EUROPEAN
COMMISSION

Brussels, 5.12.2012
COM(2012) 755 final

2012/0349 (NLE)

Proposal for a

COUNCIL REGULATION

adjusting, from 1 July 2012, the rate of contribution to the pension scheme of officials and other servants of the European Union

{SWD(2012) 426 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Grounds for and objectives of the proposal

On the basis of a proposal from the Commission, the Council has to decide each year on the adjustment of the rate of contribution to the pension scheme effective from 1 July.

General context

Under Article 83a(4) of the Staff Regulations, the Commission has to present to the Council each year an updated version of the five-yearly actuarial assessment, in accordance with Annex XII to the Staff Regulations.

Under Article 13 of Annex XII to the Staff Regulations, Eurostat has submitted the report on this assessment, which determines the rate of contribution required to maintain actuarial balance of the pension scheme.

Existing provisions in the area of the proposal

A proposal is to be presented each year for adjusting the rate of contribution to the pension scheme.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Consultation of interested parties

Methods of consultation used, main sectors covered and general profile of respondents

The elements of the proposal have been discussed with the staff representatives in accordance with the appropriate procedures.

Summary of replies received and the way in which they have been taken into account

The proposal takes account of the opinions of the parties consulted.

Collection and use of expertise

The calculation of the pension contribution rate has been validated by an actuarial expert (external consultant).

Impact assessment

The purpose of the proposal is to adjust the rate of contribution to the pension scheme of officials and other servants of the European Union in order to maintain the actuarial balance of the scheme.

The legislation in force permits no alternative.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

In accordance with Annex XII to the Staff Regulations, Eurostat has submitted a report on the actuarial assessment of the pension scheme. According to this assessment, the rate of contribution required to maintain actuarial balance of the pension scheme is 9.9 % of basic salary.

Under Article 83a(4), where it is shown that there is a gap of at least 0.25 points between the rate of contribution currently applied (11.6 %) and the rate required to maintain actuarial balance (9.9 %), the Council is to adjust the rate, in accordance with the arrangements laid down in Annex XII.

Under Article 2(1) of Annex XII, the adjustment cannot lead to a contribution that is more than one percentage point above or below the valid rate of the previous year.

The Commission is therefore proposing that the rate of contribution be adjusted to 10.6 % with effect from 1 July 2012.

It should be noted that the Council Decision of 19 December 2011 concerning the Commission's proposal for a Council Regulation adjusting with the effect from 1 July 2011 the remuneration and pension of the officials and other servants of the European Union and the correction coefficients applied thereto (2011/866/EU) as well as the Council's failure to adopt the Commission proposal for a Council Regulation adjusting, from 1 July 2011, the rate of contribution to the pension scheme of officials and other servants of the European Union (COM (2011) 825) are subject to proceedings before the Court of Justice of the European Union[1]. Should the Court uphold the Commission's position, the Council will have to take the necessary measures under Article 266 TFEU and modify the pension contribution rate accordingly.

Legal basis

Staff Regulations of Officials of the European Union, and in particular Article 83a thereof and Annex XII thereto.

Subsidiarity principle

The proposal concerns an area that falls within the exclusive competence of the European Union. The principle of subsidiarity does not therefore apply.

Proportionality principle

The proposal is consistent with the principle of proportionality for the following

[1] On the 2011 annual adjustment: Case C-63/12, *Commission / Council* (annulment action), Case C-196/12, *Commission / Council* (action for failure to act); on the 2011 adjustment of the pension contribution rate: Case C-453/*12 Commission / Council* (action for failure to act).

reasons:

Article 83a of the Staff Regulations provides for a Council regulation.

The proposal has no financial impact on expenditure. The impact on revenue results directly from the application of the adjustment method provided for in the Staff Regulations.

Choice of instruments

Proposed instrument: Regulation.

Other instruments would be inappropriate for the following reasons:

- Article 83a of the Staff Regulations provides for a Council regulation.

4. BUDGETARY IMPLICATION

The impact on revenue of the adjustment to the rate of contribution to the pension scheme is detailed in the financial statement annexed hereto.

2012/0349 (NLE)

Proposal for a

COUNCIL REGULATION

adjusting, from 1 July 2012, the rate of contribution to the pension scheme of officials and other servants of the European Union

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other servants of the European Union laid down by Regulation (EEC, Euratom, ECSC) No 259/68[2], and in particular Article 83a thereof and Annex XII thereto,

Having regard to the proposal from the European Commission,

Whereas:

(1) In accordance with Article 13 of Annex XII to the Staff Regulations, Eurostat submitted a report on the 2012 actuarial assessment of the pension scheme updating the parameters referred to in that Annex. According to this assessment, the rate of contribution required to maintain actuarial balance of the pension scheme is 9,9% of basic salary.

(2) Under Article 2(1) of Annex XII, the adjustment cannot lead to a contribution that is more than one percentage point above or below the valid rate of the previous year (11,6%).

(3) In the interests of actuarial balance of the pension scheme of officials and other servants of the European Union, the rate of contribution should therefore be adjusted to 10,6 % of the basic salary,

HAS ADOPTED THIS REGULATION:

Article 1

With effect from 1 July 2012, the rate of the contribution referred to in Article 83(2) of the Staff Regulations shall be 10,6 %.

---

[2] OJ L 56, 4.3.1968, p. 1.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT FOR PROPOSALS

1. NAME OF THE PROPOSAL:

Proposal for a Council Regulation adjusting, from 1 July 2012, the rate of contribution to the pension scheme of officials and other servants of the European Union

2. BUDGET LINES:

Chapter and Article:

400 Tax on salaries of officials and other servants

Amount budgeted for the year concerned (Budget 2012):

EUR 633.1 million

404 Special levy (Budget 2012):

EUR 65.5 million

410 Staff contributions to the pension scheme (Budget 2012):

EUR 477.0 million

3. FINANCIAL IMPACT

☐ Proposal has no financial implications

☒ Proposal has no financial impact on expenditure but has a financial impact on revenue – the effect is as follows:

(€ million to one decimal place)

Budget line	Revenue	Six-month period starting 01/07/2012	2013
Article 400	*Impact on own resources*	4.3	8.6
Article 404	*Impact on own resources*	1.1	
Article 410	*Impact on own resources*	-20.6	-41.1

Situation following action					
	2014	2015	2016	2017	2018
Article 400	8.6	8.6	8.6	8.6	8.6

Article 404					
Article 410	-41.1	-41.1	-41.1	-41.1	-41.1

4. OTHER REMARKS

Method of calculation:

Pension contribution = new contribution – budgeted amount for current year
New contribution = budgeted amount x new rate/rate in force

Effect of the increase in the special levy = 5.5% of the decrease in the pension contribution. The special levy expires at 31 December 2012; therefore, the columns for 2013-2018 are empty.

Effect of tax increase = 21% of the decrease in the pension contribution.