



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 6 March 2014

7340/14

Interinstitutional File:
2013/0438 (COD)
2013/0439 (COD)

STAT 9
FIN 184
CODEC 660

COVER NOTE

from: Mr Vassilios SKOURIS, President of the Court of Justice
Mr Vitor CALDEIRA, President of the Court of Auditors

to: Council of the European Union

Subject: Opinions of the Court of Justice and the Court of Auditors on the Proposals for regulations of the European Parliament and of the Council adjusting with the effect from 1 July 2011 and from 1 July 2012 the remuneration and pension of the officials and other servants of the European Union and the correction coefficients applied thereto

Delegations will find attached the Opinions of the Court of Justice and the Court of Auditors on the Proposals for regulations of the European Parliament and of the Council adjusting with the effect from 1 July 2011 and from 1 July 2012 the remuneration and pension of the officials and other servants of the European Union and the correction coefficients applied thereto.

Encl.: Opinions



COUR DE JUSTICE
DE
L'UNION EUROPEENNE

LE GREFFIER

Luxembourg, le 04 MARS 2014

M. Jim Cloos
Directeur général adjoint
Politique générale et
institutionnelle
Conseil de l'Union européenne
rue de la Loi 175
B-1048 Bruxelles

Objet : Consultation de la Cour de justice au sujet de

- la proposition de règlement du Parlement et du Conseil adaptant, avec effet au 1^{er} juillet 2011, les rémunérations et les pensions des fonctionnaires et autres agents de l'Union européenne ainsi que les coefficients dont sont affectés ces rémunérations et pensions [COM(2013) 895 final] ; et
- la proposition de règlement du Parlement et du Conseil adaptant, avec effet au 1^{er} juillet 2012, les rémunérations et les pensions des fonctionnaires et autres agents de l'Union européenne ainsi que les coefficients dont sont affectés ces rémunérations et pensions [COM(2013) 896 final].

Monsieur le directeur général adjoint,

Monsieur le président de la Cour m'a chargé de répondre à vos lettres du 26 février 2014 sollicitant l'avis de la Cour de justice sur les deux propositions de règlement susvisées.

J'ai l'honneur de vous informer que, au stade actuel de la procédure, la Cour de justice n'a pas d'observations à formuler sur ces deux propositions de règlement.

Je vous prie d'agréer, Monsieur le directeur général adjoint, l'expression de ma considération distinguée.


A. C. Escobar



Vitor CALDEIRA

PRESIDENT
EUROPEAN COURT OF AUDITORS

Luxembourg, 04.03.2014
CPR001988EN01-14PP-OR.DOC

Mr Évangélos VENIZELOS,
President,
Council of the European Union,
Rue de la Loi 175,
B - 1048 Bruxelles

Dear Mr Venizelos,

Subject : Consultation of the Court of Auditors on legislative proposals adjusting EU remuneration with effect from 1 July 2011 and from 1 July 2012

By letters dated 26 February 2014, signed by Deputy Director General Jim CLOOS, the Council forwarded to me its requests for consultation of the Court of Auditors on two proposed regulations adjusting the remuneration and pensions of EU staff with effect from 1 July 2011 and from 1 July 2012¹ respectively. In those letters the Court was asked, on the grounds of the current state of the negotiations between the co-legislators, to provide its opinion by 5 March 2014 at the latest.

Notwithstanding that exceptionally short deadline, allowing the Court of Auditors only four working days to examine the proposals, I am pleased to enclose, for your information, the English version of the Opinion as approved by the Fourth Chamber, acting via a written procedure.

The necessary translation work is in progress and all of the language versions will be sent to you as soon as they are available and the Opinion has been formally adopted.

Nonetheless I must inform you that it was only possible to achieve that result by setting aside our normal procedures, which are designed to ensure that legislative proposals are fully and carefully studied and discussed before an Opinion is adopted.

¹ Proposals Regulations of the European Parliament and of the Council adjusting with effect from 1 July 2011 and from 1 July 2012 the remuneration and pension of officials and other servants of the European Union and the corrective coefficients applicable thereto, COM(2013) 895 final and COM(2013) 896 final.

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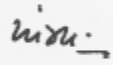
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In this case the Court of Auditors has acted swiftly, in accordance with the principle of sincere cooperation between institutions, in order to facilitate the work of the co-legislators. However, as you are aware, it is settled case-law of the Court of Justice that the *effective* participation of institutions in the legislative process of the Union, under the procedures laid down in the TFEU represents an essential factor in the legislative balance intended by the Treaty.

The Court of Auditors attaches great importance to its prerogative of consultation on certain types of legislation and, where it is provided for in the Treaty, wishes to do so as usefully and effectively as possible. There can be no doubt that a rushed procedure does not satisfy that objective and, equally, that it carries certain risks.

For those reasons we trust that, in future consultations, the Council will ensure that the Court of Auditors is consulted in sufficient time to enable it to carry out its role effectively.

Yours sincerely,


Vítor Caldeira

Copy: Mr Martin SCHULZ, President of the European Parliament

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TRIBUNAL DE CUENTAS EUROPEO
EVROPSKÝ ÚČETNÍ DVŮR
DEN EUROPÆISKE REVISIONSRET
EUROPÄISCHER RECHNUNGSHOF
EUROOPA KONTROLLIKODA
ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ
EUROPEAN COURT OF AUDITORS
COUR DES COMPTES EUROPÉENNE
CÚIRT INIÚCHÓIRÍ NA HEORPA



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CORTE DEI CONTI EUROPEA
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EVROPSKO RAČUNSKO SODIŠČE
EUROOPAN TILINTARKASTUOMIOISTUIN
EUROPEISKA REVISIONSRÄTTEN

Opinion No 2/2014

(pursuant to Article 336, TFEU)

concerning a proposal for a regulation of the European Parliament and of the Council adjusting with the effect from 1 July 2011 the remuneration and pension of the officials and other servants of the European Union and the correction coefficients applied thereto

and

concerning a proposal for a regulation of the European Parliament and of the Council adjusting with the effect from 1 July 2012 the remuneration and pensions of the officials and other servants of the European Union and the correction coefficients applied thereto

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THE COURT OF AUDITORS OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 336 thereof,

Having regard to the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (hereinafter "the Staff Regulations")¹,

Having regard to the Judgment of the Court of Justice in case C-63/12, issued on 19 November 2013,

Having regard to the Commission proposals of 10 December 2013²,

Having regard to the request of the Council for an opinion on the abovementioned proposals by 5 March 2014 at the latest, received at the Court on 26 February 2014,

Having regard to the request of the European Parliament for an opinion on the abovementioned proposals received at the Court on 3 March 2014,

Whereas pursuant to Article 65 of the Staff Regulations the remuneration of the officials and other servants of the European Union shall be updated every year, taking into account the economic and social policy of the European Union;

Whereas the 2011 and 2012 adjustments are still pending;

Whereas in its Judgment in case C-63/12 relating to the 2011 adjustment the Court of Justice emphasised³ that where the Council determines, on the basis

¹ Regulation No 31/EEC, 11/EAEC, laying down the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Economic Community and the European Atomic Energy Community (OJ 45, 14.6.1962, p. 1385/62).

² COM(2013) 895 final and COM(2013) 896 final.

³ See paragraph 74 of the judgment.

of objective data supplied by the Commission, that there is a serious and sudden deterioration in the economic and financial situation within the Union within the meaning of Article 10 of Annex XI of the Staff Regulations, the Commission is obliged to submit to the European Parliament and to the Council appropriate proposals on the basis of that article. In that situation, the Commission has, however, a margin of discretion of its own as regards the content of those proposals, namely which measures it deems to be appropriate, taking into account the given economic and social situation and, where necessary, other factors to be taken into consideration, such as those relating to management of human resources, and in particular the needs of recruitment;

Whereas case C-86/13 relating to the 2012 adjustment is still pending;

Whereas the Commission considers as appropriate to propose an adjustment to remuneration and pensions in Belgium and Luxembourg of 0,9 % with effect from 1 July 2011 and of another 0,9 % with effect from 1 July 2012;

Whereas the Commission refers, as a basis for its proposals, to the provisions of the "exception clause" (former Article 10 of Annex XI of the Staff Regulations) and to its margin of appraisal under this clause;

Whereas amendments to the Staff Regulations concerning the procedure for annual remuneration updates have been adopted and entered into force⁴ six weeks before the Commission submitted the proposals which are the subject of this opinion;

Whereas the former "exception clause" has been replaced by "moderation and exception clauses" (Articles 10 and 11 of Annex XI of the Staff Regulations),


⁴ See point 44 of Article 1 of Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (OJ L 287, 29.10.2013, p. 15).

HAS ADOPTED THE FOLLOWING OPINION:

1. The Court notes that the Commission refers to its margin of appraisal as regards the content of appropriate proposals for adjusting remunerations and pensions.
2. The Court notes that the wording of the recital 3 in both proposals might give rise to misunderstandings as it does not clearly distinguish between a loss of purchasing power and a nominal adjustment to remuneration and pensions. Furthermore, there is insufficient clarity as to the basis for the computation of the proposed adjustments of 0,9 %.
3. The Court draws attention to the fact that the "exception clause" as a basis for the Commission's proposals is no longer in force.
4. The Court suggests considering whether the current rules set out in annex XI to the Staff Regulations, and, if necessary, the rules of the moderation and exception clauses therein, could be used to deal with the outstanding annual updates for 2011 and 2012. These rules provide a procedure which is based on verified and objective data.
5. The Court notes that the proposed adjustments will require budgetary appropriations to be made available.

This opinion was adopted by Chamber IV, headed by Mr Louis GALEA, Member of the Court of Auditors, in Luxembourg on 3 March 2014.

For the Court of Auditors



Vitor Manuel da SILVA CALDEIRA
President