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NOTE

From:	Presidency
To	Delegations
No. prev. doc.:	10372/12 STAT 18 FIN 365 CODEC 1427 8682/12 STAT 13 FIN 255 CODEC 964 9428/12 STAT 15 FIN 312 CODEC 12
No. Cion prop.:	18638/11 STAT 52 FIN 1066 CODEC 2449
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union - Progress report

1. Delegations will find in the Annex the progress report prepared by the Presidency outlining the state of discussions on the Commission proposal amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union¹ (the Commission proposal amending the SR) at Working Party (WP) level during the Danish Presidency between January and June 2012.

¹ 18638/11 STAT 52 FIN 1066 CODEC 2449.

2. For the topics discussed, the progress report gives the outcome of the discussions at Working Party level on the basis of the technical examination between January and March 2012 and subsequently on the basis of the three Presidency questionnaires⁽²⁾ between April and June 2012.

3. After discussion at the meeting of the Working Party on the Staff Regulations (WPSR) on 20 June 2012, the progress report will be submitted to COREPER and Council for information.

² 8682/12 STAT13 FIN 255 CODEC 964, 9428/12 STAT 15 FIN 312 CODEC 1210 and 10372/12 STAT 18 FIN 365 CODEC 1427.

Presidency Progress report

1. This progress report covers all the topics addressed at Working Party (WP) level with a view to the establishment of a Council position on the Commission proposal amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union (³). It includes the results achieved so far on the basis of three Presidency questionnaires discussed at WP level during the Danish Presidency between January and June 2012 (⁴), with a view to its submission to COREPER for the Council's further information.

2. Since the start of the Danish Presidency, the Working Party on the Staff regulations (WPSR) examined the Commission proposal amending the SR which was received on 14 December 2011.

3. Discussions were organised by topic and started with a general debate during which delegations could express their opinion of the proposal and their expectations. The following 17 topics grouped together the provisions included in the Commission proposal amending the SR:

- Financial impact
- Transparency
- Delegated acts
- Flexible working-time arrangements
- Method for adjusting salaries and pensions and the exception clause

³ 18638/11 STAT 52 FIN 1066 CODEC 2449.

⁴ 8682/12 STAT13 FIN 255 CODEC 964, 9428/12 STAT 15 FIN 312 CODEC 1210 and 10372/12 STAT 18 FIN 365 CODEC 1427.

- Retirement age
- Early retirement
- Transitional rules for retirement and early retirement
- The methodology for the calculation of the pension contribution rate
- Working time
- Solidarity levy
- Allowances and entitlements: Reducing annual travelling time, the annual travelling allowance and adaptation of the rules on the reimbursement of removal expenses and the rules on missions
- Career of assistants, new career stream for secretaries and recruitment of contract staff
- New category for temporary staff for agencies
- Geographical balance
- Review clause
- Other aspects.

The general line taken by delegations concerning the Commission's proposal was that it does not produce sufficient savings in the context of the Multiannual Financial Framework 2014-2020 nor lead to a sufficient modernization of the terms and conditions of employment.

4. With respect to discussed reform measures, in particular relating to pensions, the Legal Service of the Council issued a contribution⁵.

⁵ 8542/12 JUR 203 STAT 12.

5. On the basis of the outcome of the discussions, the progress report identifies the following categories/aspects:

- I. Points on which delegations have converging views and a position could be determined;
- II. Points on which delegations have converging views but a position could only be determined at a later stage taken into account progress made on MFF/other files;
- III. Points on which no converging views emerged and consequently further work and guidance is still necessary.

I. Points on which delegations have converging views and a position could be determined

A. Transparency

Amendment to Article 1 point 41 of the proposal referring to Article 110(6) SR was supported. It would read as follows :

"The Court of Justice of the European Union shall administer a register of the rules adopted by the appointing authority of each institution to give effect to these Staff Regulations, and those rules adopted by the agencies to the extent that they derogate from the rules adopted by the Commission, in accordance with the procedure provided in paragraph 2. Institutions and agencies shall have direct access to this register and the full right to amend their own rules. Member States shall have direct access to it. The European Parliament and the Council shall be informed of any newly adopted or amended rules to give effect to these Staff Regulations. Moreover, every two years, the Commission shall present a report to the European Parliament and the Council on the rules adopted by each institution to give effect to these Staff Regulations."

B. Delegated acts

The following amendments were supported

(1) Article 1 points 24 and 25 relating to Articles 56a, 56b and 56c SR:

"After consulting the Staff Regulations Committee, the categories of officials entitled to such allowances, the conditions for granting the allowances and the rates thereof shall be determined by means of a regulation adopted pursuant to Article 336 TFEU."

(2) Article 1 point 39(b), (c) and (d) relating to Articles 83a(3), (4) and (5) SR:

Point (b) is deleted and amended as follows: "(...) the Council and the European Parliament."

The last sentence of point (c) is amended as follows: "(...) the Council and the European Parliament shall adjust the rate (...)"

Point (d) is amended as follows: "Paragraph 5 shall be replaced by the following: For the purposes of paragraphs 3 and 4 of this Article, a regulation shall be adopted pursuant to Article 336 TFEU, after consultation of the Staff Regulations Committee."

(3) Article 1 point 49(e)(i) relating to Article 13(3) of Annex VII SR:

"The rates set out in paragraph 2(a) shall be reviewed every two years. This review shall take place in the light of a report on the prices of hotels, restaurants and catering services, and shall be based on the indexes on the evolution of such prices. For the purpose of this review, a regulation shall be adopted pursuant to Article 336 TFEU."

(4) Article 1 point 52(b) relating to Article 13 of Annex X SR:

First paragraph: "In order to ensure as far as possible that officials enjoy equivalent purchasing power irrespective of their place of employment, the weighting referred to in Article 12 shall be determined once a year by way of a regulation adopted pursuant to Article 336 TFEU."

(5) Article 1 point 52(b) second paragraph and point 53 relating to Article 9 Annex XI SR will be assessed together with the method itself.

(6) Article 1 point 54(f) relating to Article 12 of Annex XII SR:

The proposed amendment is replaced by the addition of the following phrase at the end of the current provision:

"... by way of a regulation adopted pursuant to Article 336 TFEU."

(7) Article 2 points 13(b) and 32 relating to Articles 28a(11) and 96(11) of the Conditions of Employment of Other Servants (CEOS)

"Every two years the Commission shall present a report on the financial situation of the unemployment insurance scheme. Independently of this report, the Commission may present to the European Parliament and the Council proposals for adjusting the contributions provided for in paragraph 7 by way of a regulation adopted pursuant to Article 336 TFEU, if this is necessary in the interests of the balance of the scheme."

(8) Deletion of recitals 25 and 26 and Article 1 point 42 inserting new Articles 110a and 110b SR.

This conclusion has been reached on the basis of the Commission proposal as it stands. Should the content of the provisions change, the question of recourse to delegated acts could be addressed again at a later stage.

C. Flexible working-time arrangements

Article 1 point 21(d) of the Commission proposal (referring to Article 55 (4) of SR) was supported.

D. Method for adjusting salaries and pensions and the exception clause

The Commission proposal was not supported by delegations.

Two alternative proposals were made, mainly focusing on changes to Article 65. They do not go into the details of the statistical method for calculating the figure of the annual adjustment to be decided upon by the legislator.

The proposal below was supported. There still needs to be taken a decision on whether the adjustment should take place every two years or every year.

"Explanatory Memorandum

1. The Commission produces a proposal on the adjustment of basic salaries with an indicative figure based on Annex XI as amended by the contribution papers ⁶ once every two years/every year. The figure will be automatically capped at [2% nominally] per year. There still needs to be a decision on the method of adjustment of allowances and pensions, if any.
2. This figure then forms a ceiling and the Council and European Parliament negotiate through co-decision what the final amount will be within this ceiling.
3. This negotiation will take place through a bespoke biennial/annual process separate from the annual budget negotiations.
4. This method would expire in 2020, to bring it into line with the MFF process."

Article 65 would be amended to read as follows

- "1. The Council and the European Parliament shall review biennially/annually the basic salaries of the officials and other servants of the European Union. This review shall be based on a Commission proposal under Article 336 TFEU based on an indicative figure calculated in accordance with Annex XI and respecting the commitment ceiling of the multiannual financial framework. The Commission proposal will be capped at [2%] per year.
2. The Council and the European Parliament shall consider whether, as part of the economic and social policy of the European Union, basic salaries should be adjusted. Particular account shall be taken of the evolution of staff expenditure, the needs of recruitment and the cost relating to the evolution of the number of staff and the size of the aggregate wage bill.
3. The final decision on the adjustment of the basic salaries will be taken according to the procedure set out in Article 336 TFEU and within the cap on the Commission proposal."

⁶ 12240/11 COR 1 REV 2 STAT 25 FIN 469 and 17156/11 STAT 43 FIN 903 + COR 1.

In connection with this item, a drafting amendment to the Annex XI as proposed was made so as to replace the reference to NSI by a reference to "national statistical institutes or other appropriate authorities in the Member States" (in Article 1 (3) and (4) of Annex XI).

E. New category for temporary staff for agencies

At this stage delegations oppose Article 2 points 2, 5, 14(b), 15, 16 and 21 of the Commission proposal, (referring to amendments to Article 2 (new point (f)), Articles 8, 34, 36 and 37 and the insertion of a new chapter in the CEOS) creating a new category of temporary staff in agencies.

F. Recruitment of contract staff for a period of up to six years

The following amendments were supported by delegations:

- (1) Article 1 point 9 is deleted so that Article 29 (1) SR would remain as it stands⁷.
- (2) Article 2 point 29 would read as follows:

"In point (b) of the first subparagraph of Article 88, the words 'three years' shall be replaced by the words 'five years'."

Delegations requested the creation of a document equivalent to an establishment plan.

Establishment plans are regulated in the Financial Regulation and the request has been forwarded to the responsible Working Party in the Council.

G. Insertion of a review clause

The addition of a general review clause to both the SR and the CEOS was supported by delegations.

"The Commission shall, by 31 December 2018, submit a report to the European Parliament and to the Council assessing the functioning of these Staff Regulations. In the light of its conclusions, the Commission shall, where appropriate, also submit a proposal to amend these Staff Regulations pursuant to Article 336 TFEU."⁸

⁷ Article 29(1) (b) reads as follows : "... competition internal to the institution, which shall be open only to officials and temporary staff"

⁸ In the CEOS the same provision will be added with the only difference that "these Staff Regulations" will be replaced by " the conditions of employment of other servants".

II. Points on which delegations have converging views, but a position can only be determined at a later stage

When discussing the provisions below, it was found that further clarifications concerning administrative expenditure in the context of the Multiannual Financial Framework 2013-2020 were needed before the Council could adopt a position.

A. Retirement age, early retirement, transitional rules for retirement and early retirement

The proposal to increase retirement age from 63 to 65 and the early retirement age from 55 to 58 was welcomed as a step in the right direction even though some delegations considered that it could be further increased and/or linked to developments in life expectancy. The proposed transitional measures were considered too generous.

Delegations generally requested further savings on pensions in the context of the next Multiannual Financial Framework for 2014-2020 and subsequent years.

B. Methodology for the calculation of the pension contribution rate

The proposal to use a 30-year interest rate instead of the 12-year interest rate in the actuarial assessment calculation, included in Article 1 point 54 (b) and (c) of the Commission proposal (referring to Article 4(6) and Articles 10(2) and 11(2) Annex XII to the SR) was not supported.

C. Working time

Most delegations favoured the increase in normal working hours from 37,5 to 40, included in Article 1 point 21 (b) referring to Article 55 SR.

D. Solidarity levy

Most delegations welcomed the higher percentage of 6% proposed in the Commission proposal in Article 1 point 32 (referring to Article 66a SR) but requested a further increase. Furthermore, delegations asked that the solidarity levy be applied to all kind of allowances and pensions and also be imposed on the entry grades.

E. Allowances and entitlements: reducing annual travelling time and the annual travelling allowance, and adaptation of the rules on the reimbursement of removal expenses and the rules on missions

Delegations welcomed the proposal included in Article 1 point 49 (referring to Annex VII to SR) as a step in the right direction but considered that it was too limited and still too generous towards staff. They also considered that these modifications made too few savings, and they made an explicit reference to the expatriation allowance as a possible source of budget savings.

F. Career of assistants, new career stream for secretaries and recruitment of contract staff

Article 1 points 2, 31, 43 and 55 (i) referring to the creation of the SC category (referring to Articles 5 and 66 SR, Annex I.A. to the SR and Article 30 Annex XIII to the SR) was welcomed as a step in the right direction. However, the proposal was considered too narrow and it was requested that the scope and substance of the proposal on careers should be widened especially with a view to establishing a stronger link between grade and responsibilities. Fewer automatic salary increases and promotions based on seniority and the introduction of a capping so that the highest grades would be reserved for employees with management responsibility were mentioned as possibilities for establishing a stronger link between grade and responsibility.

III. Outstanding issues

A. Geographical balance

There remained diverging views on Article 1 point 8 of the Commission proposal (referring to amendments to Article 27 SR) and Article 2 point 8 (a) (referring to amendments to Article 12(1)⁹ CEOS) on geographical balance. There were also diverging views on the Presidency compromise – set out in Annex I - which did not achieve sufficient support from delegations. The Presidency noted that the positions expressed at this stage are diametrically opposed; no compromise proposal could reconcile them at this stage.

B. Budgetary impact

Delegations noted that not all the savings proposed derived from the proposed amended SR but from the 5% cut. Concerns arose as to how to implement the cut effectively in all institutions and agencies.

Several delegations reiterated their regrets that the Commission's proposal did not make enough savings in the coming MFF 2014-2020 and made reference to elements on the contribution paper supported by 18 countries¹⁰.

C. Other aspects

Delegations presented the provisions they deemed necessary to review in addition to the provisions included in the proposal :

⁹ Article 2 point 8 (a) of the proposal is identical to the second and third paragraphs of Article 1 point 8.

¹⁰ 17156/11 STAT 43 FIN 903 + COR 1.

- Article 72 relating to the staff contribution to the JSIS;
- Annex VII: Article 1: to set a flat rate for all officials for the household allowance; Article 3: to abolish the education allowance;
- to review the non-fee-paying nature of the European school;
- to delete Article 76 a.
- to review Annex III

In addition, several delegations have asked to continue discussions on the proposal to regulate the position of laureates in article 29.

IV. Conclusion

Bearing in mind the need for further clarity on the level of appropriations for administrative expenditure from 2014 and onwards, the discussions on the pending provisions will continue in order to determine coherent/compatible positions. In parallel, the identification of topics on which there were converging views could already allow the initiation of discussions with the EP to turn into a legislative dialogue. Finally, the need for further (political) guidance on a limited number of topics was identified and will require further discussion at a later stage.

1. Presidency compromise proposal on geographical balance

Article 27 SR:

"Recruitment shall be directed at securing for the institutions the services of officials of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of Member States of the European Union. No posts shall be reserved for nationals of any specific Member State.

The principle of the equality of the Union's citizens shall allow external or internal competitions for certain nationalities to be organised to [correct]/[reduce] a long-lasting and significant imbalance between nationalities among officials, where:

- 'Long-lasting' is defined as a period of at least three/[xx] years, [first assessment shall be made by xx 201x] and

- 'Significant' is defined as less than [xx]% of the target level of representation* for that Member State across the institutions referred to in Protocol No 6 attached to the Treaty on the Functioning of the European Union.

These competitions shall aim to provide the institutions with a geographically balanced pool of successful applicants and shall never result in employment criteria other than those based on merit. Before such competitions are organised, the appointing authority of the institutions concerned shall adopt general provisions for giving effect to this paragraph in accordance with Article 110.

After a three-year period starting on [xx 201x], and subsequently every three years, the Commission shall report to the European Parliament and to the Council on the implementation of this Article."

" Based on population size and open to debate."*
