



COMMISSION OF THE EUROPEAN COMMUNITIES

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OPINION OF THE COMMISSION ON THE STATUTE FOR
MEMBERS OF THE EUROPEAN PARLIAMENT

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1. Introduction

Parliament has long sought to see a unified, transparent statute for its members which would, among other things, provide for a uniform community-level system of salaries, pensions and social security coverage to replace the existing system of national salaries charged to national budgets and subject to national taxation. These efforts were hindered by the absence of agreement on whether article 13 of the Act of 20 September 1976 offered an adequate legal base for such a statute.

Article 190(5) of the Treaty, added by the Amsterdam Treaty in large measure at the request of the European Parliament, creates a specific legal base enabling such a statute to be adopted. This article states:

"The European Parliament shall, after seeking an opinion from the Commission, and with the approval of the Council acting unanimously, lay down the regulations and general conditions governing the performance of the duties of its members."

2. Objectives of the Statute

The main objective of the draft Statute adopted by Parliament on 3 December 1998 was to open the way to such a uniform community pecuniary regime for all MEPs, covering all relevant matters including salaries, pensions, severance allowances subject to community taxation, social security coverage and reimbursement of expenses. The Statute also adds some additional incompatibilities, including that of membership of both a national parliament and the European Parliament (so-called dual mandate), reversing the position laid down in the Act of 20 September 1976. As a bridging arrangement from the current, essentially national, arrangements in place since the first direct elections in 1979, the draft Statute proposes a transitional regime based on the average of national salaries, applicable to all newly elected members with a right for re-elected members to opt to retain a national salary that would apply only to the first legislature following the entry into force of the Statute.

3. The Commission's Approach

The Commission, as during earlier discussions, welcomes efforts to create a community statute, creating a uniform pecuniary regime for all members of the European Parliament covering all essential aspects including salaries, pensions and social security coverage. The Commission understands the reasons that have led Parliament to propose a specific bridging system to apply during the first legislature following the entry into force of the Statute. The opinion will confine itself therefore to a limited number of general and specific observations.

4. General Observations on the Draft Statute

4.1 Legal Basis and Form of the Statute

The legal base chosen by Parliament, article 190(5) of the EC Treaty, as amended by the Amsterdam Treaty is the appropriate legal base. The Commission, however, considers that the Statute could take the form of a regulation rather than a decision. This would have the advantage that it would be directly applicable and binding in its entirety and so would not need to be notified to its addressees as would be the case for a decision, as specified in article 254(3) of the Treaty.

4.2 The Transitional Regime and the Final Regime

There is no objection in principle to the concept of a transitional regime, a well-tried instrument in the Community.

The Commission understands the specific reasons that have led Parliament to create a transitional regime applicable in the first legislature, following the entry into force of the Statute, to act as bridge from the existing system under which salaries, pensions and social security are exclusively or essentially national, to a full uniform community regime, with a limited additional right of re-elected members to opt to retain their national salaries during this legislative term.

As to the definitive regime, the Commission considers that it might be appropriate to move the procedure for its adoption (Article 4(2) of the Annex, which makes reference to the procedure specified in Article 190(5) of the Treaty, into the body of the Statute itself, and to include some guiding principles as to the content of the definitive regime, or referring to existing arrangements for members of other institutions with variations appropriate to members of Parliament. It should be made clear that such a regime can only be adopted by this procedure and not by applying Article 10(3) of the Statute in conjunction with Article 11 of the Annex (delegating implementing provisions).

4.3 Financial implications

Even if the net overall cost to the taxpayer, taking the national and Community budgets together, may be close to neutral, the Statute will clearly have financial consequences for administrative expenditure in the Community budget. If the Statute enters into force at the outset of the legislature commencing in July, as the Parliament intends, these could be felt already in the 1999 budget. The full extent of these financial consequences, even in the more precise transitional regime are difficult to evaluate, in view of uncertainties about how many MEPs will opt to retain the national salary regime during the first legislature and the applicable taxation rate and uncertainties surrounding both the pensions and the health coverage regimes. Parliament has evaluated the maximum cost to the Community budget of all elements of the financial package at about €60 million. Whilst such a maximum charge on the Community budget might seem to represent a very limited proportion of Category 5 expenditure (1.5%) proposed for the next financial perspectives, this charge could

represent, from financial year 2000 onwards, a significant proportion of the likely available margin under the ceiling when other projected expenditure is taken into account. These not inconsiderable financial implications for the community budget are important and cannot be ignored when the new financial perspectives for the period 2000-2006 are concluded.

5. Specific Observations on the Draft Statute

5.1 Future Adaptation of the Draft Statute

The Commission notes that, as drafted, Article 18 of the draft Statute is not clear. It seems to allow for adoption of a different transitional regime during the first legislature after the adoption of the Statute, which would be additional to or different from that laid down in Articles 1 to 5 of the Annex.

The relationship between Article 18 and Articles 1 to 5 of the Statute thus needs clarification. If its present drafting is retained it seems unnecessary. On the other hand, if the intention is to allow adoption of a transitional regime during the legislature 1999-2004 in the event that the Statute is only adopted after the end of the 1994-1999 legislature, then the text of Article 18 and also Article 19(3) dealing with the application of the Statute need to be redrafted to make that clear.

5.2 Incompatibilities (Article 3)

The Commission noted the inconsistency between article 5 of the Act of 20 September 1976 which allows membership of both national and the European Parliament and article 3(1), 8th indent of the draft Statute, which would make such dual membership incompatible. The best solution would clearly be to include all incompatibilities in the Act which is now being considered on the basis of Article 190(4) of the Treaty (dealing with the uniform electoral procedure). If it is nevertheless considered desirable to include rules on incompatibilities in the Statute of Members, there should be consistency between the provisions of the Statute and those contained in the Act of 20 September 1976 and any subsequent act based on Article 190(4) designed to supersede it.

5.3 The Pecuniary Regime for Members of Parliament

5.3.1 *The Definitive Regime (Article 4.2 of the Annex)*

At present, the Statute contains no detailed provisions on the content of the future definitive regime. Accordingly, the Commission's observations are limited to the transitional regime and those provisions destined to remain in force in the permanent regime, such as those relating to pensions (Articles 6, 9 and 10 of the Annex), implementing the rights of members laid down in the body of the draft Statute (Articles 10, 11, 12, 13, 14 and 15).

5.3.2 Remuneration under the transitional regime (Article 1 of the Annex)

The Commission can agree that the averaging of the remuneration of national members of Parliament is a reasonable basis for the remuneration of members of the European Parliament during the transitional period.

5.3.3 Pensions (Article 6 of the Annex)

The draft Statute establishes a right to a pension under certain conditions or from age 60. It establishes a ceiling of 70 % of the monthly salary. The Statute does not specify how the pension regime should be financed, this being left to be established by implementing provisions. Accordingly, the Commission is unable to assess the financial implications for the Community budget, if as must be supposed, MEPs pensions would in future become a charge on the Community Budget. One option would be to refer to the existing Community regime.

5.3.4 Health coverage (Article 12)

The draft Statute establishes a right to health insurance for both MEPs in office and for retired MEPs, but not explicitly for their families. No provisions are laid down for financing this regime nor as to whether it should become part of the general Community regime in one form or another. In that event, it would be necessary to negotiate the financial implications and the appropriate contribution regime before such a decision was taken.

5.3.5 Expenses and other allowances (Articles 11, 13, 14 and 15)

The draft Statute itself merely establishes the right to various expenses and allowances, including reimbursement of expenses, severance allowances in event of non re-election and staff assistance. The provisions of the accompanying resolution would seem to broadly follow existing practice and, in so far as the expenses system will be based on real costs incurred and are already covered by the community budget, require no comment.

5.3.6 Taxation (Articles 11; 1(2), 5,8(5), in the Annex)

It is laid down that in the transitional regime salaries but not allowances should be subject to the Community tax regime without specifying the applicable tax rates. It is to be supposed that the existing Community tax regime would be applicable. The Commission would point out that Chapter III of the Protocol on Privileges and Immunities of the European Communities contains no express provisions on the taxation regime for members of Parliament. The Commission considers that the independence of Parliament as a wholly European institution would be reinforced and the equal treatment of MEPs ensured if the present system of national salaries and national taxation were replaced by a uniform Community system of salaries and taxation applicable to all MEPs.

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