

## European Parliament resolution on the amendment of the decision of 4 June 2003 on the adoption of the Statute for Members (23 June 2005)

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## European Parliament resolution of 23 June 2005 on the amendment of the decision of 4 June 2003 on the adoption of the Statute for Members of the European Parliament (2005/2124(INI))

P6\_TA(2005)0245

*The European Parliament,*

– having regard to Article 190(5) of the Treaty establishing the European Community and Article 108(4) of the Treaty establishing the European Atomic Energy Community,

– having regard to its resolution of 4 June 2003 on the adoption of a Statute for Members of the European Parliament<sup>1</sup>,

– having regard to Rule 45 of its Rules of Procedure,

– having regard to the report of the Committee on Legal Affairs (A6-0189/2005),

A. having regard to its resolution of 17 December 2003 on the Members' Statute<sup>2</sup>,

B. whereas it is appropriate to amend the decisions previously taken concerning the Statute for Members of the European Parliament,

C. whereas the amended text does not contain any substantive new provisions which would require fresh consultation of the Commission,

D. noting the Council's letter of 6 June 2005,

E. noting the commitment made on 3 June 2005 by the representatives of the Member States meeting with the Council to examine the request by the European Parliament to revise the relevant provisions of the Protocol on the privileges and immunities of the European Communities of 1965 as regards the part relating to Members of the European Parliament, in order to reach a conclusion as soon as possible,

1. Amends its decision of 4 June 2003 on the Statute for Members of the European Parliament, as shown in the attached text;

2. Calls on the Council to give its approval to the text as amended;

3. Calls on the Bureau to ensure that the new rules governing the reimbursement of Members' expenses come into force at the same time as the entry into force of the Statute;

4. Insists that the overall compromise on the Statute for Members of the European Parliament should consist of the following elements:

(a) a separate and independent examination of that part of the Statute which falls under secondary law and of that part which falls under primary law, and approval of both parts in accordance with the institutional provisions applicable to each of them;

(b) with regard to that part which falls under primary law, the Member States are called upon to review the Protocol on the privileges and immunities of the European Communities of 8 April 1965 in respect of the provisions relating to Members of the European Parliament, taking the Statute approved on 3 and 4 June 2003 as a model;

5. Instructs its President to forward this resolution to the Council and the Commission and to the parliaments of the Member States and of the applicant States.

## **Annex – Decision of the European Parliament adopting the Statute for Members of the European Parliament**

### THE EUROPEAN PARLIAMENT

having regard to the Treaty establishing the European Community, and in particular Article 190(5) thereof,

having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 108(4) thereof,

having regard to the opinion of the Commission,

with the approval of the Council,

whereas:

(1) Parliament consists of ‘representatives of the peoples of the States brought together in the Community’. These representatives are, as is also affirmed in Article 190(1) of the EC Treaty, the ‘representatives of the peoples of the States brought together in the Community’. The same term is used in Article 190(2) of the EC Treaty (‘the number of representatives elected in each Member State’) and in Article 190(3) of the EC Treaty (‘representatives shall be elected for a term of five years’). These provisions, whereby Members are the representatives of the peoples, justify the use in the Statute of the term ‘Member’.

(2) Parliament has the right to regulate its own business in its Rules of Procedure, in accordance with the first paragraph of Article 199 of the EC Treaty and in conformity with this Statute.

(3) Article 1 of the Statute takes the concept of ‘Member’ and makes it clear that the Statute does not deal with Members’ rights and obligations, but covers the rules and general conditions applicable to the exercise of their mandate.

(4) The freedom and independence of Members, which are enshrined in Article 2 and which are not mentioned in any provision of primary law, should receive statutory protection. Undertakings made by Members to relinquish their office at a given time, or declarations of their intent to relinquish office on an unspecified date, which political parties can make use of at their discretion, should be considered as incompatible with Members’ freedom and independence and should therefore not be binding in law.

(5) Article 3(1) reproduces in full the provisions of Article 6(1) of the Act of 20 September 1976 concerning the election of the members of the European Parliament by direct universal suffrage.

(6) The right of initiative referred to in Article 5 is the key right of every Member. Parliament’s Rules of Procedure may not render that right nugatory.

(7) The right to inspect files, provided for in Article 6, which is already enshrined in Parliament’s Rules of Procedure, is an essential aspect of the exercise of a Member’s mandate and should therefore be provided for by the Statute.

(8) Article 7 is intended to ensure that, despite statements to the contrary, linguistic diversity will continue to be preserved. Any discrimination against any of the official languages should be ruled out. This principle should continue to apply after any enlargement of the European Union.

(9) Pursuant to Articles 9 and 10, Members are to receive a salary for performing their duties. Regarding the amount of the salary, a group of experts convened by Parliament submitted a study in May 2000, pursuant to which a salary of 38.5% of the basic salary of a judge at the Court of Justice of the European Communities is justified.

(10) Since the salary and transitional allowance, as well as the old-age, invalidity and survivor's pensions, are funded from the general budget of the European Union, it is appropriate for them to be subject to tax for the benefit of the Communities.

(11) On account of Members' specific circumstances, in particular the fact that they are under no obligation to reside in any of Parliament's places of work and their specific ties to the State in which they are elected, it is appropriate to provide for the possibility for Member States to apply the provisions of their national tax law to the salary and transitional allowance as well as to the old-age, invalidity and survivor's pensions.

(12) Article 9(3) is necessary because parties often expect the benefits referred to in Article 9(1) and (2) to be used in part for their purposes. This form of party funding should be prohibited.

(13) The transitional allowance provided for in Articles 9(2) and 13 is intended, in particular, to bridge the period between the end of a Member's term of office and his/her taking up a new post. When the former Member takes up another mandate or assumes a public office, this purpose ceases to be relevant.

(14) In light of the developments in the Member States in old-age pensions, it seems appropriate for former Members to be entitled to an old-age pension as from their 63rd birthday. Article 14 does not affect the right of the Member States to take account of old-age pensions payable under national law when calculating Members' old-age pensions.

(15) The arrangements for provision for survivors are essentially in line with current law in the European Community. The entitlement of a surviving spouse who has remarried is based on the modern idea that it relates to a personal benefit and is not intended merely as 'provision'. Such an entitlement is not ruled out even when a surviving spouse is 'provided for' by virtue of his or her own income or personal wealth.

(16) Article 18 is necessary because when the Statute enters into force, Member States will cease to reimburse the costs that Members incur as a result of sickness or to pay part of medical insurance contributions. These benefits are often retained after a Member's term of office is over.

(17) The provisions concerning the reimbursement of expenses must be in conformity with the principles set out by the Court of Justice of the European Communities in the 'Lord Bruce' judgment<sup>3</sup>. Parliament is thus allowed to effect such reimbursement by means of a flat-rate sum, in those cases in which it is appropriate, in order to reduce the administrative costs and burdens inherent in a system involving the verification of each individual item of expense. This therefore represents sound administration.

(18) On 28 May 2003, Parliament's Bureau adopted a set of new rules governing the payment of expenses and allowances to Members on the basis of expenses actually incurred, which should enter into force at the same time as this Statute.

(19) The Member States should ensure that the rules placing Members of the European Parliament, when exercising their mandate in their Member State, on the same footing as members of the national parliament are retained. It is not possible for this problem to be solved at European level, as numerous very disparate arrangements exist in the Member States. Without such rules, the exercise of the mandate of a Member of the European Parliament in the Member State where a Member was elected would be considerably hampered, if not impossible. Effective exercise of the mandate is also in the interests of the Member States.

(20) Article 25(1) is required because the very disparate national provisions to which Members have so far been subject make it impossible to solve at European level all the problems associated with the transition from an old to a new European system. Giving Members a choice will make it impossible for Members' rights to be reduced or for them to suffer financial loss as a result of the transition. The rule contained in Article 25(2) is the consequence of the decision made pursuant to Article 25(1).

(21) The diversity of national situations is addressed in Article 29, under which the Member States are

allowed to adopt rules different from the provisions of this Statute as a transitional measure. That very diversity also justifies the possibility whereby Member States may retain parity of remuneration between Members of the European Parliament and members of national parliaments.

DECIDES:

## **TITLE I – Regulations and general conditions governing the performance of the duties of the Members of the European Parliament**

### **Article 1**

This Statute lays down the regulations and general conditions governing the performance of the duties of Members of the European Parliament.

### **Article 2**

(1) Members shall be free and independent.

(2) Agreements concerning the resignation from office of a Member before or at the end of a parliamentary term shall be null and void.

### **Article 3**

(1) Members shall vote on an individual and personal basis. They shall not be bound by any instructions and shall not receive a binding mandate.

(2) Agreements concerning the way in which the mandate is to be exercised shall be null and void.

### **Article 4**

Documents and electronic records which a Member has received, drafted or sent shall not be treated as Parliament documents unless they have been tabled in accordance with the Rules of Procedure.

### **Article 5**

(1) Each Member shall be entitled to table proposals for Community acts in the context of Parliament's right of initiative.

(2) Parliament shall lay down in its Rules of Procedure the conditions for the exercise of this right.

### **Article 6**

(1) Members shall be entitled to inspect any files held by Parliament.

(2) Paragraph 1 shall not apply to personal files and accounts.

(3) Paragraph 1 shall apply without prejudice to acts of the European Union and agreements by the Institutions concerning access to documents.

(4) Parliament shall lay down the conditions for the exercise of this right.

### **Article 7**

(1) Parliament's documents shall be translated into all the official languages.

- (2) Speeches shall be interpreted simultaneously into all the other official languages.
- (3) Parliament shall lay down the conditions for the implementation of this Article.

#### **Article 8**

- (1) Members may form themselves into political groups.
- (2) Parliament shall lay down in its Rules of Procedure the conditions for the exercise of this right.

#### **Article 9**

- (1) Members shall be entitled to an appropriate salary to safeguard their independence.
- (2) At the end of their term of office, they shall be entitled to a transitional allowance and a pension.
- (3) Agreements on the use of the salary, the transitional end-of-service allowance and the pension for other than private purposes shall be null and void.
- (4) The surviving dependants of Members or former Members shall be entitled to a survivor's pension.

#### **Article 10**

The amount of the salary shall be 38.5% of the basic salary of a judge at the Court of Justice of the European Communities.

#### **Article 11**

The salary received by a Member for the exercise of a mandate in another parliament shall be offset against the salary.

#### **Article 12**

- (1) The salary provided for in Article 9 shall be subject to tax for the benefit of the Communities on the same terms and conditions as those laid down, on the basis of Article 13 of the Protocol on the privileges and immunities of the Communities, for the officials and other servants of the European Communities.
- (2) The abatements for occupational and personal expenses and those of a family and social nature, provided for in Article 3(2) to (4) of Regulation (EEC, Euratom, ECSC) No 260/68 of the Council of 29 February 1968 laying down the conditions and procedure for applying the tax for the benefit of the European Communities<sup>4</sup>, shall not be applicable.
- (3) Paragraph 1 shall be without prejudice to the Member States' power to make the salary subject to national tax law provisions, provided that any double taxation is avoided.
- (4) Member States shall have the right to take the salary into account when setting the rate of taxation applicable to other revenue.
- (5) This Article shall also apply to the transitional allowance as well as to the old-age, invalidity and survivor's pensions, which are paid pursuant to Articles 13, 14, 15 and 17.
- (6) Benefits under Articles 18, 19 and 20 and contributions to the Pension Fund under Article 27 shall not be subject to tax.

#### **Article 13**

- (1) At the end of their term of office Members shall be entitled to a transitional allowance equivalent to the salary pursuant to Article 10.
- (2) This entitlement shall continue for one month per year in which their mandate has been exercised, but not for less than six months or more than 24 months.
- (3) In the event of a Member's assuming a mandate in another parliament or taking public office, the transitional allowance shall be paid until the mandate starts or the public office is taken up.
- (4) In the event of death, the transitional allowance shall be paid for the last time in the month in which the former Member died.

#### **Article 14**

- (1) Former Members shall be entitled to an old-age pension from the age of 63.
- (2) This pension shall be, for each full year's exercise of a mandate, 3.5% of the salary pursuant to Article 10 and one-twelfth thereof for each further full month, but not more than 70% in total.
- (3) Entitlement to the old-age pension shall exist irrespective of any other pension.
- (4) Article 11 shall apply *mutatis mutandis*.

#### **Article 15**

- (1) Members who become incapacitated during their term of office shall be entitled to a pension.
- (2) Article 14(2) shall apply *mutatis mutandis*. However, the amount of the pension shall be at least 35% of the salary pursuant to Article 10.
- (3) The entitlement shall take effect when the Member concerned stands down.
- (4) Parliament shall lay down the conditions for the exercise of this right.
- (5) Article 11 shall apply *mutatis mutandis*.

#### **Article 16**

Should a former Member be entitled simultaneously to the payment of the transitional allowance pursuant to Article 13 and the pension pursuant to Article 14 or Article 15, he or she shall decide which arrangement shall be applied.

#### **Article 17**

- (1) In the event of the death of a Member or of a former Member who at the time of his/her death was or would have been entitled in future to a pension pursuant to Article 14 or Article 15, the spouse and dependent children shall be entitled to a survivor's pension.
- (2) The total amount of the pension shall not exceed the pension to which the Member would have been entitled at the end of the parliamentary term or to which the former Member was or would have been entitled.
- (3) The surviving spouse shall receive 60% of the amount referred to in paragraph 2, but in any case at least 30% of the salary pursuant to Article 10. Such entitlement shall not be affected if the surviving spouse

remarries. Such entitlement shall be forfeited if the specific circumstances of an individual case leave no reasonable doubt that the marriage was concluded solely for the purpose of securing a pension.

(4) A dependent child shall receive 20% of the amount referred to in paragraph 2.

(5) Should it be necessary, the maximum amount of the pension to be paid shall be divided between the spouse and the children in the ratio of the percentages laid down in paragraphs 3 and 4.

(6) The pension shall be paid from the first day of the month following the date of death.

(7) Should the spouse die, the entitlement shall expire at the end of the month during which the death occurred.

(8) A child's entitlement shall expire at the end of the month in which he/she reaches the age of 21. However, it shall continue for the duration of education or vocational training, but shall expire at the latest at the end of the month during which he/she reaches the age of 25. The entitlement shall continue if the child is unable to support himself/herself on account of sickness or infirmity.

(9) Partners from relationships recognised in the Member States shall be treated as equivalent to spouses.

(10) Parliament shall lay down the conditions for the exercise of this right.

#### **Article 18**

(1) Members and former Members drawing a pension, and persons entitled to the survivor's pension, shall be entitled to reimbursement of two-thirds of the costs that they incur as a result of sickness, pregnancy or the birth of a child.

(2) Parliament shall lay down the conditions for the exercise of this right.

#### **Article 19**

(1) Members shall be entitled to insurance cover for the risks connected with the exercise of their mandate.

(2) Parliament shall lay down the conditions for the exercise of this right. Members shall pay one-third of the resulting insurance premiums.

#### **Article 20**

(1) Members shall be entitled to reimbursement of expenses incurred in the exercise of their mandate.

(2) Parliament shall reimburse the actual expenses incurred by Members in travelling to and from the places of work and in connection with other duty travel.

(3) Others expenses incurred by Members in the exercise of their mandate may be reimbursed by means of a flat-rate sum.

(4) Parliament shall lay down the conditions for the exercise of this right.

(5) Article 9(3) shall apply *mutatis mutandis*.

#### **Article 21**

(1) Members shall be entitled to assistance from personal staff whom they may freely choose.



- (2) Parliament shall meet the expenses actually incurred by Members in employing such personal staff.
- (3) Parliament shall lay down the conditions for the exercise of this right.

#### **Article 22**

- (1) Members shall be entitled to use Parliament's office facilities, telecommunications equipment and official vehicles.
- (2) Parliament shall lay down the conditions for the exercise of this right.

#### **Article 23**

- (1) All payments shall be made from the budget of the European Union.
- (2) The payments due pursuant to Articles 10, 13, 14, 15 and 17 shall be made monthly in euro or - at the option of the Member - in the currency of the Member State where he/she is domiciled. Parliament shall lay down the conditions under which the payments are to be made.

#### **Article 24**

Decisions concerning the implementation of this Statute shall come into force once they have been published in the Official Journal of the European Union.

### **TITLE II - Transitional provisions**

#### **Article 25**

- (1) Members who belonged to Parliament prior to the entry into force of this Statute and were re-elected may opt for the national system applicable hitherto in respect of the salary, transitional allowance and pensions for the entire duration of their membership of the European Parliament.
- (2) These payments shall be made from the budget of the Member State in question.

#### **Article 26**

- (1) Members who wish to continue with the national system applicable hitherto pursuant to Article 25(1) shall notify the President of Parliament of this decision in writing within 30 days of the entry into force of this Statute.
- (2) The decision shall be final and irrevocable.
- (3) Should such notification not be made within the time-limit, the provisions of this Statute shall apply.

#### **Article 27**

- (1) The voluntary pension fund set up by Parliament shall be maintained after the entry into force of this Statute for Members or former Members who have already acquired rights or future entitlements in that fund.
- (2) Acquired rights and future entitlements shall be maintained in full. Parliament may lay down criteria and conditions governing the acquisition of new rights or entitlements.
- (3) Members who receive the salary pursuant to Article 10 may not acquire any new rights or future entitlements in the voluntary pension fund.

(4) The fund shall not be open to Members who are first elected to Parliament after this Statute becomes applicable.

(5) Articles 9(3) and 14(3) shall apply *mutatis mutandis*.

#### **Article 28**

(1) Any pension entitlement that a Member has acquired in accordance with national arrangements at the time when this Statute is applied shall be retained in full.

(2) If the length of the term of office served in the European Parliament or in a national parliament is not sufficient under national arrangements to give rise to any pension entitlement, the period concerned shall be taken into account in calculating the pension based on this Statute. Parliament may conclude agreements with the competent authorities of the Member States on the transfer of acquired entitlements.

#### **Article 29**

(1) Each Member State may adopt, for the Members elected in it, rules different from the provisions of this Statute as regards the salary, transitional allowance and pensions for a transitional period which may not exceed the length of two European Parliament parliamentary terms.

(2) Those rules shall place the Members on at least an equal footing with the members of their respective national parliament.

(3) All payments shall be made from the budget of the Member State in question.

(4) The entitlements of Members pursuant to Articles 18 to 22 shall not be affected by such rules.

### **TITLE III – Final provision**

#### **Article 30**

This Statute shall enter into force on the first day of the European Parliament parliamentary term beginning in 2009.

<sup>1</sup> OJ C 68, 18.3.2004, p. 210.

<sup>2</sup> OJ C 91 E, 15.4.2004, p. 230.

<sup>3</sup> Judgment of 15 September 1981, Case 208/80 *Rt. Hon. Lord Bruce of Donington v Eric Gordon Aspden* [1981] ECR 2205.

<sup>4</sup> OJ L 56, 4.3.1968, p. 8. Regulation as last amended by Regulation (EC, Euratom) No 723/2004 (OJ L 124, 27.4.2004, p. 1).