EU Staff Salaries

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Amid reports of extravagant spending on and by EU staff (e.g. Telegraph, 23 November and 15 October 2012, Independent.ie, 1 December 2012, Herald Scotland, 25 November 2012, Cyprus Mail, 27 October 2012), there have been several recent EU events concerning the cost of the EU administration in general and EU staff salaries in particular:

- the EU budget allocation for staff salaries, pensions and allowances in the negotiations over the EU budget 2013 and the Multiannual Financial Framework (MFF) 2014-20;
- the annual adjustment of the remuneration and pensions of EU staff as required by the EU Staff Regulations;
- the European Commission's proposals for cutting administrative costs and amending the 'method' for calculating staff salaries;
- the Council's application to invoke the 'exception clause', whereby the Commission can depart from the 'method' when there is a "serious or sudden deterioration in the economic and social situation" in the EU;
- four cases in progress at the EU Court of Justice regarding the use of the method in 2011 and 2012.

This Note pulls together the various strands in the EU staff salaries debate.

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1 Introduction

In July 2011, the EU institutions entered a new cycle of Multiannual Financial Framework (MFF) negotiations, which will define the EU's budgetary priorities for the seven years 2014-2020. EU staff salaries, pensions and allowances come under Heading 5 of the MFF (Administration). The current MFF is discussed in Library Standard Note 6455: EU Multiannual Financial Framework (MFF) 2014-2020, 21 November 2012, and the EU budget in Standard Note 6463, EU annual budgets 2007 – 2013, 14 December 2012.

In early 2011 the Commission introduced a proposal to reform the Staff Regulations (SR) with wide-ranging measures, including reducing EU administration costs by a 5% reduction in staff numbers, an increase in weekly working hours for remaining staff without salary compensation, raising the retirement age from 63 to 65 and lowering the salary grid for many staff.

According to Commission Vice president, Maroš Šefčovič, there are 55,000 EU Civil Servants, equivalent to the City Councils of Birmingham or Paris and far below the 98,000 who worked in the UK's Department for Work and Pensions. Staffing levels have not increased since 2009, and there are plans to reduce the Commission workforce by 5% in the coming years. EU officials pay the highest pension contribution rates in Europe.

EP debate, 21 November 2012, on preparations for the European Council on 22-23 November 2012. Birmingham City Council says its staff total is 48,049 (*BBC News*, 1 July 2011)

Three SR provisions expired at the end of 2012: the "special levy" imposing an extra tax on salaries, provisions on the "salary adjustment method" for calculating annual salary increases, and certain provisions relating to the EU pensions scheme. To address this, the Commission suggested reforming the salary calculation method and extending the special tax. The Commission estimated that these reforms would generate additional savings of €1 billion over the next MMF and much higher amounts in the longer term.

On 30 November 2012, Commission Vice President Šefčovič wrote to Andreas Mavroyiannis of the Cypriot Presidency and the EP President, Martin Schulz, proposing that the Council and EP adopt an extension of the special levy and the method for one year, allowing the Commission to re-submit measures in 2013, but the Council ruled this out.

On 5 December 2012 the Commission, following the specified method of calculation, recommended a pay rise of 1.7% for EU staff working in Brussels. This resulted from an analysis of civil servants' purchasing power in eight EU Member States, which showed a decrease in real terms of 1.1% during the reference period (mid-2011 to mid-2012), and the inflation index for Brussels residents of 2.8%.

However, at the end of 2012 the Council did not agree the latest MFF proposals, rejected the Commission's analysis, refused to extend the current method of salary calculation and the solidarity levy to provide more time to reach overall agreement on salary adjustments, and did not adopt the Commission's proposed administrative reforms. As a result, most EU officials' salaries will go up when the 5.5% special levy ceases to apply to a portion of their salaries.

2 The EU Budget and the Multiannual Financial Framework (MFF)

The Multiannual Financial Framework (MFF) lays down the maximum annual amounts the EU may spend in different political fields over a fixed period. The ceilings set out in the MFF regulation are not equivalent to the EU Budget. The EU Budget, which is adopted annually, always remains below the MFF expenditure ceilings, with margins preserved to cope with unforeseen expenditure. The matter of EU administration costs and staff salaries has been contentious in both EU budget and MFF discussions.

2.1 Proposals to cut administration costs

In a Draft General Budget (DB) of the European Commission for 2013 Working Document,[1] the Commission noted that "in a context where rigorous cost savings and maximum

[1] Part II Commission Human Resources, COM(2012) 300, 25 May 2012

efficiency are demanded on all public administrations, the Commission is firmly committed to acting responsibly and to leading by example".

Budget Heading 5 was 6% of the total 2012 adopted budget (expressed as payment appropriations). The Commission's initial proposal on Heading 5 in the new MFF negotiations totalled €62.6 billion overall (commitment terms, 2011 prices £52.3 billion), which is also around 6% of the total MFF.

The Commission proposed a 5% reduction in staff over five years (except for additional staff for Croatia when it accedes to the EU, expected on 1 July 2013) and stated that "All new activities not linked to enlargement will be covered through efficiency gains and redeployment". The Commission continued:

> The Commission translates its proposal to reduce EU staff by 5 % over 5 years by a 1,18 % reduction of all Commission staff across all headings of the multiannual financial framework, including a 1,05 % reduction of establishment plan posts (-263 posts) and a 1,56 % reduction of external personnel (-141 estimated full-time equivalent units - hereafter 'FTE'). Including the enlargement-related request of 125 FTE, the Commission is presenting a 2013 statement of estimates that reduces its human resources for the third year in a row11, with a net reduction of 279 FTE (121 posts and 158 estimated FTE of external personnel).
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> This staff reduction, taken together with the limited staff increase in the 6 executive agencies to which the Commission has delegated implementation tasks (+47 FTE between 2012 and 2013), leads to a total of exactly 1 % staff reduction (Commission & executive agencies together).

The Commission envisaged the redeployment of more than 250 posts between directorates-general and an "unprecedented effort to redeploy posts within individual directorates general (almost 600) to operational activities, concentrating reinforcement on policy making and adjusting resource allocation to priorities". It also aimed to the scale down "activities which are today less relevant or important than they may have been in the past", to continue to explore flexible work arrangements and "allocate staff temporarily to serve time-limited activities". Under a heading "Adjusting staff structure to future needs", the Commission stated:

> Serving priorities with ever scarcer resources also required a continued adjustment of the structure of establishment plan posts linked to the reduction of clerical tasks and the growing need for administrators. This need translates into a 2013 DB request for a budgetary neutral upgrading of some 228 establishment plan posts, of which 209 on the Commission operating budget, 2 for EPSO, 3 for OIB and 14 on the research establishment plans.
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> In addition, the Commission requests some transformations of posts into appropriations for external personnel as a result of the return of former D*-posts as they become vacant (14 posts to be converted into appropriations for contract agents as agreed in the framework of the reform of the Staff Regulations) and the gradual return of posts agreed at the creation of the administrative offices (29 posts also to be converted into contract agents), accompanied by a request to transform a limited amount of appropriations for external personnel into posts to ensure the required stability of staff (30 requests in addition to the above-mentioned conversion of appropriations into posts for 28 of the 46 FTE enlargement-related reinforcement in appropriations for contract agents frontloaded in 2012).

The Commission's approach has largely been followed by the other EU institutions, "leading to an overall increase of administrative appropriations ... of 2.6%) 3.3% including Croatia)".[2]

> The requested increases in expenditure for 2013 (including Croatian enlargement) compared to the 2012 budget range from 1.2% for the Council to 8.4% for the Court of Justice, with most Institutions having an increase (excluding Croatia) of around or below inflation. Similar to the Commission's approach, a 1% reduction in human resources is also incorporated by the Council, the Court of Justice and the Court of Auditors. When preparing the Draft Budget, the Commission has modified the request of the Committee of the Regions, so as to align its requested increase (excluding the impact of the accession of Croatia) to the expected rate of inflation (+ 1.9%). This has resulted in a reduction of EUR 0.4 million, as compared to the draft statement of estimates of the Committee of the Regions.

The EU Council (comprising Member State governments) and the Commission have not seen eye-to-eye over aspects of the EU budget and MFF. Many EU Member States, including the UK, called for more radical cuts than those suggested by the Commission and later by the European Council President, Herman van Rompuy. In the MFF 014-2020 negotiating box published on 29 October 2012,[3] the Cypriot EU Presidency stated that Heading 5 would have to be revised downwards, that it was "essential to continue the technical discussion in order to arrive to an amount of meaningful reductions", and that the need to consolidate public finances in the short, medium and long term required "a particular effort by every public administration and its staff to improve efficiency, effectiveness and adjust to the changing economic context".

EU Council staff unions went on strike on 8 November 2012 in protest against proposed salary cuts and trade union members hoped that Herman Van Rompuy would be able to persuade Member States to modify demands for extensive cuts to staff spending in the MFF negotiations. On 13 November van Rompuy tabled a €950-billion MFF proposal that was €75 billion less than the Commission's initial recommendation.[4] However, the Extraordinary European Council on 22-23 November 2012 failed to gain agreement on the MFF 2014-2020.

> "The overall budget was trimmed by €50 billion by Cyprus, which holds the rotating presidency of EU ministerial meetings, and then by a further €24.5 billion by Mr Van Rompuy, who took over the negotiations.... It is roughly the same size, but tries to shove more money into agriculture and cohesion (but makes no change to the administration budget)".
> Economist, Charlemagne, 22 November 2012

EurActiv reported on 27 November 2012 that Herman van Rompuy recognised "the need to tackle the perception that EU bureaucrats are sheltered from austerity measures imposed domestically" and supported UK calls for more austerity in the EU administration. The report suggested he might suggest a cut in the administration

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2 Europarl summary of the DB 2013

3 A negotiating box is a paper drafted by the EU Council Presidency which outlines the main elements and options for MFF negotiations. It covers the MFF regulation, the rules on Own Resources and sector specific laws. The negotiating box is constantly updated and forms the basis for an agreement of the European Council. When agreement is reached, this feeds into the subsequent legislation. Consilium glossary.

4 See draft European Council conclusions (document 15602/12 of 13 November 2012): commitments for Heading 5 would not exceed €62, 629 million, and within that ceiling, administrative expenditure of the institutions, excluding pensions and European Schools, would not exceed €50,464 million.

budget by around €500 million "as part of a smaller set of "sweeteners" to be introduced in the final stages of EU budget negotiations".

The Council's failure to agree a common position meant that it could not start trialogues[5] with the European Parliament (EP), whose Committee on Legal Affairs (JURI) had in April 2012 broadly supported the Commission proposals. Dagmar Roth-Behrendt, the EP rapporteur on the revision of the Staff Regulations[6] expressed frustration and disappointment at the end of 2012 at the Council's failure to reach agreement.

Addressing the EP on 27 November 2012, Commission President Barroso defended the fact the administration budget had not been reduced at all in the Van Rompuy proposal. In recent years, he said, the Commission had taken on more responsibilities, particularly in the field of economic governance, justice and security, and external relations. It was therefore important that the Commission was not deprived of the means to fulfil the tasks linked to these responsibilities. He criticised media campaigns against the Commission and insisted the principle of fair pay had to be respected in the negotiations, noting that the Commission had carried out, and was still performing, ambitious reforms of its administration.

2.2 UK Government views

On 16 January 2012 the Minister for Europe, David Lidington, stated in an Explanatory Memorandum that any proposed changes to the Staff Regulations (see below) had to be seen in the broader context of the MFF negotiations. The Government's priority for these negotiations was budgetary restraint, and along with other EU leaders, the Prime Minister had stated that the maximum acceptable increase through the next MFF period was a real freeze in payments. The Government told the European Scrutiny Committee (ESC) that it placed primacy on payment figures, rather than commitment figures, but thought it likely that the proposed commitment figures implied significant increases compared with current spending in Heading 5. As such, it would not agree "to any proposal in advance of decisions on overall budgetary envelopes within MFF negotiations".

At the General Affairs Council on 26 March 2012, additional cuts in Heading 5 were supported by Austria (wanted nominal freeze of 2010-13 average), Czech Republic, Finland, Ireland, the Netherlands, Spain, Sweden and Croatia (which has observer status in the Council). Belgium, Italy, Luxembourg and Poland were against further cuts. The UK is not noted for having expressed a strong opinion on this occasion. A Briefing Note by the European Centre for Development Policy Management (ECDPM), April 2012, commented:

> It is perhaps surprising that not more Member States argued for additional cuts given that spending on 'Administration' is an easy media- and voter-sensitive issue. There could be multiple reasons for this, such as a recognition that the Commission has already made good progress, that as Heading 5 represents a relatively small amount of the budget limited gains can be made, or a deference to the fact that national authorities do not want a too strong of a focus on their own percentage of administrative expenditures.

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[5] These are informal discussions in the conciliation procedure, involving small teams of negotiators for each institution, with the Commission playing a mediating role.

[6] Her report was backed by 19 MEPs with three against and two abstentions.

In October 2012 there were reports that David Cameron had threatened to veto the EU budget unless the EU institutions sacked staff and cut the pay of 4,000 officials on six-figure salaries.[7]

In its May 2012 report on the MFF 2014-20, the House of Lords EU Committee recognised the Commission's efforts to bring EU administrative costs more in line with those of Member States and appreciated the importance of preventing a "capacity deficit" in the EU institutions, but agreed with the Government "that more must be done in this area to reflect the difficult decisions being taken at national level, which is important from a public perspective. In the longer term, we urge the Commission to consider again some of the institutional practices of the EU in order to achieve further administrative efficiencies". The Committee also reiterated its view "that funding for the EU courts must increase during the next MFF period to enable the courts to handle an increasing workload. This increase should be funded from savings elsewhere in the Administration budget".[8]

3 The annual adjustment of staff salaries

3.1 The Method

The salaries, allowances, social security benefits and conditions of employment of EU staff and officials working in the EU and outside it are contained in the Staff Regulations (SR) of officials and the conditions of employment of other servants of the European Communities, which were last reformed substantially in 2004.[9] Salaries, allowances and benefits have generally amounted to around 65% of spending in Heading 5.

> **Arrangements for the annual adjustment of remuneration and pensions Article 3 (96), Annex XI of the Staff Regulations**
> 1. Under Article 65(3) of the Staff Regulations, the Council, acting on a Commission proposal and on the basis of the criteria set out in Section 1 of this Annex, shall take a decision before the end of each year adjusting remuneration and pensions, with effect from 1 July.
> 2. The amount of the adjustment shall be obtained by multiplying the Brussels International Index by the specific indicator. The adjustment shall be in net terms as a uniform across-the-board percentage.
> 3. The amount of the adjustment thus fixed shall be incorporated, in accordance with the following method, in the basic salary tables appearing in Article 66 of the Staff Regulations and in Annex XIII to the Staff Regulations and in Articles 20, 63 and 93 of the Conditions of Employment of other servants:
> (a) the net remuneration and net pension without correction coefficient shall be increased or reduced by the annual adjustment referred to above,
> (b) the new table of basic salaries shall be drawn up by calculating the gross amount which, after deduction of tax having regard to paragraph 4 and compulsory deductions for social security and pension contributions, corresponds to the net amount,
> (c) the conversion of net amounts into gross amounts shall be based on the situation of an unmarried official who does not receive the allowances provided for in the Staff Regulations.

The provisions of the method for adjusting remuneration and pensions are laid down in SR Articles 64, 65 and 65a and Annex XI (see box). The principles on which the functioning of the method is based are equality of purchasing power among EU civil servants and parallelism[10] with national officials in terms of changes in purchasing power. SR Article 66a concerns the "special levy", paid by EU staff since 1982, the rate of which has increased annually by 0.43% from 2.5% in 2004 to 5.5% in 2012.

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7 *The Telegraph*, 19 October 2012

8 House of Lords Committee "EU Multiannual Financial Framework (MFF) Report – Govt Response Grid"

9 Neil Kinnock, then Commission Vice president, led the last major reform of the Staff Regulations, although they were reformed in 2010 to take account of the new European External Action Service.

10 The principle of parallelism is where the Commission measures the relevant economic and social situation in the EU as reflected in the Member States' decisions on the salaries of national civil servants.

The method for calculating the adjustment to salaries and pensions is based on changes in the purchasing power of salaries of national civil services in eight EU Member States (UK, Germany, France, Italy, Netherlands, Spain, Belgium and Luxembourg), representing a sample chosen by the Member States in 2004 and representing 76% of EU GDP. This is the specific indicator, calculated by Eurostat on the basis of information supplied by the eight EU Member States.

The method is also based on changes in the cost of living in Brussels (the International index, drawn up by Eurostat on the basis of information provided by the Belgian authorities), and economic parities determined by Eurostat in agreement with national statistical bodies.

The Commission, in its August 2012 report on the exception clause (COM (2012) 476 Final, 31 August 2012, see below), maintained that the automatic salary adjustment avoided the work of all the EU Institutions and agencies being disrupted by annual negotiations and possibly strikes. It also provided “transparent, efficient, relatively straightforward rules to determine salary adjustments for officials and other servants of all EU Institutions based on political decisions taken by Member States for national civil servants”.

3.2 Commission proposals on the annual adjustment of salaries and pensions

In COM(2012) 754 final, 5 December 2012, and Commission Staff Working document (SWD(2012) 427 final), the Commission set out proposed adjustments, with applicable correction coefficients, to the remuneration and pension of the officials and other EU servants, with effect from 1 July 2012. Under Article 2 the basic monthly salaries for EU staff and officials from 1 July 2012 would be as follows:

01/07/2012	STEP				
GRADE	1	2	3	4	5
16	17,206.66	17,929.71	18,683.14		
15	15,207.82	15,846.87	16,512.77	16,972.19	17,206.66
14	13,441.17	14,005.98	14,594.53	15,000.58	15,207.82
13	11,879.75	12,378.95	12,899.13	13,258.01	13,441.17
12	10,499.71	10,940.92	11,400.68	11,717.86	11,879.75
11	9,279.99	9,669.95	10,076.29	10,356.63	10,499.71
10	8,201.96	8,546.62	8,905.76	9,153.53	9,279.99
9	7,249.17	7,553.78	7,871.20	8,090.19	8,201.96
8	6,407.05	6,676.28	6,956.83	7,150.38	7,249.17
7	5,662.76	5,900.72	6,148.68	6,319.74	6,407.05
6	5,004.94	5,215.25	5,434.40	5,585.60	5,662.76
5	4,423.53	4,609.41	4,803.10	4,936.73	5,004.94
4	3,909.66	4,073.95	4,245.14	4,363.25	4,423.53
3	3,455.49	3,600.69	3,752.00	3,856.38	3,909.66
2	3,054.07	3,182.41	3,316.14	3,408.40	3,455.49
1	2,699.29	2,812.72	2,930.91	3,012.45	3,054.07

The Commission’s analysis of was as follows:

> The average change in the purchasing power of national civil servants’ remuneration in the reference period measured by the specific indicator is equal to -1.1%.
>
> The change in the cost of living in Brussels in the reference period, as measured by the Brussels International Index calculated by Eurostat is equal to 2.8%.

> According to Article 3(2) of Annex XI to the Staff Regulations, the amount of the adjustment is obtained by multiplying together the specific indicator and the Brussels International Index calculated by Eurostat.
>
> The proposed adjustment to remuneration and pensions in Belgium and Luxembourg is therefore 1.7%.
>
> Under Article 3(5) of Annex XI, no weighting is applicable in Belgium or Luxembourg.

In a press release on 5 December 2012, the Commission justified its conclusions, insisting that they reflected the difficult economic situation faced by Member States:

> Reflecting the difficult economic situation, EU officials face a loss of -1.1% in 2012. This is the result of the formula for calculating annual pay adjustments. It follows an effective fall in purchasing power of -3.6% in 2011. In total, the loss in EU officials' purchasing power between 2004 and 2011 is -7.6%.[...]
>
> This year, the result exactly reflects the difficult economic situation and its very diverse impact on national civil services: it takes into account the salary increases in Germany (+4.3%), Belgium (+2.5%), Luxembourg (+2.5%), France (+1.8%) and the UK (+0.9%) but also the decreases of -3% in Spain, -1.9% in the Netherlands and the freeze in Italy (0%). The combined change in purchasing power of these national civil servants is -1.1%. So exactly the same loss of purchasing power is applied to EU civil servants, wherever they are based and whatever EU institution or agency they work for.
>
> Inflation in Belgium means the nominal pay adjustment for those EU officials based in Brussels is 1.7%. This is a below inflation rise that implements the -1.1% loss of purchasing power. As outlined above, this is lower than the nominal pay adjustments for civil servants in half the Member States in the sample.
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> An exception clause effectively allows for the suspension of the Method if strict legal criteria related to 'a serious and sudden deterioration in the economic and social situation' - which cannot be gauged by the Method - are met. However, an in-depth analysis showed those conditions have not been met, and the -1.1% proposed cut in purchasing power fully captures the changed circumstances of national civil servants.

In view of the inflation index for Brussels expatriates (2.8%), EU staff working in Brussels will receive a pay rise of 1.7% from January 2013.

3.3 UK Government and parliamentary views

In an EM on 16 December 2012 the UK Government reiterated its opposition to the proposals for the salary and pension contribution adjustments and its belief that the EU Institutions should not be immune from savings. It insisted that there should be "substantial reductions in administration spending in the EU Institutions and that "Any suggestion of waste in the budget damages the standing of the institutions and of the EU as a whole". The Government intended to seek the support of other, like-minded Member States to block the proposals in a Qualified Majority Vote (QMV) in the Council. The Government stated that the proposed salary adjustment would have an impact "on all budgetary lines related to staff expenditure in Institutions and Agencies":

> The financial impact in expenditure terms will be €100.4m (£81.4m)[11] in the first six months, and then €200.8m (£162.8m) annually in subsequent years until 2018. This proposal is compatible with the current multiannual financial framework. The financial impact in revenue terms will be an additional €10m (£8.1m) in the first year, and a subsequent €18.9m (£15.3m) annually until 2018.

According to the Government, the pension contribution rate adjustment proposal would not have a financial impact but would reduce revenue by €15.2m (£12.3m) over six months from 1 July to 31 December 2012 and then decrease revenue in 2013 by €32.5m (£26.3m), with a loss occurring annually until 2018.

4 The exception clause

Article 10 of Annex XI of the Staff Regulations is the so-called "exception clause", which allows the Commission to make alternative proposals for staff salaries and pensions, departing from the method when there is a "serious or sudden deterioration in the economic and social situation" in the EU which the method cannot measure. The Commission's refusal to apply the exception clause has been challenged before the Court of Justice (see below).

4.1 Council attempts to apply the exception clause in 2011

On 17 December 2010, the Council, in view of what it judged to be a serious and sudden deterioration of the economic and social situation in the EU, asked the Commission to implement SR Article 10 of Annex XI and present an appropriate proposal for the annual adjustment 2011. The Commission replied on 13 July 2011 with a report on the exception clause, concluding that the conditions for applying the exception clause had not been met. The Council disagreed and on 4 November 2011 repeated its request to the Commission to implement the exception clause and to submit an appropriate remuneration adjustment proposal in time to allow the EP and Council to examine and adopt it before the end of 2011. The Commission responded on 25 November 2011 with "supplementary information on the Commission report on the exception clause of 13 July 2011", but its conclusions remained the same. On the same day, the Commission submitted to the Council a proposal for a regulation adjusting with the effect from 1 July 2011 the remuneration and pension of the officials and other servants of the EU and the relevant correction coefficients, based on the normal method for salary adjustment.[12] On 19 December 2011 the Council adopted Decision 2011/866/EU not to adopt the Commission proposal and decided to bring an action against the Commission before the Court of Justice for its refusal to trigger the exception clause.

4.2 The Commission's 2012 assessment regarding the exception clause

In March 2012 the Council asked the Commission to make an assessment in preparation for the 2012 salary adjustment. In COM(2012) 476 final, 31 August 2012, the Commission presented its third assessment since 2011 on the application of the exception clause with regard to the economic and social situation from 1 July 2011 to mid-May 2012, this time in relation to the annual salary adjustment for 2012.

The Commission reminded the Council that the exception clause is not an economic cycle clause and is therefore to be used only when there are extreme developments in the EU and only if the method is not able to measure them; it is not to be used whenever the EU is in the

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[11] Currency conversions are based on the 30 November 2012 exchange rate of €1 = £0.8108.

[12] COM(2011) 820 final

downward phase of the economic cycle. The Commission used 15 indicators to assess whether it was necessary to use the exception clause in 2012. According to forecasts by the Commission Directorate General for Economic and Financial Affairs (DG ECFIN), the EU economy would probably stagnate in 2012 (0.1% GDP growth) and economic growth would gain momentum in 2013 (1.3% GDP growth).[13] Salaries in the total economy were expected to increase by 2.1% in 2012 and 2013. National officials and EU staff were expected to lose purchasing power in 2012. The Commission also addressed the Council's request to examine the number of the Member States in an ongoing excessive deficit procedure and assessed the link of this indicator to government deficit and public debt.

The Commission report concluded that there had been no sudden and serious deterioration in the economic and social situation in the EU which could not be reflected under the 'normal method' during the period 1 July 2011 to mid-May 2012, and that the application of the Exception Clause would not be justified. The Commission recalled that it had already submitted a draft proposal to the EP and Council which would lead to significant future savings, and which included a new and revised method as well as amendments to the mechanism of the exception clause.

Following the Commission's decision, the Council refused to approve the salary adjustment. It maintained that the "objective data" the Commission had used did not accurately reflect the economic situation in the EU and asked the Commission to take into account the number of Member States with ongoing excessive deficit procedures.[14] Furthermore, the Commission's refusal to use the exception clause meant that the Council and EP would be deprived of "the possibility of exercising their discretion as to the criteria of that exception clause".[15]

On 25 October 2012 the Council made a new request to the Commission, on the basis of Article 241 of the *Treaty on the Functioning of the European Union* (TFEU), to submit, in the light of objective data submitted by the Commission so far (i.e. concerning the reference period of 1 July 2011 to mid-May 2012 and not in the light of data reflecting the situation in autumn 2012), "an appropriate proposal for this year's EU-salary adjustment in time for the EP and Council to examine and adopt it before the end of 2012". The Commission decided it should verify whether there had been any changes in the economic and social situation that would justify any change to its conclusion on 31 August 2012, but concluded on 5 December 2012 that, based on social and economic data since its August 2012 report, there had been neither a serious nor a sudden deterioration in the economic and social situation in the EU that would justify any change to the conclusions of that Report. According to the Commission a "return to moderate growth is projected in the first half of 2013",[16] based on recent economic data (the 2012 Autumn European Economic Forecast issued by DG ECFIN on 7 November 2012 and statistical data provided by Eurostat). The Commission concluded therefore that the legal criteria of SR Article 10 of Annex XI had not been met, and it was not appropriate to submit a proposal to use the exception clause.

4.3 UK Government and parliamentary views

In *EU Finances 2011*, the Government set out the key areas on which it would focus in negotiations on the Staff Regulations, including pensions, the career structure system, and allowances. The UK intervened in support of action to invoke the exception clause in March

13 See DG ECFIN European Economic Forecast Spring 2012
14 See Council Document 7421/12, 12 March 2012
15 See Case C-63/12, Pleas in law and main arguments, OJC 118, 21 April 2012
16 See Staff Working Document SWD(2012) 428 final

2012 and supported the Council proposal for an alternative method which would ensure the Council had real political oversight of and input into staff salary adjustments.

On 21 February 2012, on a recommendation from the ESC, the Commons debated the remuneration of EU staff, specifically EU documents relating to the annual salary adjustment envisaged for the year from July 2011.[17] The Economic Secretary to the Treasury, Chloe Smith, outlined the Government's opposition to the proposed EU staff salary increases, and described how the UK and other Member States had twice asked the Commission to lower its figures to take account of the economic situation in the EU and Member States' efforts to curb public wage bills. Member States' attempts to invoke the exception clause had been rejected by the Commission, whose assessment was that there was no serious deterioration in the economic and social situation in the EU, which the Minister found "internally inconsistent" and "self-serving". The Government accused the Commission of undertaking "faulty analysis", basing its "rosy evaluation on forecast indicators that did not pertain to the period defined for its assessment" and ignoring "the huge number of important fiscal consolidation measures adopted and implemented by member states during the period under review" (c 774): "The Commission itself has strongly advocated such measures, yet incredibly it used stabilising debt and deficit levels to justify higher pay for its own staff".

Most seriously of all, the Minister said (ibid):

> ... the Commission has manipulated the current system to deprive member states of the opportunity to evaluate the situation independently and to adopt appropriate measures, at a time when it is evident to us all that taking immediate action to curb growth in EU staff pay is the right thing to do. That is why the UK and the wider Council rejected the 1.7% pay increase in December. It is also why we have blocked reductions in EU staff contribution rates to their pension scheme. In addition, the Council has lodged a court case against the Commission for mishandling the 2011 salary adjustment.

The ESC Chairman, Bill Cash, pointed out (c 777) that the Commission's calculations about economic performance were based on the assumption that there was reasonable growth in the EU, which was not the case, and meant the proposal fell on economic as well as legal grounds. The Shadow Economic Secretary, Cathy Jamieson, thought the Commission's conclusion made a mockery of the exception clause, which was in urgent need of reform. She also questioned the Government's commitment to toughness on EU administrative expenditure. The eurosceptic Jacob Rees-Mogg pointed to what he believed were inconsistencies in the Commission's analysis of the economic situation. In EU Document COM(2011) 815 (Annual Growth Survey 2012), which was debated in European Committee B on 20 February 2012, the Commission had stated that EU economic growth was faltering and that in the euro area this was exacerbated by the sovereign debt crisis and fragilities in the banking sector.[18] Yet the Commission had rejected the invocation of the exception clause, finding no evidence that exceptional circumstances existed.

[17] COM(11) 820 and addendum, on the Commission report on the Exception Clause of 13 July 2011

[18] The report stated: "The Autumn forecasts for 2011-2013 published by the Commission on 10 November 2011 show that economic recovery has come to a standstill and that low levels of confidence are adversely affecting investment and consumption. This lack of confidence is due to the negative feedback between the sovereign debt crisis and the situation in the financial sector together with a slowdown in the global economy. The impact has been particularly acute in the Euro area. As a result, GDP is likely to stagnate in the coming year and overall growth in the EU is forecast to be as low as 0.6% for 2012. Unemployment levels are likely to remain high at around 10% in 2012 and into 2013, exacerbating the social impact of the crisis".

According to Chloe Smith, the Government was seeking to deliver savings "by cutting the package of allowances for EU staff, especially the 16% expatriation allowance; secondly, by improving the affordability of EU pensions ... [and] by adjusting the system for EU staff pay so that we can avoid higher pay in future" (c 792). She referred to joint letters in 2011 signed by the UK and 16 other Member States calling on the Commission to deliver "significant" savings in EU administrative spending over the next MFF, and another of 20 February 2012, signed by 12 Member States, on a plan for growth in Europe, which emphasised the effort needed by everyone to put national and international finances on a sustainable footing. In another letter on 18 December 2010,[19] the UK Prime Minister and four other EU leaders had stated that the challenge to the EU was not to spend more but to spend better.

Chloe Smith confirmed the Government's view that there is "patently an economic crisis, and highly paid officials cannot be immune from that" (c 793). She concluded by calling on the Commission to "take the challenge of modernising its institutions far more seriously" and "work harder to deliver efficiency savings in administration", starting by "stopping an unjustified hike in EU staff pay". She supported challenging the 2011 salary adjustment at the Court of Justice: "Disputing higher staff pay in 2011 was not only the right thing to do; it also highlighted the fact that the current process is defunct and cannot adapt properly to difficult economic circumstances". She assured the House that the Government was "resolved to lobby hard for cuts to EU administrative spending in future years, as part of the real freeze in the overall EU budget over the next framework" (c 793).

The Government has criticised the EU Commission for talking about the need for cuts but not taking any action – which the Commission disputes, in view of its proposals for structural changes and changes to the method of calculating EU salaries. In a debate on the draft EU budget on 12 July 2012, the then Financial Secretary to the Treasury, Mark Hoban, outlined some of the UK Government's concerns:

> Our response to the Commission's inflation-busting proposal has been robust. At a time when Governments across Europe are making difficult decisions on public spending, a 6.8% increase in EU spending in 2013 is completely unacceptable. First, the economic circumstances have changed dramatically, and the Commission cannot ignore the facts. By 2014, the level of public debt across the 27 member states will be over 50% more than it was back in 2007, two years after the last seven-year budget was agreed. Secondly, a larger EU budget will not solve the eurozone crisis. A smaller, leaner and better-targeted budget is the best way to drive growth across the EU.
>
> We have identified many areas of EU spending that are ripe for reform. It is time to cut the quangos, EU staff pay and programmes that offer low added value or are poorly implemented. For example, the Commission set itself the target of reducing its headcount by 1% this year. Although 286 posts have been cut—equivalent to a 0.7% reduction—that has been offset by the creation of 280 posts for Croatia's accession. There has been no attempt to redeploy staff to meet the needs of Croatia's accession. As ever, the Commission's knee-jerk reaction is simply to increase the number of people employed in the EU. As a consequence, this year the Commission has cut just six posts. We estimate that if it had cut the headcount by 1%, it could have saved €45 million.
>
> The total salary bill for the EU institutions' staff in 2011 was over €3.5 billion, more than 2.8% of the Commission's budget proposal for the year, and more

[19] See *Guardian* 17 December 2010

> than double the amount spent on freedom, security, justice and citizenship. Staff at EU institutions, who may have lived in Brussels for more than 30 years, continue to be paid an extra 16% "expat allowance" on top of an already generous salary, and a teacher at the European school is paid twice the average UK teacher pay.

In an EM on 20 September 2012[20] the new Financial Secretary to the Treasury, Greg Clark, reiterated the Government's tough position on EU administrative expenditure, its view that EU spending in this area should reflect national efforts to reduce public administrative expenditure (with which EU efforts compared poorly), and that any additional spending under Heading 5 should be found through reprioritisation and efficiency savings, including annual salary adjustments. The Government did not support further increases in EU officials' salaries, noting that the vast majority of UK civil servants earn significantly less than the minimum salary for EU officials, while the majority of EU officials earn significantly more than the minimum.

The Government was disappointed that the Commission had concluded in its August 2012 Report that a divergence from the normal method was not warranted, and criticised the Commission's analysis of the 'objective data', pointing out that the report made substantial use of speculative assessments of potential future growth/employment, rather than robust factual data from the period under consideration (July 2011-July 2012). It also regretted that the Commission had not appropriately taken into the number of Member States with an ongoing deficit procedure. Assuming the Commission would not agree to using the exception clause for the 2012 salary adjustment, the Government also noted that the Council would be obliged to pay the salary adjustment of around 0.9% for EU officials in 2013 (final figure to be calculated on the basis of data from Member States), and that the 2012 and 2013 Budget proposals had been prepared on the basis of this adjustment. However, the Minister also thought it likely that the report would lead to more legal action between the Council and Commission on the use of the exception clause.

The ESC in its report on 7 November 2012 thought it unlikely that the Council would "succeed in impugning the Commission's assessment before the Court of Justice in the absence of flagrant omissions or distortions of the relevant economic data". The Committee thought the negotiations on the amendment to the Staff Regulations appeared to "offer the best chance of redressing the balance of institutional control over the annual salary adjustments", and recommended the document for debate in European Committee B, along with the Court of Auditors recommendations (EU documents 11964/12 and 13270/12).

5 Cases before the Court of Justice

The legality of Council Decision 2011/866/EU of 19 December 2011, concerning the Commission's proposal for a Council Regulation adjusting staff salaries and pensions from 1 July 2011, has been contested by the Commission and the EP, and is subject to an action for annulment before the EU Court of Justice. The Commission has also submitted an action concerning the Council's failure to act on the 2011 annual adjustment.

However, as under established case-law EU legal acts are presumed to be legal as long as they are not declared void by the Court of Justice, the Commission used the 2010 annual adjustment as a basis for the 2012 annual adjustment. If the Court of Justice upholds the

20 Government EM on 13327/12, COM(2012)476 final, 20 September 2012.

Commission's action, the proposed Regulation will have to be revised in accordance with Article 266 TFEU.[21]

5.1 2009 challenge and Court ruling

In its judgment in Case C-40/10 on 24 November 2010 the Court emphasised that the exception clause enables account to be taken of the consequences of a deterioration in the economic and social situation which is both serious and sudden where, under the 'normal method', the remuneration of officials would not be adjusted quickly enough (para. 75). The Court clarified that the procedure laid down in Article 10 of Annex XI to the Staff Regulations constituted the only means of taking account of an economic crisis in the adjustment of remuneration. The Court appeared to interpret Article 10 of Annex XI of the Staff Regulations to mean that it can only be invoked in extraordinary circumstances ("serious and sudden deterioration" of the economic situation in the EU) where the principle of 'parallelism' can no longer be applied, rather than in periods of economic downturn.

5.2 Court cases in progress

c-63/12

Commission action to annul Council Decision 2011/866/EU of 19 December 2011 concerning the Commission proposal for a Council Regulation adjusting with effect from 1 July 2011 the remuneration and pensions of the officials and other servants of the EU and relevant correction coefficients.

c-66/12

Council action against the Commission on 9 February 2012:

- primarily to annul, under Article 263 TFEU, the Commission Communication (COM(2011) 829 final of 24 November 2011), in so far as the Commission thereby refused definitively to submit appropriate proposals to the EP and Council on the basis of SR Article 10 of Annex XI (the exception clause);
- also to annul, under Article 263 TFEU, the Commission proposal for a Council Regulation adjusting, with effect from 1 July 2011, the remuneration and pensions of officials and other servants of the EU and relevant correction coefficients; and
- alternatively, find established, under Article 265 TFEU, an infringement of the Treaties because the Commission failed to submit appropriate proposals to the EP and Council on the basis of SR Article 10 of Annex XI.

c-196/12

Commission action against the Council on 26 April 2012 for the Council's failure to adopt the Commission Proposal for a Council Regulation adjusting with the effect from 1 July 2011 the remuneration and pensions of the officials and other servants of the EU and the relevant correction coefficients

c-453/12

[21] "The institution whose act has been declared void or whose failure to act has been declared contrary to the Treaties shall be required to take the necessary measures to comply with the judgment of the Court of Justice of the European Union".

Commission action against the Council on 9 October 2012, alleging that by not adopting the Commission proposal for a Council Regulation adjusting, from 1 July 2011, the rate of contribution to the pension scheme of officials and other servants of the EU, the Council had failed to fulfil its obligations under the Staff Regulations and under the notional fund scheme provided for in them.

6 The EU Staff Regulations: administrative reforms

Bearing in mind Member States' own budget pressures and cuts in national civil service expenditure, in June 2011 the Commission published a draft proposal for a Council and EP Regulation "amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union" and then consulted with trade unions and staff on its contents.

In July 2011 the Commission announced it would cut its administration costs by €6bn (£5.4bn) in the period to 2020.[22] However, when Maroš Šefcovic, Commission Vice president and Commissioner for inter-institutional relations and administration, first presented plans for changes to EU officials' pay and pensions,[23] there was a negative reaction from staff unions and threats of strike action. Šefcovic's proposals were discussed with staff representatives in 2011, and in December 2011 the Commission drew up a formal proposal for revision of the Staff Regulations based on these consultations.[24]

In February 2012 the EP's Legal Affairs Committee considered Dagmar Roth-Behrendt's draft report on the proposal and the Committee voted in favour of it on 25 April 2012.

A Commission press release on 26 April 2012 summarised the reforms as follows:

- A 5% reduction of staff in all institutions over the period 2013-17, through normal turnover of staff.
- An increase in the minimum working week for staff in all institutions from 37.5 hours to 40 hours, without compensatory wage adjustments.
- The normal retirement age will increase from 63 to 65. The possibility of working voluntarily until 67 will be made easier.
- In order to take account of the current difficult economic situation, the special levy (tax in addition to income tax), which will expire in 2013, will not only be replaced by a new 'solidarity levy' but also raised to 6% (currently 5.5%).
- The rules on early retirement will be substantially restricted (increase of minimum age for early retirement from 55 to 58; access to the scheme without a reduction of pension rights will be reduced by 50%).
- Access to the highest grades and salaries in the "assistant" career will be restricted to the best performing assistants who successfully apply for a post with the highest level of responsibilities in this category.

22 See Commission Communication "A budget for Europe"
23 See Memo/11/907 of 13 December 2011.
24 COM(2011) 890 final, 13 December 2011

- Salaries of new secretarial and clerical staff will be lowered (according to the Commission proposal) by around 18%.[25]

Under "Working Conditions", Šefcovic also proposed a reduction in the annual travelling time home to three days and a corresponding reduction in annual travel home allowance. The Commission estimated that the proposal would have the following financial impact over the next MFF:

- €1bn savings from Heading 5 and €258m outside Heading 5
- €30m revenue increase from the solidarity levy
- €277m reduction in revenue from pension contributions and €1bn per annum on pensions in the long term
- €165m reduced revenue from tax

6.1 UK Government and parliamentary views

In its EM on 16 January 2012 the Government summarised and commented on the Commission proposals in COM(2011) 890:

a) Reduction of the headcount of Institutions' staff by 5%:

   i The reduction would be mainly accomplished through natural wastage, e.g. not replacing retirees. It would cover all staff types; permanent, contract and temporary;

b) An increase in the minimum number of working hours – from 37.5 to 40 hours per week – without an equivalent pay increase;

c) Delegation of a number of decision-making powers (relating to pay, allowances and pensions e.g. as detailed in d) and e) below) to the Commission that were previously exercised by the Council, on the basis of 'delegated acts' as provided for by Article 290 TFEU:

   i This is not a transfer of competence; the internal organisation of the EU institutions is and always has been a matter of EU exclusive competence;

   ii The Commission's rationale is that the requirement within the Lisbon Treaties for co-decision by Parliament and Council would not be appropriate for these technical administrative decisions, nor would it be feasible in the necessary timescales;

   iii A move to delegated acts would however mean that Council and Parliament had little or no influence on a wide range of decisions that affect how the EU's administrative budget is spent;

d) Various alterations to the salary adjustment method, including:

   i Use of salary changes in all 27 Member States as the basis for calculations of salary adjustments. (This is different from the measure within the draft proposal, which envisaged an increase in the sample from eight to ten Member States);

   ii Salary adjustments to be decided by delegated act rather than by the Council, thus making the process more formulaic/automatic;

[25] There is a more detailed summary of the proposals on the Oeil.

iii Change in the measure by which cost of living increases in Belgium are factored in, to cover Luxembourg as well;

iv New method to run for a fixed term until 2020, i.e. aligned with the next financial perspective;

e) Alteration of ‘exception clause’ (Article 10 of Annex 11 of the Staff Regulations) to clarify and automate the criteria under which it is permissible to deviate from the automatic salary adjustment;

i The exception clause is intended to allow deviation from the salary adjustment method in times of sudden and serious economic and social deterioration. However, the current Staff Regulations do not contain a clear definition of, or measurement method for, such deterioration. In 2011, the Council called upon the Commission to implement the exception clause, but was not successful, as the Commission’s assessment indicated that there was no such deterioration in the EU last year;

ii It is important to note that the proposed criteria, while clear, are in effect a mathematical formula for deviating from a mathematical formula. Political responses would be completely removed from the process;

f) Technical changes to the pension contribution rate;

g) Rebranding of the special levy as a ‘solidarity levy’, and fixing it at 6% of basic pay – the previous levy increased gradually over time:

i This is different from the measure within the draft proposal, which set the special levy at 5.5%. The Commission made this change to acknowledge the need for the Institutions to contribute to savings in the current financial crisis;

h) Increasing the minimum retirement age to 58 and statutory retirement age to 65 for officials starting work in or after 2013;

i) Introduction of a provision to enable the EU Institutions to address ‘geographical imbalances’ in their staffing profiles;

j) Reductions to travel and subsistence allowances:

i These reductions have been slightly altered from those in the draft proposal, following the Commission’s consultation with Trade Unions;

k) Changes to the career structure designed to make some links between officials’ responsibilities and their pay levels, including:

i The introduction of a new type of temporary staff to meet the specific needs of EU agencies, e.g. in terms of greater mobility and flexibility;

ii A new career structure for secretaries, starting at two levels below the current lowest pay grade. The secretarial structure was not included within the draft proposal.

In general the Government welcomed the Commission’s “initial attempts” to identify potential financial savings” and the provision to “address geographical imbalances in representation within the staffing of the Institutions”, but found the approach and content fell short of the “significant reform” the UK and other Member States had called for. It also compared poorly with the UK’s and other States’ own efforts to reduce public sector staff costs. The Commission had not provided the data, calculation and impact assessment setting out how its promised financial savings would be achieved. According to the UK Government’s calculations, the proposal would not provide the promised reductions. “It would certainly not reduce Heading 5 overall, nor would it support the UK’s overall MFF goal of restraint in the EU budget, limited to a real freeze in payment terms”. The Government wanted to see:

> ... substantive pension reforms, allowances reductions, and a modernisation of the career structure to ensure that pay and promotion are more closely linked to responsibility and performance. We would also want reform of the ‘exception clause’ to ensure that it provides a genuine political alternative to the formulaic salary adjustment method in times of crisis.

The Government was also concerned about the “widespread introduction of delegated acts, which would substantially reduce Council influence on decisions that affect administrative spend”- in particular the annual salary adjustment – and rejected the Commission’s argument that this would speed up the decision-making in this matter.

The ESC reported on the proposal on 7 March 2012. The ESC shared the Government’s concerns and supported its position, concluding:

> Of particular concern to us is the seemingly legitimate doubt about how the Commission's claimed savings will be achieved; the presumption of automatic annual increase in staff remuneration; and the inappropriate use of delegated acts which would limit the Council's influence. We bear in mind, however, that a majority of Member States shares the Government's concerns, as expressed in the November position paper, and trust this will have a positive influence on the negotiations.

The ESC proposed keeping it under scrutiny “pending an update from the Government when the negotiations have crystallised further”, which the Government did on 4 July 2012 with the news that the Commission had declined to provide the Council with an Impact Assessment with regard to COM(2011) 890, but that the Government was sure it “would not make a substantive contribution to the 25% financial savings” it wanted to see under Heading 5 of the MFF. David Lidington said the Government was lobbying the Commission to “model savings of €5bn, €10bn and €15bn on the Staff Regulations over the next MFF”. He also reassured the Committee that “In general, the current Council position is in line with the UK’s position”, opposing “substantial sections of the proposal, calling for wider reforms and higher financial savings”. The Council, he said, has agreed “a clear alternative proposal on the Salary Adjustment Method, which is in line with the UK’s red lines and meets our main objectives, including achieving financial savings, ensuring maximum political influence, and delinking EU staff pay changes from civil service pay changes in Member States”. He also noted the Commission’s continued opposition to the alternative proposal because it would give the Council too much control over staff salaries. He outlined the “geographical balance” principle the UK wanted to promote:

The provision to promote ‘geographical balance’ in the EU Institutions’ staff bodies would allow the Institutions to set up additional recruitment measures for nationals of Member States with low and decreasing representation in the EU Institutions. Less than 5% of

Commission staff are UK nationals,[26] although the UK accounts for more than 12% of the EU population, so the Government has been actively supporting this provision. However, other Member States oppose it on the grounds that it would be detrimental to the principle of recruitment based on merit. The Polish, Slovenian, Bulgarian and Hungarian delegations to the WPSR supported measures to correct long lasting and significant geographical imbalances in staff nationalities, while preserving the principle of merit-based recruitment. To this end, they declared," geographical equilibrium should be assessed separately for different categories of officials".[27] The Presidency submitted a compromise proposal, under which the Commission would report to the EP and Council within two years on possible geographical imbalances among Member State nationals. However, the Council has not so far been able to reach agreement on this issue.

6.2 Court of Auditors Opinion

In Opinion No 5/2012 of 21 June 2012, the European Court of Auditors (ECA) made general, specific and additional observations about COM(2011) 890 final. In general it thought the impact of the proposal should be measured in terms of achieving the overall forecasted financial objective, not just by implementation of the reforms; that the 5% staff reduction would result in maximum savings if each Institution achieved a 5% reduction; that the impact of staff reduction should be analysed and that the proposal should consider training, performance appraisal, promotion and grading as ways to improve productivity despite the cuts. Specifically, the ECA did not think the 5% staff reduction would in itself mean financial savings, as using third party service providers would reduce staff but not costs; also that the proposal for a new method for adjusting salaries and pensions may be faster and simpler, but the financial impact of the proposed changes had to be considered. It commented that "any changes to address geographical imbalances should respect the principle of equality of EU citizens". Finally, the ECA thought the Commission ought to consult the other Institutions with the aim of simplifying the Staff Regulations, including examining the pay and benefits of staff at other international organisations; and that the Commission should improve the relationship between the EU Institutions and EU citizens by adopting provisions for an "open, efficient and independent administration", as set out in Article 298 TFEU.

In an EM on 12 July 2012, the UK Government welcomed the ECA Opinion, and reiterated its concerns about seeing "significant financial savings result from the Staff Regulations review". The UK Government shared the ECA's view that the Commission's proposed new method would make the salary adjustment process "even less responsive" to the economic situation in the EU. In its report on 7 November 2012, the ESC recommended the Commission's report on the exception clause and the ECA Opinion for debate in European Committee B.

6.3 Member State positions

A position paper on 16 November 2011 from 17 EU Member States, including the UK, France, Germany, Italy and the Netherlands, stated that the Commission's proposals were a good start but not ambitious enough and would be difficult to implement and monitor. The 17 did not think there should be an automatic salary adjustment for EU staff - there was no such

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[26] David Lidington said in a parliamentary reply on 30 October 2012 that from 1 October 2012 "of the Commission's 23,794 staff, 4.7% are British—a total of 1,116 people" and that in October 2010 "of 25,090 Commission staff, 5% were British—a total of 1,256 people". He outlined Government action to increase the number of applicants to the main EU graduate recruitment.

[27] Outcome of the proceedings on the Presidency progress report, 26 June 2012

system in the Member States themselves; they welcomed the proposal to stop using the Brussels International index, but did not accept the proposed alternative compound index for Belgium and Luxembourg, suggesting instead the Belgian Harmonised Consumer Price Index instead. They did not like the proposed amendments to the exception clause because these did not allow a freeze or reduction in the salary adjustment, and called for the Council to have the authority to decide whether the salary adjustment should be set aside if it judged that there is an economic crisis in the EU. In other words, they wanted a greater say for EU Member States in the process.

A Working Party on the Staff Regulations (WPSR) examined the Commission proposal under the Danish and Cypriot Presidencies. The Danish Presidency's Progress Report in June 2012[28] included the results achieved thus far on the basis of three Presidency questionnaires discussed by the WPSR between January and June 2012, and concluded:

> 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.

The Progress Report published in December 2012[29] outlined the outcome of discussions on the Commission proposal, and involved an analysis of the amendments voted by the EP Legal Affairs Committee on 25 April 2012.

The Council Legal Service (CLS) issued a contribution paper on the expiry of Staff Regulations provisions Article 66a, Annex XI and parts of Annex XII, and the legal consequences of this.

The WPSR welcomed the proposed preservation of the special levy and the proposal to increase the relevant percentage, but asked that the levy be further increased and the basis enlarged by abolishing exemptions, while at the same time extending it to allowances.

In its Progress Report on 7 December 2012 the WPSR noted two alternative proposals to amend the SR method for adjusting salaries and pensions, the first of which gives the EP a role in reviewing the basic salaries of EU staff :

> Proposal A
>
> Article 65
>
> **1. The basic salary of officials and other servants of the Union shall be reviewed [biannually/annually] under the procedure provided for under Article 336 TFEU upon a proposal from the Commission based on Annex XI and taking due account of the requirement set out in the second sentence of the second paragraph of this Article.**
>
> **2. During this review, the Council and the European Parliament shall consider whether, as part of the economic and social policy of the Union, basic salaries should be adjusted with effect from [1 July of each year / two year period]. 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.**

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[28] 11471/12, 26 June 2012

[29] 17431/ 12, Interinstitutional File: 2011/0455 (COD)7 December 2012

Any adjustment of remuneration shall be limited to a maximum increase of basic salaries of [2%] per year.

3. This Article shall apply as from 1 January 2013 until 31 December 20[XX]. It shall be reviewed by the end of the [fourth/fifth] year of its application [midterm] and in due time before it ceases to apply. To this end, the Commission shall submit a report to the European Parliament and the Council and, where appropriate, a proposal to amend it.

Proposal B[30]:

Article 65

1. ~~The Council shall each year review~~ **T**he ~~remuneration~~ **basic salaries** of the officials and other servants of the Union **shall be reviewed each year**. This review shall take place in September in the light of a joint report by the Commission based on a joint index prepared by the Statistical Office of the European Union in agreement with the national statistical offices of the Member States; the index shall reflect the situation as at 1 July in each of the countries of the Union.

During this review the Council shall consider whether, as part of economic and social policy of the Union, remuneration should be adjusted. Particular account shall be taken of any increases in salaries in the public service and the needs of recruitment.

2. Annex XI sets out the procedure and criteria for the adjustment of remuneration.

[In the event of a substantial change in the cost of living, the Council shall decide within two months what adjustments shall be made to the weightings, and if appropriate to apply them retrospectively.]

3. For the purposes of this Article, the Council shall act by a qualified majority on a proposal from the Commission as provided in Article 16(4) and (5) of the Treaty on European Union.

The WPSR will continue with its work under the Irish Presidency in the first half of 2013.

Ahead of the November 2012 summit, it was reported that David Cameron had "made great play of the fact that 16% of Commission employees earn over €123,440 per year",[31] and that the UK Prime Minister had called for far more radical measures than were on the table towards the end of 2012, including:

- Cutting the overall EU pay bill by 10% for officials, saving €3 billion.
- Increasing the retirement age to 68 for all EU officials now under the age of 58. The current retirement age is 63. This would save €1.5 billion.
- Lowering the pension cap from 70% of an official's final salary to 60%, saving €1.5 billion.

[30] Preliminary illustrative text to reflect the principles set out in paragraph 14 of the progress report.
[31] *EurActiv*, 19 December 2012

- Abolishing the European school system (which provides free education for the children of EU civil servants in their native languages).[32]

After the MFF talks ended in failure on 23 November 2012, David Cameron was reported as having insisted that the EU must follow the example of the Member States in cutting administrative budgets:

> "In the UK we are cutting admin budgets by as much as a third, civil service staff by 10% in two years. [...]. "Meanwhile Brussels continues to exist as if it is in a parallel universe. The EU institutions simply have got to adjust to the real world. The commission did not offer a single euro in savings, not one euro – insulting to European taxpayers. I do not think that is good enough" ..[33]

It was reported that other EU net contributors to the EU budget supported David Cameron and that Germany, the Netherlands, Sweden and Denmark were "all in favour of a leaner spending plan for the EU, opposing Southern and Eastern European member states".[34] The French President, François Hollande, was reported as favouring "modest cost reductions" in the EU administrative budget", but insisting on keeping Strasbourg for EP plenaries.[35]

7 What now?

The proposal to reform the Staff Regulations, COM(2011) 890 final, is subject to the Ordinary Legislative Procedure (co-decision with Qualified Majority Voting) under Article 336 TFEU and must be negotiated and agreed by the Council and the EP. The aim was for it to come into force by the end of 2012. However, its approval was linked to agreement on the MFF and the European Council summit on 22-23 November 2012 failed to agree on the next MFF.[36]

In 2012 the Council also failed to reach a common position on reform of the Staff Regulations. The failure to agree on the reform means that the net salaries of many EU officials will increase in January 2013, due to the expiry on 31 December of the special levy and the current method for calculating the annual adjustment of salaries. The Commission proposal is still awaiting a first reading in the EP plenary.[37]

On 6 December 2012 the Justice and Home Affairs Council approved the EU Budget for 2013 and draft amending budget no. 6 for 2012,[38] but agreed with the EP not to include at this stage the budgetary impact of the 2011 salary adjustment in the 2013 budget, pending the outcome of the cases before the Court of Justice.

The Irish Presidency Programme makes so specific mention of the Staff Regulations, the administration budget or the on-going legal action concerning the exception clause, although it proposes in general to "play our full part in securing agreement on the EU's budget 2014-2020".

32 See *Economist* Charlemagne blog , 22 November 2012
33 *EurActiv* 27 November 2012
34 Ibid
35 The total annual cost of the Strasbourg shuttle has been estimated at €203m, and the EP's Green Party maintains the monthly trips produce about 20,268 tonnes of CO² emissions annually. See also Standard Note 4842, The European Parliament: the Strasbourg shuttle, 18 September 2008
36 See Commission President's statement, 23 November 2012
37 See the Legislative Observatory procedure file on the proposal.
38 See Council press release 6 December 2012

The Council will resume MFF negotiations on 7 February 2013 and staff cuts will be part of the on-going, long-term EU budget negotiations.

8 Further reading

- Legislative Observatory procedure file on Staff Regulations
- Legislative Observatory procedure file on 2013 general budget
- European Scrutiny Committee, Annual adjustment of the remuneration of EU staff, 14 December 2011
- ESC report on COM(11) 890, Draft Regulation amending the Staff Regulations of Officials and the Conditions of Employment of other Servants of the European Union, 7 March 2012
- Maroš Šefcovic, "A European civil service fit for the 21st century" European Policy Group breakfast briefing Brussels, 10 May 2012
- BBC News, 24 November 2010 "EU court backs Commission over staff pay rise"
- *EUObserver*, Commission takes EU states to court in salary dispute, 12 January 2012
- *EUObserver,* 23 January 2012, Commission tells EU institutions to cut costs
- *EurActiv* on 19 December 2012, David Spence contributions to blog
- Jean-Guy Giraud (BlogActiv): Council's law-breaking on EU salaries was flagrant and obvious
- Charles Marriot (BlogActiv): EU own goal on pay rise
- *EurActiv* 21 October 2011, "Šefčovič: EU staff will keep high wages, but work more"