



Report of the 253rd meeting of the GAC on 05.11.2013 in Munich

Summary

The 253rd meeting of the GAC (General Advisory Committee) was the seventh GAC meeting of 2013. The agenda comprised three proposals for opinion. The preliminary PAX figures for 2014. A document on the transfer of the activities of the Directorate Classification Services. And a proposal to revise Circular 246, the staff Circular setting out guidelines on reporting.

Provisional PAX data

It has become recent practice to present the provisional PAX Cluster and Peer Reference Examiner Data (CRED and PRED) for the following year to the GAC for opinion towards the end of the year. These provisional figures are used for planning only, and not for reporting. The final figures are then presented to the GAC again when they become available in the following year.

We were informed that the data showed that most areas are largely stable. Where there are changes, these are largely due to rounding effects, rather than any systematic moves in one direction or another.

On the basis of the document presented and the information provided by the administration's expert, the GAC gave a unanimous opinion that the figures contained in the document have been calculated following the correct procedure and thus that these figures properly reflect the production and productivity in the different Joint Clusters in DG 1.

Transfer of the activities of the Directorate Classification Services

Currently, for historical reasons, DIR 2834, also known as Directorate Classification Services, is in PD IM. However, there is currently little IM development in the area of classification. Rather, the work currently involves co-operation on the CPC and with the

IP5 on the one hand and operative classification related work on the other. The administration thus views the current tasks of DIR 2834 to be a bad fit within PD IM.

Accordingly, the administration presented a proposal to transfer part of the work currently performed by DIR 2834 to PD1.1 in DG1, and to transfer the rest to PA in DG2. The areas it was proposed to transfer to DG1 are the Department of Classification Knowledge Services and the Department of Management of External Resources for Classification and Indexing (MERC I), together with the Director of DIR 2834 and his assistant. It is proposed that the Pre-classification / Paratechnicals department, will be transferred to PD-PA.

In any reorganisation, for us the most important aspect is that the staff affected are properly treated. In the current case, it seems that efforts were made to inform the staff affected and listen to and address their concerns, which is good.

Not being IM specialists, there are few or no career paths available for staff in DIR 2834 within PD IM. The permanent staff being transferred to DG1 are mainly former examiners. It seems that they have no particular issues with being transferred back to DG1. Indeed, in DG1 they will have better career opportunities. Similarly, given the lack of career paths for them in PD IM, it is likely that the paratechnicals who it is proposed to transfer to PD PA will also have better career opportunities in PD PA than in PD IM.

In Munich paratechnicals were loaned from PA to IM. In The Hague, in contrast, they were physically transferred to IM. In particular a number of these staff raised concerns to us.

Management, especially PA management, have in the past advocated staff making efforts to diversify their tasks. The implication was that they would see these efforts rewarded in their career. This included the staff who agreed to transfer to PD IM. In the absence of any other accompanying measures, staff affected by the transfer back to PA failed to see how the step backwards to their original situation would fulfil the expectations created by management. In this context, the GAC document itself creates again the expectation of better career prospects.

It would be a pity if a move which on balance makes sense served to increase cynicism amongst some of the staff affected. This is particularly so given the lack of additional posts in the B4-B6 category, the demographic development and the increasing level of the tasks performed at B1-B5. This gives staff little hope that management promises of improved career opportunities will ever materialise.

In the meeting, when it came to formulating opinions, we tried to explore if it would be possible to give a common positive opinion on the logic of the proposal to which we would annex the concerns presented to us by staff.

This approach was, however, vehemently rejected by VP1, for reasons which were not particularly clear.

Accordingly, the President received two opinions. Ours was positive on the essence of the proposal, but referred to the above concerns raised to us by staff. The one from the members nominated by the President was also positive.

Revision of Circular 246

The administration presented a re-drafted version of Circular 246 (the legal text regulating reporting for all staff below the grade A5). The covering letter attached to the GAC/DOC gives as a reason for the changes the fact that a not-yet-ready new reporting system means that 2014 has to be a one year reporting period. In addition, the covering letter implies that the new reporting system will introduce one year reporting in general.

The core of the proposal was:

- to introduce explicit mention of a reporting calendar which will be published by HR before the end of the previous reporting period; and
- to shorten various time limits foreseen in Circular 246, and to impose sanctions if they are missed.

We would have appreciated a discussion on the general desirability of one year reporting. However, none took place. We hope that a discussion on the costs and benefits of one year reporting versus two year reporting will take place at the latest when the new reporting system is submitted to the GAC for opinion.

In the GAC, we made it clear that we agreed that reports should be completed promptly and that the behaviour of the staff member being reported upon has an important role to play in achieving this.

However, we know from feedback from promotion boards that the majority of late reports tend to come from particular managers or from particular areas. We thus assume that a major reason for the time taken to produce these reports is the behaviour of the manager responsible for writing the report. Not inaction on the part of the staff member being reported upon. It is thus clear that higher management could reduce the number of late reports simply by increasing oversight over the reporting officers under their responsibility e.g. by making it clear that their report will depend in part on their ability to produce timely reports on the staff in their charge.

In fact, although we can understand that it is necessary for a one year reporting cycle that reports are ready promptly e.g. by the end of May, the overwhelming majority of reports are already completed within this time frame. For example, in DG1, about 95%.

For these reasons, we stated that we saw no necessity for the proposed changes. The overwhelming majority of reports are produced within a time frame which is unproblematic even with one year reporting. The number of late reports could be significantly reduced if higher management would perform their oversight function.

Turning to the actual proposal, we considered that the administration should have at the least provided the GAC with a draft reporting

calendar. This would have provided the GAC with information on how the administration intended that the reporting would look under the proposed new rules. We stated that we also expected that the final calendar should be presented to the GAC for opinion before it is published to staff.

One of the proposed time limits is 15 working days for the staff member to comment on the draft report and for the reporting (and countersigning) officer to respond to these comments. In principle, this is probably adequate. However, the proposal provides no mechanism for ensuring that the staff member (and reporting / countersigning officer) actually has 15 working days. In the GAC, VP1, VP4 and the administration's expert (PD HR) stated that the 15 days started from the moment (for example) the reporting officer sents the report to the staff member being reported upon.

We made very clear that, in our opinion, this is not acceptable. It was interesting to note that the lawyers in the GAC nominated by the President (VP3, VP5 and PD Patent Information) also seemed to recognise this. There will be cases, either deliberately or by oversight, where the report is submitted either when the staff member is not present, or shortly before he departs on absence e.g. vacation. This might happen in particular in cases where there is a dispute between a staff member and their reporting officer. We made clear that in our opinion it is not acceptable that staff members may lose their right to reply to comments in this manner. Moreover, it will lead to more disputes e.g. the appealing of reports, later.

Whilst 15 working days is probably sufficient for a staff member to read and comment on their report (provided that the staff member actually has 15 working days), in our opinion 10 working days for the staff member to decide whether to accept a report or whether to request a conciliation procedure is not sufficient. At this stage, the staff member will need to consider the matter carefully, and probably find and examine data. He will also probably consult with the local staff representation or other trusted colleagues. All this takes time. We explained that we feared that staff members might react to this by requesting conciliation procedures in cases where, if they had had more time to consider and consult, they might not have.

Another fundamental objection which we raised concerned the consequences of missing time limits. In the proposal, time limits apply to both the staff member and the reporting / countersigning officer. However, the consequences are not balanced.

If the staff member misses a deadline (for whatever reason), it is interpreted as *accepting* the report, i.e. the report stays as it is.

On the other hand, if the reporting / countersigning officer misses a deadline to comment on the staff member's comments or just ignores them, it is interpreted as *rejecting* the staff member's comments, i.e. the report also stays as it is.

We said that this was not acceptable. To ensure parallelism of consequences (equal treatment), and not of the final result, the logical effect of the reporting / countersigning officer missing a deadline should be *acceptance* of the staff member's comments, i.e. that the report is amended as requested by the staff member.

We considered that this unequal treatment will probably lead to further escalation e.g. a conciliation procedure or appeals.

Above, we have set out why we think that the proposal might lead to more conciliation procedures per reporting period. However, under one year reporting, there will be more reporting periods. If the rate of requesting conciliation simply remains constant, there will be double the number of conciliation procedures. This will likely overload the system. The document does not provide any insight as to how the conciliation procedure might be strengthened e.g. by providing more conciliators, in order to cope. The administration's expert stated at the start of the meeting that it was intended, as a next step, to introduce measures to speed up the conciliation procedure. If the foreseen measures will be similar to those proposed in the current document, staff should be worried!

For the reasons set out above, we found the proposal both unnecessary and unacceptable. We thus gave a negative opinion on the document.

The members nominated by the President gave a positive opinion on the proposal.

Minutes of the 250th meeting

The 250th meeting of the GAC took place on 13.06.2013. Draft minutes were produced and sent around for comment shortly after the meeting, and we commented on the minutes promptly. This was the meeting where the new strike regulations were discussed. In that meeting, we pointed out that the only precedent we could find for aspects of these regulations was the *Carta del lavoro* introduced by Mussolini in 1927.

Unfortunately, some members nominated by the President - in particular VP1 - seem to have taken this as an attack on *themselves* rather than the *proposal*. The result of this is that VP1 has refused up until now to allow the minutes of this meeting to be approved.

Over a week before the 253rd meeting, we informed the administration that a number of our members who had been at the 250th meeting would not be present at the 253rd meeting. If they still intended to pursue this, we would only be prepared to discuss this topic (again) if we saw the proposed amendments in good time before the meeting.

Before the meeting, we received no proposed amendments. Going into the meeting, we thus concluded that the matter was probably finally closed. Instead, to our surprise, the administration turned up to the 253rd meeting carrying a number of paper copies of the minutes of the 250th meeting showing proposed amendments. We explained that we were not prepared to discuss this matter without all members who had been in the meeting in question having had a chance to comment. The item was accordingly deleted from the agenda of the 253rd meeting. After the meeting, we received an electronic version of the proposal with "track changes". These indicate that the amendments proposed were only introduced by VP1's office early in the morning of the 253rd meeting!

The members of the GAC appointed by the CSC