



EUROPEAN PARLIAMENT REPLY TO ECPRD REQUEST 6116

**The offering of a financial advantage in exchange for the resignation of a
seat in parliament**

FROM DENMARK - FOLKETINGET

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ECPRD EP Deputy
Correspondent

Barbara PINTO LEITE
barbara.pintoleite@europarl.europa.eu

Replies provided by

Alexis BISTIS
alexis.bistis@europarl.europa.eu

QUESTIONS

1) Is there any legislation or other form of regulation, such as a code of conduct, that prohibits

i.) a Member of Parliament from accepting a financial advantage on the condition that they resign their seat;

ii.) the act of offering such a proposal, including by individuals from the member's own party.

2) If so, what does the regulation entail, and how is it enforced?

REPLY

I. Independence of Members

The principle of the free mandate of the Members of the European Parliament is explicitly stated in Article 6 of the Electoral Act (the Act of 20 September 1976)¹:

“Members of the European Parliament [...] shall not be bound by any instructions and shall not receive a binding mandate.”

The freedom and independence of Members are also enshrined in Articles 2(1) and 3 of the Statute for Members of the European Parliament (2005/684/EC, Euratom)², as follows:

Article 2(1): “Members shall be free and independent”

Article 3:

1. *“Members [...] shall not be bound by any instructions and shall not receive a binding mandate.*
2. *Agreements concerning the way in which the mandate is to be exercised shall be null and void.”*

The Rules of Procedure of the European Parliament also contain an obligation for Members to exercise their mandate freely and independently, in Rule 2 thereof:

“In accordance with Article 6(1) of the Act of 20 September 1976 and with Article 2(1) and Article 3(1) of the Statute for Members of the European Parliament, Members shall exercise their mandate freely and independently, shall not be bound by any instructions and shall not receive a binding mandate.”

In order to safeguard their independence, Members are entitled to an appropriate salary (Article 9 of the Statute). The salary is set at 38.5% of the basic salary of a judge at the Court of Justice (Article 10 of the Statute). For guidance, the gross salary currently is EUR 10 927,44. The net salary after deduction of Community tax and insurance contributions is EUR 8 517,01.

Apart from the salary and other legal financial benefits to which Members are entitled in accordance with the Statute, they shall refrain from accepting any gifts or similar benefits with an approximate value of more than EUR 150, in accordance with Article 6(1) of the Code of Conduct for the Members of the European Parliament regarding integrity and transparency³:

“Members of the European Parliament shall refrain from accepting, in their capacity as Members, any gifts or similar benefits, other than those with an approximate value of less

¹ Act concerning the election of the members of the European Parliament by direct universal suffrage (as amended by Council Decision 2002/772/EC, Euratom of 25 June and 23 September 2002), OJ L 278, 8.10.1976, p. 5.

² Decision of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (2005/684/EC, Euratom), OJ L 262, 7.10.2005, p. 1.

³ Annex I to the Rules of Procedure of the European Parliament.

than EUR 150 given in accordance with courtesy usage or those given to them in accordance with courtesy usage when they are representing Parliament in an official capacity.”

II. Legal value of agreements concerning the resignation from office of a Member

According to recital 4 of the Statute:

“Undertakings made by Members to relinquish their office at a given time, or declarations of their intent to relinquish office on an unspecified date, which political parties can make use of at their discretion, should be considered as incompatible with Members' freedom and independence and should therefore not be binding in law.”

This safeguard of Members' freedom is further enshrined in Article 2(2) of the Statute:

“Agreements concerning the resignation from office of a Member before or at the end of a parliamentary term shall be null and void.”

Moreover, the resignation procedure provided for in Rule 4(2) of the Rules of Procedure intends to guarantee that any resignation is made voluntarily and in compliance with the Electoral Act and the Statute of Members:

“Members who resign shall notify the President of their resignation and of the date on which that resignation is to take effect, which may not be more than three months after notification. This notification shall take the form of an official record drawn up in the presence of the Secretary-General or his or her representative, signed by the latter and by the Member concerned and immediately submitted to the committee responsible, which shall enter it on the agenda of its first meeting following receipt of the document.

If the committee responsible considers that the resignation is in compliance with the Act of 20 September 1976, a vacancy shall be declared with effect from the date indicated by the resigning Member in the official record, and the President shall inform Parliament thereof.

If the committee responsible considers that the resignation is not in compliance with the Act of 20 September 1976, it shall propose to Parliament that it not declare a vacancy.”

III. Financing of European political structures

Appropriations from Parliament's budget allocated the financing of European political structures may not be used to pay a financial benefit to a Member of the European Parliament in return for their resignation.

- European political groups

The financing of European political groups is governed by the Rules on the use of appropriations from budget Item 400 adopted by the Bureau on 30 June 2003 (as amended). The nature of expenditures covered by the funds allocated to European political groups is strictly defined in Article 1.1.1:

“The appropriations made available from Item 400 are intended to cover:

- the administrative and operational expenditure of the political groups/non-attached Members' secretariat;*
- expenditure on political and information activities conducted by the political groups/non-attached Members in connection with the European Union's political activities.”*

Moreover, the nature of expenditure must conform to the common accounting plan, which forms an integral part of the rules. In this accounting plan, there is clearly no room for the “payment of a financial benefit to a Member of the European Parliament in return for their resignation”.

- European political parties and foundations

The financing of European political parties and foundations is governed by:

- Title XI of Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (“Financial Regulation”)
- Regulation (EU, Euratom) no 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations.

According to Article 225 of the Financial Regulation:

“Direct financial contributions from the budget may be awarded to European political parties as defined in Article 2, point (3), of Regulation (EU, Euratom) No 1141/2014 (European political parties) in view of their contribution to forming European political awareness and to expressing the political will of the citizens of the Union in accordance with that Regulation.”

Any expenditure that does not comply with the above-mentioned regulations is considered ineligible. It is our understanding that using funds allocated to European political parties and foundations for the “payment of a financial benefit to a Member of the European Parliament in exchange for their resignation” would fall under this category and thus be deemed ineligible.