporated in the Staff Regulations.

It goes without saying that decisions concerning the adjustment of salaries are implemented by means of amendments to the Staff Regulations. The Council decision on reductions in salaries predates any such amendment. Quite apart from its subject matter, therefore, the Council decision raises fundamental issues concerning not only the exact implications of the proposed amendment to the Staff Regulations but also the extent of the involvement of the institutions required to give an opinion on this request for a revision of the Staff Regulations. It also raises the question of relations between the institutions, since Parliament finds the procedure followed by the Council quite unacceptable.

3. Reservations about the Council's decisions, above all in cases where it is stipulated that such amendments require a change in the regulations (in this case the regulation concerning the Staff Regulations of officials), have been expressed on numerous occasions by Parliament as a whole and by its President.

The President of Parliament informed the Council as early as 5 May 1981 of its concern with regard to the substantive issues and the downgrading of Parliament's role which would be the likely result of the Council's decisions¹. On 17 June the President of the European Parliament

¹In her letter to the President of the Council of 5 May 1981 the President of the European Parliament stated the following points:
 'Our institution considers it extremely important that the new method currently under negotiation should be such as to safeguard the independence of the Community's administrative staff and that it should be based - like the existing method - on objective criteria, with, where it is possible, inter alia, to avoid a marked reduction in the purchasing power of officials. I am also bound to draw attention to the argument put forward many times by my predecessors and me: an adjustment of the salary scales means an amendment of the Staff Regulations and therefore requires the opinion of the other institutions of the Community and in particular the European Parliament.'

underlined not only the role Parliament should play in any amendment of a key aspect of the conditions of employment of European civil servants but also the need for the Commission to take account in its proposals of Parliament's views and role¹.

4. Unfortunately, in its statement to the Council of 23 June 1981, the Commission made no reference to the need for concertation and immediate notification of Parliament of the measures envisaged in such an important area. The Commission compounded this omission to some extent when referring to the period after the first five years of application of the proposed arrangements by proposing that any amendments which were necessary to take account of a deterioration in the situation then would be based only on a Council decision on a proposal from the Commission².

5. Furthermore, Parliament was only informed of this Commission statement by a letter forwarded to the President by the Council on 7 July 1981³.

6. Lastly, the reply by the President of the Council to the views thus expressed by the President of the European Parliament was totally inadequate and at all events paid little attention to Parliament's concern or the question of its role. Furthermore, this letter revealed an unfortunate confusion as to the respective roles of the Assembly and of the Secretary-General of the Assembly, since the President-in-Office of the Council stated that the Assembly had been associated with the 'preparatory work' on the adjustment of salaries through the attendance of its Secretary-General at the meetings of the Conciliation Committee, made up of representatives of the Member States, the Community institutions and the staff of the institutions.

¹

In her oral statement to the Council of 17 June the President of the European Parliament said the following:

'The President of the European Parliament has been informed that the President of the Commission has drawn up a new compromise proposal which would considerably lessen the likelihood of conflict with the staff by putting forward practical solutions to the various problems and providing specific assurances in particular on the question of alignment and for retired persons.

The President of the European Parliament considers that the Commission of the European Communities should present this as a formal proposal and that the procedures laid down by the Treaty and the Staff Regulations should be rigorously respected.

The President of the European Parliament points out that Parliament has repeatedly stressed the need for it to be consulted on any direct or indirect amendment to the Staff Regulations and has also always insisted that it be closely associated with the deliberations of the Council and the Commission on the Staff Regulations and matters concerning the staff of the institutions.'

² See the Commission's statement to the Council of 23 June 1981 attached as Annex I.

³ In a letter of 7 July 1981 to the President of the European Parliament the President-in-Office of the Council stated the following:
'The Commission considers that the guideline decision on this matter taken by the Council on 23 June 1981 provides the basis for a settlement of the conflict and I enclose a copy of the statement made by the Commission to the Council on 23 June.'

7. On 9 July 1981 the entire Parliament adopted a resolution tabled on behalf of the Group of the European Peoples' Party and previously adopted in the form of an oral question by the Committee on Budgets. This resolution set out the reasons why Parliament could under no circumstances agree with the methods and procedures followed by the Council or with the decisions taken by the latter on reductions in officials' salaries¹.

8. When moving the above resolution the rapporteur stressed that the Council had, once again, acted unilaterally on 23 June, and that this was accepted as normal by the Commission, which thereby demonstrated its continuing failure to appreciate the need for an overall staff policy based on clear and definite arrangements for remunerations, social measures, recruitment, and termination of service of Community staff. The rapporteur further explained that following consultations between Parliament and Commission on amendments to the Staff Regulations to release the posts required for the recruitment of Greek officials to the European Parliament, it had been agreed that the Commission would have taken no measures which necessitated amendments to the Staff Regulations without prior consultation (or even actual cooperation) with Parliament (or its organs)².

The rapporteur underlined once again that it was, on the contrary, vital that the Commission should respect its undertakings to Parliament on this matter.

Consideration of the proposal for a regulation

9. As has already been pointed out in the introduction to this document, the last recital of the Commission proposal confirms that the Council had decided on reductions in officials' salaries before the institutions had expressed their opinions on the amendment of the Staff Regulations, which is the only manner in which such a reduction can be implemented.

The wording of this recital is as follows: 'Whereas this Regulation should enter into force at the same time as the Council Decision amending the method for adjusting the remuneration of officials and other servants of the Communities;'

10. In order to prevent the infringement of principles and to ensure that the obligations incumbent on the institutions are fulfilled, this recital ought to be amended to read as follows;

¹See Annex II

²See debate at the April 1981 part-session

'Whereas the Council decision amending the method for adjusting the remuneration of officials and other servants of the Communities has no binding force and cannot be implemented unless the Staff Regulations are first amended in cooperation with the institutions concerned.'

11. Article 1 of the proposal for a regulation inserts a new Article 66a into the Staff Regulations; paragraphs 1 and 2 of the new article contain a contradiction in terms which renders them meaningless and which, secondly, prevents a proper assessment of the exact implications of the salary reductions.

Paragraph 1 states that 'a special temporary crisis levy shall be applied for a period expiring not later than 1 July 1991 to salaries, pensions and termination-of-service allowances; it shall be based on economic data reflecting the average gaps recorded in the Member States between the trend in real per capita wages and salaries and the trend in:

- total productivity (GDP in volume terms per person employed);
- productivity available for distribution, i.e. productivity corrected for the terms of trade;
- productivity per member of the active population, i.e. including persons in employment and the unemployed.'

Paragraph 2 stipulates that during the first five years the levy rates shall progress, reaching 12.7% during the fifth year.

Subparagraph 2(b) states that 'the rate of 12.7% for the fifth year shall continue to apply during subsequent years unless the Council, acting on a proposal from the Commission by the qualified majority referred to in Article 65(3), decides otherwise.'

In order to underline the temporary and exceptional character of this measure it is necessary to limit the duration of the original proposal which is currently stated to be ten years.

12. Moreover, the text of Article 66a(2)(b) needs to be amended.

It must stipulate that the decisions to be taken in respect of the levy on remuneration must be based not solely on a proposal from the Commission and a Council decision - as the Commission has suggested - but that Parliament should be actively involved.

13. Paragraph 3(b) provides that this special levy shall also apply to pensioners and persons in receipt of an allowance under Articles 41 and 50 of the Staff Regulations. The basis proposed by the Commission in this case is admittedly higher than that for officials in active employment since it is equivalent to twice the basic salary of an official in grade D 4, step 1. However, in spite of this more generous basis than for officials in active employment, this provision is manifestly unjust, because it means that the same income is taxed three times. The first deduction from the income of pensioners (in the form of pension contributions, taxes etc.) is made while the persons concerned were in active employment; a second deduction is made at source from pension entitlements; the Commission is now proposing a third deduction which - and this is more serious - is imposed in every case at the same rate as that applicable to officials in active employment (i.e. 12.7%). The Commission thus appeared to be determined not to penalize pensioners or persons in receipt of an allowance under Articles 41 and 50 of the Staff Regulations in the case of officials who are no longer in active employment. It evidently changed its mind subsequently in the light of the Council's decisions of 23 June. These decisions however are unacceptable from a social point of view since they apply linear criteria (i.e. a single percentage reduction) to incomes which, by definition, will be equivalent to 70% of basic salary in the most favourable case and therefore in practice will amount to 50% of the last net salary of staff in active employment.

It is obvious therefore that the special crisis levy penalizes pensioners or persons leaving the service - who ought to be exempted from such a measure - far more severely than officials still in employment. This anomaly must be removed.

It has been observed that if pensions are not subjected to the crisis levy this may create the risk of initiating a process of separating decisions relating to the remuneration of officials in active employment from decisions concerning that of pensioners and that it would be worthwhile accepting the crisis levy in order to avoid that risk. Such arguments are however not watertight and even if the legislator's intentions towards pensioners are negative the acceptance of the special levy on pensions cannot guarantee the permanence of a single decision-making system in relation to the emoluments of the two categories of officials.

14. For the sake of completeness it must be recalled at this point that any measure (even a favourable one) amending the Staff Regulations is intrinsically damaging unless it is presented in an overall context clearly indicating the precise principles of the staff policy which an institution like the Commission must have, in view of the heavy responsibility it bears for the permanence and consolidation of the European civil service. It would have been necessary

therefore - if only by virtue of the undertakings given before Parliament by the Commission - for the Commission to ask for the question of early retirement and other social measures which have been before the Council for more than a year to be examined before bringing forward this proposal for a regulation, even though the latter is no doubt justified in the light of the economic crisis affecting the Member States. The trade union organizations and the staff representatives appear to have recognized the justification for this special crisis levy. This attitude ought to have prompted the Council and also the Commission to act along the lines advocated by Parliament which have been outlined above. Consequently, it is essential that an undertaking to this effect be given by the Council and Commission .

Such a statement by the Council is essential for Parliament to be able to deliver its opinion on this proposal, which the Council considers urgent. The Council, as befits proper inter-institutional collaboration, must explain why it has taken so long to examine the proposals put before it. Otherwise these delays and hesitations might themselves be seen as forming part of a staff policy, but not a desirable one.

It is satisfying to note that the Council gave an undertaking along these lines at the meeting of the Committee on Budgets of 30 September at least as regards the revision of the Staff Regulations through the introduction of a set of social measures for the benefit of the staff and the adoption of an objective system for adjusting remunerations. It is now necessary for the Council to use its best endeavours to overcome the remaining obstacles in the way of a revision of the pension rules.

THE COMMISSION'S STATEMENT

TO THE COUNCIL ON 23 JUNE 1981

The Commission endorses the guidelines adopted by the Council. As requested, it will present proposals based on them as soon as possible.

It might be useful, however, to clarify two points which have bred misunderstandings and kept conflict alive.

1. Arrangements for pensioners:

The Commission's original suggestion was that there should be no deductions from pensions. However, once the Council accepted that there would have to be a special arrangement, the Commission decided to go along with this view. It will therefore be proposing that the deduction should apply to net pension less twice the minimum subsistence figure.

2. Fear that an 'arbitrary' Council decision might be taken, that is to say without regard for objective criteria or for normal procedures (for example, without a Commission proposal).

This centres on two points:

- recruitment needs;
- assessment of the economic and social situation.

On the first, it would be for the Commission to make whatever proposals it considered appropriate if recruitment needs made this necessary.

On the second, full allowance has been made for the economic and social situation for the first five years in the components explicitly quantified in the Council's guidelines, viz the specific indicators, the joint index and the deduction. Only a serious deterioration in the situation would warrant any departure from them; any Council decision would be based on a Commission proposal.

The economic situation may well have changed by the end of the five-year period, but there is no way of telling at this stage in what direction. It would be for the Commission to make appropriate proposals regarding the operation of the salary review method over the second five-year period in the light of developments and of the then level of the deduction.

RESOLUTION

on

major changes in the Staff Regulations

tabled by Mr LEGA on behalf of the Group of
the European Peoples' Party
and adopted by Parliament on 9 July 1981

The European Parliament,

- considering that on 20 May 1981 the Council decided to invite the Commission to submit to it a formal proposal for a decision based on two elements:
 - (i) a new objective method for adapting salaries of officials;
 - (ii) a levy to be imposed on staff salaries for the next five years,
 - considering that although this levy will not have the effect of reducing nominal salaries, the effect that it will have on real salaries will clearly have major implications for the relationship between the remuneration of European officials and national officials. It will introduce new principles into the contract between the officials and their employers,
1. Wonders whether the Council and the Commission are aware that the invitation expressed to the Commission by the Council in the decision of 20 May 1981 would involve major changes in the Staff Regulations and would require a full consultation of the European Parliament;
 2. Considers that it would have been more appropriate for Parliament to be officially consulted - at the political level - prior to the Council decision of 20 May, given that the formal decision-making procedure would reduce the significance of consultation of Parliament;
 3. Asks for a clear explanation of the purpose and economic justification of the changes which the Council has requested the Commission to bring forward;
 4. Insists that the Council should give a full account of the results of its negotiations with the staff representatives;
 5. Would like to know forthwith what steps the Council and Commission intend to take to ensure that Parliament is fully consulted at each stage of the decision-making procedure and insists that, if necessary, the conciliation procedure should be followed.

Stance adopted by the Committee on Budgets
at its meeting of 30/9-1/10/81
and deliberations of 12/10/81

1. The Committee on Budgets, the committee responsible, considered the proposal for a regulation at its meeting of 30/9-1/10/81.

It urged the Council to approve the provision introducing the special crisis levy on salaries together with the amendments to some of the social security provisions of the Staff Regulations and to the pension scheme on which Parliament had delivered an opinion in January 1980.

Our committee was given an assurance by the Council that it would decide jointly on the proposal in question, the social security measures approved by Parliament in January 1980 and the objective method of calculating remunerations called for by the staff representatives.

Despite the fact that the Council stressed the difficulties involved in approving the reform of the pension scheme, the Committee on Budgets urged that everything possible should be done to remove the obstacles and pave the way for measures that would not only lead to a more integrated pension scheme, but also constitute the basis for a rational solution to the problem of staff retirement which, as experience has shown, is now necessary at more or less regular intervals.

2. As regards the proposal in question, the Committee on Budgets came out in favour of reducing the period of application of the levy which, being of exceptional nature, cannot be regarded as a permanent measure as defined in the new Article 66a of the Staff Regulations.

The rapporteur then stressed the need to amend the provision that the special crisis levy be applied to pensions, as in his view it would infringe principles and rights by calling into question acquired rights. His proposal could in no circumstances be interpreted as promoting the future separation of measures concerning emoluments and other financial or social measures for pensioners from those for serving staff.

3. As it had done in the resolutions tabled in Parliament in January 1980 and April 1981, the Committee on Budgets again stressed the by now imperative need for an integrated European civil service policy in the form of a coordinated and rational revision of the Staff Regulations that can ensure a better status and proper development of the European civil service.

4. Deliberations of 12 October 1981

This stance was confirmed by the Committee on Budgets which adopted a series of amendments to the text proposed by the Commission together with a motion for a resolution embodying the principles enounced.