



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 22 May 2013

9712/13

**Interinstitutional File:
2011/0455(COD)**

**STAT 18
FIN 279**

NOTE

from: General Secretariat
to: Delegations

Subject: 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
- Council Declaration providing guidelines on the interpretation and application of the Council Decision of 23 June 1981 establishing a tripartite consultation procedure concerning relations with staff

Delegations will find attached the Council Declaration providing guidelines on the interpretation and application of the Council Decision of 23 June 1981 establishing a tripartite consultation procedure concerning relations with staff. This Declaration, as set out in document 8696/13 + COR 1, was adopted by a written procedure completed on 6 May 2013.

COUNCIL DECLARATION
on the interpretation and application of
the Council Decision of 23 June 1981
establishing a tripartite consultation procedure concerning relations with staff

THE COUNCIL OF THE EUROPEAN UNION,

Noting that,

- (1) The Council Decision of 23 June 1981 establishing a tripartite consultation procedure concerning relations with staff¹ (hereafter "the Decision") was adopted to provide for a consultation procedure between the legislature and staff, represented by trade unions and professional organisations, on proposed amendments to the Staff Regulations of officials of the European Union or the Conditions of Employment of other servants of the Union or relating to the application of the provisions of the said Staff Regulations or the said Conditions of Employment concerning remunerations or pensions.
- (2) It is necessary to take into account the changes in the relevant legal framework, in particular the entry into force of the Treaty of Lisbon which provides, inter alia, for proposals to amend the Staff Regulations of Officials of the European Union and the Conditions of Employment of other servants of the Union to be adopted in accordance with the ordinary legislative procedure.
- (3) To this end it would be necessary for the Decision to be amended jointly by the European Parliament and the Council so as to adapt it to the current legal and institutional framework and in particular to apply it to both legislative branches.
- (4) By letter dated 24 January 2013, the Council invited the European Parliament to act jointly to this effect and the European Parliament in its reply of 4 March 2013 declined this invitation.

¹ Council document 6073/03.

- (5) Pending further review of the Council Decision of 23 June 1981, the Council is determined to give effect to the Decision in so far as that is possible under the current legal framework, in particular in relation to the current proposal to amend the Staff Regulation.²
- (6) The Council Decision of 23 June 1981 should thus be interpreted and applied in a way which maintains so far as is possible its effect under the current legal and institutional framework and in particular maintains its objective of ensuring effective consultation, insofar as the Council is concerned, with staff.

DECLARES THAT:

- (a) In order to continue to give effect to the consultation procedure concerning relations with staff in accordance with the current legal and institutional framework, and in particular the ordinary legislative procedure provided for under Article 336 TFEU, the provisions of Council Decision of 23 June 1981 should be interpreted and applied in accordance with the interpretative guidelines in the annex to this Declaration.
- (b) Only Guidelines 1, 2, 3 and 7 should apply to Commission proposals to the Council relating to the application of the provisions of the Staff Regulations or the Conditions of Employment concerning remuneration or pensions.
- (c) Paragraphs (a) and (b) are without prejudice to the continuing application of those provisions of the Council Decision of 23 June 1981 which are not covered by the interpretative guidelines.
- (d) The application of the 1981 Council Decision is without prejudice to the provisions of the Treaties and in particular the timeline and the operation of the ordinary legislative procedure under Article 294 TFEU.

² Commission proposal set out in Council document 18638/11.

**Guidelines on the interpretation and application of the Council Decision of 23 June 1981
establishing a tripartite consultation procedure concerning relations with staff**

Guideline 1 – Points I.2.a) and I.2.c) of the Council Decision of 23 June 1981

Having regard to the increase of the number of Member States due to enlargement of the Union, the Consultation Committee may decide by consensus to convene in formation comprising a reduced, equal and/or representative number of representatives of Member States³, of staff and of chief administrative officials of each institution. Such representatives are to be chosen respectively by the Member States, trade unions and professional organisations as well as the chief administrative official of each institution by such procedure as they each determine appropriate. In such case, this formation and its members shall exercise the rights and duties of the Consultation Committee and its members as provided for under the Council decision of 23 June 1981.

Guideline 2 – Points I.2.c) of the Council Decision of 23 June 1981

All entities listed in Article 1b of the Staff Regulations shall be treated as institutions. In the event that any such institution decides not to take part in the consultation procedure, that shall not invalidate the process.

Guideline 3 – Point I.4. of the Council Decision of 23 June 1981

The reference to the "Secretary General of the Council/High Representative for the common foreign and security policy or [...] the Deputy Secretary-General of the Council" shall be understood as referring to the Secretary-General of the Council.

³ The Council declares that unless it decides otherwise, it shall be represented by a pre-established group of three Member States holding the Presidency of the Council including the outgoing, the current and the incoming Presidencies (Troika format).

Guideline 4 – point I.6.(b) of the Council Decision of 23 June 1981

The Consultation Committee shall endeavour to complete its work within a reasonable period of time depending on the progress of deliberations under the ordinary legislative procedure.

The Consultation Committee shall not commence examination of the proposal until the opinions of the institutions consulted in accordance with Article 336 TFEU have been received by the Council.

Guideline 5 – Points I.6.b), 7. and 8. (including the procedure at the stage of consideration by the Council) of the Council Decision of 23 June 1981

The consultation procedure in the course of which all the available information and the positions of the parties shall be examined with the aim of facilitating as far as possible an alignment of positions and of ensuring that the views of the staff and the administrative authorities are known to the representatives of Member States before firm decisions are adopted by them shall, in the context of the ordinary legislative procedure set out in Article 294 of the Treaty on the Functioning of the European Union, henceforth be applied as follows:

- (i) The Consultation Committee shall hold a meeting if so requested by one of the parties at the first reading stage, and if applicable at the second reading stage.
- (ii) Where applicable the Consultation Committee shall hold again a meeting if so requested by one of the parties before the meeting of the Conciliation Committee provided for in Article 294(10) of the Treaty on the Functioning of the European Union.
- (iii) The Chair shall report back to Coreper on behalf of the Consultation Committee after each meeting setting out the views of the participants.
- (iv) The Council may, when adopting a position in the course of the ordinary legislative procedure, take into account the report from the Chair.

Guideline 6 – Part II of the Council Decision of 23 June 1981

In view of the need to adjust the consultation procedure to the requirements of the ordinary legislative procedure as set out in the preceding paragraphs, the conciliation procedure under the Decision of 23 June 1981 shall not apply.

Guideline 7 – Annex II of the Council Decision of 23 June 1981

The statement concerning the Council Decision of 23 June 1981 as set out in the Annex and entered into the Council minutes when that Decision was adopted remain fully applicable.
