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### Rewards at the top: the European Union

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## **Rewards at the top: the European Union**

Dionyssis G. Dimitrakopoulos and Edward C. Page

Europe-wide administrative systems have had a strong track record of innovation. The Frankish Empire, above all under Charlemagne, is generally held to have been the cradle of feudalism – a system that directly grew out of the dominant arrangements for paying imperial officials. Napoleon's integration of Europe left a legacy of national and local institutions which appear to remain to the present day. The administrative system of the EU is an exception to this tradition. Certainly Monnet's conception of a European administration consisting of just a few hundred European civil servants who would, in turn, set thousands of national experts to work, and make firms and governments serve the aims of the Schuman Plan (Monnet, 1976) was in many ways revolutionary. Yet the methods used to establish the independence of the EU civil service from national interests involved the elaboration of a system of rewards for officials which reflects more closely the philosophy of the nineteenth-century national *Rechtsstaat* than the pay schemes of many member states.

As a supranational organisation the EU and its predecessors have sought to limit the degree to which 'national interests' exercise an influence outside the Councils. This basic principle can be found in the oath of office according to which Commissioners can 'neither solicit or accept instructions from any action incompatible with the supranational character of his tasks'. The supranationality of the whole European civil service is enshrined in the Protocol on the Privileges and Immunities of the European Economic Community appended to the Treaty of Rome. This protocol gave the newly established institutions all the formal trappings of the diplomatic representations of a state such as inviolability of premises and free movement of representatives and sought to seclude European civil servants from national governments by ensuring that they are paid by the European level of government, exempting their salaries from national income taxes and by providing a series of financial benefits to them. The pay system that subsequently emerged, has come to resemble the traditional Hegelian principle according to which the official is

Deliberately insulated from the changing state of the economy so that he can devote himself entirely to the service of the state and serve its purposes. The measurement of pay takes place on the basis of what is required to maintain his lifestyle [...] if there is a rise in prices or a general rise in living conditions, then too salaries must be increased, but the regulation of pay is not in the form of struggles over wages and all that goes with them as in the private sector, but through legislative acts of state. (Hintze, 1964, pp. 75-6).

### **Paying the people who run Europe**

Many HPOs (in the sense used in this book) are not on the EU's payroll. The salaries of the hundreds of members<sup>i</sup> of the Council of Ministers (i.e. national government ministers) and the 27 of the 28 members<sup>ii</sup> of the European Council (i.e. the Heads of State or Government) as well as the heads of the national permanent representations to the EU are paid from national public funds and are subject to national taxation on them. For many years the same applied to MEPs, even after (and despite) the direct

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elections that first took place in 1979, thus leading to vast disparities between them<sup>iii</sup>. However, as a result of a reform adopted in 2005 (European Parliament, 2005), as of June 2009 all (751<sup>iv</sup>) MEPs receive the same salary – set at 38.5 per cent of the salary of a member of the European Court of Justice (ECJ), i.e. approximately €7,665 - and will pay income tax to the EU budget though individual member states retain the right to impose additional taxation. The Statute for MEPs also stipulates that during the transitional period (which may not exceed the length of two EP terms, i.e. a total of ten years) each member state may apply different rules (in relation to salary, transitional allowance and pension) to the MEPs who are elected by its citizens. The transitional arrangements may not be less favourable than those applied to national MPs of the country in question and all payments will be made from the budget of that country (Art. 29). In addition, the 27 Commissioners, their respective 27 *chefs de cabinet*, the Secretary General and her two deputies along with the 36 Directors General and the 24 deputy Directors General in charge of 35 Directorates General and offices within the Commission, the Executive Secretary General, two deputy Secretaries General and the Chief Operating Officer in the European External Action Service, the 27 judges, 8 advocates general and one registrar of the ECJ, the 27 judges of the Court of First Instance and the seven judges of the Civil Service Tribunal, the 27 members of the European Court of Auditors, the Secretary General and the 11 Directors General within the EP's Secretariat, the Council's Secretary General, and the eight Directors General within the Council, the Heads of the agencies set up in the context of the EU's common foreign and security policy<sup>v</sup>, or police and judicial co-operation matters<sup>vi</sup>, the six members of the European Central Bank's (ECB) Executive Board and the Heads of the 11 Directorates General within the ECB<sup>vii</sup>, the nine members of the Management Board of the European Investment Bank, the European Ombudsman<sup>viii</sup>, the European Data Protection Supervisor and his deputy, the Heads of the Community<sup>ix</sup> and other executive agencies<sup>x</sup>, the Director of the European Administrative School. Thus, whereas in the early 1990s only a minority of top EU officials received salaries from the EU (Page and Wouters, 1994), now the obverse is true. Two factors – one procedural and one substantive - appear to explain the delay<sup>xi</sup> in bringing about this change. First, the adoption of the reform required (i) the unanimous support of the Council as well (ii) the majority of MEPs some of whom had much to lose from it<sup>xii</sup>. Although the growth in the EP's powers since the mid-1980s has turned it into a co-legislator, the institution needed time to mature in terms of this key aspect of its operation, which risked affecting its credibility.

As the 2011 budget indicates (Official Journal L 68, 15 March 2011), in addition to a total of €67,755,185 that corresponds to their salaries (i.e. €90,219.95 or £79,168 or \$128,789 per MEP<sup>xiii</sup>), MEPs also receive significant sums in various kinds of allowances (title I, budget chapter 10) to the tune of €123,123,220<sup>xiv</sup> (i.e. €163,945.699, or £143,862 or \$234,032) per MEP<sup>xv</sup>).

The single largest amount in that category was devoted to MEPs' travel and subsistence expenses in connection with travelling to and from the places of work and with other duty travel (€75,396,756). Reforms adopted in 2005 replaced the flat-rate travel allowance (which meant that some MEPs used economy class tickets but received refunds for more expensive ones) with the reimbursement of actual costs incurred (BBC News online, 23 June 2005). The second largest amount (€38,330,147) is allocated to the 'general expenditure allowance' which covers expenses resulting from the parliamentary activities of MEPs in the member state where they are elected.

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Finally, MEPs also receive €9,396,317 for ‘other travel expenses’ (i.e. travel expenses incurred in the member state of election and repatriation expenses).

In addition, MEPs receive a sum used for the staff that they employ. Under the ‘parliamentary assistance’ heading, this amounted to €176,043,709<sup>xvi</sup>, i.e. approx. €243,412 (£213,594 or \$347,471) per MEP in 2011. The assistants to MEPs perform important and extremely varied roles and the improvement of their precarious status has been a longstanding issue within the EP. In the past, MEPs had almost complete freedom in that aspect of their work. As a result, problems arose including the employment of relatives, tax avoidance, and the non-payment of pension-related and social security contributions. As of June 2009, assistants who are based in Brussels (where most of the EP’s work is done) are covered by the statute which covers EU contract staff<sup>xvii</sup>. The contracts of other assistants is managed by certified paying agents with whom the EP concludes model contracts. These agents are responsible for compliance with the corresponding national legislation regarding social security and tax. Though MEPs remain free to choose their assistants, define the duration of their contract and allocate tasks to them, they are not allowed to employ their close relatives and the EP’s services handles the contracts of and salary payments to assistants (up to €16,914 per month per MEP in 2008 figures, including travel expenses, social security contributions and tax paid upon presentation of invoices). MEPs have the right to utilise up to a quarter of their parliamentary assistance allowance for research studies and other advisory work (Euractiv, 14 July 2008, <http://www.euractiv.com/en/future-eu/meps-set-stricter-rules-assistant-payment-scandal/article-174207>).

The EU also contributes to the pensions schemes of MEPs -- an appropriation of €14,664,889 in 2011 which includes €11,131,000 for retirement pensions (i.e. approximately €14,822 or £13,006 or \$21,158 per MEP)<sup>xviii</sup>, €406,742 for invalidity pensions and €3,072,147 for survivors’ pensions.

Furthermore, the sum of €3,477,040 has been allocated to MEPs for accident insurance, the reimbursement of medical expenses for MEPs and loss and theft of their personal effects and €800,000 for language and computer courses for MEPs. Though there are other EU-funded activities that facilitate the work (and life) of MEPs, they are indirect and cannot be ascribed to individual MEPs. These include current administrative expenditure and expenditure relating to the political and information activities of the political groups and non-attached MEPs (€54,850,000), contributions to European political parties (€17,400,000)<sup>xix</sup> as well as €569,844,235 for the permanent and temporary staff of the EP<sup>xx</sup>.

How do these sums compare to those made to other relevant categories? It has been argued that under the previous arrangements ‘MEP payments were around two thirds *below* top salary levels in 1973, they were more or less equal to them in the middle of the 1980s, and they are currently around one half *above* them in 1993’ because these expenses could (at the time) be used in part as supplementary income (Page and Wouters, 1994, p. 203). Given the introduction of the aforementioned reforms, it would now be more apposite to compare the basic gross salary of an MEP (€7,665 per month under the new statute) with the highest salary of a European Commission official (in December 2010 this was set at €18,370.84 for an official on step 3 of

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grade 16 on the matrix). After the European elections of 2009 the former corresponds to 41.72 per cent of the latter.

### **Is EU Service Attractive?**

The pay of EU civil servants at first appeared extremely attractive in the early 1990s since ‘a newly-appointed junior professor at the European University Institute, for example, on an A5 step 1 salary would be earning £51,067 gross, before allowances and adjustments for local cost of living’ (Page and Wouters, 1994, p. 204), a strong incentive to attract high calibre officials from across the Union.

Although Monnet’s intention was to establish a civil service devoid of emphasis on nationality and national quotas (Monnet, 1976, p. 450) the avoidance of major imbalances, has been historically a major expressed objective of recruitment policy (Page, 1997, Ch. 3; Page and Wouters, 1994). Just as shares of seats in Parliament and numbers of commissioners supplied by member states are related to population size, the system of recruitment and pay has also sought to secure fair shares in the senior ranks of the administration. However, the enlargement of the EU has led to a new balance within each of the relevant institutions. The two institutions where the most significant changes have been observed are the College of Commissioners and the ECJ. Unlike the EP and the senior civil servants where the size of the population remains de facto an important determinant of the distribution of seats and posts (especially in the EP), in the EU of 27 member states, each member state has the right to nominate just one Commissioner and judge, irrespective of the size of its population. As a result, the more populous member states (Germany, France, Italy, Britain and Spain) have lost the right to nominate a second Commissioner each. In the administrative echelon of the Commission, smaller countries tended to have one Director General each, while larger ones tended to have two or three (Page and Wouters, 1994, p. 204).

In the past officials fell into one of five major pay categories (A, B, C, and D and the LA grade for translators), a series of divisions within each grade (from A1 to A8 and so on) with a series of steps within each grade division. Staff regulations currently divide officials into two groups, namely Assistants (AST) and Administrators (AD) (Art. 5). The former comprises eleven grades, corresponding to executive, technical and clerical duties. The latter comprises twelve grades, corresponding to administrative, advisory, linguistic and scientific duties. Since 2006 they are placed on a single pay scale that is composed of 16 grades, each of which is sub-divided into five seniority steps<sup>xxi</sup> with officials moving up one step every two years. Assistants occupy grades 1-11 while Administrators occupy grades 5-16. Each grade and step is represented on the EU servants pay matrix. The pay grading system for EU employees applies uniformly to all nationalities and all major posts.

In the early 1990s Germany, Britain, Italy and Spain were under-represented with only 63 per cent, 70 per cent, 76 per cent and 87 per cent of the employees that one would expect on the basis of population. By contrast, Belgium and Luxembourg, i.e. the main host countries were over-represented among A grade employees (421 and 1,095 per cent respectively) and the same applied to other smaller countries such as Ireland (320 per cent), Denmark (191 per cent) and Greece (191 per cent). Germany,

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Britain and Italy were especially strongly under-represented at the level of grade A1 personnel<sup>xxii</sup> - 63 per cent, 70 per cent and 76 per cent respectively – (Page and Wouters, 1994, p. 205).

Two decades later, in April 2011<sup>xxiii</sup>, i.e. after both the ‘big bang enlargement’ of 2004 and the Kinnock reforms of the early 2000s which involved the introduction of new staff regulations that enshrined merit as the main criterion for promotion (Kassim, 2008), Germany, Britain, Italy, Spain and Poland were under-represented with only 51 per cent, 39 per cent, 84 per cent, 76 per cent and 66 per cent of the AD and AST Commission employees that one would expect on the basis of population, having been joined by Denmark and Belgium (58 and 86 per cent respectively). By contrast, Luxembourg remains over-represented among these employees (858 per cent respectively) and the same applies to other small countries such as Slovenia (228 per cent), Ireland (226 per cent) and Greece (163 per cent). As regards the top two tiers (AD16 and AD15) of the European Commission’s officialdom, Germany, Italy and France remain under-represented - 75 per cent, 81 per cent and 88 per cent respectively – and have been joined by Poland (28 per cent) but Britain’s rate has increased to 95 per cent. By contrast, Belgium, Denmark, Ireland, Greece, Luxembourg and Slovenia are over-represented (371 per cent, 306 per cent, 379 per cent, 206 per cent, 842 per cent and 207 per cent) while another small country, namely the Czech Republic is severely under-represented with its nationals holding a quarter (26 per cent) of the top posts one would expect on the basis of the country’s population.

Although levels of remuneration provide a common set of incentives so as to attract EU citizens from all member states, the disincentives which they must counterbalance vary along national lines. There are numerous causes of variation but the most important are national differences in pay for civil servants, the costs of relocation and the inability to speak the language of the country where EU posts are located.

Although the expatriate allowance (see below) is not paid to EU officials who live and work in their country of origin (thus leading to discrepancies between officials on the same salary point), the intensity of the incentives varies along national lines. A system that is designed to attract candidates from states amongst which pay and the cost of living are unevenly distributed, inevitably creates much stronger incentives for candidates from countries where pay and costs are lower. Moreover, the same system is likely to provide greater incentives even in sectors where there is no shortage of candidates. Thus, to the extent that shortages play a role in determining the overall rate of adjustment of the matrix, they are likely to lead to pay rates that are clearly above those required to attract candidates from many member states and sectors or specialisations. In other words, the allocation of financial rewards is bound to be inefficient when construed exclusively on the basis of recruitment from across the EU since varying rewards on the basis of nationality or sector or not varying it on the basis of hierarchy is as inconceivable in the EU as it is in its member states<sup>xxiv</sup>.

If nationality were not an issue, it might be argued that pay is above the level required to attract candidates. This is due to a number of reasons. As survey evidence has suggested in the past, commitment to European integration is an important motive for (especially senior) EU officials (Page and Wouters, 1994; Shore and Black, 1992). More recent research indicates that top Commission officials have a slight preference

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for supranationalism but there is also considerable support for intergovernmentalism amongst them (Hooghe, 2001). Since senior posts (Directors General, Deputy Directors General and, to some extent, Directors) were traditionally filled by *parachutistes* – i.e. people who have made their careers outside of the EU civil service – it cannot be argued that the matrix was designed to encourage the recruitment of officials to junior posts so that they can subsequently be promoted to top jobs. Between 1975 and 1995, 81.8 per cent of A1 and 65.7 per cent of A2 officials had been parachuted into the Commission (Page, 1997). In the late 1990s, for only 18 per cent of top Commission officials the job in the Commission was their first job and close to 45 per cent had extensive experience outside the public sector (Hooghe, 2001). In 2011 only 19 per cent of the Directors General had at least one year's experience outside the public sector and its duration varies from one (one case) to five years in half (i.e. three, all British) of these cases<sup>xxv</sup>.

### **The Matrix, Supplements and Deductions**

The matrix is central to the rewards of top EU officials since it directly determines their gross pay. A series of weightings reflecting local costs of living are used so as to make the matrix applicable to all EU officials throughout the world, including Commissioners, Judges and other top officials since their basic salaries are related to the top step of the top grade (third step of grade 16). Changes in the matrix directly affect changes in supplements to and deductions from income (see below).

The basic monthly salary of senior EU officials is equal to an amount resulting from application of the following percentages to that basic salary: 138 per cent for the Presidents of the Commission and the ECJ, 125 per cent for the Vice-Presidents of the Commission, 112.5 per cent for other Commissioners, ECJ Judges and Advocates General, 101 per cent for the ECJ's Registrar and 104, 100 and 90 per cent respectively for the President, the members and the Registrar of the EU Civil Service Tribunal.

The supplements to officials' income take various forms and appear in the staff regulations (Council of Ministers (EEC & EURATOM), 1962 as amended in 2008). Officials receive an *expatriation allowance* equal<sup>xxvi</sup> to 16 per cent of the total of the basic salary, household allowance and dependent child allowance to which the official is entitled. The *household allowance* (whose payment is subject to status) is equal to €159.49 plus 2 per cent of an official's basic salary. The *dependent child allowance* is equal to €348.50 per month for each dependent child automatically for children under eighteen years of age and on application for children between eighteen and twenty-six who are in education or are receiving vocational training. The *education allowance* is equal to the actual education costs<sup>xxvii</sup> incurred up to a maximum of €236.46 per month for each dependent child who is at least five years old and in regular full-time attendance at a primary or secondary school<sup>xxviii</sup> which charges fees or at an establishment of higher education. An *installation allowance* (equal to two months' basic salary in the case of an official who is entitled to the household allowance, and equal to one month's basic salary in other cases) is paid to an official for whom a change in the place of residence is required. It is weighted at the rate fixed for the place where the official is employed. On termination of service officials who provide evidence of change of address are entitled to a *resettlement allowance* (equal to two



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months' basic salary in the case of an official who is entitled to the household allowance or to one month's basic salary in other cases), provided that they have completed four years of service and do not receive a similar allowance in their new employment. Furthermore, officials are entitled to be paid in each calendar year a sum equivalent to the cost of travel from their place of employment to their place of origin for themselves and, if they are entitled to the household allowance, for their spouse and dependants.

EU officials who live and work in a third country receive an allowance for living conditions that is fixed, according to the official's place of employment, as a percentage of a reference amount which comprises their total basic salary, plus the expatriation allowance, household allowance and dependent child allowance, less any compulsory deductions. This allowance rises as a function of distance. A supplement is added to it depending on the distance by train between the place of employment and the place of origin<sup>xxix</sup>.

Commissioners and ECJ Judges receive a *residence allowance* equal to 15 per cent of their basic salary as well as a monthly entertainment allowance. They are also entitled to (a) an *installation allowance* equal to two months' basic salary on taking up his duties and a resettlement allowance equal to one month's basic salary on ceasing to hold office and (b) the reimbursement of *travel expenses* incurred by themselves and for members of their family, and reimbursement of the *cost of removal* of their personal effects and furniture, including insurance against ordinary risks (theft, breakage, fire) upon taking office.

The remuneration of the officials and other servants of the Communities is reviewed annually by the Council of Ministers (on the basis of qualified majority voting) in the light of a report by the Commission based on a joint index prepared by Eurostat in agreement with the national statistical offices of the Member States. In the context of the review the Council considers whether remuneration should be adjusted, taking particular account 'of any increases in salaries in the public service and the needs of recruitment<sup>xxx</sup>' (Art. 65 of Staff Regulations). Eurostat's report focuses on 'changes in the cost of living in Brussels [the Brussels International Index], the economic parities between Brussels and certain places in the Member States, and changes in the purchasing power of salaries in national civil services in central government' (Art. 1, Annex XI, Staff Regulations). The adjustment is presented in net terms as a 'uniform across-the-board percentage'. The updated tables take effect in July but the matrix can be upgraded more than once a year and even retrospectively so as to correct mistakes or when more information on the cost of living and salaries paid in national administrations becomes available.

As Page and Wouters note (1994, pp. 210-11) the Council, which actually makes the pay awards, is bound by its own regulation to accept the pay increases calculated on the basis of the formula. In 1981 it sought to implement the 3.3 per cent increase recommended by the Commission only for the lowest paid officials while paying the other grades a flat rate increase bringing the average pay increase to just 1.5 per cent. It justified this decision on the grounds that (a) the regulation setting out the mechanism for updating the matrix referred to two additional criteria, namely the recruitments needs of the institutions and the 'economic and social situation' of the Community, and (b) there was a serious crisis in Community finances. The

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Commission challenged the legality of this decision in the ECJ and won (Case 59/81). However, the revised staff regulations currently in force after the Kinnock reforms stipulate that 'If there is a serious and sudden deterioration in the economic and social situation within the Community, assessed in the light of objective data supplied for this purpose by the Commission, the latter shall submit appropriate proposals on which the Council shall act' (Art. 10, Annex XI, Staff Regulations). These arrangements are applicable between July 2004 and December 2012 and are meant to be reviewed on the basis of a report and, where appropriate, a proposal by the Commission (Art. 15). The Commission will conduct a review of the formula in 2012.

In November 2009, the Commission proposed an increase of 3.7% for staff salaries and pensions but the Council amended it by fixing new levels on the basis of an increase of 1.85% so as to take account of the economic and financial crisis but without invoking the special procedure provided for by the Staff Regulations in case of a serious and sudden deterioration in economic conditions. The Commission took the Council to court arguing that by doing so the Council had exceeded the powers conferred on it by the Staff Regulations, a view with which the Council disagreed. The Court found in the Commission's favour and annulled the corresponding parts of the Council's decision (C-40/10, *European Commission v. Council of the European Union*, *Official Journal*, C30, 29 January 2011, p. 10).

It is widely and erroneously believed that EU officials do not pay taxes. Although they do not pay income taxes on their salaries in their native country or in their country of residence, they are liable to pay all provincial and local taxes as well as, of course, taxes on what they buy as well, on what they earn apart from their salaries, and they must pay estate duties and other such taxes. In addition they pay a Community tax and a 'crisis levy' or 'temporary contribution' (Page and Wouters, 1994).

The Community Tax is progressive. For each band of income a differential percentage is paid, initially rising from 8 per cent in the first to 10 per cent in the second, then ten further steps increasing by 2.5 per cent each to 35 per cent, a penultimate step of 40 per cent and anything earned over the top rate of this band taxed at 45 per cent. Since the budget crisis of 1981 there has been a second tax. The 'crisis levy' was introduced from July 1981 for a period of ten years. After 1991, and substantial industrial action by EU civil servants, it was replaced by a 'temporary contribution', again for a period of ten years, and was set at a standard rate of 5.8 per cent. Since May 2004 a 'special levy' is applied (until the end of 2012) on the basic salary minus (i) social security and pension contributions and the tax, before special levy, payable by an official in the same grade and step without dependants, and (ii) an amount equal to the basic salary of an official in grade 1, step 1. The rate rises from 2.50 per cent in 2004 to 5.50 per cent in 2011 (Council of Ministers, 1968). The same applies to President and Members of the Commission, the President, Judges, Advocates-General and Registrar of the Court of Justice and the President, Members and Registrar of the Court of First Instance (Council Regulation (EEC, Euratom, ECSC) No 1084/92 of 28 April 1992, OJ L 117, 1 May 1992).

Commissioners and Judges are entitled to a pension from the age of 65. The amount of the pension is 4.275 per cent of the basic salary last received for each full year in office and one-twelfth of that sum for each complete month, the maximum being 70

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per cent of the basic salary last received (Council Regulation (EC, Euratom) No 1292/2004 of 30 April 2004 L 243, 15 July 2004).

Officials who have completed at least ten years in service are entitled to a pension<sup>xxxi</sup> up to 70 per cent of the final basic salary carried by the last grade in which the official was classified for at least one year. Officials contribute one third of the cost of this pension scheme to the tune of 10.25 per cent of their basic salary – up from 8.25 in 1993 (Page and Wouters, 1994, p. 208). Moreover, social security arrangements cover between 80 and 100 per cent of the expenditure incurred by sickness.

Officials who travel in the course of their duties receive a daily subsistence allowance which comprises a flat-rate sum that covers ‘all expenses incurred by the person on mission: breakfast, two main meals and incidental expenses, including local travel’. Accommodation costs, including local taxes, are reimbursed up to a maximum fixed for each country, on production of supporting documents’ (Art. 10, Annex VII, Staff Regulations). Commissioners and Judges receive 105 % of that amount for the same purposes, in addition to travel and accommodation expenses. Also, officials who, by reason of their duties, regularly incur entertainment expenses may be granted a fixed rate allowance determined by the appointing authority. In addition, senior management staff (i.e. Directors-General or their equivalent in grade AD 16 or AD 15 and Directors or their equivalent in grade AD 15 or AD 14) who do not have an official car at their disposal may receive a fixed allowance not exceeding €892,42 a year to cover normal travel within the boundaries of the town where they are employed (Art. 15, Annex VII, Staff Regulations).

A monthly entertainment allowance is also paid to Commissioners, ECJ Judges, Advocates-General and Registrar. This amounts to €1418 for the Presidents of the Commission and ECJ, €911 for the Vice-Presidents of the Commission, €607 for other Commissioners, €608 for ECJ judges and Advocates-General and €554 for the ECJ’s Registrar. Presiding Judges of Chambers of the Court and the First Advocate-General also receive during their term of office a special duty allowance of €811 per month. These allowances are increased annually by the Council (Council Regulation (EC, ECSC, Euratom) No 2778/98 of 17 December 1998 L 347, 23 December 1998).

While in post, Commissioners are banned by the Treaty of Rome from any paid work. However, the potential for rewards to be reaped after a career as a Commissioner is undoubtedly significant. For example, as Page and Wouters point out (1994, pp. 209-10), Sir Christopher Tugendhat, Commissioner between 1977 and 1985,

‘went on to become, among other things, a Director of the National Westminster Bank, of Commercial Union Assurance as well as Chairman of the Civil Aviation Authority and the Royal Institute for International Affairs. There can be little doubt that the prestige and experience associated with having been a senior Commissioner makes former office holders attractive candidates for such positions. Precisely how much value was added to Tugendhat’s career by his appointment in the Commission is not easy to determine since his qualities were obviously appreciated before he went to Brussels. He was a director of Sunningdale Oils and Phillips Petroleum International (UK) in the early 1970s.

Moreover a rewarding position in the private sector is not, as far as can be ascertained, the destination of most ex-commissioners. Of the 59 ex-

commissioners, the subsequent careers of only 36 could be traced -- the remainder died (3), disappeared without trace from the standard biographical references (15) or departed office too recently to be included in them (5). Of the 36, 16 went back to positions in domestic politics (at positions ranging from mayor of a small town through MP to President or Prime Minister), a further six went back into law (3) or teaching (3), six became eminent members of public organisations (such as Victor Bodson who became President of the International Association of French Speaking Parliamentarians) and eight went into private industry, usually in a directorial or managerial capacity. Of these four were British, two were Belgian, one was Luxembourgish and one was French (the latter going into a semi-public rather than a private business).’

Arrangements have been in place at least since the early 1970s to facilitate the life of Judges and Commissioners after the end of their service for these two institutions. For three years from the first day of the month following that in which they cease to hold office, they receive a monthly *transitional allowance*. The amount depends on their length of service. It rises from 40 per cent of their last basic salary when they were in office if their period of service is less than two years, to 60 per cent if it is between ten and 15 years and to more than 65 per cent of the same salary in other cases (Regulation (ECSC, EEC, Euratom) No 1546/73 of the Council of 4 June 1973, OJ L 155, 11 June 1973). These generous arrangements can be seen as an attempt to ensure that these HPOs are under no financial pressure to rush into new jobs that might conflict with their EU role. In addition, Art. 213 of the Treaty stipulates *inter alia* that (i) Commissioners have, upon leaving office, ‘a duty to behave with integrity and discretion as regards the acceptance [...] of certain appointments or benefits’ and (ii) the Council or the Commission have the right to take legal action against breaches.

However, what became known as the (infamous) ‘Bangemann case’ in 1999 led to the adoption of rules whose aim is to ensure that problems of this kind are less likely to occur. Martin Bangemann - a lawyer, former MEP, Federal MP, leader of Germany’s Liberals (FDP) and economics minister in successive German governments led by Helmut Kohl - served as a Commissioner (under Jacques Delors and Jacques Santer) between 1989 and 1999, initially in charge of the internal market and, since 1995 responsible for industrial affairs, IT and telecommunications. In June 1999 – i.e. *prior* to the completion of his term of office, he decided to leave the Commission and, with immediate effect, take up a lucrative offer to join the board of Telefónica<sup>xxxii</sup>, a major company that was active in the policy domain (telecommunications) covered by his portfolio (*Financial Times*, 1 July 1999, p. 26). His decision was vehemently opposed by the EP, the Commission, the Council (*Financial Times*, 23 July 1999, p. 2), other politicians (including the leader of his own party), and the German government, though he maintained that he had breached no rules. As a result, the Council took legal action against him at the ECJ aimed at depriving him of his pension rights for breach of Art. 213 of the Treaty.

Following this embarrassing controversy, Romano Prodi, then new president of the Commission, introduced a Code of Conduct for Commissioners stipulating that

‘Whenever Commissioners intend to engage in an occupation during the year after they have ceased to hold office, whether this be at the end of

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their term or upon resignation, they shall inform the Commission in good time. The Commission shall examine the nature of the planned occupation. If it is related to the content of the portfolio of the Commissioner during his/her full term of office, the Commission shall seek the opinion of an ad hoc ethics committee. In the light of the committee's findings it will decide whether the planned occupation is compatible with the last paragraph of Article 213(2) of the Treaty.'

The Council subsequently decided to drop the case in the ECJ once Bangemann agreed in writing to delay taking up his new job by a year, in line with the Commissions's new Code of Conduct for Commissioners, not to work for another telecommunications company during this period, and not to represent any third party in dealings with EU institutions for two years after his departure from Brussels and to 'permanently continue to safeguard' any confidential information he may have become aware of as a Commissioner (Council of Ministers (ECSC/EC/EURATOM), 1999).

In August 2010 the Commission's ad hoc ethics committee forced Charlie McCreevy (internal market and financial services Commissioner between 2004 and 2009) to resign from the board of a London-based investment bank due to a conflict of interest. This was the first case of this kind (<http://euobserver.com/?aid=30996>, 26 April 2011, accessed on 11 May 2011). In an effort to force the Commission to enhance its code of conduct (in line with President Barroso's earlier promise) the European Parliament voted in October 2010 to withhold some of the monies that had been earmarked for former Commissioners (<http://euobserver.com/?aid=31101>, 22 October 2010, accessed on 11 May 2011). The revised code of conduct was adopted by the Commission in April 2011, i.e. after former industrial affairs Commissioner Günter Verheugen had set up a lobbying consultancy firm and former maritime affairs Commissioner Joe Borg had joined a PR consultancy firm "actively lobbying on maritime issues" (<http://euobserver.com/?aid=31248>, 11 November 2010, accessed on 11 May 2011).

The revised code extends the remit of the ethics committee (which obtains the power, if requested by the President of the Commission, to issue opinions "on any general ethical question" concerning the interpretation of the code), introduces guiding criteria for its assessments and, for the first time, compels it to make public both its findings and its reasoning. It extends from 12 to 18 months the period during which former Commissioners "shall not lobby nor advocate with members of the Commission and their staff for her/his business, client or employer on matters for which they have been responsible within their portfolio". It also introduces a clear procedure whereby the President of the Commission may re-allocate responsibility for a dossier in case of potential conflicts of interest while a Commissioner is still in office, explicitly bans Commissioners from recruiting spouses, partners or direct family members in their *cabinet*, enhances existing restrictions regarding gifts in the form of hospitality and obliges Commissioners to update their declaration of interests on an annual basis (European Commission, 2011).

## **Conclusion**

Despite significant reforms in how the European Union works, in how its officials are

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recruited and promoted and how its politicians are paid in the last 15 years, its image as a “gravy train” has hardly improved significantly. Indeed, with the fiscal austerity following the 2008 financial crisis the central philosophy of ensuring independence from member states and making European service attractive to officials from 27 member states seems almost guaranteed to enhance the impression of a gravy train. Yet the expenses involved in living (possibly temporarily) in a city like Brussels and the financial incentives needed to make people want to do it do not come cheap. Commission pay shows the difficulty, if not impossibility, of paying enough to make employment in the EU attractive while not outraging member state electorates. In the UK, with a comparatively Eurosceptic electorate and a highly Eurosceptic press a pay rise in 2010 was condemned in the *Daily Mail* as, in the words of a Conservative MP, as a case of “self-serving Eurocrats [yet again] handing large amounts of our money to other self-serving Eurocrats”. Yet the Commission and the British Government had for some time been concerned that the number of UK applicants to join the Commission’s civil service was far too low as those with the necessary qualifications (and the critical shortage in the UK is with language qualifications) were believed to be attracted to better paid jobs elsewhere.

Answers to the question of whether salaries are “too high” will always vary according to the perspective of the person giving the answer as well as the factors taken into account and left out. However, given the importance of the objective of recruiting officials of the right calibre from the right countries, and given the constraints of a common pay scale for all nationalities which has to maintain hierarchical distinctions in pay differentials, the argument for wages which appear generous by many national standards is not to be explained simply as EC officials having been successful in the pursuit of self-interest. Rather the pay system is a result of the current level of development of European integration, where supranational sentiments are not fully matched by the dropping of national interests. While a worthy ideal, member states are only likely to tolerate true supranationality in recruitment in the lower echelons of the EC where 56 per cent of the employees come from Belgium, Luxembourg or Italy. Among judges, MEPs and Commissioners formal national quotas determine the nationality of incumbents. In between this, where official as well as unofficial quotas are illegal, member states appear to prefer to pay for a system which formally recognises the principle of supranationality in the senior ranks but which at the same time ensures that the top rank of the civil service contains acceptable numbers of their own citizens.

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<sup>i</sup> Since the entry into force of the Treaty of Lisbon in December 2009 the Council meets in ten configurations (down from 22 in the 1990s). The distribution of responsibilities between government ministers at the national level is entirely a matter for each member state and does not always correspond to the distribution of tasks between the Council's ten configurations. This is why the actual number of national government ministers who attend meetings of the Council is very high (in the hundreds).

<sup>ii</sup> The President of the European Commission is also a member of the European Council his salary is paid out of the EU budget.

<sup>iii</sup> For example, MEPs elected in Italy received €12,435 per month, while their colleagues who were elected in Hungary received 6.76% of that amount (€840 Euro)

per month (Euractiv, 23 June 2005, <http://www.euractiv.com/en/opinion/meps-agree-reform-salaries-travel-expenses/article-141439>)

<sup>iv</sup> This is the number specified by the Treaty of Lisbon which entered into force in December 2009.

<sup>v</sup> These are the European Defence Agency, the EU Institute for Security Studies and the EU Satellite Centre.

<sup>vi</sup> These are the European Police College, the European Police Office and the EU's Judicial Co-operation Unit.

<sup>vii</sup> The key decisions are made by the ECB's Governing Council which – addition to the six members of the Executive Board – includes the (at present 17) heads of national central banks of the members of the Euro-zone. Unlike the former, the latter are not ECB (or indeed EU) employees but national officials, whose salaries are paid by the corresponding member state.

<sup>viii</sup> The Ombudsman has the same rank in terms of remuneration, allowances and pension as a judge of the ECJ (European Parliament, 1994, Art. 10).

<sup>ix</sup> These are distinct from Community institutions, have their own legal personality and have been set up to deal with specific (technical or managerial) tasks in the 'first pillar'. They are the Community Fisheries Control Agency, the Community Plant Variety Office, the European Agency for Safety and Health at Work, the European Agency for the Management of Operational Cooperation at the External Borders, the European Aviation Safety Agency, the European Centre for Disease Prevention and Control, the European Centre for the Development of Vocational Training, the European Chemicals Agency, the European Environment Agency, the European Food Safety Authority, the European Foundation for the Improvement of Living and Working Conditions, the European Fundamental Rights Agency, the European GNSS Supervisory Authority, the European Maritime Safety Agency, the European Medicines Agency, the European Monitoring Centre for Drugs and Drug Addiction, European Network and Information Security Agency, the European Railway Agency, European Training Foundation, the Office for Harmonisation in the Internal Market (Trade Marks and Designs) and the Translation Centre for the Bodies of the European Union.

<sup>x</sup> These are executive agencies set up for a fixed period and entrusted with the management of specific programmes. They are the Research Executive Agency, the Trans-European Transport Network Executive Agency, the Executive Agency for Health and Consumers, the Executive Agency for Competitiveness and Innovation, the European Research Council Executive Agency and the European Audiovisual and Culture Executive Agency.

<sup>xi</sup> This reform was adopted 26 years after the first direct European elections.

<sup>xii</sup> This explains the fact that the politicians who were MEPs prior to the entry into force of the Statute and were since re-elected 'may opt for the national system applicable hitherto in respect of the salary, transitional allowance and pensions for the entire duration of their membership of the European Parliament' (Art. 25 (1)).

<sup>xiii</sup> All conversions in this chapter are made at a rate of €1=£0.8775 and €1=\$1.4275 (April 2011).

<sup>xiv</sup> This figure does not include €179,000 intended for flat-rate subsistence and representation allowances in connection with the duties of the EP's President.

<sup>xv</sup> In addition to the cost of carbon offsets, these include ordinary travel expenses (i.e. travel and subsistence expenses in connection with travelling to and from the places of work and with other duty travel), other travel expenses (i.e. travel expenses



incurred in the member state of election and repatriation expenses), general expenditure allowance (i.e. expenses resulting from the parliamentary activities of MEPs in the member state where they are elected).

<sup>xvi</sup> This includes €250,000 for ‘exchange losses’ which is understandable since MEPs need to employ (and, consequently, remunerate) staff in the country where they are elected at a time when 10 of the 27 members of the EU do not use the Euro.

<sup>xvii</sup> This is subject to the amendment of the Staff Regulations of officials of the European Communities and the conditions of employment of other servants of the European Communities (OJ L56, 4 March 1968, pp. 1-7) which requires the unanimous agreement of the Council.

<sup>xviii</sup> Page and Wouters reported that in 1993 the EC’s contribution to the pension schemes of MEPs amounted to 7.7 million ECU 7.7m ECU or 14,882 ECU (£12,354) per MEP (Page and Wouters, 1994, p. 203).

<sup>xix</sup> This corresponds to €23,169 approximately (i.e. £20,331 or \$33,074) per MEP.

<sup>xx</sup> This sum covers their remuneration and allowances, insurance against sickness, accident and occupational disease and other social security contributions, flat-rate overtime allowances, travel expenses for officials or temporary staff, their spouses and dependants from their place of employment to their place of origin, the impact of salary weightings applicable to remuneration and to the part of emoluments transferred to a country other than the country of employment, unemployment insurance for temporary staff and payments made by the institution to allow temporary staff to constitute or maintain pension rights in their country of origin.

<sup>xxi</sup> The top grade (AD16) is an exception: it has three steps.

<sup>xxii</sup> In grades C and D there was – as expected - a great preponderance of local employees, (Belgians and Luxembourgish) as these grades are not generally subject to the *Proportio* principle (Page and Wouters, 1994, p. 205).

<sup>xxiii</sup> For these calculations we have used Eurostat’s population estimates for 2010 (EUROSTAT, 2011) and the European Commission’s official staff figures (European Commission/Human Resources and Security DG, 2011a; 2011b).

<sup>xxiv</sup> For example, senior civil servants in Whitehall who come from London do not receive higher pay than those who come from, say, South Wales and the salary of the British Prime Minister is not lower than that of a senior Treasury official.

<sup>xxv</sup> This calculation is based on the 31 CVs found on the European Commission’s web site ([http://ec.europa.eu/civil\\_service/about/who/dg\\_en.htm](http://ec.europa.eu/civil_service/about/who/dg_en.htm) accessed on 19 April 2011) from which the CVs of five Directors General were missing.

<sup>xxvi</sup> It is at least €472.70 per month.

<sup>xxvii</sup> Children may be educated in the European School free of charge.

<sup>xxviii</sup> For each dependent child who is less than five years old or is not yet in regular full-time attendance at a primary or secondary school, the amount of this allowance is fixed at €85,14.

<sup>xxix</sup> It amounts to €177.22 if the distance is between 725 km and 1450 km, and €354.41 if it is greater than 1450 km.

<sup>xxx</sup> The Commission produces a comprehensive report every three years on the recruitment requirements of the institutions and transmits it to the European Parliament and the Council, i.e. the two branches of the EU’s budgetary authority. On the basis of this report the Commission, if necessary, presents proposals based on all relevant factors to the Council after consulting the other institutions within the framework of the Staff Regulations (Art. 2, Annex XI, Staff Regulations).

<sup>xxxi</sup> This entitlement also applies irrespective of length of service, if an official is over

the age of 63, if it has not been possible to reinstate him during a period of non-active status or in the event of retirement in the interests of the service.

<sup>xxxii</sup> His links to that company go way back. In the early 1990s he created a high level group to outline the EU's strategy on information highways. Candido Velazquez, then president of Telefonica, was a member of the group (*Financial Times*, 2 July 1999, p. 2).