



25.05.2011
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Report of the 230th meeting of the GAC on 11/12.05.2011 in Vienna

Summary

The 230th meeting of the GAC (General Advisory Committee) was the third GAC meeting of 2011. The agenda comprised four documents related to various Office departments. Additionally, there were two documents on further expansion of the electronic MyFIPS application.

1. Amendment of the FinRegs to include Internal Audit

The administration presented a proposal adding to the Financial Regulations a "Title VIII Internal Audit" comprising a single article.

The article basically stated that Internal Audit existed and is there to assist the President. In doing so, Internal Audit is to be independent and shall operate according to "generally recognised professional standards".

The reason given for the amendment is that it is considered that adding explicit mention of the role of Internal Audit to the FinRegs would strengthen the role of Internal Audit.

Unfortunately, the meaning of many of the terms used in the proposal is unclear. Moreover, although the proposal purports to highlight the importance of Internal Audit through formal recognition thereof in the FinRegs, it seemed strange to try to achieve this through the addition of a new Article to the FinRegs after the "Miscellaneous provisions"! Finally, the GAC noted that at least two differing versions of the Code of Ethics referred to in the proposal exist!

In its opinion, the GAC noted the above. The GAC thus gave a unanimous opinion that the proposal as submitted to the GAC should not be submitted to the Administrative Council for adoption. Rather, it should first be amended in line with the recommendations given by the GAC.

2. Single countersigning officer for SCAPES in Patent Administration

SCAPE stands for "Senior Cluster Advisor and Procedural Expert". They are B4/6 expert posts in PatAdmin. They are positioned in the SIS units (most units have one SCAPE; a few have either zero or more than one). In the last reporting period, they were reported on by the (also B4/6) SIS unit line managers. For this, they were grouped together with the B1/5 formalities officers. They then had as counter-signing officer the relevant PatAdmin director. The about 25 - 30 SCAPES thus had about 25 different reporting officers and four different counter-signing officers.

With this document, the administration proposed that, for the current period, all SCAPES should have one and the same counter-signing officer who would be one of the directors in PatAdmin. This, it was claimed, would allow better to fulfil the role of the counter-signing officer, namely to provide harmonisation of reporting within a particular area. There would be no change in reporting officer. This would continue to be the SIS line manager of the SCAPE in question. However, the SCAPES would no longer be compared with the formalities officers in the SIS units for reporting purposes.

A cornerstone of reporting at the Office is that staff members are compared with their peers. Whilst we could agree with the problem identified in the document, we failed to see that it was properly solved by the proposed solution.

In particular, we considered that the proposal could lead to excessive interference by the counter-signing officer in the reporting procedure. Accordingly, we gave a negative opinion on the proposal. We additionally recommended that the problems identified could better be solved by having a single reporting officer for all SCAPes (who should be a director in PatAdmin), with the Principal Director as counter-signing Officer. This would ensure that, as required, the SCAPes could be reported on in a harmonised manner with a correct comparison to their peers.

In the GAC, it was clear that most of the members nominated by the President shared our concerns with the proposal and seemed to agree that our proposal might be a good solution. However, they considered that there were also other possible alternatives. As a result, the GAC forwarded to the President two split, albeit practically identical opinions.

3. Re-positioning of the Safety Officers

The Safety Officers are currently positioned in Facility Management under director 4.4.2. However, according to German law, they should be positioned at a high level in the organisation's hierarchy. In line with this legal requirement, the Occupational Health Physicians were already placed directly under VP4. Moreover, the Safety Officers and the Occupational Health Physicians have to work together when carrying out their duties.

Accordingly, the Staff Committee nominees in the COHSEC (the Central Occupational Health, Safety and Ergonomics Committee) considered that the independence of the Safety Officers was compromised by their administrative dependence from Dir 4.4.2. Thus they submitted a request that the Safety Officers should, like the Occupational Health Physicians, be placed directly under VP4.

(It should be noted that one difference between the GAC and the COHSEC is that the COHSEC, under its mandate, is empowered to present proposals on aspects of occupational health, safety and ergonomics. The GAC, in contrast, only has a mandate to give opinions on proposals presented to it.)

In the request to the COHSEC, the Staff Committee nominees pointed out that according to Article 26c ServRegs, the

independence of the occupational health physicians and occupational health and safety experts must be guaranteed. For the occupational health staff, this was done by positioning them under VP4. Thus it is strange that this was not done for the Safety Officers.

The current arrangement is thus not in conformance with German law. Putting them in a position low in the hierarchy of PD 4.4 leads to the danger of delay in implementing measures.

In reaction to this, the administration presented a proposal to rename the current health service "Health Service and Safety Office" and have the Safety Officers reporting directly to VP4.

The GAC gave a unanimous positive opinion on the proposal. However, there was concern in the GAC that not all problems of independence can be solved simply by moving departments. For example, it has to be clear that the safety officer has Office wide responsibilities and is not limited to working with PD 4.4, or DG 4. Thus the GAC also stated that it should be emphasised that the Safety Officers have office-wide responsibility for employee safety in a manner analogous to that of the Occupational Health Physicians, thus, not only for DG 4, or, even, PD 4.4.

Moreover, we pointed out the need for the Safety Officers to have the authority over the means needed to perform their tasks (e.g. budget, resources, facilities) as further guarantee for their independence.

4. Implementation of a CIO in the IM organisation

In 2006, a proposal for a new organisational structure for automation in DG2 was presented to the GAC for opinion. The 2006 proposal introduced the role of an overall coordinator then named PD IRPS. This PD was intended to have a "team leader" function amongst the PDs in the IM area. In 2006, we stated that we could not support this creation of a "super principal director" role in DG2. The ServRegs do not foresee a grade of A6(2). Rather, all principal directors are equal. If special supervision is required, then this is clearly a job of VP2. For more information, see our reports of the 2006 meetings of the GAC.

The structure proposed in 2006 was never actually implemented. To this meeting of the GAC, the administration presented a proposal which seemed to resurrect it.

The document submitted comprised two parts. An explanatory text and a draft vacancy notice.

The explanatory text didn't actually provide any discussion as to how the proposal would improve the current situation, what other possibilities were considered, and why the proposal achieved the stated aims better than the other possibilities.

Rather, it comprised a random collection of buzz words and "consultant speak", for example it spoke of:

- modernise and transform ..
- transform IM into a value creating unit ..
- services match the business needs
- support the business needs and the required services
- etc.

As stated above, the draft vacancy notice was also submitted to the GAC. This is unusual, and is the first time that we can recall this happening. According to Annex II to the ServRegs, it is part of the job of the selection board in such a case to approve the vacancy notice. Of course, consultation of the GAC on this point at this occasion does not replace the requirement for approval of the vacancy notice by the selection board.

The vacancy notice attached as an annex gave three main duties:

1. Delivering the associated projects which support the business;
2. Modernising the working methods of IM;
3. Assuring the continuity of IT services.

That is to say, since traditionally, the function of a CIO implies also the highest hierarchical position in IM, the vacancy notice seems to describe a traditional CIO post.

VP2 attended the GAC as an expert to explain the proposal and to answer questions. He explained that the proposal was in response to the IT Roadmap. This had identified weaknesses in the Office in change management. Thus it was foreseen that the person on this future position will be responsible for coordination of the projects in IM across the existing PDs. That is to say,

would be responsible for change and project management at the Office. For this reason, the person will have the same grade as the colleagues leading the existing PDs and will not be their hierarchical superior.

VP2 stated further that he plans to introduce this structure temporarily so as to keep IM operational pending consideration of a more substantial future restructuring. VP2 will also remain the budget holder and the final deciding authority in IM.

It thus became clear that the Office is not really looking for a CIO in the usual meaning of the term. Rather, the Office is looking for a PD in charge of project and change management.

When we learned this, we stated that we considered that there is a risk that problems such as conflicting strategic approaches among the PDs, conflicts on prioritisation of activities and allocation of resources, to name but a few, might occur due to this structure. There is also the risk that these conflicts could propagate down the hierarchy so that staff might suffer in such a situation. With the proposed structure, it is thus indispensable to define the respective roles, competences and responsibilities of all PDs within IM in a very clear manner. This should go beyond what is current practice in the Office and also beyond the job description of the new post-holder as contained in the annex to the document. Moreover, the CIO normally reports to the President and is member of the managerial committee. This seems not to be the intention at the EPO. Thus, neither the duties a candidate will be expected to perform nor his position in the Office hierarchy will correspond to those that a top quality candidate for a CIO post would expect. Accordingly, either finding the right person for the post may turn out to be a challenge or someone recruited to the post may be disappointed by the scope of their duties after taking up their appointment.

In the end, we gave an opinion on the proposal that reflected the reasons set out above. We also recommended that the viability and the outcome of the model should be closely and independently monitored and measured. Moreover, in order to avoid any misunderstanding, the title of the new post should be changed, e.g. to PD Projects and Change Management.

The members nominated by the President gave a positive opinion on the proposal listing concerns similar to ours.

MyFIPS application

1. D 4.3.3 HR Service Desk

The administration presented a document to the GAC proposing to extend the MyFIPS platform through the introduction of a HR Service Desk. The intention is to allow staff members to send a request to the Service Desk via MyFIPS on matters such as salary, allowances, leave or similar. For this, the relevant forms already exist electronically, but the staff member usually has to print them out, fill them in and send them on paper (or email) to their HR consultant. It is thus intended that the current forms will be made available in MyFIPS. As is currently the case with the IM Service Desk, the staff member will then receive a ticket assignment. This will be via a tracking system from the company iET solutions. This tool will shortly replace the IBM / Tivoli tool used for IM ticketing.

The aim of the project is to be able to provide a better service to staff on the one hand, whilst simplifying work flows in the HR department when dealing with service requests on the other.

In the GAC, it was explained by the director responsible (DIR 4.3.3) that the intention of the proposal was also to maintain service to staff members via personal contact, phone or email. The provision of the MyFIPS tool should thus be viewed in addition to these. However, the time frame for implementation of the project had slipped to late 2011. The data protection officer also explained that there were still open data protection issues which had to be attended to. It thus became clear that the project is, in fact, some months away from "going live".

The discussions also raised the general question relating to the timing of GAC consultation on projects. Should the consultation take place at the start of the project? the middle? or the end? In the GAC's opinion, since projects often run over a longer period, consultation when the project is ready for implementation may not bring any benefit for the project. That is to say, it may be too late to take the opinion fully into account. Thus the

GAC suggested that project managers routinely plan consultation of the GAC in their time plan, so that recommendations can be taken into account and misunderstandings avoided. Moreover, there should be (at least) an initial consultation, which should take place early enough that the project team can react to the outcome of the consultation, and a final consultation before project roll-out. This final consultation would be obligatory, even if the initial consultation(s) led to no substantive changes.

Following discussions, the GAC gave a positive opinion to the principles outlined in the document submitted. However, since some important questions have not yet been finalised, the GAC insisted that it is necessary that the GAC be consulted again before the project "goes live". Moreover, the GAC provided a list of open issues. These included

- data protection related issues;
- time stamping of the requests filed electronically (for legal acknowledgement of receipt);
- provision of "free-text" boxes;
- an overview of the ergonomics aspects involved;
- consideration of whether or not electronic versions of various forms need submission to the GAC for opinion.

In addition, as with the following topic, the GAC suggested that the following should be examined:

- feasibility of having the MyFIPS portal in all 3 official languages as it is currently the case for the paper forms;
- feasibility of linking to explanations of technical terms e.g. to the relevant part of the EPO CODEX.

2. Tool in MyFIPS for yearly declaration of spouses' income

Information concerning spouses' income is required for assessing the household allowance and the level of contributions to the sickness insurance and long-term care insurance schemes. Currently, the Remuneration and Leave Department (REAL) has to deal with 3,500 paper documents each year in this respect.

The administration presented a proposal to

automate this by including a tool in MyFIPS. It is claimed that this will provide a better service to staff by increasing the traceability of documents which they have submitted. It will also reduce the paperwork in HR.

From the screenshots provided, it seems that the intention is indeed merely to implement an electronic version of the paper forms currently used to gather information which REAL need to perform their duties.

After discussions, the GAC gave a unanimous positive opinion on the proposal. However, the GAC also unanimously suggested that:

- thought be given to implementing a free-text field for comments e.g. in order to provide extra explanations;
- if feasible, the tool should be available in all three official languages;
- if feasible, hypertext links to the relevant parts of the CODEX should be provided to help staff members completing the form;
- staff members should have access to the data which they have submitted on-line.

The members of the GAC nominated by the CSC.