

I Introduction

In 2003, the responsible rapporteur for the Common Statute for the Members of the European Parliament made a remarkable statement: “Our proposal has been unequivocally confirmed by wise men, from whom we received clear guidance”¹. After eight years of lengthy and difficult discussion, the European Parliament adopted its Common Statute for its Members in 2005. Prior to this reform, the remuneration of Members of the European Parliament (MEPs) was aligned to the salary of each national parliament. A Common Statute replaced co-existing national provisions by a single Statute and thus a single salary.

Being part of a larger research project on the remuneration of public officials, the research question for this work has been derived from past analyses of national debates on civil servants remuneration. Not only are there vast national differences in what is considered an appropriate remuneration, but the related discourse is based on an “implicit understanding of the nature of public service and a set of values implicit in the political culture”². The same applies to the Member States of the European Union. In 1999, for instance, an Italian Member of Parliament earned the equivalent of 9,975.74 € per month, while their fellow colleagues from Finland received 3,361.06 €³. These considerable differences cannot merely be reduced to varying levels of purchasing power. Member States are characterised by quite different political cultures, at least regarding the remuneration of public officials. Rothley’s statement seems to presuppose that a common salary can be determined “unequivocally”. In light of the apparent differences in political culture, however, the question arises how agreement is reached on a European level and which arguments are used in support of the final level of remuneration. Which normative concepts are employed in the discourse and which assumptions are implicit in the final decision?

For this purpose, the parliamentary discourse on the Common Statute for the Members of the European Parliament will be reconstructed in terms of the Toulmin model of argumentation. As the most relevant document, the primary focus will be the

1 Willie Rohley. “Adoption of a Statute for Members of the European Parliament - A5-0193/2003.” In European Union. Parliament. Debates. (June 2, 2003) (Online) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20030602+ITEM-006+DOC+XML+Vo//EN&language=ET>

2 Dekker, *Paying the Public Sector Handbook*, p. 2.

3 See appendix 1

Recommendation of the Group of Eminent Persons; the ‘wise men’ Rothley refers to. In the process of reconstruction, not only the existing arguments have to be framed within the logical structure set by Toulmin, but missing elements will be carefully reconstructed. Once the argument is framed in a logically valid form, each element can be checked for its truth-value and thus the soundness of the argument as such. Does the argument justifying the final political decision actually ‘make sense’? The rationale behind this analysis is the belief that political positions need to be argued for. Once an argument becomes explicit, proponents and opponents can locate and thus discuss where exactly they disagree – and vice versa.

To set the context for the more technical argumentative analysis, the Common Statute for the Members of the European Parliament will be introduced with its historical background. In the following methodology section, the Toulmin model of argumentation will be explained briefly. The main part consists of an argumentative analysis of “The Recommendation of the Group of Eminent Persons”, the most important document in the context of the Common Statute. The arguments will be reconstructed and evaluated separately. The paper concludes with a resume and critical evaluation of the findings.

II Historical Context

Within the institutional structure of the European Union, the European Parliament (EUP) is the only organ, which is directly elected by the citizen of the Member States. Originating from the ‘Common Assembly’ of the European Coal and Steel Community (ECSC), the remuneration of MEPs used to resemble that of a parliamentary assembly. Since parliament’s first direct election of June 1979, MEPs received the same salary as Members of their national parliaments. In addition to a basic salary, which was provided by the Member States, expenses related to the parliamentary office were reimbursed from the Community budget. In the years the follow, the nature of the European Parliament changed with its increasing powers as a genuine co-legislator and progressive European integration, so that the original coexistence of national and Community provisions was conceived as more and more problematic.

First of all, the lack of a common Statute resulted in legal insecurities with regards to immunity as well as the responsibilities and duties of MEPs. Slowly departing from the idea of an assembly, the discrepancy in salary within one and the same parliament, moreover caused unease. With the Southern enlargements of 1981 and 1986, salaries further diverged, with those MEPs living furthest away from Brussels, receiving the smallest amount⁴. With the growing power of the European Union, living costs in Brussels increased while plans towards further Eastern European enlargement would have led to an ever bigger gap between MEP salaries⁵.

The 1990s were characterized by a scandal on travel expenditures. Without a Common Statute, only ambiguous regulation on the reimbursement of costs existed. MEP could reimburse a first class ticket, while flying on a special Ryanair offer. The public reacted to the scandal in an outcry about the “decadence” of the new European elite⁶. In response, the misuse was not only explained in terms of insufficient regulation, but clearly related to the discrepancies in remuneration. Two arguments were used. Either, the lowest salaries

4 See appendix 1

5 Group of Eminent Persons, “Recommendation of the Group of Eminent Persons on the Statute for Members”, European Navigator, <http://www.ena.lu/> (03.05.2010)

6 For reactions to the same scandal in 2005 see for instance Hoeren, Dirk: Im Namen des deutschen Steuerzahlers. EU Abzocker! Was antwortet ihr auf diesen Brief?, in Bild, 30.03.2004, http://www.bild.t-online.de/BTO/news//2004/03/30/eu_abzocker.html. (10.12.2005)

were claimed to be inadequate for sustaining life in Brussels, so that travel expenses had to be misused as a source of additional income. Alternatively, the divergent salaries were supposed to morally justify an approximation through alternative sources of income.⁷ It can be summarised, that the quest for a Common Statute of Members took place within the context of a growing dissatisfaction of the European public with its only directly elected organ.

Despite continuous attempts by parliament, a legal basis for a Common Statute was only created with the 1997 signature of the Treaty Amsterdam. In September 1998, Parliament authorized the Committee on Legal Affairs and Citizen's Rights to draft a Statute for the Members of the European Parliament. The German Social democrat Rothley was appointed as the responsible rapporteur. A resolution on a common Statute was adopted by a large majority on 3 December 1998. Already at this point, an exact determination of a common salary was delegated to "independent experts" which were "to assess, on the basis of objective criteria, the work of a Member of the European Parliament" in order to arrive at a definite amount of an adequate salary⁸. This external organ was created by the European Parliament in 2000. The Group of Eminent Persons⁹ was commissioned to conduct a report on the issue of a Common Statute.

With direct reference to the "expert opinion", Parliament finally adopted a Statute in June 2003, which was however rejected by the Council¹⁰. The official response not only criticises several details of the arrangement but also the level of the proposed basic salary. The 2003 text envisaged a remuneration of 50 percent of a judge's salary at Court of Justice of the European Communities. After a period of reconciliation, the European Parliament adopted a single Statute for its members on 28 September 2005. Since the 7th European Parliament

7 See Hans Herbert von Arnim, "9.053 Euro Gehalt für Europa-Abgeordnete?" Spiegel, <http://www.spiegel.de/media/0,4906,3687,00.pdf>. (14.03.2010)

8 European Parliament, Resolution on the draft Statute for Members of the European Parliament (3 December 1998): A4-0426/98, in Official Journal of the European Communities (OJEC). 21.12.1998, No C 398, p. 24. Paragraph 2.

9 comprising Mr Ersbøl, former Secretary-General of the Council, Mr Klepsch, former President of the European Parliament, Mrs Rehn, former minister, former MP and former MEP, Mr Secchi, former Member of the European Parliament, former Senator and former Vice-President of Bocconi University in Milan, Mr Subirats, former Senator and former longest serving member of the Court of Auditors, and Lord Williamson, former Secretary-General of the Commission and member of the House of Lords.

10 European Parliament resolution on the adoption of a Statute for Members of the European Parliament (4 June 2003): P5_TA(2003)0241, in Official Journal of the European Union (OJEU). 18.3.2004, No C 68 E, p. 210.

of 2009, MEPs receive 38.5 percent of a European judge's basic income. The salary is paid from the community budget and subject to Community tax¹¹. Up to the year 2019, MEPs are, however; free to continue to align remuneration to their national parliament.

¹¹ Decision of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (2005/684/EC, Euratom), in Official Journal of the European Union (OJEU), 7.10.2005, No L 262, p. 1.

III Methodology

To identify the normative assumptions behind the European Parliament discourse, empirical statements from the debate will be first reconstructed in the Toulmin model of argumentation and then critically evaluated. This methodology is especially fruitful for the purpose of the research question, as the Toulmin model serves to organize ordinary language into a logical framework.

Toulmin distinguishes between a formal argumentative model and everyday language¹². In the latter, some elements that are required for a formally correct argument remain implicit. An evaluation, however, requires that implicit assumptions are made explicit. This paper will identify the logically missing elements that will be carefully reconstructed. The Toulmin model consists of six elements. Each argument has a *claim*, an argument's proposition. A claim is usually supported by some evidence, the *data*. To make an argument deductively valid, a third element, the *warrant*, links the data to the claim. This element of the Toulmin model remains most often unstated and implicit. According to Verlinden "receivers may accept the argument as reasonable when, if the warrants were stated, the reasoning wouldn't seem as strong"¹³. The warrant can be supported through the fourth element, the *backing*. In complex arguments, the backing may in itself be a sub argument. Though not originally envisaged by Toulmin, critics have proposed a further support for the data; the *verifier*. Also mostly not explicitly stated, the fifth element of the Toulmin model is a *modal qualifier*. The qualifier states the degree to which warrant and data relate to the claim, such as "sometimes" or "most of the times". The last element is the *possible rebuttal*. It can be argued that a specific claim holds except when X happens or unless Y holds.

During the process of reconstruction, in principle, two difficulties arise: An argument can be reconstructed in such an abstract way, that the participant's of a debate can no longer identify with the formalised form of their own argument. A reconstruction which is very empirical and close to the original argument, on the other hand, lacks abstraction and thereby fails to make the implicit explicit. It is equally clear, that there exists no one true way of reconstructing missing elements. In the following, empirical elements and those

12 Jay Verlinden, Verlinden, Jay. *Critical Thinking in everyday Argument* (Belmont: Wadsworth Publishing, 2004)

13 *Ibid.*, p. 80.

which have been reconstructed will be clearly identified and distinguished. In the latter case, a particular choice will be justified.

In a national context, implicit and explicitly stated values can be checked for their truth value in contrast to the political culture. This method cannot be applied to the politically even more heterogeneous European Union. The following analysis will therefore primarily focus on the truth-value of factual statements, unstated counterarguments and contradictions within the argument.

IV Analysis

Recommendation of the Group of Eminent Persons

Due to the complex nature of the debate as well as the difficulties posed by the methodology used, this analysis will focus on a single document. The Recommendation of the Group of Eminent Persons will be taken as the key empirical source to be phrased in terms of Toulmin. In the process of reconstruction and the final evaluation, Parliamentary debates will be consulted to account for the wider political discourse.

Relevance of the Document

The recommendation by the Group of Eminent Persons is relevant for the following reasons:

- 1 An external analysis was already demanded in the first resolution to a Common Statute in 1998. Thus, from the very beginning of the discussion, the responsibility to declare and *justify* the height of a common salary was transferred to an organ external to the European Parliament.
- 2 As a result, the document is one of the few instances, where the proposed level(s) of remuneration are supported with an argument.
- 3 The document is repeatedly referred to, in both parliamentary debates as well as the relevant legislative documents. What appears striking is the way in which the proposal is seen as independent and objective. In 2003, for instance, rapporteur Rothley declared that he “believe[s] there to be no *objective* argument against what it [the group of eminent persons] has produced”. Our proposal has been “unequivocally confirmed by the wise men, from whom we received clear guidance”¹⁴.

14 Willie Rohley. “Adoption of a Statute for Members...”

- 4 Especially the last sentence proves that parliament's proposal of 2003 is heavily influenced by the Group's recommendation¹⁵. A member of the Committee on Legal Affairs even puts it more clearly: "we were essentially guided by the instructions that we had been given by the experts and wise men that Parliament had mandated."¹⁶ Likewise, the proposal of 2003 clearly states in paragraph 38 that the proposed salary "falls well within the range which the experts deemed appropriate."¹⁷
- 5 Parliament adopted the 2003 proposal but was forced to lower the proposed salary after the rejection of the Council. The lower salary of the final Statute of 2005 is, however, also clearly derived from the Group's recommendation¹⁸.

It is thus reasonable to restrict the argumentative analysis to the Recommendation of the Group of Eminent Persons and its two main claims on the remuneration of MEPs:

C1: All MEPs should be paid the same

C2: All MEPs should be paid the average of the MP remuneration in the four largest Member States.

15 The Group of Eminent Persons proposes that MEPs should be paid the average remuneration of the four largest Member States, which leads to a remuneration of 7420€. The group suggests an established and well-functioning method in order to update annually the Members' gross parliamentary allowance, such as the method which is applied to the salary of European Union civil servants. The 50 percent of the salary of Court of Justice of the European Communities proposed in the 2003 draft falls within the amount suggested by the Group.

16 Lehne. "Adoption of a Statute for Members of the European Parliament - A5-0193/2003." In European Union. Parliament. Debates. (June 2, 2003) (Online) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20030602+ITEM-006+DOC+XML+Vo//EN&language=ET>

17 European Parliament. Resolution on the adoption of a Statute...

18 After the Council rejected the draft the current system of remuneration constitutes a compromise. The linkage the basic salary of a judge at the Court of Justice of the European Communities remained, while the percentage of income is lowered to 38.5 percent – the equivalent of 7000EUR. No document, which is available online gives any hint to the conclusion that the lower amount was inspired by a different rationale. Based on the 2003 Statute, a lower remuneration was agreed upon in a political compromise with the Council.

Claim 1: All MEPs should be paid the same

The Group gives two different arguments in support of a common salary for all MEPs: The existing disparities in salary were contrary to the principle of “equal pay for equal work”. Moreover, the coexistence of national provisions was “damaging to transparency”¹⁹. These two different justifications will be referred to as the “equality argument” and the “transparency argument” (for an overview of the entire claim see appendix 2).

The equality argument

Throughout the entire debate, in the media, as well as in the European Parliament, “equal pay for equal work” is probably the most commonly cited principle in support of the Statute. The argument can be formalised as follows:

D: All MEPs do the same work

W: Equal pay for equal work

C: All MEPs should receive the same basic salary

Before warrants and data can be elaborated further, the concept of ‘equality’ needs to be further defined. First of all, equality is to be distinguished from identity. To state that something is equal does not entail that something is identical. The case of MEPs is very clear. Each Member is elected according to her national election system and represents people from different EU Member States. All MEPs are, however, equally Members of the European Parliament. To assert that all Members are equal indicates the correspondence of some qualities in at least one, but not all respects²⁰.

Furthermore, descriptive and prescriptive statements about equality have to be distinguished²¹. To state that all MEPs do the same work is descriptive. ‘Equal pay for equal work’ in contrast, is a normative statement. A principle – equal pay – *ought to* apply to a specified group, namely those who do equal work. Prescriptive statements about equality are normative in two respects. On one hand the prescribed rule or principle is intrinsically

19 Group of Eminent Persons, Recommendation of the Group

20 See Stefan Gosepath. “Equality”. Stanford Encyclopedia of Philosophy. 2007. <http://plato.stanford.edu/entries/equality/> (accessed June 10, 2010)

21 Felix Oppenheim, “Egalitarianism as a Descriptive Concept,” *American Philosophical Quarterly*, 7 (1970): 143-152

normative. In addition, the specification of the group to which the rule is to apply is itself a normative selection. In the given example the rule should only apply to those who do equal work. All MEPs should receive the same salary, because they do the same work and equal work ought to be rewarded in the form of an equal payment.

D: All MEPs do the same work

If equality has to be distinguished from identity, the question arises in which respect the work of all MEPs is equal. The Group's recommendation contains various arguments against the claim that all MEPs do the same work, at least if measured in terms of quantity and quality. The primary reason for this assertion is the 'geographical factor'. While some MEPs, for instance from Belgium, only face a limited amount of travel between their constituencies, Brussels and Strasbourg, an MEP from Greece faces considerably more difficulties. This difficulty is explicitly referred to in the recommendation document. While travel time is estimated to surmount to around 27 days per year, "this average may be higher in cases where Members in view of their point of departure in peripheral regions spend considerable travel time to and from Parliament's different working places."²² The absence of a common electoral system results in further discrepancies in MEPs workload. Every MEP has to maintain contact with their electorate. The associated workload is considerably higher in those Member States that "operate a constituency-based system with, in some cases, very large constituencies and with particularly demanding electoral procedures"²³. It follows, that 'equal work' cannot be defined in terms of workload and inconvenience, if the argument is to hold.

The recommendation states that "it needs to be stressed that the characteristics of parliamentary office are the same for all Members, irrespective of the electoral system used in their countries. They all carry out the same parliamentary work in accordance with the rules governing the way in which Parliament operates."²⁴ Consequently, the concept of 'equal work' is defined in terms of office. A work is equal if it is done under the same work description. This line of thought can be formally expressed as a verifier.

22 Ibid.

23 Ibid.

24 Ibid.

Verifier:

D: All MEPs hold the same office
W: Equal work is defined through office

C: All MEPs do the same work

Evaluation of Data

The verifying data is obviously true. All MEPs are equally Members of the European Parliament. To define equal work in terms of office is a normative specification of the group of people to which the principle of “equal pay for equal work” should apply. The Group’s definition has important implications for the entire argument, not only on a Common Statute but also the determination of the exact level of remuneration.

During the 1998 debate on the draft Statute, MEP Sierra Gonzalés addressed the crucial point very concisely: “One must be borne in mind that in some Member States, implementation of this method will result in the return of inequalities between Members of the European Parliament and Members of National Parliaments”²⁵. The intuitive counterargument against a single salary refers to the equality between, for instance, a Spanish MEP and a Member of the Cortes Generales. Even the Group’s recommendation stresses the large variation in the workload between MEPs from different Member States. In parliamentary debates, opponents to a single salary have repeatedly claimed that MEPs do the same work as Members of their national Parliament and should therefore be paid a similar basic salary. This counterargument can be formalized as:

D: MEPs do the same work as Members of their national Parliament (s)
W: Equal pay for equal work

C: MEPs should be paid the same basic salary as Members of their national Parliament(s)

The Group’s recommendation argues that MEPs share equal quality X and should therefore be compensated equally. Yet, the specifying quality is office and not nationality or workload.

²⁵ Sierra Gonzalés “Debate on Rothley Report A4-0426/98”. In European Union. Parliament. Debates. (December 2, 1998) (e-mail to author from DG1 Archives CARDOC, 22.03.2010)

Once equal work is defined in terms of office, any counterargument that employs the principle of ‘equal pay for equal work’ between representatives of the same country - be it at the national or supranational level – does not hold. Likewise, the employed definition forecloses an application of the equality principle between MEPs and comparable positions in the private sector. One could define equal work through workload and thus come to the conclusion that MEPs should be paid the same as positions of comparable workload in the private sector. Both, a reference to national MEPs and the private sector, however, would not lead to a common salary. Throughout the European Union, the levels of GDP as well as conceptions about distributive justice differ. A Polish high income earner receives less, in absolute terms, than a Swedish employee in a comparable position. The same applies to the remuneration of public officials. If the desired system should be a common salary, equal work has to be defined in terms of office.

W: Equal pay for equal work

The principle of “equal pay for equal work has to be understood in the definition of the data. Even though the warrant is a direct quote from the Group’s recommendation, no explicit justification for the principle is given, except that the ideal was one of the “basic concepts of the European Union”²⁶. Usually, the slogan is employed in anti-discrimination law. In this context, it is also part of the 1957 Treaty of the European Economic Community²⁷. On the issue of ‘gender equality’, article 141 states that ‘each Member State shall ensure that the principle of equal pay for male and female workers for equal work or work of equal value is applied.’

As a backing for the legal principle, European law professor Noreen Burrows claims that:

“We live in Europe in capitalist, market economies where the issue of value or worth is often expressed in economic or financial terms. Failure to accord equal pay in such a society exposes a real sense that women are undervalued in what they do.”²⁸

26 Group of Eminent Persons, Recommendation of the Group

27 Treaty Establishing the European Economic Community, Mar. 25, 1957, 298 U.N.T.S. 11, 1973 Gr. Brit. T.S. No. 1 (Cmd. 5179-II) [hereinafter EEC Treaty] in *Treaties Establishing the European Communities* (EC Off ‘I Pub. Off.)

28 Noreen Burrows, “Equal Pay for Equal Work: The Impact of European Law draft.” <http://ec.europa.eu/education/programmes/llp/jm/more/configendero3/burrows.pdf> (accessed June 6, 2010) 2.

Applied to the situation of MEPs, one can assert that an unequal payment of MEPs would result in a real sense that the work of MEPs of certain nationality is valued less than the work of other high-paid colleagues.

Backing A

D: In (social) market economies, value is expressed in monetary terms

W: The equal work of all MEPs should be valued equally

C: equal pay for equal work

Backing A, is not directly derived from the debate on a common Statute. Yet, the idea that the differences in salary are felt or experienced as a difference in value is implicit in many “equal pay for equal work” arguments. One example is a statement by the Christian Democratic MEP Gargani, asserting that “equal treatment is necessary to avoid the psychological effects of there being first and second class MEPs.”²⁹ Because some MEPs receive a higher remuneration, Gargani assumes that they are seen, or see themselves as first class.

Gargani's reference to the fact that unequal payment can be seen as an unequal treatment leads to an alternative backing B. The Group of Eminent Persons argues that the existing disparities between the remuneration of MEPs were “contrary to the principle of equality between Members”³⁰. Again it is crucial to define who should be treated equal and in which respect. As has already been defined in the data, MEPs are not equal, but equally hold the same office. In their equal function, MEPs should thus be treated equally. An offset against this requirement could be seen as a form of discrimination on the basis of nationality. On this matter EU-discrimination law states that “direct or indirect discrimination based on racial or ethnic origin” is forbidden in the European Union.³¹ This second backing can be formalised as:

29 Gargani. “Adoption of a Statute for Members of the European Parliament A5-0193/2003.” In European Union. Parliament. Debates. (June 2, 2003) (Online) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20030602+ITEM-006+DOC+XML+Vo//EN&language=ET>

30 Group of Eminent Persons, Recommendation of the Group

31 See, for instance Directive 2000/43/EC

Backing B:

D: The principle of equal treatment implies that equal work is paid equally

W: MEPs should be treated equally

C: equal pay for equal work

Evaluation of Warrant:

Regarding the first backing of the principle “equal pay for equal work” it has to be emphasised that it is only very implicit to the Group’s argument.

The data of the first backing can be accepted as true. All Member States of the European Union are (social) market economies, with a varying degree of state interference. This implies that in principle, value *tends to be* translated in monetary terms. Likewise, it seems to be coherent with the idea of the European Union, that equal work should not be valued differently. If this backing is accepted, however, it follows that the work of MEPs is valued differently than the work of national MPs. A common salary inevitably implies that MEPs and national MPs will receive quite different salaries. Based on the argument’s backing, that value tends to be expressed in monetary terms, the work of MEPs and their national colleagues will be valued differently.

This implication becomes even more apparent in the second backing. Again, data and warrant can be accepted. In their function MEPs should be treated equally and this implies that an equal work is also equally paid. The Group considers it essential to guarantee the equal treatment of all MEPs. Since the same does not apply to MEPs as compared to national MPs, it follows that the two are seen as belonging to a different and thus not directly comparable category. In the plenary debates on the Statute, eurosceptic and nationalist MEPs have come to the conclusion that the very idea of a common remuneration is federalist in tendency³². That might be a very strong conclusion, yet the Group’s equality argument is heavily based on the assumption that the European Union is a fundamentally different organ than any national parliament.

The reference to anti-discrimination law, which is present in backing B, can be further criticized. Against the Group’s definition that identifies the primary equal quality of

³² See for instance the Dutch Member of the Group of Independents for a Europe of Nations Van Dan (I-END) in the 1998 debate: “Having a Community statute may nurture the idea that Parliament represents one people. But the European Union is made up of a rich diversity of different peoples. We are elected by the people of our own nation and must also bear in mind our national interest”

MEPs in their equal office, an alternative definition of equal work also leads to a different conclusion about equal treatment. An unequal treatment of MEPs is clearly different from racist or sexist discrimination in one and the same job. While it can well be argued that MEPs are elected according to different election systems, or simply that their salary should be related to the income of those they represent, sexism is sexism precisely because unequal treatment lacks objective grounds.

Also the warrant ‘equal pay for equal work’ only functions within the Group’s definition of ‘equal work’. At the same time, the European Parliament is assumed to be a fundamentally different organ than any national parliament.

What is equal pay?

Just as ‘equal work’ needs further elaboration, so does the concept of ‘equal pay’. In their recommendation, the Group discusses the following, possible rebuttal:

D: All MEPs do the same work

W: Equal Purchasing Power (PP) for equal work

C: All MEPs should receive the same Purchasing Power

It could be argued that paying each MEP a similar basic salary does not create equality in pay, as a similar absolute amount has a different Purchasing Power in each Member State. MEPs do have to spend time in Brussels, at the same time, their families and MEPs themselves often live in their home countries³³. Precisely due to this consideration, the salary of EU civil servants is adjusted to the actual living cost in their place of residence. In addition to creating equality, an adjustment to PP would narrow the gap between MEPs remuneration and comparable positions in the public and private sector of Member States. While admitting the merit of an adjustment to PP, the Group rejects the mechanism, as remuneration required “maximum clarity”³⁴, which was not guaranteed if salaries were adapted to PP. This argument can only be reconstructed with reference to the Group’s second in favour of a common salary; the transparency argument.

33 The Group identifies 38 exclusive constituency days in 2000

34 Group of Eminent Persons, Recommendation of the Group

The Transparency Argument

Within their recommendation, the Group sets up a list of criteria according to which their own proposal ought to abide. The text related to the Statue should be transparent, meaning “readily accessible” to the general public and the Statute itself should be comprehensible, defined in terms of the ability of an “average member of the public [...] to understand without difficulty how the system operates and what it entails.”³⁵ This definition of ‘transparency’, contradicts the Group’s earlier use of the concept in stating that the existing disparities between the remuneration of MEPs were “damaging to transparency”. It makes no sense to understand ‘transparency’ as making documents “readily accessible” in this context. Therefore, it will be assumed that the Group, in fact argues that the coexistence of national provisions were not comprehensible.

On the adoption of remuneration to PP, the Group rejects the mechanism due to the requirement of “maximum clarity.”³⁶ Since the existing disparities are discarded as incomprehensible, a similar reasoning can be applied to an adjustment to PP. The Group’s counterargument against PP-adjustment can thus be formalised as:

D: Paying all MEPs an equal Purchasing Power is not comprehensible.

W: Remuneration should be comprehensible

C: MEPs should not receive the same Purchasing Power

Formulated positively, this reasoning leads to the transparency argument in favour of a common salary.

D: A common basic salary is comprehensible.

W: Remuneration should be comprehensible

C: All MEPs should be paid the same

The relationship between the equality argument and the transparency argument can be seen in Appendix II. The principle of “equal pay for equal work” only applies *as long as* the resulting system is also comprehensible. While it could well be argued that true equal

35 Ibid.

36 Ibid.

pay is only reached through an adaptation of salaries to PP, this is rejected for the sake of comprehensibility. Taking a closer look at the ‘transparency argument’, both data and warrant need further justification.

D: A common basic salary is comprehensible.

While the warrant is explicitly stated in the document, the data is only implicit in the Group’s rejection of the current, ‘incomprehensible’ system. In addition, the Group does not give any argument in support. Why is a single salary comprehensible, while heterogeneous salaries are not? A unified system could be seen as more comprehensible due to its simplicity. Likewise, it can be assumed that the average member of the public is able to understand a simple system. This reasoning can be reconstructed as a verifier:

D: Paying all MEPs the same basic salary is simple.

W: A simple regulation is understood without difficulty by the average member of public

C: A common basic salary is comprehensible.

Evaluation of Data:

The given, reconstructed argument, can be accepted. A common salary is indeed a very simple system and it is reasonable to assume that an average member of the public will be able to understand this system. It is not entirely clear, however, why both, the existing disparities between Members and an adjustment to PP should not be comprehensible. It has to be stressed, that any conclusion about what an average member of society can understand (or not) is highly dependent on one’s conception of that average person. Can the average member of the public understand that and how salaries are adjusted to PP? The answer strongly depends on one’s optimism. If simplicity, however, is taken as a marker for comprehensibility, it is as well a very simple arrangement to pay MEPs the same salary as Members of their national parliament(s). Similarly, it can be assumed that an average member of the public is able to understand the formula: MEPs and MPs get the same; all additional costs are reimbursed. The data supports the claim, yet does not successfully argue against the alternative option.

W: Remuneration should be comprehensible

The warrant of the transparency argument states that remuneration should be comprehensible. This formulation is almost a direct quote from the document; yet no

explicit argument is given as its backing. At a different part of the document, which will be discussed in the first section on claim 2, the Group proposes that the proposed level of remuneration should be considered adequate by the citizens of Europe.

Without understanding what is to be judged, one can still approve or disapprove. One can approve blindly or by guessing the incomprehensible content. One can also come to a negative judgement about the fact that a policy is incomprehensible. Yet, comprehension is the precondition for any informed judgement.

D: Comprehensibility is a precondition for informed judgement

W: Citizens should be able to make an informed judgement about the proposed policy

C: Remuneration should be comprehensible

The normative statement that citizens should be able to make an informed judgement about the proposed policy can be supported with reference to political legitimacy. This can be formalised as:

D: Support for the remuneration of MEPs is one important aspect of the legitimacy of the EUP

W: The EUP should be legitimate

C: Citizens should be able to make an informed judgement about the proposed policy

For this purpose, it has to be established how informed judgement about the Common Statute is relevant for the legitimacy of the European Parliament and why the European Parliament ought to be legitimate.

Why the EUP should be legitimate

Before the warrant can be further elaborated, it is important to clearly define the relationship between authority, legitimacy and obligations³⁷. The European Parliament

³⁷ Fabienne Peter. "Political Legitimacy." Stanford Encyclopedia of Philosophy. 2010. <http://plato.stanford.edu/entries/legitimacy/> (accessed June 10, 2010).

has the legal right to exercise power over the lives of citizens, for instance by introducing mandatory breaks for lorry and coach drivers, as has been the case in 2007. Depending on one's definition of authority, one can come to two different conclusions on the role of legitimacy: In its broadest normative interpretation the legitimacy of an institution explains both, its right to exercise power and the consequent moral obligation to follow this rule³⁸. In case of the European Parliament, the illegitimacy of the institution would make its exercise of power unjustifiable. As a result, EU legislation would entail no obligation to obey. While EU regulations are directly applicable after they have been passed, directives, for instance, require Member States to meet certain targets. If the European Parliament, as one institution involved in the legislative process, is considered illegitimate, Member States would have a weaker obligation to implement legislation. In this sense, legitimacy creates political authority. This can be formalised as the backing:

D: An illegitimate EUP lacks political authority
W: The EUP should be able to exercise political authority

C: The EUP should be legitimate

Alternatively, legitimacy can be limited to the moral justification, as compared to the creation of authority³⁹. The Soviet Union was de facto able to exercise authority over the Member States of its Union, yet thus authority was hardly considered legitimate. According to this view, authority can exist without being legitimate, yet only legitimate authority has the right to rule and creates political obligations. This can be formalised as the alternative backing:

D: An illegitimate EUP can only exercise de facto authority but not legitimate authority
W: The EUP should only exercise legitimate authority

C: The EUP should be legitimate

38 See for instance John Rawls. *Political Liberalism*. 1971. Cambridge: Harvard University Press.

39 See for instance Joseph Raz. *The Morality of Freedom*. 1986. Oxford: Oxford University Press.

Why support is important for the legitimacy of the European Parliament

The remuneration of MEPs is linked to legitimacy due to the following reasons. The European Parliament is the only democratically elected organ of the European Union. In the decision-making process of the European Union, its democratic nature gives the voice of the EUP an additional moral weight. Neither the fact that an institution has formally elected Members, nor a remuneration system alone can establish the legitimacy of an institution. Public support for a remuneration system is not a sufficient, yet a necessary criterion for the legitimacy of an institution. The legitimacy of the entire European Parliament suffers if citizens believe that MEPs' salaries are considerably too high or too low. To illustrate the case let us assume that MEPs would receive the exorbitant salary of 1,000,000€, annually. It is reasonable to assume that most EU citizens consider this too high. The same applies to the opposite case, to refrain from any monetary compensation. In both cases, citizens would not only be discontent with the salary of MEPs, but also question politician's ability to carry out their duties successfully. "Can such a low salary guarantee that not only rich people can become MEPs? Are MEPs more prone to be corrupted if salaries are low?" In the opposite case, one could fear that politicians are primarily motivated by the level of remuneration or would lose any relation to the people they are supposed to represent.

It has to be stressed that all these examples are strongly determined by one's conception of justice or, for instance, corruption. All examples have in common, however, that a salary is subjectively perceived as inadequate because it is believed that MEPs are no longer, or at least less, able to carry out their duties successfully – under the given financial conditions. As a result, no political obligation can follow from the decisions made by MEPs who are not fulfilling their duties. This argument can be formalised as:

D: If one does not support the remuneration system, one questions whether MEPs can carry out their duties successfully

W: It is necessary for the legitimacy of the EUP that its Members are (believed) to be able to carry out their duties successfully

C: Support for the remuneration of MEPs is necessary for the legitimacy of the EUP

Evaluation of claim 1

The Group's first claim has several weaknesses. The entire argument is based on the assumption that 'equal work' is defined through office. Parliamentary debates show that most critics to the Statute implicitly rely on a different understanding of the same concept. In the Group's definition, it is impossible to argue that MEPs do the same work as comparable positions in the private sector or national MPs. Bearing in mind that the Group's definition is essential to the entire argument alternative definitions are not sufficiently refuted.

While a common salary is demanded in the name of equality, true equality of pay is rejected as incomprehensible. The Group seeks citizen's support for the proposed policy, yet the precondition for support is prioritised over the actual content of the policy. In addition, it is not clear why an adjustment to PP should not be comprehensible.

Claim 2: All MEPs should be paid the average of the MP remuneration in the four largest Member States

In claim 1 it was argued that all MEPs should be paid the same basic salary. The Group's second claim now refers to the amount of salary which is considered adequate. Three conflicting criteria (1, 2 and 3) are laid down, according to which the proposed level of remuneration should correspond. First of all, the average remuneration of all European Members of national parliaments should be the basis of comparison. Secondly, MEPs should receive more than that average; and finally, MEPs should not face a cut in their salary. The proposed amount of the average remuneration of the four largest Member States represents a compromise between those three criteria.

This argument can be formalised in the form of:

D: 1, 2 and 3 are met in the average of the parliamentary remuneration in the four largest Member States

W: 1, 2 and 3 should apply to the remuneration of MEPs

C: MEPs should be paid the average of the parliamentary remuneration in the four largest Member States

In the following, criteria 1, 2, and 3 will be formally reconstructed and evaluated separately.

Criterion 1: The average should be the basis of comparison

Within the Group's elaboration, the EU-average enters the line of argument twice. First of all, the

Group's investigation on the adequate level of remuneration begins with a critical discussion of the average salary of all MPs in EU Member State parliaments. This amount is rejected as too low for two reasons. First of all, it is argued that MEPs deserve a higher remuneration as compared to national MPs; secondly, the average is rejected as it inevitably implies a cut in the salary of those MEPs who currently receive an above average remuneration. No explicit argument, however, is given on why the EU-average should be the starting point of discussion (see appendix III).

The rationale behind 'criterion 1' can only be derived from the Group's final decision. The average salary of the four largest Member States⁴⁰ is not only considerably higher than the simple average so that few MEPs face a pay cut⁴¹ but at the same time, some reference to a quality of the simple average is maintained. The Group emphasises the fact that the four largest Member States represent more than 50 percent of the EU population in 2000. Following the same logic, the EU average has been taken as a starting point because all Member States represent 100 percent of the EU population.

A similar reasoning can also be found in a 1998 parliamentary debate. Rapporteur Rothley declares that "the average is a token of our respect for the democratic decisions of national parliaments"⁴². It seems that the average of democratically made decision is assumed to lead to an amount which is in itself democratically supported. This reasoning can be formulated in the Toulmin model:

Justification A

D: The average level of remuneration is considered adequate by the citizens of the EU

W: The level of remuneration should be considered adequate by the citizens of the EU

C: The average should be the basis of comparison

⁴⁰ defined in terms of population

⁴¹ the four largest Member States Germany, the UK, France belong to the five Member States that pay the highest salary (see appendix 1)

⁴² Willie Rothley "Debate on Rothley Report A4-0426/98". In European Union. Parliament. Debates. (December 2, 1998) (e-mail to author from DG1 Archives CARDOC, 22.03.2010)

In this formalisation, both warrant and data need further support.

D: The average level of remuneration is considered adequate by the citizens of the EU

The claim that the average level of remuneration is considered adequate by the citizens of the EU can be verified with Rothley's statement about the democratic nature of national decisions. If national systems of remuneration have been established by the 'democratic decisions of national parliaments', they are supported by the citizens of the respective Member State. The only way this assumption leads to the conclusion that citizens therefore also support the average level of remuneration is the following warrant: If citizens support the level of remuneration in their country, they will also support the EU average. This argument can be reconstructed as the following verifier:

Verifier for D1:

D: The citizens of MS consider the level of their MP remuneration adequate

W: If citizens consider the level of remuneration in their country adequate, the same applies to the EU average

C: The average level of remuneration is considered adequate by the citizens of the EU

This argument apparently does not make sense. The warrant is simply false. Imagine two politicians, A and B. While A supports a strong state and thus a high level of taxation, B believes that taxation is illegitimate and should be as low as possible. Each proponent strongly supports their respective claim, but is it therefore equally true that they also support the average of both positions, namely a medium level of taxation? It is extremely difficult to argue that just because the four largest Member States represent more than 50 percent of the EU population, the majority of EU citizens consider the average remuneration adequate as well. There *might* be support for the proposed level, but there is no causal relationship between the assumption that citizens support the national levels individually, and the conclusion that citizens support the proposed average level.

In addition to the problems of the warrant, the data "The citizens of MS consider the level of their MP remuneration adequate" is equally difficult to sustain. Based on Mr. Rothley's statement about democratic decisions of national parliaments, the following verifier of the verifier can be reconstructed:

Verifier of the Verifier:

D: The level of remuneration has been democratically decided by national parliaments

W: Democratic decisions by national parliaments are considered adequate by the citizens of the state

C: The citizens of MS support the level of remuneration in their country

First of all, there are vast differences in the way Member States of the European Union decide about the remuneration of their parliamentarians, so that it cannot univocally stated that democratically elected parliaments decide the level of remuneration. Moreover, one cannot assert that democratic decisions by parliaments are *always* supported by citizens. The 2010 financial crisis gives numerous examples of very unpopular democratic decisions on budget cuts or banking rescue packages, for instance, which were not at all considered adequate by citizens. To save the argument, the warrant could be formulated a bit weaker: Parliamentary decisions on MP remuneration *tend to* be supported by many citizens in the long-run.

Irrespective of whether one can claim that citizens somehow support their national remuneration system, it is impossible to derive a support for the average of individually supported systems from the support for those systems.

W: The level of remuneration should be considered adequate by the citizens of the EU

Even if the average is not a sufficient guarantee of citizen's support for the proposal, it is still important to evaluate the Group' aim, namely that the level of remuneration should be considered adequate by the citizens of the EU.

While citizen's support is repeatedly referred to throughout the debate, neither the Group's recommendation, nor parliamentary debates give any supporting argument. In reference to national debates on remuneration, it seems reasonable to consider political legitimacy as the major motivation. This argument has already been discussion in claim 1:

D1b: support for the remuneration of MEPs is one important aspect of the legitimacy of the EUP

W1b: the EUP should be legitimate

C:1b: The level of remuneration should be supported by the citizens of the EU

From the previous evaluation, it follows, that there are good reasons to assume that the European Parliament ought to be legitimate. For this legitimacy it is important that citizens consider the remuneration of MEPs adequate. The only way, the Group tries to assure that citizens support the proposed level of remuneration is by relating the proposed amount to the EU average level of remuneration. There is, however no causal relationship between citizen's support for their national remuneration systems and a support of the EU average.

Justification B

If the average should serve to assure the support of citizens, justification A fails. At the same time, however, it seems to be difficult to criticise an argument with so little empirical content. The entire argument has been reconstructed on the basis of one statement by the Group and an additional remark by rapporteur Rothley. To avoid the methodological trap of being too abstract in the reconstruction, a second attempt to support the average level of remuneration will be made.

During the parliamentary debate of 1998, rapporteur Rothley gives another argument in support of the average: "Europe cannot function if one country forces its own system on all the others."⁴³ The average can thus be seen as a means to avoid the dominance of a single Member State.

D: If one takes the average, no country forces its system on all the others

W: No country should force its system on all the others

C: The average should be the basis of comparison

This argument can be sustained without difficulties. The key word in the data is 'system'. While the average level of remuneration might correspond closely to the level in a particular Member State, the reasoning behind that particular number is not enforced upon the other Members. The European Union is both a supranational and an intergovernmental organisation. If formulated in terms of neoliberal international relations theory, any transfer of power to a supranational level is associated with costs and benefits⁴⁴. Costs

43 Willie Rothley "Debate on Rothley Report A4-0426/98"

44 See for instance Robert O. Keohane and Joseph S. Nye, *Power and Interdependence: World Politics in Transition* (Boston: Little, Brown and Company, 1977)

are especially to be found in the compromise with other sovereign States. If one State “enforces its system on all the others”, this particular state faces much lower costs, while all the others face higher costs from cooperating. In the long-run, cooperation, or in case of the European Union the cooperating institution, can only function if all participating states benefit from the cooperation. The dominance of one state threatens the balance of costs and benefits considerably.

This second attempt to reconstruct an argument in support of the average holds. While the average cannot guarantee support from citizens, no Member State enforces their political culture on the others. During the 1998 debate on the Rothley report, MEP Barzanti raised the begging question:

“Why should the average of such dissimilar amounts, for duties so different from ours, miraculously produce a fair and acceptable result?”⁴⁵

Avoiding the dominance of a single Member State can only be one criterion amongst others in finding the adequate level of remuneration. Otherwise, an equally satisfactory result could be reached through tossing the dice: also a randomly created number prevents one Member State from forcing its system on all the others. Rothley mentions democratic respect and to avoid the dominance of a single Member State⁴⁶. Indeed, the average could be interpreted as a sign of respect. It cannot, however, guarantee the support of the citizens of Europe.

45 Barzanti, “Debate on Rothley Report A4-0426/98”. In European Union. Parliament. Debates. (December 2, 1998) (e-mail to author from DG1 Archives CARDOC, 22.03.2010)

46 Willie Rothley “Debate on Rothley Report A4-0426/98”

Criterion 2: MEPs should receive more than the average

Taking the EU-average remuneration as a starting point, the Group compares the duties of an MEP with those of a national MP. On the basis of desert and incentive, it is argued that MEPs should receive more than the average level of remuneration (see appendix IV). To evaluate this argument, it first has to be established in which respect MEP duties differ from those of national MPs. On this issue, the Group of Eminent Person states that:

“The special nature of the duties of a MEP is conditioned in particular by the high frequency of parliamentary meetings, the often large size of MEPs’ constituencies, the substantially enhanced role of the European Parliament following the extension of application of the co-decision procedure, the complexity of the EU’s decision-making process, the particular demands of a multicultural and multilingual environment, the requirement of constant travel, and the necessity to follow political developments in all Member States, not just in the home State. Indeed the European Parliament is a continental parliament.”⁴⁷

This argument can be formalized in the factual statement:

EUP (a) has (x), while national parliaments in the EU (b) do not have (x).

Desert argument:

The Group’s first argument relates the differences in the work of an MEP and a national MP to desert. Because the EUP (a) has (x), while national parliaments in the EU (b) do not have (x), (a) deserves more than (b). This can be formalised in the following:

D: EUP (a) has (x), while national parliaments in the EU (b) do not have (x)
W: (a) deserves more than (b) on the basis of (x)

C: MEPs should be paid more than the Members of national parliaments in the EU

D: EUP (a) has (x), while national parliaments in the EU (b) do not have (x)

The elaborate quote on the ‘special nature’ of MEP duties lists several features which are peculiar to the nature of a parliamentary office at the EUP. A closer look at, for instance

47 Group of Eminent Persons, Recommendation of the Group

multiculturalism and multilingualism shows that the presence of X can only be meant as a rough comparison between the EUP and the national parliaments of its Member States. While the EUP is characterized by its multicultural and multilingual nature *most* national parliaments are not⁴⁸. While there are vast differences between the national election systems according to which MEPs are elected, MEPs *tend to be* responsible for larger constituencies than their colleagues in the national parliament. Probably the clearest difference between the EUP and all national parliaments is its continental nature. It can be concluded that the European Parliament has indeed several characteristics (x) which are not present in national parliaments. Whether these differences, features X, are a reasonable basis for desert can be seen in a closer examination of the warrant.

W: (a) deserves more than (b) on the basis of (x)

Any desert argument consists of a deserving subject (MEPs) a desert object (a particular level of remuneration) and a desert base⁴⁹. To claim that a specific characteristic makes (a) deserve a higher salary than (b) is based on a conception of the relationship between work and remuneration; the desert-base. The Group's recommendation contains two different arguments as a backing. First of all, being a Member of the EU-Parliament was associated with "substantial inconveniences", which in the words of the Group "also call for compensation"⁵⁰. Hence, the Group claims that costs constitute a desert-base.

Backing costs-compensation:

D: The presence of (x) is associated with costs that are not present in the absence of (x)

W: remuneration should compensate for costs

C: the presence of (x) justifies a higher salary as compared to the absence of (x) (ceteris paribus)

48 An example for a multilingual parliament is Belgium.

49 Owen McLeod. "Desert." Stanford Encyclopedia of Philosophy. 2002. <http://plato.stanford.edu/entries/desert/> (accessed June 10, 2010).

50 Group of Eminent Persons, Recommendation of the Group

Secondly, the “particular nature of MEP duties as compared with those of a national parliamentarian merits appropriate recognition”⁵¹. This statement implies that the work of an MEP is not only seen as causing more inconveniences but is also qualitatively more demanding than normal parliamentary work. The Group thus argues that the required level of qualification constitutes a desert base.

Backing B quality-reward:

D: The presence of (x) requires a higher level of qualification as compared to the absence of (x)

W: remuneration should reward the quality of work

C: the presence of (x) justifies a higher salary as compared to the absence of (x) (ceteris paribus)

Incentive argument:

According to the Group of Eminent Persons, MEPs do not only deserve a higher salary than national MPs, but the nature of office also requires a higher salary.

D: EUP (a) has (x), while national parliaments in the EU (b) do not have (x)

W: the presence of (x) requires a higher salary as compared to the absence of (x)

C: MEPs should be paid more than the Members of national parliaments in the EU

Again, the warrant needs further backing. Within a passage on the differences between the EUP and national parliaments, the Group states that “the remuneration offered should be such as to attract persons of a level of qualification that enables them to carry out these duties successfully”⁵².

51 Ibid.

52 Ibid.

Backing incentive:

D: The presence of (x) requires a higher level of qualification as compared to the absence of (x)

W: Remuneration should attract persons of a level of qualification that enables them to carry out parliamentary duties successfully.

C: the presence of (x) requires a higher salary as compared to the absence of (x) (*ceteris paribus*)

Evaluation of data:

The entire argument is heavily dependent on the assumption expressed in the original data:

EUP (a) has (x), while national parliaments in the EU (b) do not have (x)

(x) is not only associated with higher costs/inconveniences, but also qualitatively more sophisticated work, that in turn requires a higher salary in order to attract qualified personnel. Is the EUP really that different from national European parliaments? The Group elaborates extensively on those features which are characteristic to the work of an MEP in contrast to national MP. While there are indeed characteristics that are only present in the EUP, the contrary is true as well. Even though the European Parliament is increasingly involved in the decision-making process of the European Union, it can well be argued that its legislative powers are still limited as compared to the parliaments of Member States. The European Parliament for instance does not have the formal right to legislative initiative and only shares equal budgetary and legislative power with the Council in most, but not all areas⁵³.

The Group argues that the European Parliament is characterised by (x), whereas national parliaments are not characterised by (x). At the same time, however, national parliaments are characterised by (y), while the EUP is not characterised by (y). Any conclusion about the workload of an MEP in contrast to a Member of national parliaments has to be based

53 The European Parliament – An Overview, “Parliament’s Powers and Procedures”, The European Parliament, <http://www.europarl.europa.eu/parliament/public/staticDisplay.do?language=EN&id=46> (04.05.2010)

on a careful weighting between (x) and (y). The latter argument is entirely neglected by the Group of Eminent Persons, making its claim not very convincing.

Evaluation of Warrants

From this shaky basis, it is even a further step to assume that these differences deserve compensation as well as reward, and necessitate a higher salary. This becomes apparent in the case of multiculturalism. Indeed, the EUP is characterised by a much larger cultural variety (x) than, for instance the Belgian or the Spanish Parliament. Likewise, a multicultural environment requires certain qualifications that are not needed in case of a single national context. Why, however, does only a salary which is considerably higher than the average of all national Parliaments attract qualified Members? Even if the EUP is characterised by (x) and national parliaments are not characterised by (x), parts of the private sector could also be characterised by (x). The group's argument can be saved by assuming that MEPs are recruited from national parliaments, or at least that potential Members come from the same pool of people that would otherwise chose to become a national MP. In case of desert, the question is more difficult. The desert object is determined in the exclusive comparison of the EUP with national parliaments. Taking the average as a starting point, the adequate salary can only be determined in contrast to the average. The group is thus not concerned with absolute desert, but comparative desert. MEPs' salary should be adequate relative to the EU-average – and *only* to the EU average. It has to be stressed that a limitation to this particular point of reference results in a rather high salary if compared to the remuneration in other (national) parliaments.

The warrants of all three backings state the Group's normative conception of the relationship between work and remuneration, which is to compensate for costs, reward quality and attract qualified Members. It is difficult to assess whether these normative criteria are adequate within the European context. Nonetheless, it can be questioned in how far comparative desert should be strictly limited to the EU average as the only reference. At least within parliamentary debates, some Members assign additional requirements to their level of remuneration. The EU-critical Swedish MEP H el ene Goudin, for instance, stated in the debate of 2005 that "it is important for Members of the European Parliament not to be regarded as privileged elite by voters in their own countries, but for salary conditions to be reasonably in keeping with the national salary situation for equivalent positions"⁵⁴. Goudin clearly opposes the idea of a common salary

54 H el ene Goudin, on behalf of the IND/DEM Group. "Member's statute A6-0189/2005." In European

irrespective of its level and the IND/DEM party group represented a minority in the EUP. Yet, Goundin's statement hints at an important deficit of the Group's argument. In the words of the German social democratic MEP Lissy Gröner, the final statute lacks "any clear statement about what value Europeans themselves attach to the financial independence of their MEPs"⁵⁵.

In the evaluation of the Group's first criterion for the remuneration system, it has been established that the Group seeks the support of citizens, yet a reference to the average cannot guarantee that the proposed level is considered adequate. In the second criterion, it seems that the Group tries to give objective reasons for their proposed salary. Yet, again, the point of reference is the EU-average alone. To assert that MEPs have to travel a lot does not create a concrete salary. Merely comparing the duties of an MEP to that of a national MP, however does not guarantee a widely accepted amount.

Another implication of this argument follows from earlier assumptions in claim 1 ("All MEPs should be paid the same"). Though not explicitly stated within the document, it is implicit to the proclamation of "equal pay for equal work", that value is expressed in monetary terms. The disparities between MEP salaries are considered problematic precisely because a different salary could lead to the conclusion that the equal work of MEPs was of unequal worth. In the worlds of a parliamentarian, all MEPs should be paid the same to "avoid the psychological effects of there being first and second class MEPs"⁵⁶.

Already in the first section of this paper, it was concluded that the Group assumes the EUP to be a very different organ than any national Parliament. While "equal pay for equal work" holds within the EUP, this argument is not used as a defense of an equal payment for parliamentarians of the same nationality. The Group's elaboration on the duties of an MEP as compared to that of a national MP now leads to the conclusion that the two kinds of parliaments are not only different but that the Group attached a higher value to the work of an MEP. If value is indeed expressed in monetary terms, to demand a higher salary for MEPs implies that their work is given a higher value by the Group of Eminent Persons. Again, the question arises whether both the public and parliamentarians themselves agree to this implication.

Union. Parliament. Debates. (June 22, 2003) (Online) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20050622+ITEM-014+DOC+XML+Vo//EN&language=EN>

55 Lissy Gröner (PSE), in writing. "Member's statute A6-0189/2005." In European Union. Parliament. Debates. (June 22, 2003) (Online) <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+CRE+20050622+ITEM-014+DOC+XML+Vo//EN&language=EN>

56 Gargani. "Adoption of a Statute for Members..."

The Group's second criterion for the exact level of remuneration is characterized by two problems. The comparison between the European Parliament and national parliaments is not convincing. At the same time, it seems to be contrary to the self-proclaimed goal of seeking citizen support, to solely rely on a comparison between the work of MEPs and national parliaments.

Criterion 3: MEPs should not face a cut in their salary

So far two criteria have been established on the remuneration of MEPs: The average should be taken as a starting point and MEPs deserve more than the average. In addition, the group rejects a pay-cut in the salaries of MEPs on the basis of fairness: "An average of the current parliamentary allowances would mean that a substantial number of Members, particularly from the large Member States, would face a pay cut. This would not be a fair basis for a definitive solution."⁵⁷ The given quote can be generalized as follows:

D: A pay cut is not fair

W: remuneration should be fair

C: MEPs should not face a pay cut

From the Group's statement alone, it is not clear what is considered unfair about a pay cut for some MEPs. Fairness relates to "the way one's treatment compares to the treatment received by others"⁵⁸. Owen McLeod gives the example of school grades. If every student in a class deserves to receive a B, but one student arbitrarily receives an A, everyone is treated unfairly⁵⁹. This can be applied to the case of MEPs. A pay cut means that some MEPs receive less than they deserve. If every MEP ought to receive what they deserve and only some, arbitrarily chosen do not receive their desert this is unfair

57 Group of Eminent Persons, Recommendation of the Group

58 Owen McLeod. "Desert."

59 Ibid.

Verifier A

D: A pay cut means that some MEPs receive less than they deserve
W: Receiving less than one deserves while others receive what they
deserve is unfair

C: A pay cut is not fair

The Warrant of this verifier has to be supported in form of a general rule. It is unfair that some receive what they deserve, while others do not because both are treated differently. It seems that the Group rejects a pay cut in general, because in practice, a pay cut for everyone is unthinkable. Thus, the Group's statement about the unfairness of a pay cut can only relate to the unequal treatment implicit in a pay cut for some but not all. At the same time, not all unequal treatment is also unfair. The example of school grade is again a good illustration: It is not unfair, that first graders are treated differently from second graders, or that teachers are paid while students are not. In the latter case unequal treatment is fair.

Warrant for Verifier A

D: MEPs have an equal right to their equal desert
W: Unfairness is unequal treatment where treatment ought to be equal

C: Receiving less than one deserves while others receive what they
deserve is unfair

In line with the function the Group assigned to remuneration, a pay cut does not only entail unequal treatment with respect to desert but also the attraction of qualified MEPs. The second function of remuneration is to attract persons of a level of qualification that enables them to carry out parliamentary duties successfully. It is assumed that remuneration should be higher than the national level in order to attract qualified MEPs. Thus, it can be assumed that a cut in salary can no longer or at least less successfully, attract persons of the required level of qualification. In this case, the unfairness does not relate to the individual MEP but to Member States.

Verifier B

D: A pay cut means that MEPs from some countries receive less than is required to attract qualified Members

W: It is unfair if some countries are not able to attract qualified MEPs while others are able to do so

C: A pay cut is not fair

The warrant for verifier B can be supported by a similar definition of fairness as has been employed for verifier A. It is unfair if Member States are treated unequally, if all Member States ought to have the same chances to attract qualified staff.

Warrant for Verifier B

D: Member States have an equal right to attract qualified MEPs

W: Unfairness is unequal treatment where treatment ought to be equal

C: It is unfair if some countries are not able to attract qualified MEPs while others are able to do so

Evaluation of Claim 2

In this fairness argument, the Group identifies several respects in which MEPs and Member States ought to be treated equally. First of all, all MEPs have an equal right to their desert. Secondly Member States have the equal right to attract qualified MEPs. Those two claims are well in line with the argument expressed so far; if an equal salary is demanded on grounds of equality between MEPs, it would be inconsistent to deprive some of this claim. Likewise it is reasonable to treat Member States equally in their right to find qualified MEPs. These claims are dependent on the assumptions made earlier, namely that MEPs in fact deserve a higher salary than Members of national parliaments and that this higher salary is required to attract qualified MEPs.

Strictly speaking, however, it is difficult to speak of a “pay cut”. As of the 1998 draft Statute onwards, the new regulations were always planned to enter into force only with a newly elected parliament⁶⁰. An individual MEP therefore does not face a cut in his or her salary but can freely decide whether or not to run for a new parliamentary session with a different remuneration structure. At the same time, a common statute inevitably implies some unequal treatment. If the coexistence of national provisions is replaced by a common Statute, the new common salary will be considerably lower or higher than the previous in different degrees. While for some the changes will be immense, other will only face minor adjustments. Even in the Group’s final proposal, some MEPs receive a massive increase in payment, while for others the salary remains roughly the same. Is this fair? Or is it fair that the discrepancies between national MPs and MEPs are radically different within the various Member States? Based on the assumption that the average should be taken as a basis of comparison, and that MEPs deserve a higher salary than national MPs, a pay cut for all MEPs is not considered an option. As has been the case throughout the Group’s entire argument, the claim itself makes sense, yet, alternative definitions, which do not lead to such a high remuneration, are not considered.

⁶⁰ See European Parliament, Resolution on the draft Statute for Members of the European Parliament (3 December 1998): A4-0426/98, in Official Journal of the European Communities (OJEC). 21.12.1998, No C 398, p. 24.

V Conclusion

What is presented as a humanitarian act in the fight of ‘equal pay for equal work’ is in fact a pay-rise for the majority of MEPs. The Common Statute for the Members of the European Parliament has not only unified MEPs’ salaries but also established a level of remuneration which is very high in the European context. Especially for MEPs of the new Eastern European Member States, the discrepancies between both, comparable positions in the private sector and the salaries of national MPs are immense. Bearing in mind that the conclusion could be seen as daring, the Group of Eminent Person offers only a weak argument in favour of their proposed salary.

The Problem begins in the very first claim, that all MEPs should be paid the same. To justify a common salary, ‘equal work’ is defined in terms of office. While it is hardly possible to support a single salary with a different definition, to define ‘equal work’ in terms of office forecloses any comparison between MEPs and national MPs as well as comparable positions in the private sector. The Group continues to demand that any system of remuneration should be comprehensible to the average member of the public. Even though no explicit support is given for this argument, it seems reasonable to assume that comprehensibility is demanded in the same of political legitimacy and citizen’s support for the policy. This second requirement is considered so important, that the Group even prioritises comprehensibility over, in their words, true equal pay. If, apparently, citizen’s support is so important, it is strange that a reference to the value citizen’s assign to the salary of MEPs is absent in the Group’s recommendation.

Once the need for a common salary is established, the Group argues that this single salary should be extremely high. The average is chosen as a starting point of investigation to guarantee public support. Again, it can be convincingly argued that citizens should approve of their MEPs’ salary; the average alone, however, cannot possibly guarantee that the proposed level of remuneration will also be accepted. From the premise that the average level of remuneration is taken as the base line, the Group determines their proposed salary in a direct comparison between the work of an MEP and national MPs. The conclusion that MEPs deserve and require a higher salary is not persuasive. One cannot avoid the conclusion that the EUP is seen as distinct organ, which is characterised by a work which is more demanding and qualitatively sophisticated than any office in a national parliament. Furthermore, it is not clear why the work of a national MP should be the only point of reference. Finally, the Group asserts that MEPs should not face a cut in their salary as this would be unfair. Indeed, it would be unfair if some MEPs would receive

less while others earn the same, but does this mean that therefore everyone's salary should be adapted to the higher salaries?

In the presence of very heterogeneous conceptions of an adequate remuneration, the European discourse lacks an open discussion about values. Even though support from the wider European public is explicitly demanded, it is not clear what the preferences of that public are. As support remains a diffuse criterion, a normative discussion is avoided. Instead, the proposed Statute is very pragmatic, at least to parliamentarians. Since there is no consensus on the underlying values, no one faces a painful pay-cut. If this is also considered adequate in the eyes of citizens remains open. At least, the proposed salary has not been argued for in a very convincing way.

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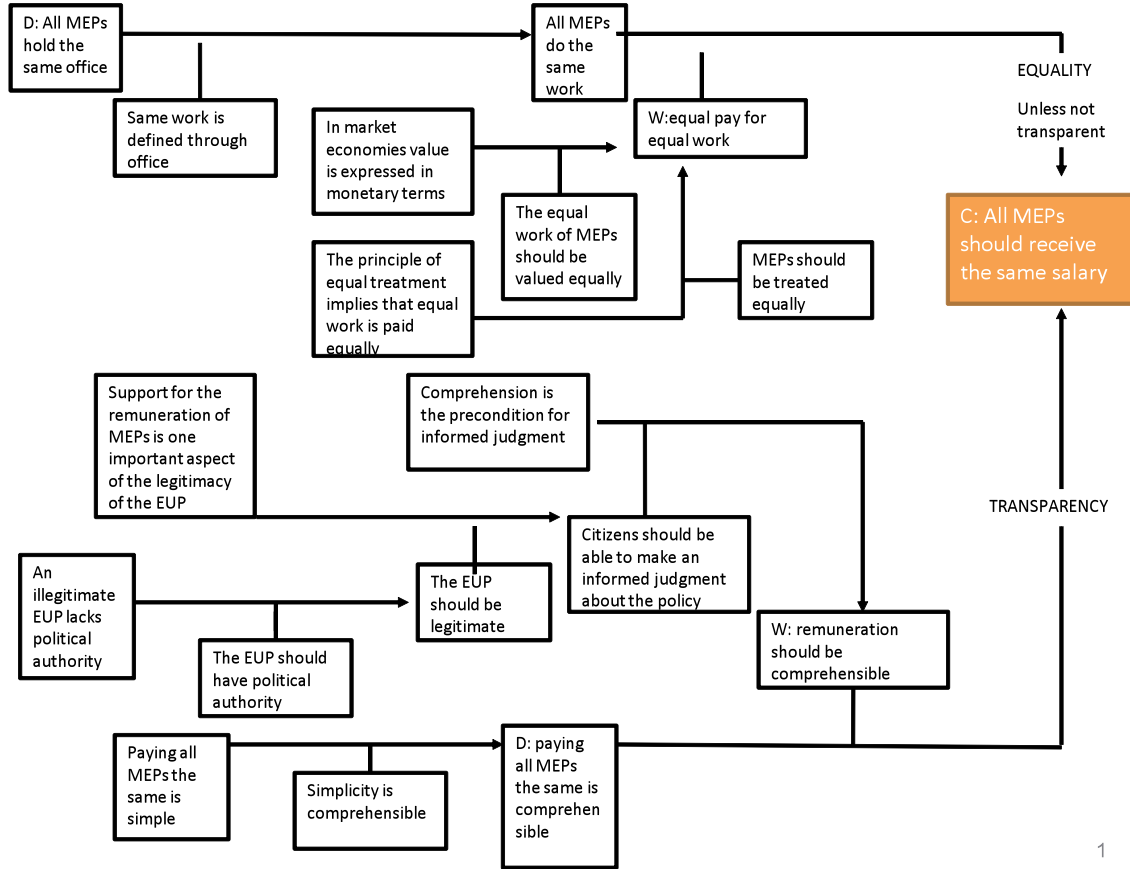
VII Appendices

Appendix I

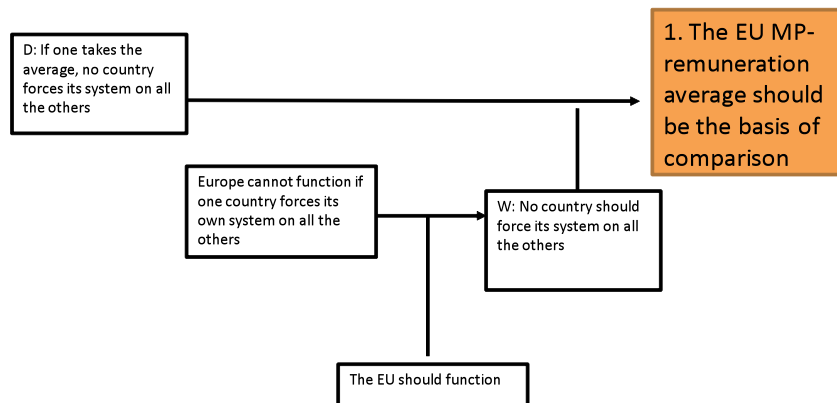
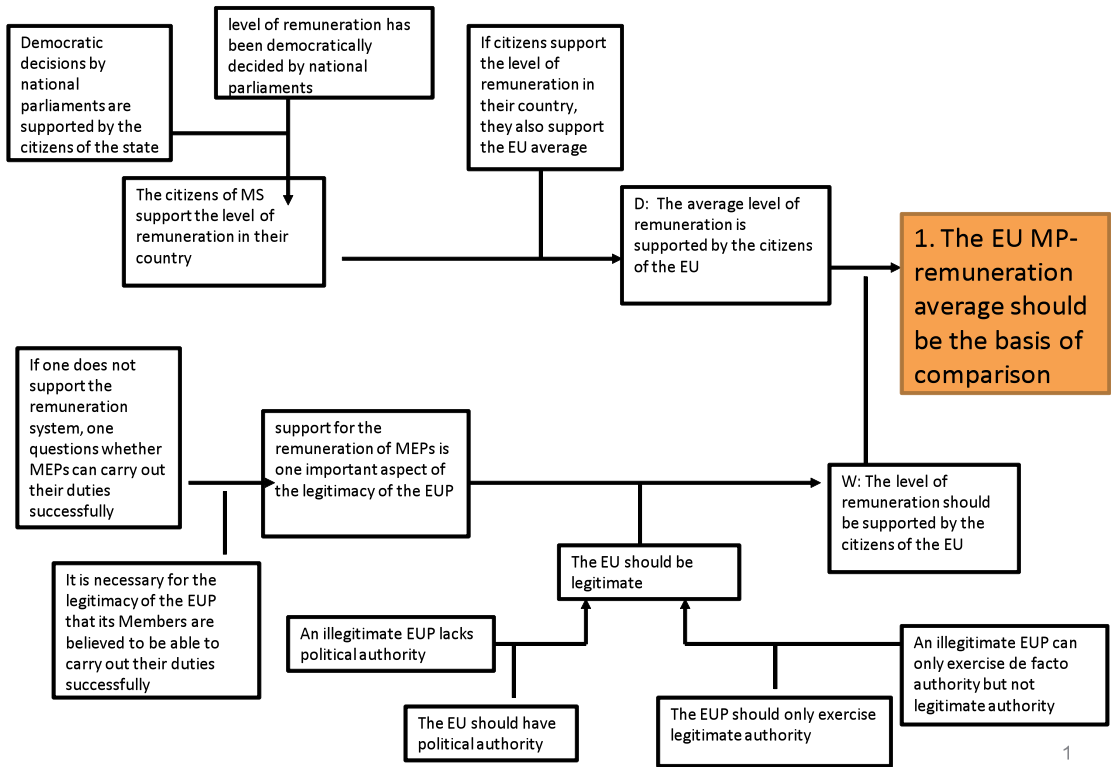
Member state	Gross monthly salary in the national currency	number of Times paid per year	Gross annual remuneration	Annual pay in Euro	Monthly salary in Euro**	Number of MEPs / MS	Total payment per MS
Spain	406 335.00	14	5 688 690.00	34 189.72	2 849.14	64	182 345.15
Finland (1)	19 154.00	12	239 807.50	40 332.73	3 361.06	16	53 776.97
Portugal	633 000.00	14	8 862 000.00	44 203.47	3 683.62	25	92 090.56
Ireland	3 169.58	12	38 034.96	48 294.44	4 024.54	15	60 368.05
Sweden	38 000.00	12	456 000.00	52 915.58	4 409.63	22	97 011.89
Luxembourg	172 014.00	13	2 236 182.00	55 433.50	4 619.46	6	27 716.75
Denmark (2)	37 613.75	12	451 365.00	60 679.57	5 056.63	16	80 906.10
Greece	1 511 200.00	14	21 156 800.00	64 414.07	5 367.84	25	134 195.97
Netherlands	11 900.00	12	142 800.00	64 799.81	5 399.98	31	167 399.52
Belgium (3)	230 675.33	12	2 768 103.96	68 619.50	5 718.29	25	142 957.30
UK	3 917.33	12	47 007.96	74 592.13	6 216.01	87	540 792.94
France	42 668.40	12	512 020.80	78 057.07	6 504.76	87	565 913.74
Germany	12 875.00	12	154 500.00	78 994.60	6 582.88	99	651 705.41
Austria	100 669.00	14	1 409 366.00	102 422.62	8 535.22	21	179 239.59
Italy	19 315 728.00	12	231 788 736.00	119 708.89	9 975.74	87	867 889.47
Total expenditure							3 844 309.41
Average monthly remuneration of a Member of the European Parliament							€ 6 141.07

Source: European Parliament, Committee On Legal Affairs And The Internal Market Document Number Cm/387151En.Doc

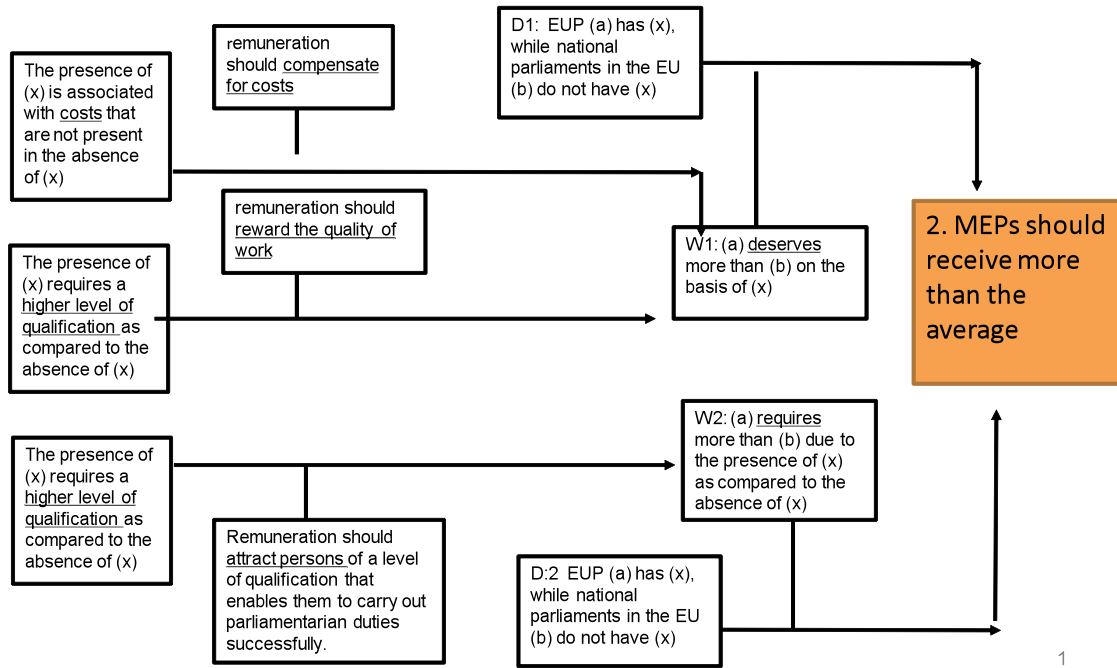
Appendix II



Appendix III



Appendix IV



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