U4U File
The pension scheme

FACTS AND ARGUMENTS:
THE PRESERVATION OF THE PENSION SCHEME FOR EUROPEAN UNION STAFF, A PRIORITY FOR THE STAFF!

The pension scheme for European Union staff is one of the main achievements of the Staff Regulations of the European Civil Service. This prerequisite has been preserved in its principle, and for the most part, in its modalities, since 1956, despite the partial undermining of the last two reforms of the Staff Regulations in 2004 and 2014.

Our pension scheme combines the best aspects of various national civil service schemes. It allows for a maximum accumulation of 70% of the last salary at the time of retirement, and for an annual revaluation of this amount thanks to the Method (which reflects the evolution of the purchasing power of the civil servants of the Member States as well as inflation). Moreover, it does not include the deduction of the exceptional tax, known as the crisis tax, and it is coupled with a social protection system that remains of a very high quality.

A set of reasons explain why the staff and their representatives have for the most part always fought for its preservation.

Is this regime in danger?

However, a relatively new development is that our scheme is no longer being questioned only from the outside. For some years now, and especially recently (in January 2015) in a document sent to all staff, some unions have been questioning its sustainability and existence. What is the real situation?

We want to set the record straight[1], because misinformation and errors of analysis feed demagogy, encourage attacks on the European civil service and endanger all staff - whatever their status, seniority or date of recruitment, including pensioners.

Contrary to what some trade unions, such as Generation 2024, claim, our pension system, which is the same for all European civil servants, is not in danger: on the contrary, it is solid. Despite the setbacks of the last two reforms of 2004 and 2014, this system offers fair pensions for all, the amount and adaptation of which are guaranteed by the new Method of updating salaries and pensions. This method, let us repeat, is not a simple indexation on the evolution of prices. It ensures that the purchasing power of EU staff, including pensioners, develops in parallel with that of the public services of the Member States. For pensioners, in the context

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We are supplementing this document with two other texts on the debate with the same organisation that have already been published to give staff a full picture of the issues at stake. As always, this organisation claims to satisfy demands that are specific to all staff by means and proposals that divide them and do them a disservice. See texts: Dividing the staff is fighting against one's own interests; Letter to the President of Generation 2004.

of a "normal" economic situation, it allows their pensions to evolve faster than prices.

Staff have no interest or reason to see this issue reopened. This idea, which is dangerous for everyone, is based on a completely erroneous analysis of the pension system and must be vigorously opposed.

Principles that benefit everyone

The importance of the principles of acquired rights and legitimate expectations of the staff of the institutions

The Court of Justice enshrines the principles of legitimate expectations and acquired rights. These fundamental principles make it possible to guarantee the rights of existing staff against their brutal and unilateral revision by Member States, increasingly negative, and wanting to deeply challenge them.

These principles also constitute a protection for colleagues hired after each reform, insofar as the preservation of acquired benefits prevents too great a difference between generations of civil servants and makes it possible to justify a few corrections afterwards.

It is on this basis that, for example, colleagues recruited after 2004 but before 2014 were protected from the increase in the retirement age to 66 - for them a retirement age of 63 was retained - and from the reduction in the annual pension accrual rate from 1.9% to 1.8%, applicable to staff recruited as from 1 January 2014, following the last revision of the Staff Regulations.

These two principles protect the staff recruited after each reform, since maintaining the essence of the situations acquired for existing staff limits the possibility of creating too great a gap with new staff. They subsequently legitimise the implementation of corrective measures to reduce existing disparities, which end up posing management difficulties for the institution itself. Therefore, in order to reduce the disparities created by the 2004 reform, the Commission eventually decides to organise internal reclassification competitions and to use unused resources for promotions in the highest grades, in a 'cascade' which allows additional promotions in the lower grades.

These two principles will still protect existing staff when Member States come back to try to reduce statutory rights again in the context of further reform. That is why they must be jealously guarded.

A perfectly sound pension plan

An erroneous and overly-hasty analysis could lead to the conclusion that the pension rights accumulated by colleagues who are nationals of the EUR 15 would be unduly financed by the new Member States, which would pay for the pensions of officials hired before the 2004 enlargement.

It should be remembered that our EU staff pension scheme is an actuarial scheme which, by definition, is in balance.

It is financed - virtually - by indirect salary (employee and employer contributions), paid into the Union budget, which feeds a notional, i.e. accounting, pension fund. These contributions can be adjusted each year to cover the present value of pension rights acquired during that year. This ensures the permanent balance of the scheme.

The pensions of retirees are therefore financed by the contributions made during their working lives and accumulated in the notional [2]pension fund.

It is a balanced and very coherent pension scheme, much better than most national systems!

A collective guarantee that would only come into play in extreme cases

The joint and several guarantee of the Member States (article 83 of the Staff Regulations) provides additional security in the unlikely event of the disappearance of the EU or the bankruptcy of the budget. It guarantees the pension scheme, protecting officials in the event of the dissolution of the institutions, as was the case for pre-war League of Nations pensioners, who continued to receive their pensions even after the League's demise.

This obligation applies to any new EU Member State, but only in these extreme cases. In normal circumstances, pensions are financed from the Community budget (heading 7), with pension contributions accounted for in a notional pension fund.

Moreover, it could be noted, on the occasion of the Brexit, that this collective guarantee falls mutatis mutandis on a State that leaves the EU and must therefore guarantee its share in the payment of benefits and therefore in the scheme according to the distribution key of expenses provided for in the budget.

Article 142(2) of the Withdrawal Agreement states that the United Kingdom shall be liable for its share of the Union's liabilities in respect of pension rights and rights to other employment-related benefits acquired by 31 December 2020. Thus, the above-mentioned agreement implements the UK's obligations in respect of the Union's staff pension scheme. Thus, the text provides that the United Kingdom shall contribute annually to the net payments from the Union budget to each beneficiary of an EU pension, irrespective of nationality or status, and to the corresponding contribution from the Union budget to the EU Joint Sickness Insurance Scheme (hereinafter JSIS) for former officials and other servants. The text of the withdrawal agreement provides that the payment of this contribution shall start on 30 June 2022.

Accumulated pensions that are a deferred wage

In reality, the Union budget pays pensions on the basis of the theoretical deductions made

[2] Pensions paid from the Community budget decrease the notional fund, while contributions from the active population, which correspond to the present value of acquired pension rights, increase the notional fund. The long-term interest rate used in the actuarial calculation is that of the public debt. To avoid cyclical fluctuations in interest rates, a 12-year moving average was used. With the 2014 statute, the moving average is gradually extended to 30 years, which mitigates the negative effect of the current low rates.

from the total salary (employer's charges and social security contributions) during the working life of the agents now retired. These deductions are accumulated in a notional virtual fund, to which the long-term interest rate of the public debt is applied. The amount of the pensions finds its counterpart in this virtual fund, which is by essence in equilibrium, and therefore does not generate any surplus or loss.

New colleagues begin to finance their future pensions from their salary. Retirees receive pensions, as already described, on the basis of the sums they have accumulated throughout their career.

The virtual pension scheme is cash generative in the first instance, since the Community budget does not finance a real pension fund. The budget pays the pensions due each year, the cumulative amount of which, taking into account the age pyramid of the staff, is of course less than the total amount deducted from the notional fund. The Community budget has thus benefited since 1962 from substantial budgetary savings, amounting to several tens of billions of euros (in the region of 40 billion) not budgeted for, whereas the annual cost of pensions has gradually risen to just over one billion euros.

Therefore, it is inaccurate to say that some States (the new ones) pay for the pensions of the nationals of others (the old ones). Moreover, staff pensions are paid from the Community budget: it is almost impossible to make a "fair expenditure" calculation according to the nationality of the active and retired staff! Indeed, one would have to reason in terms of net contributing Member States and not in terms of new or old Member States (while knowing that the "pensions" item represents a tiny proportion of the budget). Attempting this argument is very dangerous, because it amounts to attacking the principle of the statutory and budgetary guarantee of pensions, which has existed since the entry into force of the Staff Regulations and the adoption of the EEC and Euratom Statutes on 1 January 1962. This would be a political mistake which could backfire on all the staff of the institutions.

A fair pension plan

To claim, as some unions have done, that the contribution rate is not proportional to the benefits of the scheme and does not take into account the age of retirement and the level of the accrual rate is wrong. Similarly, it is also wrong to conclude that the rate should be higher for colleagues recruited before 2004. This proposal demonstrates a serious misunderstanding of the pension scheme. Indeed, the Staff Regulations define the calculation of the rate of contribution to the pension scheme, which applies to each member of staff, as the ratio between the cost of service in year "n" and the total annual basic remuneration for that year. It shall then be adjusted annually, to maintain actuarial balance, on the basis of the following variables

- Demographic trends: Article 9(1) of Annex XII provides that the Commission shall carry out an annual survey of the age of working people and pensioners, which will make it possible to determine the structure of the population, the average age at which people draw their pensions and the invalidity table;

- Interest rates: Article 10 of Annex XII provides for the use of the average of the average rates observed for the long-term public debt of the Member States during the last 12 years preceding the year in question. Under the new Staff Regulations, this moving average will gradually cover 30 years. Thus, the Community pension scheme is virtually invested, as for a real pension fund, in the public debt securities issued by the Member States.

- The annual variation in the salary scale for officials of the European Union (Article 11 of Annex XII to the Staff Regulations) is taken into account in the actuarial calculation to smooth out cyclical fluctuations. Here too, there is a gradual shift from using a 12-year moving average (old Staff Regulations) to a 30-year moving average (new Staff Regulations).

Comparing, in a demagogic way as Generation 2004 did, the current average pension with the salary of a contract agent makes no sense since the civil servants who are now retired have acquired rights throughout their period of activity. It should be noted that, thanks to the minimum subsistence mechanism, in 10 years a contractual colleague obtains pension rights equivalent to 40% of the salary of an AST1/1, i.e. a pension of more than 1000 euros. But aligning pensions acquired over a whole career with the salaries of staff who are unfortunately precarious would amount to a generalised regression, which would moreover be applied most brutally to staff who have only recently entered service.

A mechanism to correct certain exceptional situations

Are *Barcelona incentives* an unfair advantage? No. This mechanism allows colleagues who do not have a full career to benefit from a decent pension. The average age of entry into the institutions has risen considerably since 2004, to over 35 years. Once again, it is precisely those colleagues recruited after 2004 and after 2014 who have an interest in benefiting from this mechanism, in order to improve the level of their pension.

Avoiding double taxation

Should pensions be overtaxed, as some propose, by applying the special 6% contribution on salaries? Extending this contribution would mean making pensioners pay twice, since they have already paid it on their working salary throughout their career (the pension is a deferred salary).

The pension contributions have been calculated for a pension without the additional levy. If a system were adopted in which the exceptional "crisis" levy was applied to pensions, the contribution during working life would have to be lower: current pensioners would have to be reimbursed for the overpayment of the employee contribution paid during their working life. The absurdity is obvious!

Should we return to a 'real' pension fund?

If the proposal to replace the current scheme with a system of contributions to a pension fund invested in the financial markets were to be followed, the Community budget would have to

pay :

- the capital of the notional fund acquired in a real fund, the amount of which would be invested on the financial markets
- indirect pay (employee and employer contributions), from the annual budget to the actual pension fund.

The budgetary authority would have no interest in carrying out this operation, as we have seen.

The staff would have to fear the vagaries of the financial markets. This fear is real, as many pension funds of the same type have seen their capital melt away in recent decades as a result of financial crises and investment errors.

In practical terms, our current pension scheme has (initially) made a cash "saving" for the budget. The notional fund does accumulate a debt for future pensions, but the actuarial calculation of the contribution ensures that the two effects are balanced. It should be noted that, as a result of the new recruitments, the share of pensioners in the total population dependent on the Community budget (active plus pensioners) has decreased from 27.1% in 2003 to 25.1% in 2013.

The deterioration in the prospects for salary and career development and therefore the foreseeable reduction in the pensions paid following the 2004 and 2014 revisions of the Staff Regulations has already resulted in a reduction in the contribution of active staff to the pension scheme (from 11.6% to 10.0% for so-called employee contributions, from 23.2% to 20.0% for so-called employer contributions, i.e. a total of 4.8 points of basic salary).

Inappropriate reform proposals

Reforming the pension scheme to make it more differentiated runs counter to the fundamental interests of all staff regardless of their status, grade or dates of recruitment

Proposal to amend the provisions of the Protocol on the Privileges and Immunities of the European Communities and the Tax Regulation in order to make the highest paid pensioners pay more tax

To get around the obstacle of changing the statute to impose a special 6% contribution on pensions, Generation 2004, supported the approach of some member states frustrated by the 2014 reform, which they say does not go far enough. Its leaders have proposed amending the tax regulations to tax high earners. Article 14 of the MIP states that social security for EU staff should be established at EU level. Article 12 of the MIP provides for the introduction of a Community tax. The tax regulation decided on this basis provides for a tax scale from a tax rate of 8% for the lower end of the scale to a rate of 45% above a salary (or even a pension) of about €7,000, which corresponds to a progressive tax rate applicable to income (including pensions).

This tax progressiveness is among the highest in the Member States, because the highest incomes are taxed at a marginal rate of 45%, because no deductions are possible, because the internal salary scale in the civil service is 1 to 7, which is three times less than the

maximum differences proposed by radical European parties (1 to 20). With social security contributions and the 7% levy, the marginal rate of the tax and parafiscal burden amounts to 63.9%.

The Protocol on Privileges and Immunities is an annex to the Community Treaty and requires an Intergovernmental Conference to amend it. Can we seriously believe that it would be appropriate and beneficial to embark on such a modification to make pensioners pay a contribution on their salaries? The risk is of course that Europhobic governments will take the opportunity to reduce other provisions of the Staff Regulations, to the detriment of staff, while the hypothetical gains will never be paid to officials but rather at best to one of the budget headings.

- ***Proposal to calculate the actuarial balance in a differentiated way***

The proposal is to **calculate the actuarial balance in a differentiated way**, depending on the annual rate of accumulation of pension rights and the retirement age of the officials or agents.

The idea is to make officials recruited before 2004 pay a higher percentage of their monthly salary to the pension scheme. This notion of progressive contribution rates, innovative though it may be in terms of national rights, could lead the Member States and the Council to ask for such an increase rather from colleagues who joined recently than from the oldest officials, who will not continue to contribute for very long.

In addition, although the rate of contribution to the EU pension scheme has decreased, it is still among the highest of all public services. Some do not even have contributions. So why encourage Member States to continue in this direction?

Such a proposal, if legally and technically feasible, would require a change in the Staff Regulations which, in the current political context, would be, let us repeat, a form of collective suicide for EU officials and staff.

All these proposals are based on a supposed cleavage between pre-2004 and post-2004, but what about colleagues recruited after 2014, who benefit from even lesser conditions than post-2004? We can see the spiral...

- ***Proposal to raise the pensionable age of public servants who have "better conditions***

Raising the retirement age of officials who have better conditions (i.e. recruited before May 2004): this is the first time in the history of Europe and of most Member States that a trade union organisation has proposed raising the retirement age! This proposal flatters those Member States who simply want to make savings at the expense of a quality civil service.

It is clear that if the Member States were to ask for a further increase in the retirement age, this could not concern existing staff, but only those to be recruited in the future, as was the case during the 2004 and 2014 reforms (principle of legitimate expectations). In fact, this amounts to penalizing civil servants recruited from 2014 onwards, whose conditions are already less good and who could do without such solicitude!

Note that the current retirement age is among the highest in Europe.

- ***Proposal to replace the notional fund with a real pension fund***

This proposal is probably the most surprising. It would replace the current notional fund, where rights are registered but not paid by the Union budget, with a real pension fund placed on the financial markets. In order to pay, the EU budget would have to be increased by several tens of billions of euros of rights accumulated since 1962. The total amount of these acquired rights is more than EUR 90 billion. One can only imagine how the Member States would react to this idea!

This proposal is in total contradiction with the assumption that our pension system is not sustainable over time! If the Council finds that the annual pension payments[3] are too much of a burden on the Union's budget, then why would it agree to the creation of a pension fund, which should result in :

- Either increasing the Union's budget by tens of billions of euros, corresponding to the amounts not paid since 1962;

- or reallocating amounts already budgeted, but at the expense of financing certain policies already decided.

Our current system is guaranteed by the Staff Regulations and the budget and, ultimately, by the Member States in the event of the EU's demise. Creating a real pension fund would mean placing it on the financial markets, with all the risks that entails. Will the unpredictable and erratic fluctuations of financial investments and markets protect the future pensions of the staff of the institutions? Do we need to remind ourselves of the crash of many public and private pension funds, in the United States and elsewhere, in recent years? Is this the model that is being proposed to us, instead of a stable, secure system that has saved the EU budget a great deal of money?

- ***Proposal to use the financial income of a real pension fund for the benefit of colleagues who wish to leave the institutions***

To finance the few colleagues who would like to repatriate their rights to national schemes in order to leave the Commission during their career ("transfer-out"), the pension fund would be called upon to use the financial income of the real pension fund. But this financial income, in any case, would belong to all staff!

If there were a pension fund invested in the financial markets, the return on this fund would be included in the overall actuarial calculation and could not therefore be used for the benefit of colleagues who wish to leave the institution.

In conclusion

We note the technical and political weakness of the proposals that have been put forward by

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1 billion/year on average; for 2015 this amount is 1.567 billion

some for several years on a subject that is fundamental for European officials. This approach is based on erroneous observations, unfounded presuppositions, and contradictory arguments, and proposes as a solution to an evil that does not even exist, a general deterioration in the conditions of employment of staff - past, present and future.
Politically, this approach plays into the hands of the Member States who wish to make savings, to weaken the European Union, its institutions and its staff, by reducing the attractiveness of careers, of which the pension scheme is an integral part.

Generation 2004's approach breaks with the principle of solidarity between working people and pensioners, and between the different categories of working people. It develops a corporatist and category-based approach and divides the staff instead of tackling those responsible for the 2004 reform: the Council! It also calls into question two cardinal principles of the European civil service, confirmed by the Court of Justice, namely the protection of acquired rights and the legitimate expectations of staff, which protect existing staff from excessively brutal changes in working conditions.

It attempts to pit Member States against each other, against European principles. It sows division between Member States and their citizens.

This approach is not only technically weak, but also politically dangerous, because as has been shown, it obstructs the interests of all staff.

Even more seriously, we are taking the political risk of playing into the hands of those Member States that are seeking to dismantle the EU staff pension scheme, for essentially political reasons.

U4U invites the staff not to support such proposals.

The Commission should also set the record straight

U4U also asks the Commission to set the record straight and to defend our pension scheme. The Commission's silence, even at a technical level, contributes to giving free rein to all kinds of demagogic statements.

The Commission and the Commissioner responsible for administration and personnel must also :

- continue to monitor the actuarial balance of the EU staff pension scheme, using the expertise and professionalism of our colleagues in EUROSTAT, particularly in the context of the adjustment of the monthly pension contribution rate (deducted from salaries[4]);

- no longer propose to increase the retirement age, which is now statutorily set at 66, the highest age of any national civil service, especially in view of the rejuvenation of the staff of the Commission and the institutions

[4] It has been 10.1% of gross pay since 1 July 2014.

U4U also calls on other unions and pensioners' associations[5] to work together to protect and sustain the EU staff pension scheme, a common asset for all staff.

[5] AIACE and SEPS.