



Personalausschuss
Staff Committee
Le Comité du Personnel

Career Judgments

What happened? What next?

(New) Career System: 2015 reform

- **Historical career system**

- Job Groups A, B, C
- Up to 13 steps per grade with overlap e.g. A3(12) employee > A5(1) director
- Promotion Board: paritary body (management = staff reps)
- automatic steps every 1 or 2 years (subject to measures against underperformance)
- predictable, deterministic and transparent

- **(New) Career System as of 2015**

- Job Groups 1-6
- Up to 5 steps per grade with no overlap: employee must remain below director
- Harmonization Committee: 20 managers vs. 1 observer staff rep (strict confidentiality)
- abolition of seniority (since 2018 catch-up mechanism every 5 years for step only)
- unpredictable, arbitrary (“holistic”) and no transparency
- competition-based: max. 60% of eligible staff for step(s)/promotion

Brutal, unfair and traumatizing Battistelli reform

(New) Career System: Challenged decisions

▪ Decisions

- General decision: from Administrative Council [CA/D 10/14](#)
- Individual decision
 - Transposition letter of 1 July 2015 to new G grade and step
 - A4(2) employees at or below A4(2)-8 are transposed but career blocked at G13-5
 - A4(2) employees above A4(2)-8 are not transposed (*ad personam*)
- Individual decision: First denial of automatic step

▪ Staff committees decide to support legal challenges and resort to the trade union SUEPO for financing lawyer work

- breach of acquired rights and legitimate expectations
- abuse of power of the President deciding on steps contrary to Art. 10(2)(g) (promotions only)

▪ Templates adapted to each individual situation

- transposed,
- A4(2) transposed,
- A4(2) *ad personam*

(New) Career System: Internal justice system

- **First stage: Conflict resolution unit (management review)**
 - 2015: ~ 1.200 staff members filed requests for review
 - rejected by Battistelli
- **Second stage: Appeals Committee (internal appeal)**
 - September 2015: ~ 800 staff members file appeals
 - November 2020: Enlarged Chamber issued majority opinion (Chair + management) and minority opinion (staff reps)
 - February 2021: Campinos rejected appeals

Mr Campinos protects and pursues the legacy of Battistelli

(New) Career System: The Tribunal

- **Third stage: Administrative Tribunal of International Labour Organization (complaint)**
 - May 2021: ~ 500 complainants file an individual complaint
 - Templates based on filings of **1 lead complainant** to facilitate work of the Tribunal
- **Mr Campinos lawyers up against staff**

Tables in the Budget and Finance Committee [CA/F 11/21](#)

- awarding **€ 5.85 mil** to two law firms [Lenz & Staehelin](#) (Zürich) and [de Guillenschmidt](#) for representing the Office in front of the Tribunal
- “[c]urrently, as a quality indicator of incumbent provider support, around 90% of cases are being rejected before the ILOAT.” (§8)
- “The EPO requires the best possible legal advice and representation before ILOAT in Geneva” (page 1)

Mr Campinos protects and pursues the legacy of Battistelli at all costs

(New) Career System: The Tribunal

- **Dealing with the mass complaints**

- July 2021: Tribunal registers only case of **lead complainant**
- ~ 500 complainants receive no case number

- **Case of lead complainant**

- April 2022: Office files first position
- October 2022: **lead complainant** files rejoinder (reply to Office position)
- February 2023: Office files second position (surrejoinder)

- July 2023: Tribunal delivers three judgments 4710, 4711 and 4712

- **Other cases**

- ~ 500 complainants still waiting for registration of their case
- among them are specific situations such as e.g. A4(2) transposed or ad personam

(New) Career System: Judgments 4711 and 4712

- **On acquired rights and legitimate expectations (J4711)**
 - *“the step advancement system was not suppressed, but only modified in its requirements”*
 - *“the previous salary [...] has been preserved”*
 - *“the reason for the change was clearly explained by the Organisation and does not appear to be unreasonable”*

BUT

- omits that abolition of automatic step adversely affects balance of contractual obligations
- alters fundamental term of employment (since 1977 in ServRegs) in consideration of which the official accepted an appointment or which induced her or him to stay on
- no comment on submitted evidence that Article 10(2)(g) EPC only empowers EPO President to decide on promotions

(New) Career System: Judgments 4711 and 4712

- On the link between appraisal and step advancement (J4711)
 - *“Even though the new system is not automatic, neither is it left to an unfettered discretion”*
 - *“Indeed, it is based on performance and expected competencies, which are to be assessed according to an **objective appraisal system**“*
 - *“**established prior to the periodic specific assessment for step advancement**”*
 - *“the **President clarifies in advance, by means of implementing decisions, the criteria for assessing performance and expected competencies in order to achieve the step advancement**”*

BUT

- no comment on submitted evidence that
 1. the EPO repeatedly changed its performance appraisal system after the performance year,
 2. continues to publish its Guidelines on Rewards after the performance year, and
 3. these Guidelines mention “that there is no automatic link between appraisal reports and the rewards”

(New) Career System: Judgments 4711 and 4712

- **On the transitional measures (J4711)**

- *consist in preserving the salary as “included in the reform of the career system [and thus] fall within the discretion of the Organisation, do not appear unreasonable and cannot therefore be annulled by the Tribunal”*
- *“[i]n any case, it is not within the Tribunal’s purview to impose different transitional measures”*

BUT

- complainant had 8 out of 12 months in seniority in grade and step at the time of entry of the NCS on 1 January 2015

(New) Career System: Judgments 4711 and 4712

- **On the transposition, the 50-Euro rule (J4712)**
- “An employee whose basic salary falls between two steps within the same grade in the new salary scales shall be assigned to the higher one, provided that the difference between the employee’s basic salary and the basic salary for the next immediate higher step is equal to or less than [...] 50 [euros]. In all other cases, the employee shall be assigned to the lower step.”
 - *“neither illogical nor disproportionate, nor tainted by error of fact or law, nor by abuse of authority”*
 - *“justified by the need to avoid that the transposition in the new career system would result in a generalized and automatic passage to a higher step”*

BUT

- unfair situation with breach of the principle of equal treatment
- future step advancement would not result in a full step being rewarded but only a fraction of the step

(New) Career System: Judgments 4711 and 4712

- **On the consultation (J4711)**

- The mere existence of two working groups and a period of 1 month between two General Consultative Committee (GCC) meetings was found to be a “*sufficient timespan to understand the meaning and the impact of the reform*” (Judgment 4711, cons. 5, page 9).

GCC = 10 managers vs. 10 staff reps + Battistelli chairing

- There is also no obligation to accept to table a counter-proposal from the staff representation in the GCC.

BUT

- two external security guards posted by Battistelli outside the GCC room
- staff reps had very limited possibilities to ask questions on the reform
- comments automatically rejected by Battistelli chairing the meeting
- “*We don’t care about your opinion Mr Rosé*” and threatened to be expelled from the room

(New) Career System: What next?

▪ Application for review

- “An application for review must be made within 90 days following the public delivery of the judgment (Article 6(5) of the Rules) [...] Admissible grounds for review are: **failure to take account of material facts, etc.**”
- **SUEPO filed an application for review on behalf of the lead complainant in October 2023**

▪ Other pending cases

- ~ 500 complainants still waiting for registration of their case (**MUST BE MAINTAINED**)
- specific situation of former A4(2) employees not addressed by the Tribunal
- complaints relying on other submissions than the lead complaint
- complaints against implementation of Reward Exercises (+Appraisal Reports)

Thanks for your attention!