

Chapter 13

The Common Statute for the Members of the European Parliament: Wise Men and Clear Guidance

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Abstract

In 2005, the European Parliament adopted a Common Statute for its Members. For the first time in the history of the institution, all its members were paid the same basic salary. Prior to the reform, the remuneration of MEPs was aligned to the salary of their respective national parliaments. The remuneration of high civil servants is closely tied to values implicit in a political culture. Hence agreeing on a unitary salary implies a compromise on sensitive differences in political culture. This paper explicates and analyzes the arguments that were given in favor of a common salary. Which normative concepts were employed in the discourse that led to a Common Statute? As such, this paper aspired to make a modest contribution to the curious question of how normative principles are debated in the EU context.

1 Introduction

After eight years of lengthy and difficult discussion, the European Parliament (EUP) adopted its Common Statute for its Members in 2005. For the first time in the history of the EU institution, Members of the European Parliament (MEPs) were paid exactly the same basic salary. Prior to the reform, the remuneration of MEPs was aligned to the salary of their respective national parliaments. While this policy guaranteed income equality between MEPs and MPs of their country of origin, it also implied considerable inequalities within the European Parliament were. In 1999, an Italian MEP earned the equivalent of 9,975.74€ per month, compared to an allowance of merely 3,361.06€ for MEPs from Finland (Table 13.1). These considerable differences cannot merely be reduced to varying levels of purchasing power. As other works in this collection have shown, the remuneration of high civil servants is closely tied to values implicit in a political culture, as well as an understanding of the nature of civil service. In this regard, the different salaries

of national parliamentarians within the European Union are no exception. Agreeing on a single, common salary for the European Parliament consequently required nothing less than a compromise between sensitive differences in national political cultures.

Table 13.1 Remuneration of Members of the European Parliament in Different Member States

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, CM\387151EN.doc

Against this backdrop, it is quite remarkable how policy documents leading to the Common Statute were framed within the European Parliament. As the responsible rapporteur for the statute, Willie Rothley declared in 2003: “Our proposal has been unequivocally confirmed by wise men, from whom we received clear guidance.”¹ With

1 Rothley, “Debates - Monday, 2 June 2003 - Strasbourg - Adoption of a Statute for Members of the European Parliament,” European Parliament, accessed September 12, 2013, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT CRE 20030602 ITEM-006 DOC XML Vo//EN&language=ET>.

reference to a policy document by an expert group called the Group of Eminent Persons, Rothley seems to presuppose that a common salary can be determined “unequivocally”. In light of the apparent differences in political culture of civil servant remuneration, however, three important questions arise: How was agreement actually reached? What normative concepts were employed in the discourse that led to a Common Statute and which assumptions were implicit in the parliament’s final decision? To investigate these questions, 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. More specifically, this paper will focus on two arguments that were given in support of a single, common salary. The rationale behind Analytical Discourse Evaluation is the first belief that policies need argumentative justification. Only once an argument is made explicit, its empirical and normative components can be scrutinized. In the given case of the MEP salary, such an analysis may furthermore explore the curious question of how normative principles are debated in the EU context.

To set the context for the more technical argumentative analysis, this paper begins with an introduction to the historical context of the Common Statute for the Members of the European Parliament. 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 and the “wise men” Rothley referred to. The paper concludes with a resume and critical evaluation of the findings.

Historical Context

Within the institutional structure of the European Union, the 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. As the EUP became more of a parliament and less of an assembly, discrepancies in salaries became cause of unease. In particular after the Southern enlargements of 1981 and 1986, salaries further diverged, with

those MEPs living furthest away from Brussels, receiving the smallest compensation (Table 13.1). 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 salaries.² The 1990s furthermore saw a scandal on travel expenditures. In lack of a Common Statute, expenditure reimbursement was only regulated ambiguously. As a result, MEP could reimburse a first class ticket, while flying on a special Ryan air offer. The public reacted to the scandal in an outcry about the “decadence” of the new European elite.³ In response, MEPs from low-remuneration countries claimed that they were unable to sustain themselves in Brussels and therefore travel expenses had to be misused as a source of additional income.⁴ To conclude, 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 efforts by the European 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. On 3 December 1998, a large majority in parliament adopted a resolution on a Common Statute. 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 salary.⁵ The European Parliament created this external organ in 2000 and the Group of Eminent Persons⁶ was commissioned to conduct a report on the issue of a Common Statute.

2 Group of Eminent Persons, “Recommendation of the Group of Eminent Persons on the Statute for Members,” *European Navigator*, accessed June 10, 2010, <http://www.ena.lu/>.

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

4 Hans Herbert von Arnim, “9.053 Euro Gehalt für Europa-Abgeordnete?,” *Spiegel*, March 14, 2010, <http://www.spiegel.de/media/0,4906,3687,00.pdf>.

5 “European Parliament Resolution on the Draft Statute for Members of the European Parliament (3 December 1998): A4-0426/98,” *Official Journal of the European Communities* No C398 (December 21, 1998): 24, paragraph 2.

6 The group was comprised of 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.

With direct reference to the “expert opinion”, Parliament finally adopted a Statute in June 2003, which was however rejected by the Council.⁷ After a period of reconciliation, the European Parliament adopted a single Statute for its members on 28 September 2005. Since the 7th European Parliament of 2009, MEPs receive 38.5 percent of the salary of a judge at the Court of Justice. The salary is paid from the community budget and subject to Community tax.⁸ Until 2019, MEPs are, however; free to continue to align remuneration to their national parliament.

Boundary of the Case

Due to the complex nature of the debate as well as the difficulties posed by the methodology used, this argumentative analysis will focus on a single document, “The Recommendation of the Group of Eminent Persons”, while debates of the EUP serve as the additional context 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 a concrete salary is justified with reference to normative principles.
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”.⁹

7 “European Parliament Resolution (1998),” 24, par 2.

8 “Decision of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (2005/684/EC, Euratom)” *Official Journal of the European Union* No L262 (October 10, 2005): 1.

9 Rothley, “Adoption of a Statute for Members”.

4. EUPs proposal of 2003 is heavily influenced by the Group's recommendation.¹⁰ A member of the Committee on Legal Affairs even puts it more blatantly: "We were essentially guided by the instructions that we had been given by the experts and wise men that Parliament had mandated."¹¹ According to paragraph 38, the proposed salary "falls well within the range which the experts deemed appropriate."¹²
5. Also the final Statute is clearly derived from the Group's recommendation.¹³

The Group of Eminent Persons makes two Claims with regards to the remuneration of MEPs. First and foremost, the authors establish why all MEPs should be paid the same basic salary. Secondly, the group argues for a specific MEP salary, which is the average of the four largest Member States. Since disagreement about the necessity of a common salary largely contributed to the lengthy nature of the entire debate and therefore also occupied a central position within the discourse, the following analysis will concentrate on the first Claim.

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".¹⁴ These two different justifications will be referred to as the "equality argument" and the "transparency argument".

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- 10 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.
 - 11 Lehne, "Debates - Monday, 2 June 2003 - Strasbourg - Adoption of a Statute for Members of the European Parliament," European Parliament, accessed September 12, 2013, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT CRE 20030602 ITEM-006 DOC XML Vo//EN&language=ET>.
 - 12 "European Parliament Resolution on the adoption of a Statute for Members of the European Parliament (4 June 2003): P5_TA(2003)0241," *Official Journal of the European Union* No C68E (March 18, 2004): 210.
 - 13 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 7000 EUR. No document, which is available online gives any hint to the conclusion that the lower amount was inspired by a different rational.
 - 14 Group of Eminent Persons, "Recommendation of the Group".

2 Reconstructing the Equal Pay 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 formalized as follows:

[Warrant]	Equal pay for equal work.
[Data]	All MEPs do the same work.
[Claim]	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 respects.¹⁵

Furthermore, descriptive and prescriptive statements about equality have to be distinguished.¹⁶ 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 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.

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

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

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

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.”¹⁷ 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”.¹⁸ It follows, that ‘equal work’ cannot be defined in terms of workload and inconvenience, if the argument is to hold.

The recommendation states : “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.”¹⁹ 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.

[Data\Warrant]	Equal work is defined through office.
[Data\Data]	Equal work is defined through office.
[Data\Claim]	All MEPs do the same work.

Equal Work is Defined Through Office

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 González 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

17 Ibid.

18 Ibid.

19 Ibid.

of the European Parliament and Members of National Parliaments”.²⁰ 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:

[Warrant]	Equal pay for equal work.
[Data]	MEPs do the same work as Members of their national Parliament(s).
[Claim]	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. 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.

Equal Work is Defined Through Office

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

20 Sierra Gonzalés MEP, “Debate on Rothley Report A4-0426/98,” *European Parliament, Debates*, December 2, 1998, e-mail to author from DG1 Archives CARDOC, March 22, 2010.

of the European Union”.²¹ Usually, the slogan is employed in anti-discrimination law. In this context, it is also part of the 1957 Treaty of the European Economic Community.²² 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.”²³

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.

Equal Pay for Equal Work 1

[Warrant\Warrant]	The equal work of all MEPs should be valued equally.
[Warrant \Data]	In (social) market economies, value is expressed in monetary terms.
[Warrant \Claim]	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 experience 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.”²⁴ Because some MEPs receive a higher remuneration, Gargani assumes that they are seen, or see themselves as first class.

21 Group of Eminent Persons, “Recommendation of the Group”.

22 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’l Pub. Off.)*.

23 Noreen Burrows, “Equal Pay for Equal Work: The Impact of European Law draft,” 2, accessed June 6, 2010, <http://ec.europa.eu/education/programmes/llp/jm/more/confgendero3/burrows.pdf>.

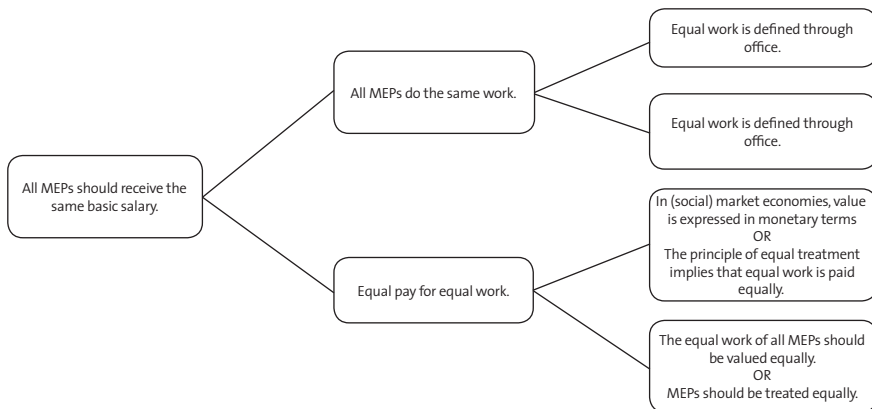
24 Gargani, “Debates - Monday, 2 June 2003 - Strasbourg - Adoption of a Statute for Members of the European Parliament,” European Parliament, accessed September 12, 2013, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT CRE 20030602 ITEM-006 DOC XML Vo//EN&language=ET>.

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".²⁵ 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.²⁶ This second Backing can be formalized as:

Equal Pay for Equal Work 2

[Warrant\Warrant]	MEPs should be treated equally.
[Warrant \Data]	The principle of equal treatment implies that equal work is paid equally.
[Warrant \Claim]	Equal pay for equal work.

13.1 The Equality Argument



25 Group of Eminent Persons, "Recommendation of the Group".

26 See, for instance Council Directive 2000/43/EC on the principle of equal treatment between persons irrespective of racial or ethnic origin.

3 Evaluating the Equality Argument

Regarding the first Backing of the principle “equal pay for equal work” it has to be emphasized 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 tendency.²⁷ 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 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.

27 See for instance the Dutch Member of the Group of Independents for a Europe of Nations Rijk Van Dam (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.”

Also the Warrant “equal pay for equal work” only functions within the Group’s definition of “equal work” through office. 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:

[Warrant]	Equal Purchasing Power (PP) for equal work.
[Data]	All MEPs do the same work.
[Claim]	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 countries.²⁸ 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”²⁹, which was not guaranteed if salaries were adapted to PP. This argument can only be reconstructed with reference to the Group’s second in favor of a common salary; the transparency argument.

4 Reconstructing 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 Statute 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.”³⁰ This

²⁸ The Group identifies 38 exclusive constituency days in 2000.

²⁹ Group of Eminent Persons, “Recommendation of the Group”.

³⁰ *Ibid.*

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.”³¹ 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 formalized as:

- [Warrant] Remuneration should be comprehensible.
- [Data] Paying all MEPs an equal Purchasing Power is not comprehensible.
- [Claim] MEPs should not receive the same Purchasing Power.

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

- [Warrant] Remuneration should be comprehensible.
- [Data] A common basic salary is comprehensible.
- [Claim] All MEPs should be paid the same.

The relationship between the equality argument and the transparency argument can be seen in Figure 13.2. 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 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.

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 of why a common salary is comprehensible. A unified system could be seen as more comprehensible due to its simplicity. Likewise, it can be

³¹ Ibid.

assumed that the average member of the public is able to understand a simple system. This reasoning can be reconstructed as a Verifier:

- [Data\Warrant] A simple regulation is understood without difficulty by the average member of public.
- [Data\Data] Paying all MEPs the same basic salary is simple.
- [Data\Claim] A common basic salary is comprehensible.

5 Evaluating the Transparency Argument

This reconstructed argument, can be accepted as sound. 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 equally comprehensible. Why an average member of the public is able to comprehend strongly depends on one's conception of the general public. Can the average member of the public understand that and how salaries are adjusted to PP? The answer is only no, if simplicity is taken as a marker for comprehensibility. While this argument clearly supports a simple system, where every MEP receives the same basic salary, it is not a very strong argument against the previous, equally simplistic system where MEPs and MPs receive the same and all additional costs are reimbursed. The Data supports the Claim, yet does not successfully argue against the alternative option.

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 a Backing of this Warrant. Yet, the Group does insist that the citizens of Europe should consider the proposed level of remuneration appropriate. Based on this Claim, it can be argued that citizens can only approve or disapprove of any salary if the system of remuneration is comprehensible, because comprehension is the precondition for any informed judgment.

- [Warrant\Warrant] Citizens should be able to make an informed judgment about the proposed policy.
- [Warrant\Data] Comprehensibility is a precondition for informed judgment.

[Warrant\Claim] Remuneration should be comprehensible.

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

[Warrant\Warrant\Warrant] The EUP should be legitimate.
[Warrant\Warrant\Data] Support for the remuneration of MEPs is one important aspect of the legitimacy of the EUP.
[Warrant\Warrant\Claim] Citizens should be able to make an informed judgment about the proposed policy.

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

The EUP Should be Legitimate

Before the Warrant can be further elaborated, it is important to clearly define the relationship between authority, legitimacy and obligations.³² The European Parliament 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 rule.³³ If the EUP was considered illegitimate, it would be unjustified to exercise of power. As a result, EU legislation would entail no obligation to obey. EU regulations are directly applicable, but directives need to be implemented by Member States. Member States would have a weaker obligation to implement legislation passed by an illegitimate EUP. In this sense, legitimacy creates political authority of the EUP. This can be formalized as the Backing:

[Warrant\W\W\Warrant] The EUP should be able to exercise political authority.

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

33 John Rawls, *Political Liberalism* (Cambridge: Harvard University Press, 1971).

[Warrant\W\W\Data] An illegitimate EUP lacks political authority.
[Warrant\W\W\Claim] The EUP should be legitimate.

Alternatively, legitimacy can be limited to the moral justification, as compared to the creation of authority.³⁴ 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 formalized as the alternative Backing:

[Warrant\W\W\Warrant] The EUP should only exercise legitimate authority.
[Warrant\W\W\Data] An illegitimate EUP can only exercise de facto authority
 but not legitimate authority.
[Warrant\W\W\Claim] The EUP should be legitimate.

Support for the Remuneration of MEPs is One Important Aspect of the Legitimacy of the EUP

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.

34 Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986).

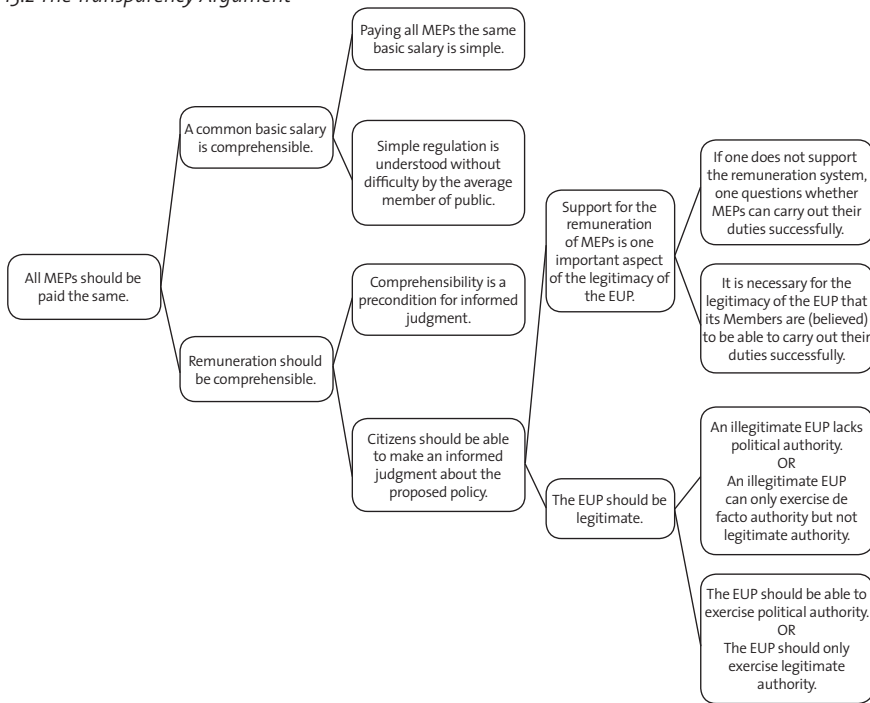
It has to be stressed that all these examples are strongly determined by one's conception of justice or, for instance, corruption. All examples have in common, however, that a salary is subjectively perceived as inadequate because it is believed that MEPs are no longer, or at least less, able to carry 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 formalized as:

[Warrant\W\D\Warrant] It is necessary for the legitimacy of the EUP that its Members are (believed) to be able to carry out their duties successfully.

[Warrant\W\D\Data] If one does not support the remuneration system, one questions whether MEPs can carry out their duties successfully.

[Warrant\W\D\Claim] Support for the remuneration of MEPs is one important aspect of the legitimacy of the EUP.

13.2 The Transparency Argument



6 Conclusion

Since 2005, all Members of the European Parliament receive the same basic salary. This analysis has focused on the essential premise of the entire reform, namely the Claim that all MEPs should receive the same basic salary. Before I will conclude with some final remark about the soundness of this argument, it is important to underline that a common salary has resulted in a considerable pay rise for the vast majority of MEPs. Given that there are substantial difference in the political culture of MP remuneration throughout the European Union, it deserves justification that parliament chose it give itself a salary at the very high end of the available options. Especially for MEPs from 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 this in mind, it is striking that the very idea of a common salary has been framed in the noble terms of equality and transparency. As the Analytical Discourse Evaluation of this paper has shown, the EUP's equality argument only works under very specific definitions of both, equality and work. To justify a common salary, 'equal work' is defined solely in terms of office. Debates in parliament show that most critics to the Statute implicitly rely on a different understanding of precisely this concept of 'equal work'. While it is very difficult to justify a common salary if 'equal' work is defined in terms of workload, the given emphasis on the same office forecloses any comparison between MEPs and national MPs as well as comparable positions in the private sector. Given that a definition of work is essential to the entire argument alternative definitions are not sufficiently refuted. A second argument in favor of a common salary is the demand that any system of remuneration should be comprehensible to the average member of the public. This second requirement is considered so important, that the Group even prioritizes comprehensibility over truly equal pay in terms of purchasing power. Even though no explicit support is given for this argument, it seems reasonable to assume that comprehensibility is demanded in the name of political legitimacy. However, if citizen's support is deemed so important, it is strange that the policy document lacks any reflection on what particular salary citizens of the European Union would consider appropriate. One cannot avoid the conclusion that the EUP sees itself as a very distinct institution, which is characterized by a work that is more demanding and qualitatively sophisticated than any office in a national parliament.

In the presence of very heterogeneous conceptions of MP remuneration, the European discourse lacks an open discussion about values. Even though support from the wider European public is explicitly demanded, little effort has been made to establish what the preferences of that public are. In fact, repeated references to the diffuse demand for public

support have replaced a more explicit discussion about possible shared European values of high civil servant remuneration. The ultimate decision – a common salary at the high end of European conceptions of MP remuneration seems to serve primarily the interest of those MPs that feared a pay cut. The Group seeks citizen’s support for the proposed policy, yet the precondition for support is prioritized over the actual content of the policy.