

## **Council requests on the basis of Article 241 of the Treaty on the Functioning of the European Union**

### **1. Council statement – request for the report on Article 10 of Annex XI to the Staff Regulations.**

During the 2010 annual adjustment of remuneration and pension exercise, the Council invited the Commission to present a report based on the "exception clause" of the method:

The Council notes that the latest financial and economic crises that have occurred within the EU and that result in substantial fiscal adjustments and increased job uncertainty in several Member States create a serious and sudden deterioration of the economic and social situation within the EU. In this context, the Council requests the Commission, in conformity with Article 241 TFUE, to submit, on the basis of Article 10 of Annex XI of the Staff Regulations and in the light of objective data supplied by the Commission, appropriate proposals in time for the European Parliament and the Council to examine and adopt them before the end of 2011.

### **2. Council conclusions on Eurostat study on the long-term budgetary implications of pension costs – request for study on elements having significant impact on pension costs.**

The Council examined in 2010 a report on the situation of pensions (50 years forecast of costs) showing an increase in pension costs directly linked to an increase in retired officials. The Council invited the Commission under Article 241 TFUE to present a report and proposals for amendments of the SR by the end of 2011<sup>1</sup>. Followed by:

#### **Commission declaration on the Council conclusions regarding the Eurostat study on the long-term budgetary implications of pension costs.**

and Commission study that is currently under progress.

### **3. 2011 request for a study and submission of appropriate proposals on Article 5(4), Annex 1A and Article 45(1) of the Staff Regulations.**

The administration of the Council submitted on 2<sup>nd</sup> February for approval to the "Groupe Statut" its decision defining the duties and powers attached to each type of post; this decision led to a debate in particular as to the tasks carried out at different grades in the AST function group. It raised the issue of the salary paid to officials carrying out clerical or secretarial tasks (AST officials can go up to grade AST11/5 with a monthly basic salary of 10324.20 Euros) and has led to an invitation to act under Article 241 TFEU addressed to the Commission (at the unanimous request of delegates).

### **4. Council conclusions on the Report from the Commission to the Council and the European Parliament: Evaluation of the implementation of the early retirement measures Article 9 of Annex VIII to the Staff Regulations of Officials and Article 39 of the Conditions of Employment of Other Servants of the European Communities.**

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<sup>1</sup> Council Document 16128/1/10

In 2010, the Council examined a report on the early retirement scheme and invited the Commission to "*put forward by the middle of 2011 a legislative proposal with a view to either repealing Article 9(2) of Annex VIII of the Staff Regulations or reviewing it substantially in order to take account of the above concerns*"<sup>2</sup>.

Followed by:

**2011 Communication from the Commission to the Council on the request to submit a proposal regarding the early retirement scheme for EU civil servants.**

**5. Upcoming 2011 request related to the report to the European Parliament and the Council on the equivalence between old and new career structures.**

The content is not yet known. The Commission presented a report on the "equivalence of careers" before/after the 2004 reform of the SR as provided for in Article 6, paragraph 4, of the SR. The draft report identified a number of issues (significant improvement of the situation for AST, deterioration of the situation for AD) that are likely to trigger a reaction by the Council.

**6. Inge Gräßle MEP - paper on elements for the modernisation of the EU staff regulation.**

German MEP raised a number of issues. Some of them have support of other MEPs.

**7. Revision clauses in the Staff Regulations**

During the "2004 reform" of the SR, the mechanisms for the annual adjustment of remuneration and pension and the annual adjustment of the pension contribution rate were revised. Both mechanisms now include a revision clause for:

- the adjustment of remuneration and pensions : Article 15(1) of Annex XI of the SR provides that the rules laid down in Annex XI are applicable between 1 July 2004 and 31 December 2012;
- the annual adjustment of the pension contribution rate : Article 14, paragraph 1, of Annex XII of the SR provides that the system of computation of the contribution rate shall apply from 1 July 2004 to 30 June 2013.

**8. Other method related requests**

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<sup>2</sup> Council Document 14699/10. This invitation is interpreted as an Article 241 request. Therefore, if the Commission does not submit a proposal, it shall inform the Council of the reasons. There is so far no internal procedure setting up a deadline regarding follow-up of the Council. However, as to respect the same balance regarding requests from the two branches of the legislator (the new framework agreement with the Parliament foresees a 3-month delay for the Commission to react to legislative requests from EP), in case the Commission does not intend to submit a legislative proposal, it should provide reasons within 3 months of adoption of the Council conclusions.

In 2008, the Commission presented a report to the Council on the method for the annual adjustment of remuneration and pension; the Council concluded that it would "*not invite the Commission to submit a proposal to modify Annex XI to the SR before the allotted date of 31.12.2012. However, in the course of the review of the method in 2012, [a number of issues should be addressed...]*"<sup>3</sup>;

In 2009, the Council asked the Commission to prepare a revision of the method because it allegedly was not able to reflect the latest developments in Member States<sup>4</sup>;

## **9. Context**

The entry into force with the Treaty of Lisbon of the ordinary legislative procedure ("co-decision") to revise the Staff Regulations (important role of EP) and the new delegated acts' technique when the Staff Regulations are amended or supplemented as a secondary legal basis.

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<sup>3</sup> Working Party on the Staff Regulations, 12.11.2008, Council Document 15643/8, Annex I, paragraph 2.

<sup>4</sup> The Commission asked for a 3.7% increase in a difficult budgetary context



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 4 May 2011**

**9715/11**

**STAT 17  
FIN 292**

**“I/A” ITEM NOTE**

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from: Secretariat  
to: Coreper/Council

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No. prev. doc.: 8844/1/11 REV 1 STAT 14 FIN 247  
8541/11 STAT 12 FIN 226  
6810/11 STAT 10 FIN 96

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Subject: Request for a study and submission of appropriate proposals on Article 5(4),  
Annex 1A and Article 45(1) of the Staff Regulations  
- Adoption

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1. At its meeting on 8 April 2011, the Working Party on the Staff Regulations 2011 agreed on the draft request for a study and submission of appropriate proposals as set out in document 8844/1/11 REV 1 STAT 14 FIN 247.
2. In view of the above, COREPER (1st Part) is requested to invite the Council to adopt the request for a study as set out in the Annex to this document as an A-item at one of its forthcoming meetings.

**Request for a study and submission of appropriate proposals on Article 5(4), Annex 1A and Article 45(1) of the Staff Regulations**

On the basis of Article 241 of the Treaty on the Functioning of the European Union, the Council requests that the Commission undertake a study on Article 5(4), Annex IA and Article 45(1) of the Staff Regulations and submit appropriate proposals.

The study should address the best way to establish a clear link between responsibilities and grades in each function group. To that end, the proposals should in particular provide a basis for ensuring that the provisions of the Staff Regulations lay down upper grade limits within the AST function group for certain functions carrying lower levels of responsibility, and ensure convergent implementation of the provisions of the Staff Regulations by all institutions, thereby ensuring equal treatment. The proposals should furthermore in Article 45(1) ensure greater emphasis on the level of responsibility in comparing merits in the context of promotion. The Council expects a proposal on these provisions to be submitted, at the latest when a proposal on the implementation of Articles 64 and 65 of the Staff Regulations is submitted.

In the meantime, the Council expects no implementing measures to be taken, either of a general or of an individual nature, which are not consistent with the above request.

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**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 13 October 2010**

**14699/10**

**STAT 23  
FIN 462**

**“I/A” ITEM NOTE**

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from: Working Party on the Staff Regulations

to: Coreper/Council

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No. prev. doc.: 6274/10 STAT 3 FIN 47

14113/10 STAT 21 FIN 414

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Subject: Council conclusions on the Report from the Commission to the Council and the European Parliament: Evaluation of the implementation of the early retirement measures Article 9 of Annex VIII to the Staff Regulations of Officials and Article 39 of the Conditions of Employment of Other Servants of the European Communities  
- Adoption

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1. On 8 February 2010, the Commission submitted to the Council the above mentioned report (6274/10 STAT 3 FIN 47).
2. The Working Party on the Staff Regulations examined the report at its meetings of 16 June, 7 and 23 September 2010.
3. As a result of the examination, the Working Party on the Staff Regulations agreed on draft Council Conclusions as set out in the document 14113/10 STAT 21 FIN 414.
4. In view of the above, COREPER (1st Part) is requested to invite the Council to adopt the Council Conclusions as set out in the Annex to this document.

**Council conclusions on the  
Report from the Commission to the Council and the European Parliament:  
Evaluation of the implementation of the early retirement measure provided  
for in Article 9 of Annex VIII to the Staff Regulations of Officials and  
Article 39 of the Conditions of Employment of Other Servants of the European Union**

THE COUNCIL OF THE EUROPEAN UNION

1. TAKES NOTE of the Report from the Commission to the Council and the European Parliament on the implementation of the early retirement measure provided for in Article 9 of Annex VIII to the Staff Regulations and Article 39 of the Conditions of Employment of Other Servants of the European Communities (doc. 6274/10 STAT 3 FIN 47).
2. NOTES that the thresholds set by Article 9 (2) of Annex VIII of the Staff Regulations have been regularly fully exhausted and REGRETS that during the period 2004-2005, they were even slightly exceeded.
3. UNDERLINES the long term budgetary burden of the early retirement measures and the fact that the budget neutrality stipulated in Article 9(2) of Annex VIII of the Staff Regulations is only ensured in the short term.
4. STRESSES that the early retirement scheme established by Article 9(2) of Annex VIII to the Staff Regulations runs counter to policy goals at EU and national level which are aimed at increasing the length of working life in order to stabilize the financing of pensions, as formulated at the Barcelona European Council summit in 2002 and reiterated in the Commission's "Green Paper towards adequate, sustainable and safe European pension systems" of 7 July 2010. The Council IS CONVINCED that the same principles, goals and standards must be fully applied to the EU retirement scheme.
5. CALLS UPON the EU institutions to start immediately adapting their practice in the implementation of Article 9(2) of Annex VIII of the Staff Regulations and use this provision in a more restricted number of cases where the interest of the service is clearly and duly justified.
6. CALLS UPON the Commission to put forward by the middle of 2011 a legislative proposal with a view to either repealing Article 9(2) of Annex VIII of the Staff Regulations or reviewing it substantially in order to take account of the above concerns.



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 11 November 2010**

**16128/10**

**STAT 29  
FIN 567**

**NOTE**

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from: General Secretariat of the Council  
to: Delegations

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No. prev. doc.: 12921/10 STAT 18 FIN 354

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Subject: Eurostat study on the long-term budgetary implications of pension costs  
- Draft Council conclusions

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Delegations will find in the [Annex](#) the draft Council conclusions reflecting the outcome of the meeting of the Working Party on the Staff Regulations on 9 November 2010.



**DRAFT COUNCIL CONCLUSIONS ON THE  
EUROSTAT STUDY ON THE LONG-TERM BUDGETARY IMPLICATIONS  
OF PENSION COSTS**

THE COUNCIL OF THE EUROPEAN UNION

1. TAKES NOTE of the Eurostat study on the long-term budgetary implications of pension costs (12921/10 STAT 18 FIN 354).
2. IS very CONCERNED at the forecast increase in expenditure on the pensions of EU staff in the future, from EUR 1235 million in 2010 to EUR 2490 million by 2045, at constant prices.
3. IS CONVINCED that the development of all pension costs wholly or partly financed by the EU budget needs to be properly addressed so as to ensure the sustainability of both the pension scheme and the EU budget.
4. RECALLS that the principle of parallelism applies to pensions and that greater convergence toward national pension systems is to be ensured; such parallelism should follow the objectives set out by the Commission's Green Paper towards adequate, sustainable and safe European pension systems, of 7 July 2010.
5. REQUESTS the Commission, pursuant to Article 241 of the Treaty on the Functioning of the European Union, to make an objective and realistic assessment of all the elements which have a significant impact on pension costs. In particular the following elements should be looked at:
  - i. pensionable age;
  - ii. accrual rate;
  - iii. basis for pension;
  - iv. maximum possible pension rate;
  - v. staff contribution rate;
  - vi. use of contract agents and conditions of contract agents;
  - vii. annual adjustment of pensions;
  - viii. possible creation of an actual pension fund;
  - ix. individual salary progression scheme;
  - x. incentives for private pension provision.

6. CALLS UPON the Commission to have regard in its assessment, *inter alia*, to the following:
- i. the growing disparity between the benefits to employees of public service and private sector pensions;
  - ii. the costs for European taxpayers of continuing to provide these pensions;
  - iii. the role of pensions in the overall reward package for EU staff;
  - iv. the future recruitment and retention needs of the EU institutions;
  - v. the need to ensure that future pension provision is fair across the EU workforce;
  - vi. how risk should be shared between EU taxpayers and employees;
  - vii. wider EU staffing and HR policy to encourage adequate saving for retirement and longer working lives.
7. REQUESTS the Commission to present, by the end of 2011, appropriate proposals for amendments to the Staff Regulations based on the above assessment.
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## **Commission declaration on the Council conclusions regarding the Eurostat study on the long-term budgetary implications of pension costs**

The Commission takes note of the Council conclusions. It recalls that the increase in pension expenditure is due to the increasing number of pensioners, as staff members recruited in the past are reaching their retirement age. The Commission stresses that after 2045 forecast pension expenditure will start gradually decreasing as the number of pensioners will stabilise over time and as a result of the 2004 reform of the Staff Regulations. The 2004 reform of the Staff Regulations will bring a 31.6% decrease in total annual pension expenditure in 2059.

The Commission underlines that pension-related elements of the 2004 reform of the Staff Regulations follow the same objectives as those set out in its Green Paper towards adequate, sustainable and safe European pension systems of 7 July 2010. In order to gain a better overview of developments in Member States that may be relevant for the pension scheme of the staff of the EU institutions, the Commission requests Member States to answer in an exhaustive way the questionnaire on their public service pension schemes distributed by Eurostat under the auspices of the Article 83 Working Group earlier this year.

The Commission takes note of the Council's request that it make an assessment of all the elements which have a significant impact on pension costs and present appropriate proposals for amendments to the Staff Regulations based on such an assessment. In the light of the recognised need to recruit and retain staff with high qualifications and potential for the EU institutions, in case the Commission were to propose any amendments to the Staff Regulations with regard to the pension scheme, they would need to be considered in the broader context of the overall reward package offered to staff.



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 17 December 2010  
(OR. da,de,en,sl)**

**17946/10  
ADD 1**

**STAT 46  
FIN 749**

**ADDENDUM TO THE "A" ITEM NOTE**

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from: Permanent Representatives' Committee  
to: Council

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Nos prev. docs: 17929/10 STAT 45 FIN 746  
17456/2/10 REV 2 STAT 39 FIN 700  
16760/1/10 REV 1 STAT 34 FIN 638

No. Cion prop.: 17839/10 STAT 43 FIN 738 + ADD 1  
COM(2010) 797 final + SEC(2010) 1608 final

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Subject: COUNCIL REGULATION adjusting with effect from 1 July 2010 the remuneration and pensions of officials and other servants of the European Union and the correction coefficients applied thereto  
– Statements

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**STATEMENTS**

**COUNCIL**

The Council notes that the latest financial and economic crises that have occurred within the EU and that result in substantial fiscal adjustments and increased job uncertainty in several Member States create a serious and sudden deterioration of the economic and social situation within the EU. In this context, the Council requests the Commission, in conformity with Article 241 TFUE, to submit, on the basis of Article 10 of Annex XI of the Staff Regulations and in the light of objective data supplied by the Commission, appropriate proposals in time for the European Parliament and the Council to examine and adopt them before the end of 2011.

Moreover, the Council invites COREPER to review annually by the end of January the actual economic and social situation within the EU in order to assess whether a request to the Commission shall be made in order to apply the provisions of Article 10 of Annex XI of the Staff Regulations.

#### DENMARK and AUSTRIA

Denmark and Austria vote against the proposal. Denmark and Austria would note their opposition in principle to the method of adjusting the remuneration and pensions of EU officials, given the high level of salaries in the EU institutions.

#### SLOVENIA

Slovenia agrees with the proposal for a Council Regulation adjusting with effect from 1 July 2010 the remuneration and pensions of officials and other servants of the European Union and the correction coefficients applied thereto. However, given the adverse economic and social conditions and reductions in public sector salaries in Member States, Slovenia believes that any potential additional expenditure in 2011 relating to salary adjustment, in addition to that provided for in the budget proposal for 2011 adopted by the Competitiveness Council on 10 December 2010, should be financed by transfer of appropriations within Heading 5 – Administration.

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