



Report of the 257th meeting of the GAC on 04.03.2014 in The Hague

Summary

The 257th meeting of the GAC (General Advisory Committee) was the second and GAC meeting of 2014. The agenda comprised a proposal to amend Circular 319 (the Guidelines on Duty Travel) and a document on "Social Democracy".

Circular 319

Currently, the Office has an **exclusive** contract with Lufthansa and Austrian Airlines. Except for the route Amsterdam-Berlin, for which KLM may be used, it is mandatory to travel with either Lufthansa or Austrian Airlines on all routes between the places of employment of the EPO. This exclusive contract expires at the end of March 2014. Rather than simply extend the contract as in the past, the Office decided to ask other interested parties for offers relating to non-exclusive contracts.

The result of this is that the Office has now decided to enter into a **non-exclusive** contract with KLM/Air France. Under this contract, KLM/Air France will offer the Office special (business class) rates for the routes they fly. For duty travel between Office sites, staff members will be required to travel using the cheapest business class ticket available for the time and date when they have to travel. Naturally, under the agreement, it is expected that this will generally be KLM/Air France for the routes which they service. If for some reason (e.g. booking levels), another airline is nevertheless cheaper for some route at a particular time and date, the staff member would be obliged to use this airline. For the other routes i.e. those not served by KLM/Air France, staff will naturally have to use another airline (most probably still Lufthansa or Austrian Airlines). It is expected that this arrangement will save the Office about EUR

350,000 a year compared to the current arrangement.

The Office presented to the GAC a document amending Circular 319 in order to make it clear that in future, there will be an obligation to fly using the cheapest business ticket available.

In the GAC, the administration's expert (the Principal Director of Central Procurement) presented the proposal. He first claimed that Lufthansa was clearly taking advantage of the current exclusive contract to increase prices. Hence the Office had decided not simply to extend the current contract when it expires. Rather, the Office had decided to open the business for bids by a limited circle of potentially interested companies to see what alternatives there were. The proposal presented to the GAC was the result of this. He also explained that the Office had taken service levels into account. Moreover, if at a certain required travel time a KLM/Air France flight was either not available or more expensive, then another airline could (and should!) be used. BCD would be informed of the changes and the booking tool suitably adapted. Staff could thus be sure that service levels would not go down compared to now.

According to the Financial Regulations, there is a requirement that "the financial administration of the Organisation shall be conducted in accordance with the principles of economy and sound financial management". We explained in

the GAC that whilst we supported this aim, at the same time, we believe that staff deserve a decent service level. The Office had a duty to make sure that the proposal did not lead to a drop of service levels for staff. If this could be assured, then we had nothing against the proposal.

After discussions, the GAC gave a unanimous positive opinion on the proposal. We additionally requested that service levels should be monitored and if necessary corrective action taken.

Social Democracy

As the reader will no doubt know, under the title of "social democracy" the President has elaborated a proposal changing the rules and regulations concerning the election, roles, rights and duties of the Staff Committee. This proposal was submitted as GAC/DOC 7/2014 for opinion. The document comprises a CA document CA/4/14 (not yet in Micado), two staff circulars and some explanations.

Whilst preparing for the meeting, it seemed to us that the proposal was contrary to the freedom of association that all public servants enjoy, including public servants in International Organisations, as enshrined in ILO Conventions C151 (the Labour Relations (Public Service) Convention of 1978) and C154 (the Collective Bargaining Convention of 1981). Moreover, it seemed to us that the stated problems and assumptions, essentially the lack of accountability of the Staff Committee and their nominees, did not exist. Rather, the current organisation of the Staff Committee in the EPO is practically identical to the organisation of the Staff Committee in the EU.

Thus, in good time before the meeting, we sent the administration copies of the above ILO Conventions, together with the relevant extract from the EU staff regulations and an open letter from the Union Syndicale Federale (USF) criticising these and other changes introduced by Mr Battistelli. We requested that these documents be introduced into the agenda as GAC/DOCs as background information. This request was turned down. At the start of the meeting, we thus repeated this request. We cited Article 5 of the GAC's Rules of Procedure, according to which "the examination of other items or documents submitted late may also be

added at the start of the meeting with the approval of a majority of the members or alternate members present" and that in this case, "the new items may then be discussed but no opinion will be delivered".

It took some time before all the members nominated by the President understood this rather clear text. Eventually they did allow the documents to be added to the agenda for information. However, they still refused to give them an official number and to have them added to the GAC document library. The reason given for this was that the President's permission was required for this step, and this didn't exist. We said that we found it very interesting that these days in the Office the President's permission was required even for something like this. We informed them that, if this was the case, we would simply annex the documents to our opinion. Since opinions (even those which the President does not like) are placed in the library, without presidential censorship, staff would in future be able to find the documents in the library. It is worth noting, however, that one member appointed by the President even tried to forbid this!

The Staff Committee does not exist for its own benefit. Rather, as set out in Article 34 ServRegs, it is to represent the interests of staff and provide "a channel for the expression of opinion by the staff".

Thus, when faced with a proposal comprising fundamental changes to its standing, it would seem reasonable for the Staff Committee to ask staff what their opinion is on the proposal. After all, it cannot be excluded that staff are also unhappy with their representation, and agree with the changes proposed by the President! Moreover, gathering staff's opinion enables the Staff Committee to brief its nominees, for example its GAC members. After all, despite what the President seems to think, we GAC members nominated by the CSC are answerable to the CSC, and ultimately staff, for the opinions we give.

As the reader will no doubt know, for this reason the CSC attempted to carry out an electronic survey of staff's opinion on the proposal. As with all other surveys or electronic elections carried out in the past by Office bodies (e.g. Family Budget Surveys, Human

Capital Surveys or Staff Committee elections or indeed the strike ballot which Mr Battistelli announced and then called off, and currently seems to intend to hold in the 13th of March), this required the transmission of staff email addresses. On the pretext that contact data freely available to everyone with access to the telephone book or the e-mail systems of the Office comprise personal data which must be protected, the President stopped the survey. Despite the fact that the person in question was on sick leave, a staff member in The Hague suspected of having been involved in the survey was suspended. The Investigative Unit are currently carrying out an investigation into the matter with the view of requesting a disciplinary procedure.

That left us without a clear view of the opinion of staff whose opinions we were meant to represent on this important matter. At the start of the meeting, we thus informed the Chairman (VP2 this year) that we intended to attend the General Assembly of The Hague staff called for 10:30 to discuss this point. We thus suggested that the GAC adjourn at 10:30 for about an hour to allow for this.

The members nominated by the President objected to the GAC schedule being arranged to take our absence into account. We pointed out that it was normal for the GAC schedule to be arranged to take appointments of the members nominated by the President into account. For example, last year the timing of a meeting in The Hague was arranged to take into account a lunch date between VP1 and the mayor of Rijswijk. Exceptionally, we were requesting that the meeting be scheduled to take *our* needs into account. When it became clear that the other side were not willing to take any account of this, we informed them that we were going anyway, and short of locking the meeting room door, there was nothing they could do about it.

As luck would have it, discussions on Circular 319 finished shortly before 10:30, so we all departed for the GA, ignoring VP4's suggestions that only the members from The Hague should attend.

The outcome of the GA was a vote on whether staff supported Mr Battistelli's social democracy proposal. The good news for Mr Battistelli is that three staff members abstained.

The bad news is that all of the remaining almost 1000 staff members present voted against the proposal.

We took this as a very clear mandate from staff not to support the proposal, and returned to the meeting. There, we informed the members nominated by the President on the outcome of the GA.

In turn, these members informed us that, rather than taking a break whilst we were away (in the end, our absence turned out only to have been about 45 minutes) they had decided to discuss the document amongst themselves. Since they never listen to our objections, we wonder if they listened to each other. The chairman very briefly summarized the discussion and informed us that, on the basis of these discussions, the members nominated by the President had already given a positive opinion on the proposal, with a couple of minor suggestions for improvement (in the meeting, they did not tell us what they were).

This, of course, all makes a mockery of the consultation process. We thus wrote Mr Battistelli a letter complaining about the behaviour of his members and making clear that he could not take the outcome of the meeting as being a *bona fide* consultation. In fact, a meeting scheduled until 17:00 was over by 12:00. This shows that there was indeed time for the members nominated by the President to await the outcome of the GA.

Following our mandate from the GA, we gave a negative opinion on the proposal. We also set out our main objections, which can be summarised as:

- The title invented for the proposal, "social democracy", has nothing to do with its content. It is neither democratic nor social.
- The proposal is based on wrong assumptions, on a biased analysis of the current situation and on provocative premises that pre-define the desired result.
- This desired result is to put the Staff Committee and all mechanisms of staff representation in the Office under the control of the President.

- Such control is contrary to the Freedom of Association that all public servants enjoy.
- The stated problem does not exist. The current organisation of the Staff Committee in the EPO is practically identical to the organisation of the Staff Committee in the EU.
- The proposal is contrary to common sense, since it is clearly not supported by staff. It will thus seriously damage any possibility of constructive relationship between staff and the President of the Office.

We also stated that any person who supports this proposal risks bringing the Office into disrepute, as clearly expressed by the Union Syndicale Fédérale in the above mentioned open letter to the President of the Office.

At moments like this, it is always interesting to observe the contributions and reactions of the legally qualified VPs. VP3 had the common sense to say nothing at all on this topic, at least not during the entire time we were in the room. When we pointed out the risk of bringing the Office into disrepute, VP5 looked like he wanted the desk to swallow him up.

Despite this, together with the other members on their side of the table, they both allowed the positive opinion to be given in their names.

Finally, we recommended that the President should abandon the current proposal and engage instead in serious, open discussions with the Trade Unions in the Office. This would have the aim of entering into framework agreements. Starting from the recognition of the Unions, this would change the current model of engagement of staff by consultation into one of proper collective bargaining, as recommended in the above mentioned ILO Conventions C151 and C154.

The members of the GAC appointed by the CSC.