

Front Commun interinstitutionnel de la représentation du personnel

Interinstitutional Common Front Reform and salary adjustment

I. Changes to the pension system

A. Commission proposal¹

The Commission proposal does not affect acquired pensions except in relation to the annual adjustment method.

- a) **Normal pensionable age²** : 65 instead of 63 with gradual transition. There is now a table softening the transitional arrangements for those in active employment who will reach the ages of 30 to 60 as at 1 May 2013 (cf. table 1 below).

Table 1. Transitional measure: pension entitlement age for persons recruited prior to 1 May 2013

Age at 1 May 2013	Pension entitlement age (years + months)	Age at 1 May 2013	Pension entitlement age (years + months)
59 and over	60 + 0	44	62 + 8
58	60 + 2	43	62 + 11
57	60 + 4	42	63 + 1
56	60 + 6	41	63 + 3
55	60 + 8	40	63 + 5
54	60 + 10	39	63 + 7
53	61 + 0	38	64 + 0
52	61 + 2	37	64 + 1
51	61 + 4	36	64 + 2
50	61 + 6	35	64 + 3
49	61 + 9	34	64 + 4
48	62 + 0	33	64 + 5
47	62 + 2	32	64 + 6
46	62 + 4	31	64 + 7
45	62 + 6	30	64 + 8

¹ COM_COM(2011)0890_FR,EN,DE

² The word pensionable is used because the discussion does concern the pension and not retirement, since retirement can go without pension!

This table is no different from that demonstrating the changes already made in the 2004 reform for those persons having reached the age of 41 or more in 2004. Whoever would reach the age of 43 or more on 1 May 2013 will still be able to retire at 63.

Officials with 20 or more years' service on 1 May 2004 will be entitled to a retirement pension when they reach the age of 60.

For officials aged 43 years or more on 1 May 2013 who started work between 1 May 2004 and 31 December 2012, the retirement age will stay at 63.

- b) **Minimum early retirement age:** 58 instead of 55 with gradual increase from 55 to 58 between 2013 and 2018 (Table 2).

Table 2

Date until 31 December	Age when drawing an immediate pension
2013	55 years 6 months
2014	56 years
2015	56 years 6 months
2016	57 years
2017	57 years 6 months

- c) **Early retirement penalty:** 3.5 % (as before) per anticipated year between 58 (or the age set in the transitional period 2013 – 2018) and the regulation retirement date (65 or the date set out in the transition table).

The penalty is halved for persons over 60 concerned by the transitional measures of table 1.

- d) **Early retirement without penalty:** the maximum number of officials retiring in a given year without reduction of their pension rights would be fixed at 5 % of the officials in all institutions who retired during the previous year (as opposed to 10% in the current system).
- e) **Maximum retirement:** 67, subject to agreement by the employer.
- f) **Bonus for retirement after 65:** 2 % of basic salary, taken into account for each year served after the age of 65. The bonus is 3 % for those recruited prior to 1 May 2013 and who stay after the pensionable age set down in the transitional table 1.

However, for officials aged 50 years or over or with 20 or more years' service on 1 May 2004, the increase in pension provided for above will not be less than 5 % of the amount of the pension rights acquired at the age of 60.

- g) **Half-time before retirement:** for three years before retirement (65 years or table 1) but at age 58 at the earliest³ instead of five years prior to retirement but at age 55. There are no transitional measures except for those who work half time in preparation for retirement on 31 December 2012.
- h) **Calculation of pension contribution** for those in active employment: Annex XII of the Staff Regulations would remain in force but with a thirty-year period instead of twelve being taken into account for the rate of interest and salary increases, introduced gradually over an eight-year period.

³ Whoever takes up part-time work prior to retirement sets the date of retirement irrevocably three years later.

i) **Method of annual adjustment of pensions** to the cost of living: a new Annex XI is being proposed to adjust salaries, pensions and allowances in parallel. This method contains a new exception clause that is more “applicable” in a period of recession and which would have been applicable in 2009.

j) **Payment of benefits:** In 2013, for pensioners residing in the European Union, benefits will be paid in euro into a bank in the European Union (instead of the Member State of residence).

In 2013, for pensioners residing outside the European Union, pensions will be paid, in euro into a bank in the European Union or in the country of residence.

k) **Weighting:** pensions will be subject to a weighting only if the residence of the official coincides with their last place of employment or with the country of their place of origin. However, for family or medical reasons, officials receiving a pension may request the appointing authority to change their place of origin; this decision will be taken on production by the official concerned of appropriate supporting documents.

l) **No retroactivity :** in the case of a pension determined before 1 January 2013, the recipient's pension entitlement will continue to be determined after that date in accordance with the rules applied when the entitlement was initially determined. The same applies to the cover under the joint sickness insurance scheme.

B. Unions’ criticisms

The “Common Front” has stated unanimously that our system is in balance from the actuarial viewpoint (Annex XII of the Staff Regulations) and that it must not be amended but defended.

Staff representatives consider that the Commission proposal is not based on solid fact and point out that the pension system for European civil servants was already heavily taxed in 2004.

In the opinion of the staff representatives, raising the retirement age is not in line with the proposal to cut down staff by 5%.

Transitory measures should be improved for half-time work in preparation for retirement and for early retirement.

Over-55s, on the contrary, will need more support and motivation.

The conditions set for retirement at 67 are too restrictive: they should be transformed into a voluntary measure. The notion of ‘interests of the service’ is too vague.

There should be some solidarity measures for women (or men) who have taken leave on personal grounds in order to look after their children.

No account is taken of officials who have transferred their pension rights: with the proposed amendments it will be necessary to stay on longer, meaning that sums transferred from national systems lose value.

There is no longer the choice of taking early retirement before 58 with loss of rights (3.5 %) – a purely political step!

The “Common Front” is proposing that loss of rights in case of early retirement be reduced and would accept in return that any possibility of early retirement without penalty be abolished.

Another political step has been to limit part time work before retirement to the final three years.

According to the Administration, the proposed system will generate savings but they will not be apparent in the short term because of the long transition period.

Hence, no progress has been made on retirement pensions – neither early retirement nor part-time work prior to retirement and so on.

C. Member States' proposals⁴

A large majority of Member States is determined to make a drastic reduction in the cost of pensions. They appreciate the Commission's proposed measures but want them made stricter or to make additional changes to the Staff Regulations. Many of these measures affect existing pensions.

- a) **Annuities:** amendment of Article 77 of the Staff Regulations: reduction of the accrual rate. At present, every year entitles one to 1.9% of the last basic salary (2% for colleagues recruited prior to 1 May 2004). The Member States' proposal puts no figures forward but it is based on the fact that careers will be longer because of the increase in retirement age.
- b) **Basis for calculation of pension:** the pension would be calculated on the basis of the average earnings over the entire career instead of the last basic salary, which would result in a reduction of at least 30%.
- c) **Contribution to the pension scheme:** fundamental change to Article 83 of the Staff Regulations. Increased contribution by those in active employment to cover a larger proportion of the cost of pensions; a contribution amounting to 50% of the cost instead of the present 33%, which would mean a contribution of 17.4% instead of the 11.6% in 2011.
- d) **Early retirement without penalty:** to be ruled out (staff representatives agree).
- e) **Bonus for work until 67:** to be ruled out.
- f) **Transitional measures:** less favourable measures must be found.
- g) **Levy on pensions:** pensions should be subject to the solidarity levy, without exemption (i.e. a 6% reduction in pension).
- h) **Annual adjustment:** the **Belgian price index** should be used instead of BII or the BE-LUX weighting.
- i) **Exception clause:** The Member States want an **exception clause** that **would** enable them to freeze salaries and pensions **on the basis of political decisions** and no longer depending on calculations using economic parameters.
- j) **No more parallel progression:** The Member States no longer wish to adjust pensions at the same rate as salaries; they want to **drop the principle of parallel salaries and pensions**, which is, however, a principle fully justified by the fact that pensions are deferred salaries!

D. Position expressed at the European parliament

The Rapporteur (Mrs. Dagmar Roth Behrendt, "JURI" – Committee on Legal affairs) is not opposed to the Commission proposal. So far, no additional or more severe measures are being requested.

It would be appropriate also to allow accredited parliamentary assistants to stay in service until the age of 67, on an exceptional basis.

II. New adjustment method for salaries and pensions

A. Discussion of the Commission proposal

The proposed method would be, according to HR DG, simpler than the one currently applied by EUROSTAT: its main feature is that it is based on gross salaries in the 27 Member States. The price indexes used are those of the ECB (European Central Bank). They do not correspond to the

⁴ CUE DS 1730/11 15.11.2011

active officials' or retirees' shopping baskets. For the purposes of the existing method, Eurostat bases its figures on specific surveys.

A Brussels–Luxembourg weighting has been created to apply to salaries in Belgium and Luxembourg. It cannot satisfy active staff in Luxembourg: it is weighted according to the number of staff in the two sites and will thus be to Luxembourg's disadvantage.

This weighting was not to be applied to pensions.

The “Common Front” and the associations of retired staff (AIACE and SEPS) argued that the new method lacked precision compared with the present one and criticized in particular the fact that there would be more divergence between salaries and pensions.

However, the discussion dragged on about the Brussels-Luxembourg weighting and some staff representatives are asking for a different weighting from that of Brussels.

The “Common Front” and the associations regret that the Administration is proposing to amend a method which has proven its worth and which works, without giving any real political reasons to justify the change.

In particular, they stressed that its duration should not be linked to the financial framework. It should be set at a minimum of ten years.

The following points were emphasized:

It is a mistake to use national civil servants' gross salaries, without taking account of the tax burden or the measures adopted by the different Member States to face up to the crisis. This can only lay the Commission open to criticism in the future. Moreover, a decrease in GDP can go hand in hand with high inflation.

It is essential to avoid linking the duration of the method to the financial framework in case the European civil service should become a variable. On the other hand, we must set a lifetime for it (for example, ten years).

As far as the parallel progress of pensions and salaries is concerned, which would be adversely affected by the new method, the Administration maintains that we must take account of the fact that pensioners are not necessarily expatriates!!!.

During negotiations at political level, the Vice-President agreed to maintain parallelism between salaries and pensions and propose that the method be adopted for a ten-year period.

He declared also that all 27 MSS of the Union will constitute the sample by which to evaluate the trend of salaries in the MSS and not merely eight or ten MSS.

B. Regarding the BE-LUX index,

The “Common Front” think it is based on approximate reasoning and can be nothing but virtual. What is more, it solves none of the problems in Luxembourg and their effect on the attractiveness of that country.

The staff feel that such a weighting (which is no longer justified historically) will cause serious tension.

Some staff representatives are of the opinion that we must have a separate weighting for Luxembourg because of differences in the cost of living. Others are proposing a housing allowance to benefit those with the lowest salaries.

The Administration is arguing that the Commission wanted to respect one of the ‘red lines’ drawn by the Vice-President, namely the expatriation allowance, which is regressive in other international organizations. There is a risk that it will be called in question if we ask for a higher weighting for Luxembourg: we should take account of the number of officials and other servants not actually resident in Luxembourg and the fact that there are indeed certain types of accommodation that are more expensive there, whereas the cost of living is not necessarily higher (EUROSTAT

calculations show the contrary). Moreover, another MSS proposal could be to set Luxembourg at 100 and to lower Brussels!

C. Local weighting factors

Staff representatives consider it an aberration to have a country weighting for work places other than that applied to the capital.

The question of the weighting for Varese was also raised, asking that the weighting for Rome be used, as is the case for Parma. The Administration is not likely to follow.

D. Member States' position

The following declarations are indicative of Member States' wishes:

"If a salary adjustment method is to remain, [...] we do not consider the proposed compound index for Belgium and Luxembourg to be an acceptable alternative. It would be more costly. It also involves another artificial index, which would not be sufficiently transparent for EU citizens to understand. The genuine Belgian Harmonised Consumer Price Index should be used as an alternative."

"We do not support the proposed addition of reference states as this would lead to an increase in the annual salary adjustment compared to the current system. Furthermore, continuation with the current sample (8 MSS) maintains the consistency of the salary development and gives more space for securing the quality of data."

E. Position expressed at the European parliament

The EP Rapporteur welcomes the new adjustment method. Arbitrary elements are dropped. The question is how to obtain reliable data regarding the 27 Member States.

For the Rapporteur, non-respect of the deadline of 31 December 2012 would pose serious problems.

III. New exception clause based on GDP_(EU)

A. Discussion of the Commission proposal

The new method is based on the difference between the variation in GDP and the annual salary adjustment (when positive): if this difference is more than 2 points, when GDP is negative, then the clause applies and the adjustment is carried out in two stages: half immediately and stage two a year later.

The Vice-President has refused to take into consideration the stricter variations put forward by the pensioners⁵.

The Vice-President's idea of suggesting automatic application of the method to avoid co-decision has not been well received by the MSS.

B. Position of the Member States

The MSS declare:

"We welcome the Commission's intention to amend the Exception Clause (Article 10, Annex XI). However, the proposed amendments are not satisfactory since they do not allow a freeze or a reduction in the salary adjustment. Instead, the new exception clause would simply stagger the adjustment over two years according to a mathematical logic which leaves no room for a more political approach. We want to see a new exception clause which gives the Council the authority, if

⁵ Proposals by Ludwig Schubert, AIACE

it finds there is an exceptional crisis situation in the EU, to decide on whether the mathematical calculation of the salary adjustment should be set aside.”

Moreover, the MSS do not like idea of “delegated acts”.

C. Position expressed at the European Parliament

The Rapporteur will probably induce the JURI Committee to accept the exception clause as well as the whole adjustment method proposed by the Commission (Annex XI of the Staff Regulations).

IV. Solidarity levy of 6 %

During the first negotiation meeting at political level, the Vice-President announced that the levy would be raised from 5% to 6%.

Many **Member States** want this levy to be applied, without any reduction, to all staff members as well as pensioners and beneficiaries of allowances. Several Member States are proposing a higher levy.

The “**Common Front**” is repeating its request for proof of the use of the collected funds for solidarity purposes.

The level of the levy has not yet been discussed at the **European Parliament**. The levy is seen as related to the method of adjustment of salaries and pensions. The Rapporteur is not proposing to apply the levy to pensions and allowances.

Some Members of Parliament are proposing that a progressive levy, in proportion to the salary, be applied, in order to protect lower grades. In fact this is already the case for the special levy.

V. New career for secretaries and clerks

A. The Vice-president changes his proposal

The “Common Front” rejected the Administration’s proposals unanimously. They requested that this item not be dealt with in the same way as others, upon which negotiation was possible. On the contrary, there is a ‘red line’ here in that irreversible structural changes are being brought about for AST staff.

If these proposals are based on an economic dimension and if there is a will to negotiate, the staff representatives and the Administration could study together other measures that could have the same effects. To maintain the secretaries as officials is a first priority for the “Common Front”.

The staff representatives raised the following points in particular:

- ✓ The 2004 reform had ‘abolished’ the job of ‘secretary’ by opening up the career structure.
- ✓ The staff representatives are unanimously against contractual workers on temporary contract in our departments. By replacing posts with budget credits, one is bringing a measure of precariousness into the civil service
- ✓ This proposal was not born of a dialogue with the staff or of any political request: all it does ultimately is render the European civil service more precarious whilst leaving aside other questions such as the role of the over-55s or mobility within a career or, again, the role of women, which is thus weakened.
- ✓ The “Common Front” maintains the request of the AST career for the secretaries and clerk.

A concession was made during the negotiations at political level to allow secretarial staff to pursue a career as civil servants as opposed to contract agents. This special secretary career path would be separate from that of AST staff and at a lower salary level (even lower than the legal minimum limit in Luxembourg). The promotion rate is lower as well.

Despite the staff representatives' hard line during several interminable meetings and despite concessions on the part of HR DG, the Vice-President remained intransigent: the "SEC" career must be separate from the AST grades: the salary will be lower, as will the promotion rate!

-	SC 6	3 844.31	4 005.85	4 174.78	4 290.31	<u>4 349.59</u>
-	...					
-	SC 1	<u>2 160.45</u>	2 251.24	2 313.87	2 345.84	-

Officials will be recruited at grade SC 1 only.

The possibility of passing an internal competition to move from SEC to AST is no guarantee that numerous – often overqualified – secretaries will be able to pursue a career at the Commission.

B. Member States' position

Member States were much in favour of the gradual transformation of 7 500 civil servant secretarial and clerk posts into those of contractual agents, with a drastic salary reduction.

C. Position expressed at the European Parliament

For the EP Rapporteur, entry grades in all groups should guarantee recruitment of appropriate staff. In the case of AST/SC this means secretaries who represent a wide range of nationalities and linguistic skills in order to satisfy the requirements of multinational and multilingual services and maintain geographical balance. Potential savings have to be balanced here against institutions' obligation to provide a high level of service on a continuous basis.

Moreover, most secretaries recruited are female, and it is they who would bear the burden of savings. That could hinder the principle of gender equality.

Consequently, the amendment sets the entry grade for the AST/SC category at one level below AST 1 instead of two.

-	SC 6	4.349,59	4.532,36	4.722,82	4.854,21	<u>4.921,28</u>
-	...					
-	SC 1	<u>2.345,84</u>	2.444,41	2.547,14	2.617,99	2.654,17

In the proposal it is also stated that it should be possible for the institutions to decide on the entry grade of staff recruited in the function group AST/SC (SC 1, SC 2, or SC 3 and not only SC 1) depending, e.g., on their experience, just as in the case of function groups AST and AD.

Parliamentary ushers should be added to the AST/SC category.

However, several other severe amendments are being proposed. Some MEPs consider that national employees would do for the group of secretaries and clerks. Salaries have to remain low and multilingual secretaries are not necessary! It is to be seen which of these amendments will get the vote.

VI. AST career changes

A. Commission proposal

For newcomers, the AST career will be subdivided into three categories:

Secretary / clerk: AST/SC, SC1 to SC6
Assistant: AST1 to 9

Senior Assistant: AST10 and 11.

Promotion from AST9 to AST10 falls under Article 29 of the Staff Regulations. The number of promotions is reduced to 8%. Possibilities of internal competitions are being considered by HR DG (to move from AST/SEC to AST1-9).

A long transition period is being considered for AST staff in place before 2013. Depending on their job description and on the restrictions put on their career in 2006, assistants will be divided into four groups:

Support Agent in transition: AST1 to 5
Administrative Assistant in transition: AST1 to 7
Assistant: AST1 to 9
Senior Assistant: AST10 and 11.

HR DG is looking into the possibility of internal competitions to move from one category to another.

B. Member States' position

Only the Secretary group was discussed (see above).

C. Position expressed at the European Parliament

The EP Rapporteur considers the restrictions on promotions between AST9 and 10 too severe.

All officials recruited since 1 May 2004 should be classified as Assistant: in order to participate in the AST competitions (since May 2004) they had to demonstrate a much higher level of education than was previously required for the former categories B, C and D and prove knowledge of a third language before their first promotion. In addition, their career prospects at the time of recruitment made it possible to reach grade AST 11.

VII. Promotions as a whole

A. Commission position

There must be a clear link between responsibilities and grade. Different careers are, however, possible without staff management responsibilities (experts, adviser, etc.) as listed in Annex 1 of the Staff Regulations.

Promotions to high grades in AST and AD come under Articles 4 and 29 of the Staff Regulations.

B. Member States' position

MSS want a unequivocal relationship between grade and responsibility. They are opposed to promotion quotas in the different grades.

C. Position expressed at the European Parliament

The relationship between merit and promotion is considered positive. The limitations proposed to 8% a year for the level AST9 (instead of 20 to 25%) is, however, considered a bottleneck.

Several amendments were issued on the subject. The Budget Control Commission Rapporteur (COCOBU) stresses the fact that this can lead to a brake on the career of European Civil Servants. She does not accept that several officials have a higher salary than Members of Parliament.

The Rapporteur also proposes that career steps be attributed every three years, instead of every two. She also proposes that all steps for the grades AD12 to 16 be suppressed.

It remains to see if these amendments are voted in at the end.

VIII. 40-hour week. Flexitime.

A. “Common Front” opposition

Given that this measure takes no account whatsoever of the social aspect of maintaining good working conditions, the staff is against it.

The staff representatives are of the opinion that an increase in weekly working hours cannot be linked to a reduction in staff. Such a measure would have a disastrous effect on the balance between private and professional life.

About flexitime, the staff representatives are suggesting that the proposal in the Staff Regulations be limited to the statement that the institutions may introduce flexitime and that the question of recuperation should be dealt with as part of the implementing procedures. The objective is to limit the possibilities for the managers to accumulate additional holidays.

At the end of the negotiations, the Commission’s proposal remained unchanged.

B. Member States’ position

The MSS approve the Commission proposal.

C. Position expressed at the European Parliament

MEPs were extremely critical of Commission management staff possibly accumulating holidays.

The EP Rapporteur supports the Commission proposal but proposes a clarification: officials in grade 9 and above who benefit from flexitime arrangements should not be eligible for full or half working days by way of compensation.

For the Budget Commission Rapporteur, the benefit of holidays generated by the flexitime system has to be denied to managers and officials starting at grade AD9.

IX. Annual trip home of officials entitled to expatriation or foreign residence allowance

A. Change in the Commission proposal

The Vice-President’s June 2011 proposal was to reduce travel time to two days.

The “Common Front” objected strongly to discriminations and measures contrary to maintaining geographical balance.

Other measures are also related: new method for calculating the distance (GPS) and allowance, limitations on the volume accepted for the removal and so on.

The staff representatives consider in particular that this measure has a different impact on an AD official from an AC.

It does not generate much in terms of overall savings and is likely ultimately to increase the risk of a geographical imbalance.

At the end of the process, the proposal was amended to introduce three travel days instead of two for the longest distances.

B. Member States’ position

As a general rule, MSS are asking for a large reduction in or suppression of all allowances.

C. Position at the European Parliament

It is the European Parliament that is behind the call for reduction of the allowances. The proposal is to reduce the travel time to two days.

Moreover, there is also the request to reduce the number of bank holidays to 14 days.

The EP Rapporteur considers that a consensus is possible on the basis of the Commission proposal. She is not asking for a systematic reduction of allowances. The European Civil Service must remain attractive.

Vote will decide which amendments to the rapporteur's proposal will be accepted.

X. Geographical balance

A. Commission expectations

The geographical balance must be maintained. However, it is becoming difficult to recruit staff from the original 15 MSS. HR DG's proposed measures to correct imbalances are not in agreement with the pure "European method".

The staff representatives consider that there has been no analysis of the cause of the present geographical imbalance.

The Administration is proposing to complement the proposal by publishing a Decision or General Implementing Provisions and bringing out regular reports on the situation and the methods used.

B. Member States' position

No position expressed by the MSS. Obviously, the "Intergovernmental Method" does not favour geographical balance.

C. Position expressed at the European Parliament

From the very start of discussions, the Rapporteur declared to be in favour of measures to maintain the attractiveness of the European Civil Service to permit geographical balance at all levels.

Certain Members of Parliament consider this geographical balance unnecessary for secretaries and clerks.

XI. Contract staff

Unions have stressed the need to improve the salary scales of contract agents in function groups I and II. Nothing was obtained.

However, contract agents will be allowed to take part in a competition to become civil servants.

XII. Staff recruited after 1 May 2004

AD staff recruited after May 2004 are discriminated against compared to colleagues recruited before then. In certain cases a correction would be justified.

The possibility of internal competitions was announced in favour of these "castaways".

XIII. 5% reduction in staff

A. Commission proposal

Reducing the staff in all categories of all institutions by 5% in total between next year and 2018 by normal staff turnover (retirement and limits on new contracts) is a budgetary measure, not dependent on the Staff Regulations.

This proposal by the Vice-President was not discussed in coordination meetings but in the course of a 'social dialogue' (28.10.2011). It calls for several amendments to the Staff Regulations but it is a budgetary measure only.

This dialogue enabled discussion to start on staff counter-proposals (point XI below). The discussion was broken off, however, when the Vice-President decided to suspend meetings and press on with a political negotiation meeting with him on 7 November, thus leading to the calling of a general meeting of the staff on 9 November. This meeting was successful and negotiations with HR DG started again but the dialogue closed down on 16 November with a status-quo.

B. Member States' position

MSS approve the proposed savings. Some MSS want to reduce the staff by 7% or even 12%.

C. Position expressed at the European Parliament

The Rapporteur thinks any staff reduction measures should be examined institution by institution. The growth of the institutions has not been the same over the last few years: between 2000 and 2010, 22% at the EC; 34% at the Council; 52% at the EP; 140% at the CoR (Committee of the Regions). Moreover, duties of Institutions are different and the Lisbon treaty implies more duties for the EP (and for the Court of justice as well).

IX. Delegated acts

A. Commission proposal

It is impossible to reach a series of annual decisions regarding staff management in accordance with the Staff Regulations if the co-decision procedure between the Council and the EP is being used. The Commission is proposing automatic procedures (e.g. salary adjustment method). As no discussion should be necessary, delegation can be given to the Commission, as provided for in the treaties.

The "Common Front" is not opposed to the procedure of delegating acts to the Commission in order to prevent lengthy Council-Parliament co-decisions.

B. Member States' position

MSS do not want to lose their decision-making power.

C. European Parliament position Unknown.

X. Agencies

The “Common Front” welcomed the fact that the Commission has taken the opportunity to reaffirm its role as guardian of the Staff Regulations and of harmonization and centralization in the adoption of standards.

The fear is that introducing TA.2f⁶ staff will create a kind of temporary agent that will be the thin edge of the wedge on which to base a future reform of the Staff Regulations.

The “Front” stressed the importance of stepping up the social dialogue in the Agencies and called for compulsory use of EPSO for staff recruitment.

The “Front Commun” welcomed the setting up of a compulsory official manual of implementing provisions for all institutions and agencies. This proposal goes the right way towards providing transparency, clarity and harmonization: however, it would require access to this manual.

XI. “Common Front” alternative proposals, made outside the framework of the Commission proposal for reform of the Staff Regulations

The reform of the Staff Regulations is being presented by the Commission as justified by the requirements of the present-day situation and tuned to various registers such as showing a good example to the Member States, reducing costs, renewing the salary adjustment method, pleasing the Press and so on.

The Unions of the “Common Front” do not agree with any of the Commission’s motives and, hence, refute the need to re-open reform of the Staff Regulations in the way suggested.

The economic and budgetary arguments are not the real reasons for the reform. The true motive is political and aims to bring the European civil service to its knees and weaken it.

For the “Front”, the European civil service is the only possible implement with which to operate the European Union and the only entity of the right dimensions to provide viable solutions to the crisis through which many Member States are passing.

Furthermore, instead of the present draft put forward by the College, which weakens the Commission, the staff representatives are suggesting that the Commission adopt a much more effective approach which would uphold the current and future ability of the European civil service to take action and make maximum use of present resources.

The “Front’s” proposals revolve around three priorities. Details of the way ahead and complete lists are given in the annexes.

- **Invest in staff – the prime asset of the European civil service**

i. Dynamic management of staff distribution.

ii. Avoid sub-contracting to outsiders: outside help (especially on IT helpdesks) costs very much more than contract staff!

iii. Stop all measures that render the situation for staff more precarious: having recourse to “precarious” staff for permanent jobs has greatly contributed to a weakening of the European civil service.

- **Simplify and improve management of administrative structures**

⁶ Paragraph 2f of Article 2 of the so called RAA (Staff regulations for the temporary and contractual staff) introducing a new category of temporary agents for the agencies.

i. Finish with wasteful use of resources. Today's European civil service is paying for yesterday's political choices on the part of the Member States. Just look at the sites chosen for the institutions and agencies: it is obvious that nothing is gained from such a scattering and it represents a heavy burden on the Community budget. They have sprouted up like mushrooms since 2004 and this has led to a considerable weakening of the Commission as an institution, which is being cut off from reality in Europe.

ii. Restructure the DGs. It is necessary to restructure and simplify the DGs seriously. Rather than increasing the number of DGs to match the number of Commissioners or portfolios created artificially to please the Member States, stress should be placed on administrative efficiency and collegial spirit in order to avoid duplications of effort, conflict of authority and competence - and wastage.

iii. Make common use of departments among institutions. The institutions should manage certain tasks or services in a coordinated manner.

- **Improve management of European civil policy**

i. Have a truly European budget

ii. Simplify administrative procedures. The "Front" thinks that the Commission should conduct a critical examination of subsidiarity to reveal duplications among Member States and between Member States and the European Institutions (for example, agencies responsible for medicines, health and safety departments, air safety bodies and so on) in order to plan for gradual phasing out.

Up to now, it has not been possible to discuss any of the "Common Front" proposals with the Administration because negotiation meetings were suspended on 16 November 2011.

XII. Annual adjustment of salaries and pensions **"Chassé-croisé" of Court cases**

A. Sequence of events

1. The Council had wanted to invoke the exception clause contained in Article 10 of Annex XI to the Staff Regulations. The Commission's September 2011 report did not satisfy this request. The report shows that the conditions for applying the clause have not been met⁷. Hence, the Commission is not proposing that Article 10 be applied.

2. Last October/November the Council asked the Commission to review its stance in the light of events (deterioration of the situation in the Union). The Commission confirmed its analysis (as in the September report) by issuing another report, still not proposing application of the exception clause.

The Member States consider that the Commission is guilty of defaulting on a decision: it was supposed to propose the exception clause⁸ !

3. On 24 November, the Commission forwarded its annual adjustment proposals to the Council:

- +1.7% on salaries, pensions and allowances,
- -0.6% in pension contributions (hence increase of 0.6% for active staff),
- new weightings table.

⁷ Nor even the new exception clause proposed in the reform package.

⁸ On a purely political basis as certain Member States wish.

4. COREPER's response to the Commission proposal was to induce the Council to⁹:

- bring an action to annul the Commission's report on the exception clause and against the Commission's "default" in not proposing to apply the exception clause¹⁰.
- refuse the Commission proposal (1.7%) without making any counter-proposal, thus neglecting to take a decision, which is against the Staff Regulations and Annexes XI and XII.

On 21 December Vice-President Šefčovič declared to the Council :

"The Commission will defend its assessment, since it is based on transparent and broadly available economic and social data.

I can reassure you that the College remains attached to the method, which was adopted by the Council in 2004 for the period of nine years, and will defend the legal order of the Union."

On 11 January he sent the following message to the staff representatives: (unofficial translation)

"Having examined the admissibility of the Council's decision, the Commission has come to the conclusion that the Council has no room for manoeuvre in this matter and hence is obliged to adopt the aforementioned proposal."

As a result, the Commission has authorized its Legal Service to apply to the Court of Justice of the European Union at once for annulment of the Council's decision not to adopt the proposal and to confirm that the said Council is in default for not taking a decision to adjust salaries and pensions.

B. Comparison with the 2009 situation

In 2009, the Council was not accused of "defaulting": it had taken a decision (1/2 adjustment) but not in line with the Staff Regulations. Therefore, the Commission had just lodged a claim for annulment before the Court.

In 2011, the Council is setting a trap: it decides not to adopt the Commission's proposal but says nothing more:

"HAS DECIDED NOT TO ADOPT THE PROPOSAL OF THE COMMISSION for a Council Regulation adjusting with effect from 1 July 2011 the remuneration and pensions of officials and other agents of the European Union and the correction coefficients applied thereto".

However: Article 3.1. of Annex XI states that the Council must decide before the end of the year on the salary and pension adjustment proposed by the Commission. The November 2010 Court of Justice decision on the 2009 adjustment has confirmed this obligation (except if calculation errors can be proven). Thus, there has been a shirking of obligations.

C. Action by the Commission's Legal Service

- In accordance with Article 265 of the Treaty on the functioning of the European Union, the President sent a dunning letter on 25 January obliging the Council to "take a decision", in order to confirm or infirm whether the Council has defaulted by not deciding!
- In accordance with Article 263 of the same Treaty, the Commission brought an action before the Court of Justice (9 February 2012) contesting the Council's decision to reject the

⁹ Council Decision taken on 19 December. Official Journal of 22.12.2011, (2001/866/EU).

¹⁰ Given the date of the Commission's second report, the Council lodged its claim to the Court on 2 February 2012.

Commission's proposals on adjustments to salaries, pensions and allowances, on pension contributions and on weightings!

The Legal Service intends to request expedited or priority procedure. It is vital that the matter be concluded before the next salary adjustment (November 2012) and, if possible, before the battle over reform of the Staff Regulations has finished, in order to avoid amalgamation¹¹.

D. Has COREPER changed its mind?

There is no exception clause in Article 83 of the Staff Regulations or in Annex XII stipulating the annual revision of pension contributions. There should have been no objection to the 0.6% increase for officials in active employment!

COREPER realized this and held a meeting on 20 January where it considered that the Council could confirm the reduction of 0.6 % in active staff's contribution to the pension scheme. But, not in a hurry! The Council decision on the pension contribution should be taken within a reasonable time but there is no deadline. The Staff Regulations state that the scheme must remain in balance neither deficit nor surplus! However, officials will recover what they have overpaid!

Will the Commission be obliged to lodge a new claim to the Court?

E. Special remarks

It is strange, but it would seem that COREPER has forgotten that the Commission proposal also concerns weightings. It is impossible not to take them into account for many reasons. Also, several weightings are dropping and would lead to savings!

We were told that it was a unanimous decision on the part of the Member States to reject the Proposal of the Commission (1.7%). It appears there were many abstentions?!

COREPER would apparently have had great difficulty in coming to a majority decision on whether to go to Court! There was no qualified majority, as there should have been, but merely a simple majority, only just. Such majority is enough for administrative acts (but is it valid in this case?).

Last but not least: the Council decision should have been taken in co-decision with the Parliament. It goes further than simply applying Annex XI. The Parliament cannot overlook this mistake. Neither can the Court of Justice!

What is more, a Council / Parliament co-decision can only be based on a Commission proposal.

¹¹ And the bargaining!!!