

## European Parliament Resolution on the draft Statute for Members of the European Parliament (3 December 1998)

**Caption:** European Parliament Resolution of 3 December 1998 on the draft Statute for Members of the European Parliament.

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## European Parliament Resolution on the draft Statute for Members of the European Parliament (3 December 1998)

A4-0426/98

*The European Parliament,*

— having regard to the Treaty of Amsterdam, and in particular Article 2(38)(b) and Article 6(65)(d) thereof (Article 190(5) of the consolidated version),

— having regard to the Act concerning the election of representatives of the European Parliament by direct universal suffrage which is appended to the Council Decision of 20 September 1976 and in particular Articles 1 to 6 thereof,

— having regard to the Protocol on the privileges and immunities of the European Communities and in particular Articles 8, 9 and 10 thereof,

— having regard to Rule 148 of its Rules of Procedure,

— having regard to the report of the Committee on Legal Affairs and Citizens' Rights and the opinion of the Committee on Institutional Affairs (A4-0426/98),

A. whereas pursuant to Article 6 of the Treaty establishing the European Community any discrimination in the Statute for Members on grounds of nationality shall be prohibited,

B. whereas, without prejudice to the above, the institutions called upon under the Treaty of Amsterdam to take part in the decision relating to the regulations and general conditions governing the performance of Members' duties can and must adopt preparatory and complementary measures prior to the entry into force of the Treaty of Amsterdam,

C. whereas, for the first time in its history, the European Parliament is in a position to adopt itself a single Statute for Members,

D. whereas this Statute should enter into force as soon as the ratification of the Treaty of Amsterdam provides a legal basis for the adoption thereof,

E. whereas the transparency which is a hallmark of the new Treaty of Amsterdam requires all the European institutions to ensure that the decision-making processes are made as public as possible, particularly, in the case of the European Parliament, if the matters under discussion refer to the rights and obligations of its Members,

1. Hereby puts forward the attached draft Statute for Members of the European Parliament;
2. States in that connection that before fixing, during the parliamentary term following adoption of the Statute, the parliamentary allowance for the exercise of the office of Member of the European Parliament, it shall commission a study by external, independent experts to assess, on the basis of objective criteria, the work of a Member of the European Parliament;
3. States further that in the course of the parliamentary term following adoption of the Statute it intends to take a decision as to whether and on what basis emoluments from the exercise of a public office should be offset against the parliamentary allowance received by a Member of the European Parliament;
4. Asks the Commission for its opinion;

5. Instructs its President, in cooperation with the chairman of the Committee on Legal Affairs and Citizens' Rights, the rapporteur and three representatives of the political groups appointed by the Conference of Presidents to hold the requisite discussions with the Council in order to obtain the latter's unanimous approval and expresses its hope that an initial exchange may take place at the Vienna European Council on 11-12 December 1998;

6. Instructs its President, the chairman of the Committee on Legal Affairs and Citizens' Rights and the rapporteur to keep the committee responsible regularly informed of the outcome of those discussions;

7. Calls on the Bureau to take a decision to adopt a system for reimbursement of duly substantiated travel expenses which have been incurred in respect of journeys undertaken in the performance of Members' duties, pursuant to Annex 1 to this resolution.

The Bureau shall take this decision in the light of the Statute.

The current system for the reimbursement of other expenses (general expenditure allowance, subsistence allowance and the allowance for personal staff) is set out in Annex 2 to this resolution.

8. Instructs its Secretary-General, once the above decision has been adopted, to publish all the provisions concerning the Statute for Members in a consolidated version;

9. Instructs its President to forward this resolution and the draft Statute for Members to the Council, the Commission and the parliaments and governments of the Member States.

#### **Annex 1 referred to in paragraph 7 of the resolution**

1. Members shall be entitled to reimbursement of duly substantiated expenses which have been incurred in respect of journeys undertaken in the performance of their duties.

2. Reimbursement shall be capped at the cost of:

- a business-class ticket for air travel,
- a first-class ticket for journeys by rail.

3. For journeys in which the Member uses his own vehicle, a flat-rate payment per kilometre may be made.

4. Journeys shall be deemed to include travel from the Member's residence to the airport or station.

5. This entitlement shall cover:

- journeys to official meetings of the European Parliament and of its bodies,
- journeys authorised by the body responsible under the Rules of Procedure,
- all other journeys in performance of the Member's duties, with a ceiling of EUR 3 000 per year.

#### **Annex 2 referred to in paragraph 7 of the resolution**

##### **Article 1**

By way of flat-rate reimbursement of expenses incurred in the performance of their duties, Members shall receive a general expenditure allowance of a monthly lump sum of EUR 3 262.

## Article 2

Members shall receive a daily subsistence allowance of EUR 231 for each day on which they perform their duties by attending official meetings of the European Parliament.

## Article 3

The European Parliament may modify the amounts referred to in Articles 1 and 2 in line with the general trend in prices.

## Article 4

The President of the European Parliament shall have at his disposal a fund for representation purposes. The use of that fund shall be subject to budgetary control.

Equivalent arrangements for chairmen of parliamentary committees or delegations may be adopted by the body responsible under to the Rules of Procedure.

## Article 5

1. The monthly allowance for personal staff shall be EUR 9 596.
2. The allowance for personal staff shall be increased annually by a percentage based on a mean index of inflation in the European Union.
3. The European Parliament shall transfer the salary and contributions directly into the account of the staff member concerned or to a third party, the social security authorities, tax offices and professional organisations.

## Draft Statute

### Draft Statute for Members of the European Parliament

*The European Parliament,*

— having regard to the Treaties establishing the European Communities, and in particular Article 190(5) of the Treaty establishing the European Community, Article 21(4) of the Treaty establishing the European Coal and Steel Community and Article 108(4) of the Treaty establishing the European Atomic Energy Community (consolidated version),

— having regard to the Act concerning the election of representatives of the European Parliament by direct universal suffrage which is appended to the Council Decision of 20 September 1976 and, in particular, Articles 1 to 6 thereof,

— having regard to the Protocol on the privileges and immunities of the European Communities and, in particular, Articles 8, 9 and 10 thereof,

— having regard to the opinion of the Commission,

— having obtained the approval of the Council,

A. Whereas the provisions on the rights and obligations of the Members of the European Parliament set out in the Treaties establishing the European Communities and the protocols and acts annexed thereto must be

supplemented by regulations and general conditions governing the performance of their duties, in order to do justice to Parliament's responsibility and to ensure equal treatment for Members. In the Member States in which they are elected, Members should be placed on an equal footing with national parliamentary representatives in respect of their activities there associated with the exercise of their office;

B. Whereas pursuant to the Treaties, the decisions required for this purpose must be taken by the European Parliament after seeking an opinion from the Commission and with the approval of the Council acting unanimously. Such decisions should come into force only in the parliamentary term following that in which the decision was taken;

C. Whereas steps must be taken to ensure, as guaranteed by the Treaties, that Members exercise their office free of any constraints;

D. Whereas equal treatment for Members must be guaranteed by means of the provision of the following payments and services by the European Parliament:

- a monthly parliamentary allowance for a Member's activities,
- a social security system comprising entitlement to old-age pensions for Members and their survivors and provision against invalidity, accidents and sickness, and for pregnancy and birth,
- the reimbursement of costs actually incurred,
- assistance from staff chosen by Members themselves and from officials of the European Parliament,
- offices, telecommunications equipment and official cars;

E. Whereas transitional arrangements governing the monthly parliamentary allowance must be introduced for the duration of the first parliamentary term during which this Statute is applied. The provisional amount of that parliamentary allowance will be calculated by taking the average of the emoluments of all the Members of the European Parliament granted by the Member State parliaments;

F. Whereas proper exercise of the office of Member of the European Parliament is called into question by the taking up of other parliamentary offices. Parliamentary allowances for the exercise of such offices must therefore be offset against the parliamentary allowance received by Members of the European Parliament;

G. Whereas in order to safeguard acquired rights, it is imperative for re-elected Members of the European Parliament to be able to opt, throughout the period of the first parliamentary term in which these arrangements apply, to receive their parliamentary allowance on the basis of the previously applicable national provisions. Members and former Members must be able to retain rights and expectancies acquired before the entry into force of this decision;

Has decided:

## **Article 1**

The Statute shall lay down the rights and duties of Members of the European Parliament.

## **Article 2**

The representatives in the European Parliament of the peoples of the Member States of the European Union shall be elected by direct universal suffrage.

Only citizens of the European Union may be elected to the European Parliament.

Their title shall be '*Members of the European Parliament*'.

### **Article 3 — Incompatibilities**

#### **1. At Community level**

Without prejudice to the incompatibilities referred to in Article 6 of the Act of 20 September 1976, the office of Member of the European Parliament shall be incompatible with that of:

- Judge, Advocate-General or Registrar of the Court of First Instance and the Court of Justice of the European Communities;
- Member of the Governing Council of the European Central Bank;
- Member of the Committee of the Regions;
- Member of the Economic and Social Committee;
- Member of the Commission;
- Member of the Court of Auditors;
- Member of the Board of Directors, Management Committee or staff of the European Investment Bank;
- Member of the Parliament of a Member State;
- Chairman of the executive of a local or regional authority, including mayor of a town with over 100 000 inhabitants;
- Member of the Government of a Member State.

#### **2. At national level**

Incompatibilities laid down in national law shall be notified to the European Parliament by the Member State concerned. If a Member State intends to establish further incompatibilities it shall submit the draft legislation to the European Parliament which, within a reasonable period of time not under any circumstances exceeding three months, shall issue an opinion. Under no circumstances shall the incompatibilities established by the Member State have legal effect until the next elections are held.

If the appropriate authorities of a Member State or the European Union notify the President of the European Parliament of an appointment to an office which is incompatible with the office of Member of the European Parliament, the President shall announce this to Parliament and shall call upon the Member concerned to state within a period of one month whether he/she intends to take up the office in question or to remain a Member of the European Parliament. If the Member states that he/she intends to take up the office, Parliament will be asked to declare his/her seat vacant. The President shall notify the appropriate authorities of the Member State or the Union of the decision taken by the Member concerned and shall ask the authorities in question to forward the name of a replacement or to resolve the situation of incompatibility, if need be, by accepting the resignation of the Member concerned from the office in question.

### **Article 4 — The independent mandate**

1. Members of the European Parliament shall vote independently. They shall not be bound by instructions or by any mandate.

2. Agreements concerning the resignation from office of a Member before the end of the parliamentary term or the way in which the office of Member is to be exercised shall be null and void.

#### **Article 5 — Immunity**

The European Parliament shall rule on a request for the waiver of the immunity of one of its Members in accordance with principles which it shall adopt on a proposal from the committee responsible.

#### **Article 6 — Duration of the mandate**

Members of the European Parliament shall be elected for a five-year period beginning and ending with the opening of the first part-session following each election.

#### **Article 7 — Verification of credentials and validity of mandate**

Pursuant to the provisions of the Act of 20 September 1976, Parliament shall verify the credentials without delay and rule on the validity of the mandate of each of its elected Members in accordance with its Rules of Procedure.

Until such time as a Member's credentials have been verified or a ruling has been given on any dispute, the Member shall take his seat in Parliament and on its bodies and shall enjoy all the rights attaching thereto.

#### **Article 8 — Vacant seats**

A Member's term of office shall end in the event of his/her resignation, death or disqualification.

Any resigning Member shall submit his/her resignation in writing to the President of the European Parliament in accordance with the provisions laid down in Parliament's Rules of Procedure.

The date on which a Member's term of office comes to an end and on which his/her seat falls vacant shall be the date on which Parliament declares the vacancy in accordance with the provisions laid down in its Rules of Procedure

In the event of the death of a Member, the latter's seat shall remain vacant with effect from the date on which the President notifies Parliament that a death has occurred.

In cases in which the laws of a Member State specifically disqualify a Member from serving at the European Parliament, that Member's term of office shall not be concluded until the competent national court has taken a final decision. The competent national authorities shall notify the European Parliament of this. The seat shall fall vacant with effect from the date on which the European Parliament was notified of the disqualification.

#### **Article 9 — Substitution**

Any vacant seat must be filled within the shortest possible time.

Without prejudice to what is laid down in Article 8, the President of the European Parliament shall without delay notify the appropriate authorities of the Member State concerned if a seat falls vacant as a result of death or resignation.

The appropriate authorities of the Member State concerned shall inform the President of the European Parliament of the name of the person who, on the basis of the most recent elections held, is entitled to occupy the vacant seat.

#### **Article 10 — Parliamentary allowance, end-of-service allowance and pension**

1. Members shall be entitled to a parliamentary allowance for the exercise of their office, and, after the end of their term of office, to an end-of-service allowance and a pension.
2. Agreements concerning the use of the parliamentary allowance, end-of-service allowance or pension for other than private purposes shall be null and void.
3. The implementation of this Article shall be governed by the provisions of the Annex.

#### **Article 11 — Reimbursement of costs**

1. Members shall be entitled to reimbursement of the costs actually incurred in the performance of their duties.
2. A flat rate may be set for general monthly expenses, the daily allowance and travel by Members using their own vehicles.
3. The reimbursement shall not be subject to any tax.
4. Article 10(2) shall apply *mutatis mutandis*.
5. The European Parliament shall enact, through the body responsible under its Rules of Procedure, the provisions for the implementation of this Article.

#### **Article 12**

Members and former Members in receipt of a pension shall be entitled to reimbursement of the expenses arising from sickness, pregnancy or the birth of a child.

Members shall be entitled to insurance cover against the risks linked to the performance of their duties.

#### **Article 13**

Members shall be entitled to assistance from personal staff.

#### **Article 14**

Members shall be assisted by the officials of the European Parliament.

#### **Article 15**

Members shall be entitled to use the European Parliament's available technical resources, including, in particular, offices, telecommunications equipment and official cars, pursuant to the rules drawn up on the matter.

#### **Article 16**

All discussions and decisions by the competent bodies concerning the implementation of this Statute shall be held or taken in public meetings.

#### **Article 17**

1. This Decision supplements the provisions of Articles 189, 190, 196, 197, 198 and 199 of the Treaty establishing the European Community, Articles 20, 21, 22, 23 and 25 of the Treaty establishing the European Coal and Steel Community, Articles 107, 108, 109, 110, 111 and 112 of the Treaty establishing



the European Atomic Energy Community, Articles 1 to 6 of the Act concerning the election of representatives of the European Parliament by direct universal suffrage and Articles 8 to 10 of the Protocol on the privileges and immunities of the European Communities.

2. The provisions referred to in paragraph 1, this Decision and the implementing measures adopted on the basis of this Decision constitute the definitive Statute for Members of the European Parliament. Without prejudice to the transitional arrangements provided for in Article 2 of the Annex, laws and administrative provisions of the Member States which contradict this Decision shall cease to apply.

3. In the Member States in which they are elected, Members shall be accorded the same treatment as members of national parliaments in respect of the activities they carry out there in the performance of their duties.

### **Article 18 — Transitional arrangements**

The European Parliament shall establish, during the parliamentary term following the adoption of the Statute, a special transitional regime concerning the parliamentary allowance and social insurance, pension and taxation arrangements of Members.

### **Article 19 — Final provision**

1. This Decision shall be binding in its entirety and shall be directly applicable in every Member State.

2. This Decision and all amendments hereto shall be published in the Official Journal of the European Communities. They shall enter into force on the date of publication.

3. This Decision shall apply as from the beginning of the parliamentary term following the date of its entry into force. Amendments to this Decision shall be applicable only from the beginning of the parliamentary term following that in which the relevant decision was taken.

### **Annex to draft Statute**

#### **A. Parliamentary allowance for exercise of office**

The following Articles 1 to 5 shall apply by way of a transitional arrangement:

#### **Article 1**

1. Members elected to the European Parliament for the first time shall receive a monthly parliamentary allowance, payable in advance, of EUR [5 677.22].

The parliamentary allowance shall be equivalent to the annually updated average parliamentary allowance received by all Members from the national parliaments at the time of adoption of the Statute.

2. The parliamentary allowance shall be subject only to the tax payable to the European Communities.

#### **Article 2**

1. Re-elected Members may opt to receive the parliamentary allowance pursuant to Article 1 or to retain the national parliamentary allowance paid hitherto.

2. Members failing to notify the President of the European Parliament within 30 days after assuming office, in writing and irrevocably, of their decision in accordance with paragraph 1 shall receive the parliamentary allowance pursuant to Article 1.

### Article 3

1. The parliamentary allowance to be paid pursuant to Article 1 shall be reduced by the amount received by a Member by way of parliamentary allowance for the exercise of another parliamentary mandate.
2. Rules shall be adopted at a later date concerning the offsetting of income from a public office against the parliamentary allowance.

### Article 4

1. Articles 1 and 2 shall cease to apply upon expiry of the parliamentary term following adoption of the Statute.
2. During the first parliamentary term following adoption of the Statute, the European Parliament shall, in accordance with the procedure under Article 190(5) of the Treaty establishing the European Community, adopt uniform rules governing the parliamentary allowance for all Members which shall apply as from the commencement of the second parliamentary term following adoption of the Statute.

### Article 5

At the end of his/her term of office, a Member whose pension is not yet payable shall be entitled to an end-of-service allowance equivalent to the parliamentary allowance pursuant to Article 1.

This entitlement shall continue for one month per year in which membership of the European Parliament has been exercised, but not for less than six months or more than 12 months.

Any remuneration or pension derived from membership of another parliament or a public office shall be offset.

The end-of-service allowance shall be subject only to the tax payable to the European Communities.

In the case of Members who, pursuant to Article 2(1), opt for the national parliamentary allowance, the end-of-service allowance shall be governed by national rules.

### B. Pension

### Article 6

1. The pension shall be payable as from age 60.
2. The amount of the pension shall be, for each full year in which the Member of the European Parliament was in receipt of the parliamentary allowance corresponding to his/her duties, 3.5% of the parliamentary allowance, up to a maximum of 70%.
3. Pension payments to which a former Member is entitled in respect of membership of another parliament which has run simultaneously with membership of the European Parliament shall be deducted from the pension, as shall the parliamentary allowance for the exercise of membership of another parliament.
4. No other pensions shall be offset.
5. The pension shall be subject only to the tax payable to the European Communities.
6. Members who, having contributed throughout their working lives to a national social security scheme, opt

for the Community pension scheme on the basis of their term of service and whose period of parliamentary contributions is not therefore taken into account in the national scheme shall have the possibility of having their parliamentary contributions treated as contributions to the national scheme. For this purpose the European Parliament shall conclude appropriate agreements with the Member States.

#### **Article 7**

1. For Members who, pursuant to Article 2(1), opt for the national parliamentary allowance, the national pension arrangements shall continue to apply.
2. For Members elected in Italy or France who opt for the national parliamentary allowance, the European Parliament's current special arrangement shall continue to apply.
3. If, at the end of the parliamentary term following adoption of the Statute, a Member has no pension entitlement, he shall be placed in the same position as if he had received the parliamentary allowance pursuant to Article 1 since his membership began.
4. This Article shall cease to apply upon expiry of the parliamentary term following adoption of the Statute.

#### **Article 8**

1. The pension fund set up by the European Parliament on a voluntary basis shall be maintained until the end of the parliamentary term following adoption of the Statute for Members who opt for the national parliamentary allowance pursuant to Article 2(1).
2. Members and the European Parliament shall each pay half the contributions to this fund.
3. The contributions shall not be subject to any tax.
4. Payments from this fund shall not be offset against other pensions.
5. The pension shall be subject only to the tax payable to the European Communities.
6. This article shall cease to apply upon expiry of the parliamentary term following adoption of the Statute.

#### **Article 9**

1. Members who become incapacitated during their term of office shall be entitled to an invalidity pension.
2. This entitlement shall take effect when the Member concerned stands down.
3. The maximum amount of the pension shall be determined by the application, *mutatis mutandis*, of Article 6(2). However, it shall be at least 35% of the parliamentary allowance pursuant to Article 1(1).
4. Article 7(1) shall apply *mutatis mutandis*.

#### **Article 10**

1. Should a Member die in office, or in the event of the death of a former Member who is in receipt of a pension pursuant to Articles 6 or 9, the surviving spouse and dependent children shall be entitled to benefit provision.
2. The total benefits payable in this event shall not exceed the pension to which the Member would have been entitled at the end of the parliamentary term or which the former Member was receiving pursuant to Articles 6 or 9.

3. The surviving spouse shall receive 60% of the maximum amount referred to in paragraph 2, but in any case at least 21%.
4. The benefits payable to the children shall accord with their statutory maintenance entitlements.
5. Article 7(1) shall apply *mutatis mutandis*.

#### C. Implementation

### **Article 11**

Decisions implementing this annex shall be taken by the European Parliament body responsible under the Rules of Procedure.