

Opinion of the CSC members of the GCC on GCC/DOC 04/2024 (CA/16/24): New Ways of Working: Pilot Evaluation

Introduction

1. The CSC members of the GCC give the following opinion on the “New ways of working” proposed in [GCC/DOC 04/2024](#) (CA/16/2). The document is a pilot evaluation of former [GCC/DOC 3/2022](#) (CA/18/22).

On the consultation

Pilot Evaluation and Engagement Survey 2024 in the New Ways of Working

2. The administration announced in the [Communiqué](#)¹ of 13 November 2023 a review of the New Ways of Working (NWoW) in 2024 and provided some details in the document [GCC/DOC 32/2023](#).
3. This document (par. 2 and 4) announced that:

“A further staff survey is planned for the beginning of 2024”

[...]

“The Office intends to conduct a comprehensive review of the scheme before its expiry and, building on the successes and main principles of the current pilot, to adopt a scheme of hybrid working that serves our goals in the long-term. Staff representatives will continue to be involved and consulted through technical meetings and the General Consultative Committee.”

4. The staff representation had asked by letter of 20 September 2023² to be involved in the organisation of the survey. Mr Campinos sent a reply letter dated 25 October 2023³ providing no answer to this request.
5. Later, the administration orally told us that the staff representation would be invited to send comments on the survey. Such an invitation never came. **In the end, the staff representation was not involved at all in the organisation of the survey.**
6. On 23 January 2024, the Office [launched](#)⁴ the survey. Although presented in [GCC/DOC 32/2023](#) as a support measure to the New Ways of Working, the (infamous) project Bringing Teams Together was not addressed in any questions.
7. On 19 March 2024, the CSC published a [paper](#)⁵ providing an overview of the discussions among the delegations, a benchmark with other International Organisations and pointing out that Ms Simon (VP4) revealed in the Council that “the Office wanted to make this a more permanent scheme.”⁶

¹ “New Ways of Working pilot – what’s next?”, [Communiqué](#) of 13-11-2023

² see [comments](#) on GCC/DOC 32/2023, page 11/16, Annex 1

³ see [comments](#) on GCC/DOC 32/2023, page 12/16, Annex 2

⁴ “Staff Engagement Survey 2024 goes live today!”, [Communiqué](#) of 23-01-2024

⁵ “New Ways of Working: From pilot to permanent?”, CSC paper of 14-03-2024 ([sc24015cp](#))

⁶ [CA/93/23](#), par. 65

Technical Meetings

8. By email of 22 March 2024, the administration requested that the staff representation sends in writing any questions / proposals it may have related to the topic of New Ways of Working in view of the technical meetings foreseen to take place across April.
9. The CSC submitted its questions / proposals by [letter⁷](#) of 5 April 2024:
 - Teleworking from abroad and minimum attendance
 - Occupational health accidents
 - Costs borne by the employee vs savings made by the Office
 - Line manager responsibilities vs employee rights
 - Right to disconnect
 - Virtual transfers and physical transfers
10. On 10 April 2024, the [first technical meeting⁸](#) took place.
11. On 17 April 2024, Willis Towers Watson [presented⁹](#) the survey results to all staff and their representation.
12. On 18 April 2024, the [second technical meeting](#) took place. In the meeting, the CSC nominees repeated the request to be provided with a copy of the legal assessment, which had been used back in 2021 to justify the limitation to 60 days of teleworking from abroad due to taxation and social security issues.
13. On 22 April 2024, the administration [published¹⁰](#) the survey results.
14. On 23 April 2024, the CSC members in the COHSEC submitted their agenda points for the COHSEC meeting planned on 15 May 2024. They repeated the CSC request on occupational accidents during teleworking (see **Annex 1**).
15. On 24 and 30 April 2024, the [third and fourth technical meetings¹¹](#) took place.
16. On 2 May 2024, the administration [announced¹²](#) the conclusion of technical meetings with staff representation and the next steps: COHSEC consultation and GCC consultation.

COHSEC consultation

17. On 15 May 2024, the COHSEC meeting took place during which the administration announced that they did not intend to make any amendment to the regulations on occupational accidents in the Circular on New Ways of Working.
18. At the time of the meeting, no text of the Circular was available to the COHSEC.
19. On 17 May 2024, the administration reported by [Communiqué¹³](#) on the COHSEC meeting.

⁷ “Technical meetings on New Ways of Working – Kick off”, CSC [letter](#) of 05-04-2024 ([sc24020cl](#))

⁸ “Report on the first and second technical meetings on New Ways of Working”, CSC paper of 23-04-2024 ([sc24024cp](#))

⁹ “Staff engagement survey 2024”, [Intranet page](#)

¹⁰ “Results of Staff engagement survey 2024”, [Communiqué](#) of 22-04-2024

¹¹ “Report on the third and fourth technical meetings on New Ways of Working”, CSC paper of 16-05-2024 ([sc24028cp](#))

¹² “New Ways of Working: Conclusion of technical meetings with Staff Representaton and next steps”, [Communiqué](#) of 02-05-2024

¹³ “Update on COHSEC meeting”, [Communiqué](#) of 17-05-2024

GCC consultation

20. On 21 May 2024, the administration tabled document [GCC/DOC 4/2024](#), “New Ways of Working: Pilot Evaluation” for the GCC meeting of 5 June 2024.
21. In an Intranet [Communiqué](#)¹⁴ published on the same day, the administration announced the changes on:
 - minimum on-site attendance Article 4(2)
 - duty travel and on-site attendance
 - extension of the pilot for three years
22. On 4 June 2024, the CSC [published](#)¹⁵ on the planned increase of minimum on-site presence for majority of part-time staff.
23. Consultation in the GCC took place on 5 June 2024 during which none of the proposals of the staff representation were taken on board.
24. At the time of the GCC consultation, **neither the requested legal assessments nor the opinion of the COHSEC were provided to the GCC.**

On the merits

25. The technical meetings on New Ways of Working which took place in April 2024 gave little room to address all aspects of the Circular. The staff representation had to focus on a limited number of points.
26. Concerning the following points, reference is made to the previous [opinion](#) on [GCC/DOC 3/2022 \(CA/18/22\)](#):
 - Primary teleworking place (par. 19 and 20)
 - Teleworking from other territories (par. 21 and 22)
 - Sense of belonging (par. 23 to 31)
 - Part-timers (par. 35 to 37)
 - Mandatory teleworking (par. 38 to 41)
 - Workflow and registration (par. 51 to 52)
 - Costs borne by the employee (par. 53 to 56)
 - Health and safety (par. 57 to 61)
 - Eligibility (par. 68 to 69)
27. The present opinion focuses on the points addressed explicitly in the technical meetings and the amendments made by the administration in the Circular.
 - “Sense of belonging”: minimum on-site attendance and part-timers
 - Occupational health accidents
 - Limitation, suspension or withdrawal: Manager discretionary decisions

¹⁴ “New Ways of Working scheme after the pilot”, [Communiqué](#) of 21-05-2024

¹⁵ “New Ways of Working: Planned increase of minimum on-site presence for majority of part-time staff”, CSC paper of 04-06-2024 ([sc24032cp](#))

- Right to disconnect
- Teleworking from other territories. Legal Assessment and exceptions
- Physical transfer, duty travel and virtual transfers
- Entry into force

“Sense of belonging”: minimum on-site attendance and part-timers

28. Currently, the minimum on-site presence is reduced to 20 days where at least 125 days of yearly absence is taken (Circular No. 419, Article 4(3)). Because of the high number of absence days required to reach this provision, this was only used by few colleagues.
29. A more commonly used provision is when a colleague is working part-time ([13% of all staff](#)¹⁶) or has reduced daily working hours due to sickness, the minimum on-site presence is reduced pro-rata ([Circular No. 419](#), Article 4(2)).
30. The CSC [letter](#) of 5 April 2024 asked for clarification on the pro-rata approach for minimum attendance adopted to part-timers as well as information on which type of part-time it is applied (Article 4(2)) and how periods of sickness are taken into account.
31. In the [second technical meeting](#), the administration explained that they were open to broaden the pro-rata approach to other situations. For instance, for newcomers entering the Office in the middle of the year or colleagues retiring in the course of a year. We welcomed this approach but explained that full-time sick leave was not considered when recalculating the minimum attendance, while reduced working time for sickness reason was. We requested that the pro-rata approach should be applied to all types of leaves such as sick leave, maternity leave, adoption leave, parental leave, unpaid leave, etc.
32. In the [fourth technical meeting](#), the administration presented slides of the Office’s proposal for a “New Wording on minimum attendance days” on Article 4, [Circular No. 419](#). The new calculation would be based on the number of active working days in the sense of Article 4(2): each day an employee performs their duties, regardless of hours worked that day, and not any longer on the percentage of working time. It would, however, consider all types of leave, and not only part-time working arrangements.
33. Our first reaction in the meeting was that we appreciated the willingness to consider all types of leave for the calculation, but pointed out that the new approach, based on active working days thresholds, would lead to a reduced quota for some colleagues, whilst others (mainly colleagues working part-time) could see their quota increased. We reiterated our request for a true pro-rata approach.
34. Nevertheless, the administration maintained such a controversial proposal (Article 4) in the final version of the text.
35. The first threshold is at 140 “active working days”. Assuming 210 working days in the year, 140 working days amounts to working for only two thirds of the year, which is an incredibly low threshold to reach, making it useless for the majority of staff. In particular, staff with part-time percentages of 67-99% (most commonly 70%, 80% or 90%), which amount to approximately [84%](#)¹⁷ of the staff working part-time, are essentially **excluded** from any reduction, removing the pro-rata reduction they currently benefit from. The change can be seen in the table below.

¹⁶ [“Social Report 2022”](#), page 46/78

¹⁷ [“Social Report 2022”](#), page 47/78

Part-time work percentage	Minimum on-site presence	
	Current system in place	Office proposed system
90%	54 days	60 days
80%	48 days	60 days
70%	42 days	60 days

36. Such a targeting of part-time staff is very disappointing and triggered a [dedicated CSC publication](#).
37. In the GCC meeting of 5 June 2024, we repeat our request for a true pro-rata approach and not a threshold approach.
38. The administration replied that “coming to the Office is a necessity and not a penalty” and refused to revise its proposal. They referred to the 6 year thresholds for recognition of previous experience as an example. In our view, it was a perfect example to show how thresholds fail, by creating litigation and leaving staff demoralized and frustrated by the feeling of being unfairly treated.

Occupational health accidents

39. If an employee suffers an accident on the Office premises, or while on duty travel, or on the way between the place of work and the residence, an accident can be classified as an occupational accident. If an accident is classified as an occupational accident, there are e.g. differences in respect to coverage of the medical costs, medical visits and transportation.
40. The current scheme reduces the qualification for an accident occurring during teleworking to an injury due to fire or malfunction of EPO equipment (e.g. laptop, screen, power cord, electrically adjustable desk) (Article 13(2)).
41. First, this definition merely covers the Office’ basic liability for its equipment under Article 9(2) EPC:

“The non-contractual liability of the Organisation in respect of any damage caused by it or by the employees of the European Patent Office in the performance of their duties shall be governed by the law of the Federal Republic of Germany. Where the damage is caused by the branch at The Hague or a sub-office or employees attached thereto, the law of the Contracting State in which such branch or sub-office is located shall apply.”

42. Second, the definition is legally doubtful as it is more restrictive than the higher-ranking Article 28(2) ServRegs, which makes no difference between work and telework:

“If an employee or former employee suffers injury by reason of his office or duties, the Organisation shall compensate him in so far as he has not wilfully or through serious negligence himself provoked the injury, and has been unable to obtain full redress.”

43. Third, as we explained already back in 2022 (see CSC [paper](#) of 31 January 2022), the definition is much narrower than in national legislation, especially Germany and Austria:

„Wird die versicherte Tätigkeit im Haushalt der Versicherten oder an einem anderen Ort ausgeübt, besteht Versicherungsschutz in gleichem Umfang wie bei Ausübung der Tätigkeit auf der Unternehmensstätte.“

44. This situation is not compatible with the Office’s obligations under [Article 20 PPI](#):

the EPO “shall co-operate at all times with the competent authorities of the contracting states in order [...] to ensure the observance of [...] regulations concerning public health, labour inspection or other similar national legislation”

45. Fourth, a benchmark with other International Organisations reveals that, the [OECD staff regulations](#) define (page 442, PDG page 471/495):

Work accident

36. *Within the context of teleworking, any accident which officials prove had occurred at the teleworking location, during teleworking hours, and as a result or in connection with the functions performed, shall be considered a work accident.*

46. The [EUIPO management decision](#) defines (page 8)

Article 7 - Health and safety

1. *Teleworkers shall benefit from the same insurance against accident and occupational disease as staff working at the workplace.*

47. The EPO's definition is therefore below benchmark when compared to other international organisations.
48. In the [second technical meeting](#), the administration argued that despite massive teleworking there had been very few cases of accidents reported, which had occurred while teleworking and that they did not see the need to change the regulation¹⁸.
49. We insisted on the importance of a legally sound scheme and recalled that this aspect was already a point of contention at the time of the start of the pilot. In our view, no distinction should be made with regards to occupational accidents for colleagues working in the office or teleworking.
50. In the COHSEC meeting of 15 May 2024 and the GCC meeting of 5 June 2024, the administration maintained its decision not to adapt the regulations and did not provide any convincing explanation. They considered that the absence of any litigation from staff on the matter evidenced that there was no reason for a change.
51. We regret that the administration sees litigation as the sole trigger for making improvements and maintain that reasoned social dialogue should be sufficient.

Limitation, suspension or withdrawal: Manager discretionary decisions

52. All employees are eligible for teleworking in principle, but the line-manager may limit or exclude teleworking if considered incompatible with the "interests of the service" (Article 2(3)). Teleworking can even be limited, suspended or withdrawn.
53. In the [second technical meeting](#), we explained that we observed a growing tendency among some line managers to withdraw or to threaten to withdraw teleworking (from abroad) as retaliation against a performance considered too low. Staff members who need to telework for personal reasons experience the situation as intimidating, unfair and even as institutional harassment. It impacts the health and well-being of our colleagues and is counter-productive for the smooth running of the Office.

¹⁸ The document [GCC/DOC 4/2024](#) (page 70/110) acknowledges a [single case](#) of occupational accident during teleworking.

54. We requested that there should be clear rules. Our first proposal was that a pattern of teleworking (from abroad) shall be agreed upon for a period of 1 year and cannot be withdrawn by the line manager before the final review meeting of the year. A second proposal was the setup of a fast conflict resolution panel in case of disputes relating to teleworking is in any case indispensable.
55. The administration argued that line managers should be consulting HR before revoking teleworking and that this provision ensured protection against line manager arbitrariness. The administration also explained that only few cases were escalated to HR, where the line manager and the employee had disagreed, and that the number of management reviews was limited.
56. We were not convinced by the argument and maintained our requests. EPO staff needs the necessary safeguards against e.g. withdrawals at short notice.

Right to disconnect

57. A monitoring of unhealthy working patterns also related to managerial requests (rest breaks and hours per day / week) is currently missing.
58. We observe that line managers ask colleagues to work late hours during the week or ask them to finalise “urgent” assignments during the weekend. Some managers unduly contact staff during sick leave or maternity leave for e.g. appraisals review meetings and expect them to be connected.
59. A right to disconnection is currently missing. The “right to disconnect” shall be seen as ability of people to disconnect from work and primarily not to engage in work-related electronic communications such as e-mails or messages during non-work hours.
60. Some International Organisations have added the right to disconnect in their regulations for the well-being of their staff.
61. In the [third technical meeting](#), as a concrete proposal, we suggested that the Working Hours arrangements are explicitly mentioned in the Circular on “New Ways of Working” in combination with a “right to disconnect”.
62. The administration replied that the EPO inter alia already suspended the core-time, maintained the accrual of flexi-hours and has the most “flexible” scheme among International Organisations.
63. In our view, the flexibility of the scheme should not be misinterpreted as a flexibility at the disposal of the line managers. To the contrary, the Office has a duty of care towards staff.
64. In the GCC meeting of 5 June 2024, the administration refused to consider our proposal.

Teleworking from other territories: Legal Assessment and Exceptions

Legal Assessment

65. Teleworking from abroad is limited to EPC contracting states (Article 1(b)) and limited to 60 working days a year (Article 3(d)).
66. The Willis Towers Watson [survey](#)¹⁹ of 2020 proposed 5 teleworking scenarios one of them consisting of full teleworking from any EPC member state. The Office clearly failed in terms of expectations management and affected staff deserves full transparency with all necessary supportive documentation on the underlying grounds for not offering all scenarios.
67. Back in 2021, when [discussing the current scheme](#)²⁰, the administration explained that there had been reluctance from the host states and justified the limitation to 60 days of teleworking from abroad by the fact that when these are combined with weekends, annual and other leave, an employee would spend more than six months out of the country of employment. The administration explained that, according to a legal assessment, a change of residence would lead to taxation and social security issues.
68. At the time we requested to be provided with a copy of this legal assessment. The administration did not do so.
69. The administration also [explained](#) that the Office would not rule out a future discussion with the Member States and mentioned that an option could be multilateral agreements, similar to the ones done by the OECD.
70. In the course of the 2024 revision of the pilot, the administration unfortunately was still not prepared to share the legal assessment with us and replied that a legal assessment was privileged information, and that no legal assessment could anyway guarantee that there would be no risk.

Exceptions

71. In the CSC [letter](#) of 5 April, we provided a first benchmark among International Organisations showing that some International Organisations have no ceiling on the number of days of teleworking from abroad in exceptional cases e.g. for justified circumstances, for duly documented family emergencies or medical reasons (in consultation with the responsible services). We asked whether the administration had considered this possibility.
72. In the [second](#) and [third technical meeting](#), the administration confirmed that the President had the possibility to grant exceptions on the quotas of teleworking from abroad and minimum attendance and considered [Article 10 EPC](#) sufficient. They acknowledged that they dealt until now with exceptions representing at most only 1% of staff and saw no need to include a reference in the regulations.
73. We emphasised that feedback from colleagues showed that they were not aware of the possibility of exceptions to the quotas of minimum presence and teleworking from abroad. The term “exception” should therefore be added to the regulation.

¹⁹ “Shaping the New Normal Survey”, [results](#) presentation, 19 & 20-10-2020

²⁰ “Report on the fourth meeting of the Working Group of 4 November 2021”, CSC paper of 11-11-2021 ([sc21128cp](#))

74. The administration believed that the addition of exceptions into the Circular would end up weakening it, and that unpaid leave, special leave, parental leave, or family leave should be taken instead. We replied that “exceptions” were mentioned around 200 times in the Codex without weakening it, and that since “exceptions” are under the discretion of the President, the Office would still have full control over them. We also stressed that by granting exceptions instead of asking staff to take leave, a significant increase of capacity would result and benefit the Office.
75. In the GCC meeting of 5 June, we repeated our request for an explicit reference to the existence of exceptions in the Circular. The administration did not revise its position.

Virtual transfers, Duty travel and Physical transfers

76. Virtual transfers consist in transferring a staff member to a team at another site without any physical relocation. Virtual transfers help the Office to save on allowances (e.g. expatriation) and costs (e.g. for removal).
77. In the case of virtual transfer, the employee’s site of employment is different from the site of their team.
78. For colleagues virtually transferred to a team from another place of employment (POE), days spent on that POE, do not count for the quota of minimum presence as they are not covered by a duty travel. This is inconsistent with “Bringing Teams Together” and the original intent of the “sense of belonging”. Such colleagues have to make use of their quota of teleworking from abroad.
79. In the [third technical meeting](#), the administration admitted that the issue is known since a long time and recalled that the original plan of the pilot was to have a “one-Office concept”. They promised to report to senior management on the matter. The administration admitted that the duty travel policy would be reviewed and suggested to increase the number of times employees are allowed to travel to visit their colleagues.
80. In the final text, the administration amended Article 14 on duty travel to explicitly mention that it counts towards the minimum attendance under Article 4 if spent at an EPO site other than the employee’s place of employment. However, there is still no solution for colleagues virtually transferred who can only visit their colleagues outside duty travel.
81. In the GCC meeting of 5 June 2024, the administration maintained its position and did not include our proposals for virtually transferred colleagues.
82. Since the end of the pandemic, physical transfers are limited to very few cases. We hear that many staff members are even waiting since several years for a physical transfer which is denied by the administration. We requested that physical transfers for work and/or personal reasons are granted again.
83. In the [third technical meeting](#), the administration replied that physical transfers were only foreseen for business reasons and for “hardship” cases. The administration considered that transfers being part of the Service Regulations, the policy on transfer could not be discussed in the context of the New Ways of Working Circular. However, no date for a discussion on transfer policy could be provided by the administration.
84. We repeated our request that physical transfers should be granted again, not only, but definitely for colleagues who have accepted a virtual transfer to another site.
85. In the GCC meeting of 5 June 2024, the administration was not in the position to provide more clarity on future discussions on transfer policy.

Entry into force

86. Mid-December 2023, Ms Simon (VP4) revealed in the Council that “the Office wanted to make this a more permanent scheme”²¹. The proposed Circular is indeed not presented as a pilot anymore, however it still remains subject to review no later than three years after its entry into force on 1 July 2024. The scheme is therefore not permanent and the administration revised its original plan.
87. EPO staff still does not have the needed clarity and certainty on the EPO’s long-term teleworking policy.

Conclusion

88. In the course of the pilot evaluation, the CSC made reasonable concrete proposals with a view not to endanger the present scheme and without financial impact for the Office. Discussions may have been constructive and positive, the result remains very disappointing. None of our proposals have been included.
89. The CSC members of the GCC are aware that when designing “New Ways of Working” it is not possible to meet the expectations of all colleagues, but all parties should try to find a compromise between the staff needs, the Office needs and legal considerations. Importantly, when asking the staff representation for an opinion and a vote, all necessary information should be made available and the implications clearly understandable.
90. In this respect, we note that:
- The opinion of the COHSEC was never presented in the GCC
 - The legal assessments in particular on national income taxation and residence were never provided to the staff representation.
 - The lack of proper definition of occupational accidents, especially during teleworking, puts the EPO below all standards.
 - The threshold based calculation of minimum on-site presence affecting the majority of part-time staff goes against our request for a true pro-rata approach

For the above reasons, the CSC members in the GCC are not in a position to vote on the document.

The CSC members in the GCC

Annex 1:	Agenda points by the COHSEC members nominated by the CSC submitted on 23 April 2024 for the COSHEC meeting of 15 May 2024
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²¹ [CA/93/23](#), par. 6



Central Occupational Health, Safety and Ergonomics Committee

Document for the Central Health, Safety and Ergonomics Committee

Document number	COHSEC/DOC X /2024
Meeting Date	15/05/2024
Title	Agenda points by the COHSEC members nominated by the CSC
Classification	For discussion
Date submitted	23/04/2024

Agenda points for discussion in the COHSEC meeting scheduled for 15.05.2024 by the COHSEC members nominated by the CSC.

From: The Members of the COHSEC nominated by the CSC

Date: 23. April 2024

COHSEC Meeting: 92nd meeting

- **Occupational accidents at home under the new ways of working:**

Staff has the possibility to telework from home under the new ways of working (NWoW) up to a minimum attendance of 60 working days a year at the site of employment. According to the staff survey 2024 the NWoW are well accepted and used by staff with only 18% preferring to work at the Office premises. Thus, a large proportion of the work provided for the Office is done at home.

If staff suffers an accident on the Office premises, or while on duty travel, or on the way between the place of work and his/her residence, an accident is classified as an occupational accident. If an accident is classified as an occupational accident, there are differences in respect to coverage of the medical costs, medical visits and transportation.

The current scheme aims to reduce the qualification for an occupational accident occurring at home to an injury due to fire or the malfunction of EPO equipment (e.g. the laptop, screen, power cord, electrically adjustable desk). This definition is regarded legally doubtful as it is more restrictive than the higher ranking Article 28(2) in the Service Regulations (ServRegs), which makes no difference between work and telework.

The definition is as well much more restricted than the national legislation, especially in Germany and Austria. The Gesetzliche Unfallversicherung - (Artikel 1 des Gesetzes vom 7. August 1996, BGBl. I S. 1254) reads:

„§8(1) Arbeitsunfall

[...] Wird die versicherte Tätigkeit im Haushalt der Versicherten oder an einem anderen Ort ausgeübt, besteht Versicherungsschutz in gleichem Umfang wie bei Ausübung der Tätigkeit auf der Unternehmensstätte.“

This situation is not compatible with the Office's obligations under Article 20 of the Protocol on Privileges and Immunities of the European Patent Organisation (PPI).

A benchmark with other International Organisations reveals that, the OECD staff regulations define (page 442, PDG page 471/495):

“Work accident

36. Within the context of teleworking, any accident which officials prove had occurred at the teleworking location, during teleworking hours, and as a result or in connection with the functions performed, shall be considered a work accident.”

And the EUIPO management decision defines (page 8):

“Article 7 - Health and safety

1. Teleworkers shall benefit from the same insurance against accident and occupational disease as staff working at the workplace.”

The EPO's definition is therefore below benchmark when compared to other international organisations.

- The COHSEC members nominated by the CSC therefore suggest that accidents at home be treated on an equal legal footing with accidents on the Office premises – i.e. as occupational accident.

- **Survey results related to burnout:**

At the time of drafting this agenda point the detailed results of the staff survey 2024 were not available to the members of the COHSEC nominated by the CSC. However, the summarizing presentation of these results given in a livestream revealed that the number of staff responding positively to the survey question of whether they are “[...] able to cope with challenges/stress [they are] experiencing right now” – that is forming the basis for a KPI in the Occupational Health and Safety Objectives (COHSEC/DOC 17/2023) - increased by 12% over the results of 2022.

Although it is generally positive that a larger population of staff appears to cope with challenges/stress better than in 2022, it is reminded that during the staff survey 2022 staff were under the fresh impression of COVID lockdowns and the coping with the double burden of child care/education and office workload. Therefore, the present figures appear to be adjusted for this COVID influence and are still lower than the corresponding results of 2020. Resulting in a population of still 28% of staff that continue to state that they are not able any longer to cope with the challenges and stress they are experiencing. These colleagues run into risk for burnout and exhaustion resulting in a lower working capacity for the Office in the long-run.

In view of the worrying observations voiced by OHS physicians in the last COHSEC meeting of 22.02.2024 that also highly productive staff come to their limits and start to suffer from work related stress causing them to contact OHS with health issues, a closer monitoring – an anonymised statistic - of stress induced sickness appears urgently needed.

- The COHSEC members nominated by the CSC therefore repeat their proposal for the introduction of a KPI showing the type of diagnosis in combination with anonymised numbers for long term sicknesses efficiently indicating what goes wrong and to help achieve a quick improvement.
- The COHSEC members nominated by the CSC request specific long-term sick leave data at least similar to that received last time in Mai 2021:

Stage	Staff	Back to work 100%	Full sick	On reduced working Time	Average reduced working time (%)
ESL	59	31	7	21	51,2
INC	137	3	45	89	50,4
INC-TP	11	3	1	7	65,4
Total	207	37	53	117	51,4

ESL: Extended sick leave (more than 125 days in 18 months)

INC: Incapacity (more than 250 days in 3 years)

INC-TP: Incapacity transitional period (after having left INC status)

- **Discontinuation of on-demand paper files:**

On 26.03.2024 staff was informed in short notice that the on-demand printing service of paper files was discontinued with 01.04.2024 and that file wrappers will also no longer be available. This makes file management of physical paper files impossible, depriving colleagues from their last possibility to work on paper files. Therefore all staff is now forced to exclusively work with display screen equipment. Additionally to the well-known musculoskeletal risks from mobile working and the risks to the eyes, also colleagues that due to health reasons preferred to work on paper files are deprived from the last possibility to reduce the work with display screen equipment.

- In view of the health risks, the COHSEC should have been consulted before the on-demand printing of paper files and the providing of file wrappers had been abolished all together.
- Mitigating measures should be provided for colleagues in need of working with physical files, e.g. in from of providing empty file wrappers to allow a local printing of paper files and a local file management (e.g. in allocated offices).

- **Deficiencies in software ergonomics of new tools:**

The working modes are directed towards paperless workflows and the workflow is digitalized. In the NWoW staff is more working on screen as ever before, also due to telework. Software ergonomics is therefore crucial to the health of staff. Too many clicks and stress, implicated by a tool due to its poor graphical interface and reliability, transform into a higher number of sickness days.

Many ergonomic adaptations have been made available in the past for the legacy tools, but these are not necessarily carried over to the new tools. This concerns in particular the Ansera Viewer replacing the JViewer. For example, tailored voice commands by Dragon Naturally Speaking are not supported, a tool that many colleagues with RSI have used for years. The “benchmark” set by the JViewer” has not been met by the Ansera Viewer in various aspects of the graphical user interface. This is supported by the attached document - “Non-exhaustive list of Ansera-Viewer deficiencies as compared to the J-Viewer”.

- The members of the COHSEC nominated by the CSC thus request a timeline for the deficiencies to be mended before the legacy tools are decommissioned.
- The members of the COHSEC nominated by the CSC also request BIT to show accountability in the COHSEC.

In case management agrees that the COHSEC should be involved in how Software Ergonomics is improved:

- There should be a dedicated time on this topic in the COHSEC.
- BIT should report on the progress to the COHSEC.

- **Health related data stored on a secure database:**

Involved staff was informed during specific trainings that it is not allowed to store patent relevant data in the Office’s OpenText database, leading to the justified assumption that the Office’s OpenText database is not secure enough. Inter alia the COHSEC documentation is uploaded onto OpenText.

According to the European data protection supervisor (e.g. in EDPS/2024/05 of 11.03.2024) the European Commission’s use of Microsoft 365 appears to infringe data protection law for EU institutions and bodies. Microsoft 365 and cloud based services are widely used by the Office.

In the present context, more and more organizations have fallen victim to malicious cyberattacks - e.g. in the recent exploitation of the Ivanti security access systems. An Ivanti secure access client is used by the Office.

Therefore, the members of the COHSEC nominated by the CSC believe that such problems may lead to personal health related/medical data of employees (i.e. of data subjects) to be compromised.

- Thus, the members of the COHSEC nominated by the CSC request an urgent answer to the following questions:
 - o On which of the Office's database/server is the (personal) health related/medical data stored?
 - o Which protection measures are foreseen to protect this (personal) health related/medical data?
 - o Which database/protection measures are used by the Office's health provider Cigna?
 - o Which appropriate safeguards (Article 9(5) of the data protection rules DPR) have been provided for the transmission of personal data to Cigna?
 - o What are the contractual clauses under Article 9(5) DPR to safeguard enforceable data subject rights and effective legal remedies for data subjects?
 - o Which are the effective legal remedies for the data subject?
 - o Can the Office still safely process health related personal data in view of the findings and recommendations from the EU with regard to Microsoft 365?

-Annex-

Non-exhaustive list of Ansera-Viewer deficiencies as compared to the J-Viewer

Shortcuts

- Shortcuts do not work always, because the focus is not automatically correctly assigned within the window; the pane has to be selected at first independent of the nature of the pane and the shortcut.
- The focus needs to be put on the 2nd window at first if the two-windows mode is used. This requires in total at least two clicks more as compared to the Viewer window.

General

- An XPdoc, e.g., XP093124483, is not visible in ANSERA but one day later, but can only be viewed in the J-Viewer.
- In Trimaran button “open in viewer” should become “open in ANSERA” for opening the document cited and selected for the respective dossier.
- Double-click on a reference sign in a figure (when recognized by OCR) should highlight said reference sign (and designation) in the text of the description (as in J-Viewer).
(Possible additional amendment: highlight the figure in the text when clicking on it in the drawing.)
- The text window for the document specific marker uses <ENTER> for another line in place of confirming the search term and changing focus, whereas <ESC> does exactly what is expected for the <ENTER>. From <ESC> one would rather expect deleting the content entered and changing focus.
- If zoomed, the zoomed-section to be displayed moved satisfactorily as scroll bars, and arrow-keys do not work. Moving with right click of mouse is limited.
- The title bar as a “-“ between the version number and the dossier number, and none between “ANSERA” and version number. That makes it meaningless to program voice commands in Dragon Naturally Speaking which are application specific. Handicapped users have it very difficult with the tool.

Drawers

- Changing fonts of Drawers is not possible, changing the name of the drawer is not a point in the 3-dot menu of a drawer, and a double click on the name does not open the text of the drawer for editing in the collapsed view.
- It should be possible to add documents to drawers in one click, even when the drawers are in collapsed view.

- Not enough space for meaningful/expressive names on the drawers, while drawers take a lot of screen space at the side.
- Drawer titles should not split words over two lines, unless necessary. There is more space of the window taken by drawers as compared to the drawers in the J-Viewer.

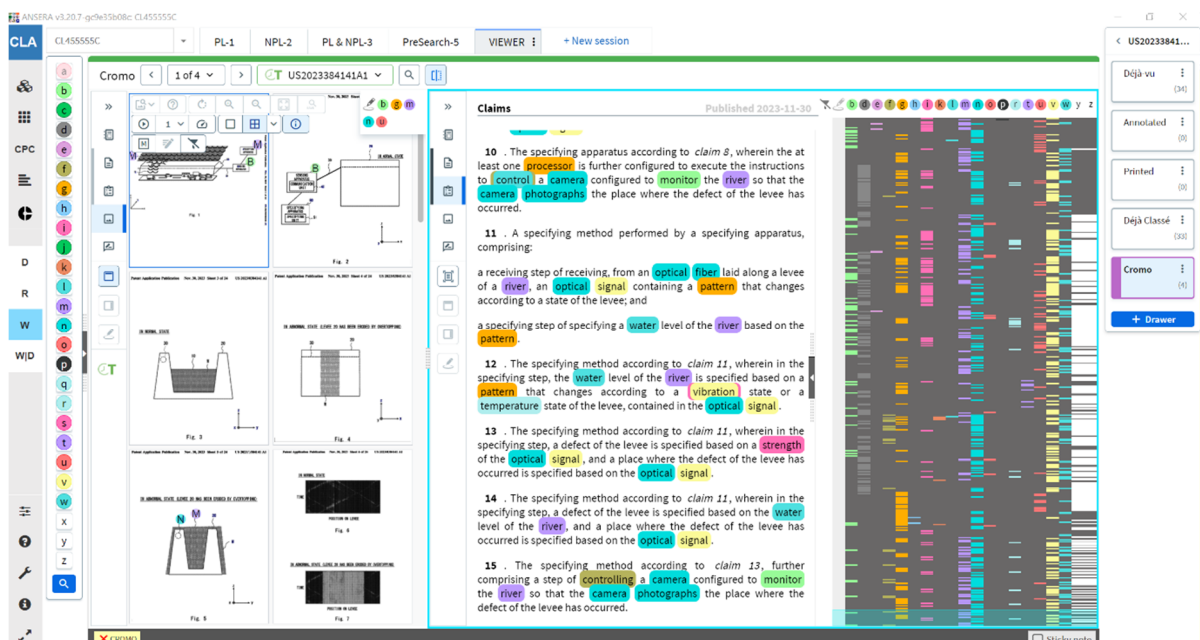
Figure view

- The figure navigation panel often covers parts of the figure, which cannot be moved. The only alternative to view parts of the figure is resizing the whole window, e.g. to the size of a wide screen.

Graphical User Interface (GUI) Design

- Compared with the J-Viewer, the GUI elements are sized less favourably, and there is less flexibility and adjustability, such that the necessary level of usability cannot be achieved.

EXAMPLE:



As it is visible in the example the way the markers (and drawers) are used in the GUI restricts the surface available for text and figures from which analysis is essential for search/examination and classification, this is an example of a classification view of a classifier on a document. Needed is an improvement of the way markers can be displayed.