



COUNCIL OF
THE EUROPEAN UNION

GENERAL SECRETARIAT

Brussels, 8 April 2013

BRIEF
for the Chair
of the Permanent Representatives Committee
(part 2)
(2447th meeting on 10 April 2013)

Item: ***Proposal for a Regulation of the European Parliament and of the Council amending the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union***
- Adoption of the revised draft mandate for the Working Party on the Staff Regulations (WPSR)

I. AIM OF THE DISCUSSION

Enable COREPER to finalise and endorse the revised draft mandate for the Working Party on the Staff Regulations (WPSR), which was circulated by the Presidency on 5 April 2013, following the informal discussion over breakfast on 22 March and the subsequent meeting on 27 March 2013. The adoption of the mandate is crucial to accelerate internal deliberations, with a view to defining the Council's negotiating position for the forthcoming inter-institutional negotiations.

II. LEGAL BASIS AND VOTING RULES

The adoption of the mandate is a procedural decision in accordance with the Council's Rules of Procedure (Articles 1 (paragraph 5) and 19). Therefore, a simple majority in favour of the text is required.

III. DIFFICULTIES / HANDLING

a. Difficulties

The revised draft mandate (doc. 8153/13) maintains the priority set with respect to three core issues¹ while allowing the possibility for the WPSR to consider, and subsequently report back to COREPER on other relevant suggestions made in the progress report adopted by COREPER in December 2012 (doc. 17431/12). However, consideration of these additional points should by no means delay the opening of the trilogues, which should start within a well-defined timeframe (possibly in May), and be conducted in an expeditious manner.

In its revised version, the Presidency took on board a number of points suggested by delegations during the previous meeting on 27 March, paid attention to the overall balance of the text and incorporated various flexibility provisions (i.e. references made to the immediate application of the solidarity levy; the concept of capping in conjunction with the conditions for a fully-automated method for annual adjustments; the principle of an equitable impact of this reform on officials and employees in and across all institutions).

On 5 April, and during the last WPSR meeting, a new non-paper was submitted on behalf of nine delegations (AT, CZ, DE, DK, FI, NL, SE, UK, ES (the latter with a scrutiny reservation on the method)). This non-paper outlines a series of amendments to be made to the Commission proposal, beyond the three core issues identified in the draft WPSR mandate. It is likely that delegations signing the non-paper may insist on enlarging the political perspective of the mandate, by spelling out additional elements for (subsequent) consideration (e.g. possible reference to expatriation allowances). Moreover, they may wish to water down some key assumptions given in the definition of the three core issues (e.g. the reference to the principle of parallelism with the evolution in national civil servants' salaries).

¹ These are as follows:

- The implementation of the restrictions on early retirement and the proposal to increase the normal retirement age in order to have a significant impact on the cost for pensions in the mid- and long-term, and the pace at which to implement it (transitional arrangements).
- The modalities of the reformed method to adjust salaries and pensions on the basis of the principle of parallelism with national civil servants' salary evolution while considering the possibility of introducing a certain capping and the conditions under which full automaticity might normally operate.
- The need to improve the efficiency of the public administration by reforming the career development of staff (AST/SC, AST, and AD) including in relation to their level of responsibility.

Interventions made in the Coreper's meeting on 10 April might be responded to with slight tactical modifications to the revised draft during the meeting, without compromising its overall objective, i.e., agreement on a strategy comprising the swift opening of trilogues with the European Parliament and the clear setting of priorities with respect to the Council's negotiating position (the three core issues for discussion between co-legislators). This approach could convince the "like-minded group", who has linked the opening of negotiations with the Council adopting a more detailed position on a large variety of issues.

b. Handling

Based on informal talks with several delegations, it is highly possible that an agreement on the revised mandate can be achieved, although some redrafting may be needed during the COREPER meeting. It should be noted that these delegations could raise some particular technical points (for which an explanation below follows the order of pages and are underlined in bold). These indications represent only some examples of issues that might be raised on 10 April:

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- a) The reference to the agreed EC ceiling as **level of commitments** could be deleted;
- b) The 2-year suspension of the salary method **should** be applied already for 2013 and 2014 periods;

On page 2

- c) The re-introduction of the solidarity levy **on salaries** at the rate of 6% should not be limited to these only but be extended to pensions as well;
- d) The **principle of parallelism** with the evolution of national civil servants' salaries is given too much emphasis (with the words "**on the basis of**"), while the possibility of introducing a certain **capping** is not sufficiently clear;
- e) The specific reference to **the issue of geographical balance** could be removed;
- f) The subsequent examination, in parallel with the opening of trilogues, of the relevant suggestions made in the December 2012 progress report should not be limited to scrutinizing **travel and removal allowances**, but also include **expatriation allowances**.

All the above could be resolved during the meeting by making the appropriate editorial changes to the draft. Contentious parts of sentences could be deleted, where necessary, without changing the essence of the key message(s).

From the **Commission's perspective**, two major and some secondary issues could also be raised in relation to certain differences of interpretation in relation to the European Council conclusions of 7-8 February 2013 on the 2014-2020 Multi-annual Financial Framework (MFF). The Commission could insist for instance on the common objective of a speedy opening of negotiations and its quest to give a precise limit to the scope of the WPSR mandate (i.e. the WPSR should not be given unlimited opportunities to make recommendations on the proposal of the Commission as a whole and on all the points suggested so far during the various presidencies), the danger being that this could then be subject to diverging interpretations by Member States, thereby endangering the prospects of real progress at a later stage. The Commission's remarks could raise concerns about the correlation of some specific issues listed below, within the scope of its proposal made in December 2011 (doc. 18638/11).

In this context, although the Commission is not expected to oppose the existing formulations in the revised mandate, it may intervene, inter-alia, on:

- a) The report on total 2012 staffing levels, to be produced by the Commission, should not be part of a mandate to the WPSR but be the subject of a subsequent request to the Commission under Article 241 TFEU;
- b) The introduction of the solidarity levy during the suspension of the method for the annual adjustment would need to take the legal perspective into careful consideration;
- c) The reference to AD career structure appears nowhere in the MFF conclusions, as they point to measures listed exhaustively both therein and in the Commission proposal;
- d) Extension of the WPSR discussions to other categories of allowances should be carefully considered, particularly in the light of the scope of the Commission's proposal.

Against this background and after listening to any general comments, it is suggested that the Presidency focus on discussions on the draft revised mandate by examining individual drafting changes that might be considered necessary.

The Presidency could conclude the discussion by complimenting delegations on their constructive positions and by emphasising that the expeditious technical examination by the WPSR of the outstanding core issues will enable the COREPER to define a mandate to call for trilogues by early May.

IV. POINTS FOR DISCUSSION

- Following our previous discussions on 27 March 2013, the Presidency submitted for your consideration a revised draft mandate for the WPSR, which sought to create the necessary conditions for the preparation of a constructive, initial mandate for opening negotiations with the European Parliament on the review of Staff Regulations.
- We have taken on board comments put forward by several delegations and we now hope that the revised text will mark a big step forward in our efforts towards a balanced framework.
- The WPSR has already begun the technical examination of three core issues on the basis of a series of meetings which are planned for the end of April. These efforts will be sustained with a view to reporting back to COREPER by early May.
- Bearing in mind the obvious need to ensure that the planned MFF savings commence as early as 2013 and that our approach should contribute to reaching a swift and reasonable compromise with the European Parliament in a timely manner, we wish to hear any final remarks, before the revised mandate is considered adopted.....

[Delegations are handed the floor ...]

- I now invite the Commission to take the floor

[The Commission presents its views on the revised draft mandate...]

- I wish to open the floor now for any final remarks.....

[Delegations express any final views...]

[The Presidency's concluding remarks are outlined below under V.]

V. POSSIBLE CONCLUSIONS

COREPER has agreed a mandate for the WPSR, on the basis of doc. 8153/13 (as revised during the meeting).

COREPER has specifically mandated the WPSR to finalise its work on a limited number of outstanding issues and report back with specific recommendations by early May.

VI. BACKGROUND

At its last meeting on 5 April 2013, the WPSR began with the examination of two core issues ((a) the method for the annual adjustment of salaries and pensions and (b) career structure). Their technical examination is due to be concluded at the forthcoming WPSR meetings on 18 and 19 April 2013. Delegations are expected to deliver written proposals by Thursday, 11 April. A further WPSR meeting is scheduled for 26 April and the examination of core issues expected to be concluded by 2 May 2013 at the latest, thereby enabling COREPER to consider a mandate for the inter-institutional negotiations intended for the end of May.

Tentative dates for trilogues with the European Parliament in May and June 2013 should be put forward shortly.

In terms of substance and in relation to the method, the AT proposal presents positive elements (e.g. full automaticity, transparency and predictability) and could be considered by many delegations as a good basis for the Council's future position. At the same time, a recent IT proposal for a weighted specific indicator (set out in Annex XI) which seeks to reduce distortions in salary evolution between national and EU administrations (at the level of respective function groups of civil servants), is still under scrutiny and subject to reservations on the part of many delegations. According to the IT delegation, this specific indicator could both be adjusted and operate irrespective of the method to be laid down in Article 65 of the Staff Regulations and should therefore be looked at in greater detail.

The Commission, as well as the Council's Legal Service, have expressed their concerns over the risks of legal challenges which may be lodged against this method (the AT proposal). These concerns would be due to the fact that the stated purpose of the proposal, together with the introduction of a permanent static capping of 2% for annual salary adjustments, would lead to a structured, permanent loss of purchasing power for EU officials and seriously reduce the institutional prerogatives of co-legislators to adjust salaries and pensions on the basis of defined economic forecasts.

The discussions on career structure will continue on the basis of the ideas included in the non-paper of the "like-minded group" on 5 April as well as on the specific comments made by the IT delegation at the last WPSR meeting.
