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REPORT

on the adoption of a Statute for Members of the European Parliament

Committee on Legal Affairs and the Internal Market

Rapporteur: Willi Rothley

CONTENTS

Page

PROCEDURAL PAGE	3
EUROPEAN PARLIAMENT DECISION.....	4
EUROPEAN PARLIAMENT RESOLUTION	20
OPINION OF THE COMMITTEE ON BUDGETS	21

PROCEDURAL PAGE

At the sitting of 16 January 2003 the President of Parliament announced that the Committee on Legal Affairs and the Internal Market had been authorised to draw up a report under Rule 163 on a Statute for Members.

At the sitting of 13 March 2003 the President of Parliament announced that he had also asked the Committee on Budgets for its opinion.

The Committee on Legal Affairs and the Internal Market had appointed Willi Rothley rapporteur at its meeting of 23 September 1999.

It considered the draft report at its meetings of 28 January, 10 February, 10 March, 17 March and 25 March 2003.

At the last meeting it adopted the draft decision by 17 votes to 3, with 3 abstentions.

The following were present for the vote: Giuseppe Gargani, chairman; Willi Rothley, vice-chairman and rapporteur; Ioannis Koukiadis, vice-chairman; Paolo Bartolozzi, Luis Berenguer Fuster, Maria Berger, Philip Charles Bradbourn, Carlos Carnero González (for Carlos Candal under Rule 153(2)), Alejandro Cercas (for Arlene McCarthy under Rule 153(2)), Bert Doorn, Marie-Françoise Garaud, Evelyne Gebhardt, Fiorella Ghilardotti, Lutz Goepel, Malcolm Harbour, Othmar Karas, Piia-Noora Kauppi, Ole Krarup, Kurt Lechner, Klaus-Heiner Lehne, Neil McCormick, Toine Manders, Manuel Medina Ortega, Marcelino Oreja Arburúa, Diemut R. Theato, Marianne L.P. Thyssen, Rijk van Dam, Rainer Wieland, Joachim Wuermeling, Matti Wuori, Stefano Zappalà and François Zimeray.

After adopting the draft decision, the committee decided unanimously to defer the vote on the motion for a resolution.

It considered the consolidated draft report at its meeting of 21 May 2003.

At that meeting the committee adopted the amended draft decision by 24 votes to 1, with 2 abstentions. It then adopted the motion for a resolution by 19 votes to 3, with 1 abstention.

The following were present for the vote: Giuseppe Gargani, chairman; Willi Rothley, vice-chairman and rapporteur; Ioannis Koukiadis, vice-chairman; Richard A. Balfe (for Anne-Marie Schaffner under Rule 153(2)), Paolo Bartolozzi, Luis Berenguer Fuster (for Carlos Candal), Charlotte Cederschiöld (for Malcolm Harbour), Michel J.M. Dary, Bert Doorn, Janelly Fourtou, Marie-Françoise Garaud, Evelyne Gebhardt, Othmar Karas (for José María Gil-Robles Gil-Delgado), Hedwig Keppelhoff-Wiechert, Kurt Lechner, Klaus-Heiner Lehne, Neil McCormick, Toine Manders, Hans-Peter Mayer (for The Lord Inglewood), Arlene McCarthy, Manuel Medina Ortega, Theresa Villiers (for Marianne L.P. Thyssen), Diana Wallis, Rainer Wieland, Joachim Wuermeling and Stefano Zappalà.

The opinion of the Committee on Budgets is attached.

The report was tabled on 23 May 2003.

EUROPEAN PARLIAMENT DECISION

on the adoption of a Statute for Members of the European Parliament (2003/2004(INI))

The European Parliament,

having regard to the Treaties establishing the European Communities, in particular Article 190(5) of the Treaty establishing the European Community¹ and Article 108(4) of the Treaty establishing the European Atomic Energy Community²,

having consulted the Commission,

whereas:

A. General considerations

- (1) the Act concerning the election of the Members of the European Parliament by direct universal suffrage annexed to Decision 76/787/EEC **enabled the first direct election of representatives of the European Parliament to take place in 1979;**
- (2) **this Act contains no provisions either for a uniform electoral procedure or for a Statute for Members;**
- (3) the Council decision of 25 June 2002 and 23 September 2002, based on 190(4) ECT, **which has been inserted by the Treaty of Amsterdam, amended the 1976 Act to establish a uniform electoral procedure;**
- (4) at present, more than 20 years after the first direct elections to the European Parliament, there is still no uniform statute for Members;
- (5) the solution provisionally adopted consists in the application to Members of the European Parliament of the same provisions, in general, as those applying to Members of the national parliaments in respect of Members' allowances, old-age pensions, survivors' pensions and other **conditions governing the performance of the Members' duties. (In the Netherlands, the allowance paid to Members of the European Parliament has been lower than that paid to Members of the national parliament since 1976);**
- (6) **these provisions vary greatly from one Member State to another;**
- (7) further provisions are contained in Articles 8, 9, and 10 of the Protocol on the Privileges and Immunities of the European Communities of 8 April 1965 and paragraphs 1 and 2 of Article 4 of the 1976 Act (as amended by the decision amending the 1976 Act);

¹ Hereinafter referred to as: ECT.

² All further references to the Treaties in this Statute relate solely to the provisions of ECT.

- (8) these provisions are supplemented by the European Parliament's rules on the reimbursement of costs (travel, subsistence, general **expenditure**), **assistants (secretarial allowance) and social benefits (first subparagraph of Article 199 of the ECT)**;
- (9) this system was **developed for the delegates appointed to the earlier parliamentary Assembly and is today regarded as unsatisfactory, because it results in unequal treatment for Members**;
- (10) **it is an outmoded system that must be replaced by rules tailored to the directly elected European Parliament and reflecting its increasing importance**;
- (11) the European Parliament has sought to establish a uniform statute since the first direct elections. These attempts failed for lack of a legal basis;
- (12) the Treaty of Amsterdam, as amended by the Treaty of Nice, provides a legal basis for a Statute in Article 190(5) ECT. The present Statute is based on that Article;
- (13) the Statute falls within the scope of application of the ECT, therefore, and consequently is subject to the prohibition of discrimination enshrined in Article 12 of the ECT;
- (14) Article 190(5) of the ECT is couched in general terms (*'regulations and general conditions governing the performance of the duties of its Members'*). This provision does not place any limitation on the European Parliament's regulatory powers that would restrict it to issuing rules in respect of financial conditions only, or only in respect of residual matters not covered by primary law;
- (15) **the European Parliament's regulatory powers consequently also extend to the privileges and immunities regulated by Articles 8, 9, and 10 of the Protocol or to matters which have not yet been regulated, such as the right to refuse to testify, and to Article 4 of the 1976 Act (as amended by the decision amending the 1976 Act)**;
- (16) provisions of the Statute that conflict with provisions of primary law may not enter into force unless **and until an intergovernmental conference has decided to repeal the corresponding primary law provisions and that decision has been ratified by the Member States (hierarchy of legislation)**;
- (17) for the sake of legal certainty, the same procedure should be adopted in the case of new provisions which either incorporate the wording of the primary law provisions or essentially mean the same;
- (18) rules adopted by the European Parliament, being secondary law, do not need to be ratified;
- (19) the criterion of performance of the Members' duties also serves to distinguish Article 190(5) from Article 190(4). Provisions applicable in the pre-election phase (eligibility, electoral procedure, etc.), as well as those concerning the beginning and end of a Member's term of office, the verification of credentials, removal from office,

replacement, and incompatibilities, should be regulated in the 1976 Act because they do not relate to the performance of the Members' duties;

- (20) Article 10 of the Protocol establishes the freedom of Members of Parliament from prosecution. Although parliamentary immunity is a privilege of the European Parliament, it affords individual Members freedom from prosecution or any other curtailment of personal freedom by the state for the duration of their term of office. If immunity is waived, the discharge of the Member's office is possible only to a limited extent, if at all. Members' immunity from prosecution is, therefore, a condition affecting the performance of their duties and, consequently, should be covered by the Statute;
- (21) subjects which, such as the privilege to decline to give evidence, have not previously been dealt with in primary law, can be dealt with in the Statute;
- (22) the Statute does not contain any detailed provisions relating to the reimbursement of costs (travel, subsistence, general expenditure), assistants (secretarial allowance) and social benefits (first subparagraph of Article 199 of the ECT). The European Parliament, based on the first subparagraph of Article 199 ECT, can decide on such matters autonomously¹;
- (23) there is no reason to call this autonomy into question. Article 190(5) ECT is intended to extend the European Parliament's powers to regulate its own affairs, not to curtail them;
- (24) according to the first subparagraph of Article 189 ECT, the European Parliament shall consist of 'representatives of the peoples of the States brought together in the Community'. These representatives are referred to in Article 190(1) ECT as the 'representatives in the European Parliament of the peoples of the States brought together in the Community'. The same term is used in Article 190(2) ECT ('the number of representatives elected in each Member State') and in Article 190(3) ECT ('representatives shall be elected for a term of five years');
- (25) these provisions, whereby the representatives are the constitutional representatives of the peoples, are of a constitutional nature;
- (26) they suggest that the term used in the Statute should be 'representative';
- (27) the right of the European Parliament to regulate its own business, in accordance with the first subparagraph of Article 199 ECT, is not affected by this Statute;
- (28) in the interests of legal certainty, a Statute for Members can enter into force only at the beginning of a legislative period;

B. With reference to individual provisions

¹ ECJ Judgment of 15.9.1981, Case 208/80 *Lord Bruce*, ECR 2205

- (29) Article 1 takes the concept of ‘Member’ and makes it clear that the Statute does not deal with Members’ rights and duties, but comprehensively covers the rules and general conditions applicable to the exercise of their mandate;
- (30) the freedom and independence of Members upheld in Article 2 require statutory protection and are not mentioned in any provision of primary law. Undertakings made by Members to relinquish their office at a given time, or declarations of their intent to relinquish office at an unspecified date which political parties can make use of at their discretion, are incompatible with Members’ freedom and independence and so cannot be binding in law;
- (31) protecting the freedom to vote and freedom of speech is a matter of fundamental public interest. Article 4(1), therefore, precludes a Member from being prosecuted or otherwise held to account for a statement made in the exercise of his or her mandate. Under Article 4(2), the European Parliament may decide whether a statement was made in the exercise of a Member’s mandate. In this case it is, as when verifying mandates in accordance with the provisions of the 1976 Act, functioning in a judicial capacity. In its decisions on immunity, which are certainly comparable, the European Parliament has consistently shown a sense of proportion and realism;
- (32) the immunity provided for in Article 5 protects Members from politically motivated prosecution (*fumus persecutionis*) and restrictions imposed by the executive branch. As various cases decided on by the European Parliament show, there can be no question of these aspects no longer playing a role today. Immunity at all events touches on questions of equality, the division of powers and the rule of law. A further aim of immunity is to ensure the European Parliament’s ability to function. These considerations suggest the following solution: criminal investigations and proceedings can be initiated against a Member at any time. There is no requirement for immunity to be waived. Current law is not helpful either to the European Parliament or to individual Members, as even straightforward offences such as road traffic offences have to be discussed in public. Any restriction on the personal freedom of a Member must, however, be conditional on the agreement of the European Parliament (to ensure the European Parliament’s ability to function). It must be possible to suspend investigations and criminal proceedings at the insistence of the European Parliament if ‘*fumus persecutionis*’ is involved. Paragraph 2 provides these guarantees.
- (33) The entitlement to refuse to give evidence, for which Article 6 provides and which has not so far been regulated in primary legislation, protects a Member’s freedom with regard to information and the relationship of trust between him/her and any person who has entrusted facts to him/her. It is a right vested in the individual vis-à-vis the public authorities, which applies in all procedures where a duty to give evidence exists, and the European Parliament cannot override it. The prohibition on seizure, searches and exploitation protects this entitlement. It would be absolutely unacceptable for journalists to have an entitlement to refuse to give evidence while Members did not;
- (34) The freedom of movement for Members provided for by Article 7, which is essentially a matter of course, has fresh significance because this freedom has recently been restricted by measures adopted by the authorities in connection with demonstrations;

- (35) Article 9 ensures that Members' records, documents, drafts, letters and other correspondence are excluded from any requirement of disclosure;
- (36) The right of initiative provided for in Article 10 is the key right of a Parliament and of every Member thereof. The article makes it clear that the Rules of Procedure of the European Parliament cannot restrict the enjoyment of this right by every Member;
- (37) The right to inspect files, provided for by Article 11, which has already existed hitherto on the basis of the Rules of Procedure of the European Parliament, is an essential aspect of the performance of a Member's duties and should therefore be provided for by the Statute;
- (38) Article 12 is intended to ensure that, despite statements to the contrary, linguistic diversity will not in reality be further eroded. Any discrimination against any of the official languages must be excluded. Interpretation must be performed direct from one language to another, as discrimination is inevitable if a third language is interposed. This principle must continue to apply after any enlargement of the European Union;
- (39) Pursuant to Articles 15 and 16, Members are to receive an allowance in return for denying themselves a private career and – for a limited period – serving the European Union, their country and democracy in Europe. Regarding the amount of the allowance, a group of experts convened by the European Parliament submitted a study in May 2000. An allowance of 50% of the basic salary of a judge at the European Court of Justice falls well within the range which the experts deem appropriate;
- (40) Article 15(3) is necessary because parties often expect the benefits referred to in paragraphs 1 and 2 to be used in part for their purposes. This form of party funding is illegal;
- (41) The transitional allowance provided for in Articles 15(2) and 19 is intended to bridge the period between the end of a Member's term of office and his/her taking a new post. When the ex-Member takes up another mandate or assumes a public office, this purpose ceases to be relevant;
- (42) In the case of the old-age pension referred to in Article 20, the age when entitlement to it is to begin has been a matter of dispute. The group of experts proposes the age of 65 or – with an actuarial deduction – the age of 60. According to the draft, the old-age pension would become payable on the Member's 60th birthday. A Member who, after his/her education and some years of professional experience, is elected for the first time at age 35 or 40 and serves as a Member for twenty years, leaves Parliament aged 55 or 60. While he/she may reasonably be expected to take up an occupation outside Parliament at the age of 55, this is hardly the case at the age of 60. Calculations by Parliament's administration indicate that an actuarial deduction would be so large that this solution cannot be considered;
- (43) The arrangements for provision for survivors are essentially in line with current law in the European Community. The entitlement of a surviving spouse who has remarried is based on the modern idea that it relates to a personal benefit and is not intended merely as

‘provision’. Such an entitlement is not ruled out even when a surviving spouse is ‘provided for’ by virtue of his or her own income or personal wealth;

- (44) The purpose of Article 24(1) and (2) is ultimately to remove expenditure from the budget of the European Union. The option of setting up a fund has proved its value in practice. The group of experts proposes that the European Parliament should contribute two thirds and Members one third;
- (45) Article 25 is necessary because when the Statute enters into force, Member States will cease to reimburse the costs that Members incur as a result of sickness or to pay part of medical insurance contributions. These benefits are often retained after a Member’s term of office is over;
- (46) the provisions concerning the reimbursement of costs must respect the principles set out by the European Court of Justice in the ‘Lord Bruce’ judgment¹;
- (47) according to that judgment ‘it is a matter for the Parliament to decide which activities and travel of Members of the Parliament are necessary or useful for the performance of their duties and which expenses are necessary or useful in connection therewith. The autonomy granted to the Parliament in this matter in the interests of its proper functioning also implies the authority to refund travel and subsistence expenses of its Members not upon production of vouchers for each individual item of expenditure but on the basis of a system of fixed lump-sum reimbursements. The choice of this system (...) arises from a concern to reduce the administrative costs and burdens inherent in a system involving the verification of each individual item of expense and therefore represents sound administration’²;
- (48) however, ‘the allowances fixed in that manner must not exceed reasonable limits consistent with the refund of travel and subsistence expenses’. The lump sum fixed for the allowances must not be too high or constitute disguised remuneration³;
- (49) The Member States should ensure that the rules placing Members of the European Parliament, when exercising their mandate in their Member State, on the same footing as members of the national parliament (as regards, e.g., reimbursement of air fares, provision of free rail passes, etc) are retained. It is not possible for this problem to be solved at European level, as numerous very disparate arrangements exist in the Member States. Without such a provision, the exercise of the mandate of a Member of the European Parliament in the Member State where a Member was elected would be considerably hampered, if not impossible. Effective exercise of the mandate is also in the interests of the Member States;
- (50) Article 33(1) is required because the very disparate national provisions to which Members have so far been subject make it impossible to solve at European level all the problems associated with the transition from an old to a new European system. Giving Members a choice will make it impossible for Members’ rights to be reduced or for them to suffer financial damage as a result of the transition.

¹ See footnote 1 to recital 22.

² Paragraph 17.

³ Paragraph 21.

Paragraphs 2 and 3 are consequences of the decision in paragraph 1;

DECIDES:

A. Regulations and general conditions governing the performance of the duties of the Members of the European Parliament

Article 1

This Statute lays down the regulations and general conditions governing the performance of the duties of Members of the European Parliament.

Article 2

- (1) Members shall be free and independent.
- (2) Agreements concerning the resignation from office of a Member before or at the end of a parliamentary term shall be null and void.

Article 3

- (1) Members shall not be bound by any instructions and shall not receive a binding mandate.¹
- (2) They shall vote individually and personally.²
- (3) Agreements concerning the way in which the mandate is to be exercised shall be null and void.

Article 4³

- (1) A Member may at no time be prosecuted or otherwise be held accountable extrajudicially for any action taken, vote cast or statement made in the exercise of his/her mandate.
- (2) Parliament shall decide, on an application from the Member, whether a statement was made in the exercise of his/her duty.
- (3) It shall issue provisions for the implementation of this article in its Rules of Procedure.

¹ See Article 37(2).

² See Article 37(2).

³ See Article 37(2).

Article 5¹

- (1) Any restriction of a Member's personal freedom shall be permitted only with the consent of Parliament, except where he/she is arrested in the act of committing an offence.
- (2) The seizure of a Member's documents or electronic records or the searching of his/her person, office or place of residence or interception of his/her mail and telephone calls may be ordered only with the consent of Parliament.
- (3) Investigations or criminal proceedings against a Member shall be suspended at Parliament's request.
- (4) Consent pursuant to paragraph 2 may be applied for only by the authorities competent under national law.
- (5) Consent pursuant to paragraph 2, or suspension pursuant to paragraph 3, may be granted conditionally, for a limited period or on a restricted basis.
- (6) Article 4(3) shall apply *mutatis mutandis*.

Article 6

- (1) A Member shall be entitled at all times to refuse to give evidence about persons who have entrusted facts to him/her or to whom s/he has entrusted facts and such facts themselves in the performance of his/her mandate.
- (2) Measures under Article 5(2), or the exploitation of documents already seized, shall be prohibited.

Article 7²

- (1) Members shall enjoy freedom of movement throughout the European Union.
- (2) This right may not be restricted by law or by order of a public authority or a court.

Article 8

The privileges and immunities arising from the foregoing articles may not be restricted by other provisions of the European Community's derived legislation.

Article 9

¹ See Article 37(2).

² See Article 37(2).

Documents and electronic records which a Member has received, drafted or sent out, and which do not bear an official document number, shall be deemed not to be European Parliament documents.

Article 10

- (1) Each Member shall be entitled to table proposals for Community legal acts in the context of the European Parliament's right of initiative.
- (2) Article 4(3) shall apply *mutatis mutandis*.

Article 11

- (1) Members shall be entitled to inspect any files held by Parliament.
- (2) This shall not apply to personal files and accounts.
- (3) Acts of the European Union and agreements by the Institutions concerning access to documents shall remain unaffected by this provision.
- (4) Parliament shall enact provisions for the implementation of this Article.

Article 12

- (1) The documents of the European Parliament shall be translated into all the official languages.
- (2) Speeches shall be interpreted simultaneously, and directly, into all the other official languages.

Article 13

- (1) Members may form themselves into political groups.
- (2) Article 4(3) shall apply *mutatis mutandis*.

Article 14

- (1) The political groups shall be part of Parliament.
- (2) They may sue and be sued.

Article 15

- (1) Members shall be entitled to an appropriate allowance to safeguard their independence.
- (2) At the end of their mandate, they shall be entitled to a transitional allowance and an old-age pension.
- (3) Agreements on the use of the allowance, the transitional allowance and the old-age pension for other than private purposes shall be null and void.
- (4) The surviving dependants of Members or former Members shall be entitled to benefit provision.

Article 16

The amount of the allowance shall be 50% of the basic salary of a judge at the European Court of Justice.

Article 17

The allowance received by a Member for the exercise of a mandate in another parliament shall be offset against the allowance.

Article 18

- (1) The allowance shall be subject to Community tax on the same terms and conditions as those laid down on the basis of Article 13 of the Protocol on the Privileges and Immunities of the Communities for the officials and other servants of the European Communities.
- (2) The right of Member States to take the allowance into account in determining the tax to be levied on other income shall remain unchanged.

Article 19

- (1) At the end of their mandate Members shall be entitled to a transitional allowance equivalent to the allowance pursuant to Article 16.
- (2) This entitlement shall continue for one month per year in which their mandate has been exercised, but not for less than six months or more than 24 months.
- (3) No such entitlement arises in the event of a Member assuming a mandate in another Parliament or taking public office.
- (4) In the event of death, the transitional allowance shall be paid for the last time in the month in which the former Member died.

- (5) Article 18 shall apply *mutatis mutandis*.

Article 20

- (1) Former Members shall be entitled to an old-age pension as from the age of 60.
- (2) This pension shall be, for each full year's exercise of a mandate, 3.5% of the allowance pursuant to Article 1 of this Annex and one-twelfth thereof for each further full month, but not more than 70% in total.
- (3) Entitlement to the old-age pension shall exist irrespective of any other pension.
- (4) Articles 17 and 18 shall apply *mutatis mutandis*.

Article 21

- (1) Members who become incapacitated during their term of office shall be entitled to a pension.
- (2) Article 20(2) shall apply *mutatis mutandis*. However, the amount of the pension shall be at least 35% of the allowance pursuant to Article 16.
- (3) The entitlement shall take effect when the Member concerned stands down.
- (4) Articles 11(4), 17 and 18 shall apply *mutatis mutandis*.

Article 22

Should a former Member be entitled simultaneously to the payment of the transitional allowance pursuant to Article 19 and the pension pursuant to Article 20 or Article 21, he or she shall decide which arrangement shall be applied.

Article 23

- (1) In the event of the death of a Member during his/her term of office, or of a former Member who at the time of his/her death was entitled to a pension pursuant to Article 20 or Article 21 of this Annex, the spouse and dependent children shall be entitled to benefit provision.
- (2) The total amount of the pension shall not exceed the pension to which the Member would have been entitled at the end of the parliamentary term or to which the former Member was entitled.

- (3) The surviving spouse shall receive 60% of the amount referred to in paragraph 2, but in any case at least 30% of the Member's allowance. That entitlement shall not be affected if the surviving spouse remarries.
- (4) A dependent child shall receive 20% of that amount.
- (5) Should it be necessary, the maximum amount of the pension to be paid shall be divided between the spouse and the children in the ratio of the percentages laid down in paragraphs 2 and 3.
- (6) The pension shall be paid as from the first day of the month following the date of death.
- (7) Should the spouse die, the entitlement shall expire at the end of the month during which the death occurred.
- (8) A child's entitlement shall expire at the end of the month in which s/he reaches the age of 21.
However, it shall continue for the duration of professional education and training, but only until the end of the month during which s/he reaches the age of 25.
The entitlement shall continue as long as the child is unable to support himself/herself on account of sickness or infirmity.
- (9) Partners from relationships recognised in the Member States shall be treated as equivalent to spouses.
- (10) Articles 11(4) and 18 shall apply *mutatis mutandis*.

Article 24

- (1) To finance the old-age pension and survivor's pension a fund shall be set up which shall constitute reserves for the old-age pensions and survivor's pensions.
- (2) The reserves shall be constituted from monthly payments by Parliament (two-thirds) and Members (one-third) and also from the interest accruing therefrom.
- (3) The amount of the contributions required shall be determined annually by Parliament.
- (4) The contributions pursuant to paragraph 2 shall not be subject to any tax.
- (5) The accounts shall be audited by the European Court of Auditors.

Article 25

- (1) Members and former Members drawing an old-age pension, and persons entitled to the survivor's pension, shall be entitled to reimbursement of the costs that they incur as a result of sickness, pregnancy or the birth of a child.

- (2) To cover the costs a fund shall be set up, in the financing of which former Members shall likewise participate.
- (3) Articles 11(4) and 24 shall apply *mutatis mutandis*.

Article 26

- (1) Members shall be entitled to reimbursement of costs incurred in the exercise of their mandate.
- (2) Article 11(4) shall apply *mutatis muntandis*.

Article 27

- (1) Members shall be entitled to reimbursement of costs incurred in the exercise of their mandate.
- (2) Parliament shall determine those cases in which reimbursement may be effected by means of a flat-rate sum.
- (3) Articles 11(4) and 15(3) shall apply *mutatis muntandis*.

Article 28

- (1) Members shall be entitled to assistance from personal staff whom they may freely choose themselves.
- (2) Article 11(4) shall apply *mutatis mutandis*.

Article 29

- (1) Members shall be entitled to use Parliament's office facilities, telecommunications equipment and official cars.
- (2) Article 11(4) shall apply *mutatis mutandis*.

Article 30

All payments shall be made from the budget of the European Union and from the funds to be established pursuant to Articles 24 and 25.

Article 31

The benefits provided by the European Parliament and the national parliaments pursuant to Articles 24 and 25 shall not be subject to tax.

Article 32

Decisions concerning the implementation of this Statute shall be published in the L series of the Official Journal.

B. Transitional provisions

Article 33

- (1) Members who were already sitting Members at the time of entry into force of this Statute and who are re-elected, may opt for the national system applicable hitherto in respect of the allowance, the transitional allowance, the old-age pension and the survivor's pension for the entire duration of their mandate.
- (2) These payments shall be made from the budget of the Member State and shall be subject only to national tax.
- (3) Members shall pay no contribution to the fund established pursuant to Article 24.

Article 34

- (1) Members who wish to continue with the national system applicable hitherto pursuant to Article 33(1) of the Statute shall notify the President of Parliament of this decision in writing within 30 days of commencing their mandate.
- (2) The decision shall be final and irrevocable.
- (3) Should such notification not be made within the time-limit, the provisions of this Statute shall apply.

Article 35

- (1) The voluntary pension fund set up by the European Parliament shall be maintained after the entry into force of this Statute for Members or former Members who have already acquired rights or future entitlements in that fund or who opt for the national system applicable hitherto pursuant to Article 33(1) of this Statute.
- (2) Acquired rights and future entitlements shall be maintained in full.
- (3) The contributions to this fund shall not be subject to any tax.

- (4) Members who pay contributions to the pension fund under Article 24 may not acquire any new rights or future entitlements in the voluntary pension fund.
- (5) The fund shall not be open to Members who are first elected to Parliament when this Statute becomes applicable.
- (6) Article 15(3), Article 18 and Article 20(3) shall apply *mutatis mutandis*.

Article 36

- (1) Any pension entitlement that a Member has acquired in accordance with national arrangements at the time when this Statute is applied shall be retained in full.
- (2) Periods of exercising a mandate in the European Parliament or in a national parliament which under national arrangements do not give rise to any pension entitlement shall be taken into account in calculating the pension based on this Statute.

C. Entry into force

Article 37

- (1) This Statute shall enter into force at the beginning of the parliamentary term that follows its adoption and its approval by the Council.
- (2) Notwithstanding paragraph 1,
 - paragraphs 1 and 2 of Article 3 shall enter into force immediately after, but not before, Article 4(1) of the 1976 Act has been repealed;
 - Article 4 shall enter into force immediately after, but not before, Article 9 of the Protocol has been repealed;
 - Article 5 shall enter into force immediately after, but not before, Article 10 of the Protocol has been repealed;
 - Article 7 shall enter into force immediately after, but not before, Article 8 of the Protocol has been repealed.
- (3) After the Council has given its approval, this Statute shall be duly signed by the President of the European Parliament and published in the L series of the Office Journal of the European Community.

EUROPEAN PARLIAMENT RESOLUTION

on the adoption of a Statute for Members of the European Parliament (2003/2004 (INI))

The European Parliament,

- having regard to Article 190(5) of the Treaty establishing the European Community and Article 108(4) of the Treaty establishing the European Atomic Energy Community,
 - having regard to the Act concerning the election of the representatives of the European Parliament by direct universal suffrage annexed to the Council Decision of 20 September 1976, and in particular Articles 1 to 6 thereof, and to the Council Decision of 25 June 2002 and 23 September 2002 amending that Act¹,
 - having regard to the Protocol on the Privileges and Immunities of the European Communities, and in particular to Articles 8, 9 and 10 thereof,
 - having regard to the opinion of the Commission,
 - having regard to Rule 163 of its Rules of Procedure,
 - having regard to the report of the Committee on Legal Affairs and the Internal Market and the opinion of the Committee on Budgets (A5-0193/2003),
1. Adopts the above decision on the Statute for Members;
 2. Considers that the budgetary implications of the above decision are compatible with the ceiling of heading 5 ("Administrative expenditure") of the financial perspective, without restricting existing policies;
 3. Calls on the Commission, pursuant to Article 48 of the EU Treaty, to submit a proposal to repeal Articles 9 and 10 of the Protocol on Privileges and Immunities and paragraphs 1 and 2 of Article 4 of the 1976 Act;
 4. Calls on the Council to give its approval;
 5. Calls on the Bureau to decide on a new rule on the reimbursement of travel costs (the reimbursement of duly substantiated costs incurred in the performance of Members' duties), which should enter into force together with the Statute;
 6. Instructs its President duly to sign the Statute for Members and publish it in the Official Journal (L series) as soon as the Council has given its approval;
 7. Instructs its President to forward the decision on the Statute for Members, together with this resolution, to the Council and the Commission.

¹ OJ L 283, 20.20.2002, p. 1.

12 March 2003

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Legal Affairs and the Internal Market

on the adoption of a Statute for Members of the European Parliament
(2003/2004(INI))

Draftsman: Terence Wynn

PROCEDURE

The Committee on Budgets appointed Terence Wynn draftsman at its meeting of 19 February 2003.

It considered the draft opinion at its meeting of 11 March 2003.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote Terence Wynn, chairman and draftsman; Reimer Böge and Anne Elisabet Jensen, vice-chairmen; , Ioannis Averoff, Joan Colom i Naval, Göran Färm, Salvador Garriga Polledo, Catherine Guy-Quint, Jutta D. Haug, Juan Andrés Naranjo Escobar, Joaquim Píscarreta, Giovanni Pittella, Esko Olavi Seppänen (for Francis Wurtz), Per Stenmarck and Kyösti Tapio Virrankoski.

SHORT JUSTIFICATION

The budgetary authority is willing to examine the budgetary implications of the adoption of a Statute for Members of the European Parliament and to make the necessary appropriations available from the 2004 Budget onwards.

The draft decision stipulates in its article 25 that all payments shall be effected from the budget of the European Union. Pending the adoption of the Statute, a budgetary structure was already created for this purpose, namely Chapter 102 ("Reserve for the Statute for Members") in Parliament's budget.

Parliament has agreed until now to keep its budget within the self-imposed ceiling of 20% of heading 5 ("Administrative expenditure") of the financial perspective. However, it has also consistently maintained that to cover expenditure related, among others, to the Members' Statute, it could decide to exceed that ceiling. It remains to be seen whether the adjustment of the Financial Perspective as a result of enlargement will allow Parliament to remain within the 20% ceiling, as expenditure not only related to the Statute, but also to impact of enlargement and to buildings policy will add considerable pressure.

It is understood that appropriations will be entered in the 2004 Budget to cover expenditure for half a year.

CONCLUSIONS

The Committee on Budgets calls on the Committee on Legal Affairs and the Internal Market, as the committee responsible, to incorporate the following points in its motion for a resolution:

1. Considers that the budgetary implications of the above decision are compatible with the ceiling of heading 5 ('Administrative expenditure') of the financial perspective, without restricting existing policies.