

Recommendation 1488 (2000)¹

Nature and scope of the contractually acquired rights of Council of Europe staff

Parliamentary Assembly

1. By virtue of the contract binding them to the Organisation, Council of Europe staff enjoy a series of inalienable rights in accordance with the case-law of international administrative tribunals.
2. Acquired rights concern the contractual provisions which may have played a fundamental part in the individual's decision to join the staff of the Organisation.
3. Accordingly, there are limitations on the power of the Organisation to amend administrative rules applicable to serving staff. In particular, such amendments:
 - 3.1. must not be retroactive;
 - 3.2. must not be alien to the proper functioning of the Organisation and to its duty to attract the most highly qualified staff;
 - 3.3. must be based on a precise assessment of the situation at issue;
 - 3.4. must be made in good faith;
 - 3.5. must be introduced in a reasonable manner so as to avoid any excessive or unnecessary harm to staff.
4. The Council of Europe, by its very nature and the values it defends, has a duty to be an "organisation upholding the rule of law", that is to say, it must fully honour staff rights in the context of legal relations between the administration and staff.
5. At present, pressure exerted by certain governments on the majority of international organisations pose a challenge to the fundamental rights acquired by staff, particularly in the field of pensions and remuneration.
6. The Assembly, aware of the intentions of numerous delegations represented on the Co-ordinating Committee on Remuneration (CCR) to cut back the pension scheme with adverse consequences for both serving and retired staff, believes it has a duty to draw the attention of the Committee of Ministers to the potentially serious consequences of any disregard for staff's contractually acquired rights.
7. The Assembly accordingly recommends that the Committee of Ministers:
 - 7.1. inform the CCR that it is legally not feasible to reform the co-ordinated pension scheme by reducing the benefits provided for staff, since the possibility of modifying benefits was intentionally ruled out by the authors of the Pension Scheme Rules, as is confirmed by a study of the travaux préparatoires of the 94th Report of the Co-ordinating Committee of Government Budget Experts (CCG) which set up the pension scheme;
 - 7.2. also inform the CCR that its intention to introduce these amendments is based exclusively on the improvidence of governments in the face of the predictable and predicted costs of the scheme, and that this basis has nothing to do with the smooth functioning of the organisations;

1. See [Doc. 8868](#), report of the Committee on the Budget, rapporteur: Mr Aleffi. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 9 November 2000.



- 7.3. engage with the staff, who remain deprived of a genuine right of negotiation in the co-ordinated context, in a dialogue to identify the few anomalies and imperfections of the pension scheme which could be rectified in agreement with staff representatives;
- 7.4. bear in mind the negative consequences for social peace in the Organisation which could result from a reduction in benefits promised to staff;
- 7.5. with regard to pay, comply with the rule formulated by the Council of Europe's Administrative Tribunal in 1994 according to which "methods adopted in this important matter [adjustment of Council of Europe staff remuneration] require to be highly transparent so as to avert suspicion or mistrust, which cannot but damage the climate of mutual understanding and full co-operation necessary in an international organisation like the Council of Europe";
- 7.6. recommend to the CCR, to this end, that it propose for all the five co-ordinated organisations, salary adjustment methods which are objective and mathematical and take full account, as is the case with the so-called "parallelism" rule, of budgetary policies adopted at national level;
- 7.7. observe the principles of equal opportunities and fair geographical distribution in its recruitment policy;
- 7.8. ensure that the Organisation can rely at all times on a competent and independent staff, which implies being able both to recruit and to retain staff; to this end, Council of Europe staff remuneration must remain competitive with regard to the three recruitment markets named in the method currently in force (private sector; national civil services, including expatriated civil servants; the international civil service, including the European Union).