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Report of the fifth meeting of the Working Group on Finances

General summary

Relying on a flawed financial study management has proposed measures to fill an alleged gap of EUR 3.8bn and a further buffer of EUR 2bn. A joint working group (WG) on finances including staff representatives has met 4 times before the Christmas break (see our earlier reports).

Staff Representation (SR) maintains the position that the financial sustainability of Office is not an issue. More crucial to the functioning of the Office will be to implement measures aiming at re-establishing a high-quality service for both the parties and the European public, while returning to being an attractive employer.

To further improve the financial sustainability of the Office, SR made various proposals during the course of the last Working-Group (WG) meetings for management's consideration that were out of the scope of the Financial Study but could be implemented without punishing staff who have been working hard over the past years.

These proposals were transmitted to management for consideration:

Proposal 1	Adjusting fee structure to the EPO policies
Proposal 2	Providing an automatic, preliminary search to applicants
Proposal 3 and 3bis	Bringing both pension schemes closer together: Colleagues in the old pension scheme (OPS) could opt on a voluntary basis for receiving a lump sum when going on retirement while receiving a reduced monthly pension and colleagues in the new pension scheme (NPS) would be entitled to a tax adjustment according to the existing one in the OPS
Proposal 4	Conversion of the actual pension for health reasons into an invalidity allowance
Proposal 5	Refining the model for the calculation of the specific indicator
Proposal 6	A detailed draft Salary Adjustment Procedure

The 5th meeting of the Working Group on Finances

The 5th meeting of the WG took place on 22 January. Two days ahead of the meeting, staff representatives received the agenda, as well as a supporting document, in which the administration and Oliver Wyman/Mercer (the consultants) assessed our proposals.

The document further comprises a rough estimate of the impact of an increase of 5% of pensionable rewards. Management could consider such an increase, which would then, however, be financed by further decreasing the salary adjustment. It is thus distributing a substantially reduced budget amongst fewer people based on managerial discretion.

We appreciate that management lets go of further attacks to the career system and now acknowledges with the one-off measure that the New Career System (NCS) is indeed far from ideal. We maintain, though, that the NCS needs to be reviewed entirely and that proper transitional measures need to be implemented.

The above proposals were the subject of the discussions during the meeting, with some exceptions:

- The salary adjustment procedure, considered by management as the key measure for cost-saving, was not assessed in the supporting document and will be discussed in the WG only one more time in the sixth and last meeting on 7 February. It will then be further defined on by the technical Sub-Committee of the General Advisory Committee on Social Security, Remuneration and Pensions which reviews the salary adjustment method. For the WG GCC SSPR at present five meetings are scheduled until early April 2020 with the aim to propose a new salary adjustment method to the Administrative Council for decision in June 2020.
- Two of the proposed items, namely proposal 1 (the adjustment of the fee structure) and proposal 2 (automatic preliminary search), will not be discussed further in the WG Finances. Proposal 1 will be assessed in more detail in other groups without participation of SR and proposal 2 is considered by management, at first glance, as not being in line with the goals of SP2023 and the focus of the Office on quality and legal certainty.

We see flaws in their proposals and the reasons provided for rejecting them for the time being. Some of the administration's and consultants' calculations are simply not correct, which led to a misguided assessment. Management committed to reviewing their calculations, but at the same time also stated that the proposals could anyway not be dealt with in time for the Administrative Council in June. Furthermore, management considers some measures to bear litigation risks.

Management seems quite worried about litigation when it concerns proposals by the staff representatives that could actually benefit staff and which staff could choose on a voluntary basis. But the litigation risks entailed in cutting staff benefits by the billion and deteriorating their working conditions does not worry them in the slightest.

We pointed out that the Financial Study considers pension payments made after 2038 when calculating the alleged gap, but completely omits National Renewal Fees paid back to the Office after 2038. We estimate this forgotten income to be in excess of € 6 billion[1]. However, management did not want to discuss this point.

Furthermore, management communicated the intention to divert future surpluses into the RFPSS and the EPOTIF and considers some adjustment to fees, should that receive Council support. Both points represent revenue that has not been integrated in the Financial Study.

To round off the meeting, we informed management of the growing concern amongst the money-earning part of the Office about the massively growing overhead. We requested them to keep a keen eye on the proportion of "producing" staff versus "administrating" staff. This would help guarantee financial sustainability of the Office without putting further working pressure on the producers.

Management agreed with the SR and stated that the administration foresees a review of staff planning.

1 See CSC publication sc20014cp: "Forgotten income of € 6 billion in Financial Study?"

Provisional conclusion

After the 5th meeting of the WG, the assessment by the administration of our proposals is so far disappointing, especially because it was not done properly.

So far we see no indication of a genuine desire to find an agreement on a Salary Adjustment Procedure worth its name. Yet management keeps repeating that the attractiveness of the Office as an employer is crucial for its proper functioning and staff engagement. This is why we have not yet lost hope.

SR advocates a sound Salary Adjustment Procedure for the EPO, relying on principles that apply to all International Organisations, namely equality of purchasing power amongst places of employment and parallelism of evolution. The coming weeks will be decisive to evaluate whether management is interested in finding an agreement with your representatives.

Your Central Staff Committee

Annex – Proposal 1-6

Annex – Proposal 1-6

Proposal 1

Adjust fee structure to EPO policies

The financing of the EPO rests on two pillars:

1. Procedural fees
   These are not cost-covering. Indeed, the unit cost for a search is €3.551[1] while the search fee is €1.300[2] for an EP and €1.775[3] for a PCT, thus barely covering half of the unit costs.
2. Renewal fees
   The renewal fees are required to subsidise the service of search and examination to achieve cost coverage in the long term. However, renewal fees can only be levied for EP applications. A PCT application does not inherently have renewal fees.

The policies in the past years shortened the pendency time in the EPO. Thus the income from internal renewal fees was significantly reduced. The national renewal fees cannot compensate this loss of income resulting from the loss of internal renewal fees.

Therefore, the fee structure must be revisited to accommodate this change of pendency time.

It can be done essentially in two ways or a combination thereof:

1. Levelling of the internal renewal fees so as to increase the early renewal fees and reduce the late renewal fees. For applications pending for a longer period, this measure is cost-neutral.
2. Increase the procedural fees and reduce the renewal fees accordingly. This measure is cost-neutral for our best clients, which are the applicants who continue with the patent application after the search phase. However, the applicants who do not continue with the application should contribute to a higher coverage of the unit costs. It is to be noted that for the PCT search, the USPTO charges higher search fees than the EPO. Indeed the search fee of $2.080 corresponds to €1.877 although the search is outsourced to an external company. The EPO gives thus its premium service away at a discount.

[1] CA/45/19 page 4
[2] https://www.epo.org/law-practice/legal-texts/html/epc/2016/e/articl2.html#2
[3] https://www.wipo.int/export/sites/www/pct/en/fees.pdf, Table I(b)

Proposal 2

Provide an automatic, preliminary search

The unit cost for a search is €3.551[4] while the search fee is €1.300[5] for an EP and €1.775[6] for a PCT thus covering barely half of the unit costs.

However, only 56% of the PCT filings enter the EPO regional phase and only 32% are granted. For Euro-direct, 80% of the applicants request examination and 55% are eventually granted[7].

This means that after the search, there is a drop-out rate of 44% for PCT and 20% for EP. The drop-out rate is even lower for PCT with supplementary searches. This is possibly due to the effect that only applicants who are not discouraged by the search results from e.g. the USPTO or SIPO file also in Europe.

What does this high dropout rate mean in financial terms?

Assuming 70.000 Euro-Direct applications and a drop-out rate of 20%, over the next 20 years, this means that the abandoned files after search cost us €600 million of uncovered unit costs over the next 20 years[8]. When including PCTbis, this figure rises to €800 million.

For PCT filings, the situation is significantly worse. Starting from the 84.000 PCT searches done in 2018[9] this figure yields €1.3 billion[10].

The potential of the automatic, preliminary search

The uncovered unit costs are thus some €2.1 billion over the next 20 years from search alone. It also shows a major potential for savings if a part of these files were abandoned on the basis of the search result of a quick, automatic search merely because there is no search examiner dealing with the file.

Since the preliminary search can be done really quickly, it also opens the possibility to the applicants to amend the application in view of these search results in a timely manner and to file the application again within a short delay with better prospect of a granted patent.

The automatic, preliminary search may thus be an attractive option for the applicants and has also the strong potential that more applications are continued until grant, which is beneficial for the Office.

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[4] CA/45/19 page 4
[5] https://www.epo.org/law-practice/legal-texts/html/epc/2016/e/articl2.html#2
[6] https://www.wipo.int/export/sites/www/pct/en/fees.pdf, Table I(b)
[7] CA/F 5/19 page 9
[8] 20% of 70.000 files times (unit cost – search fee – 1/2 claim fee) over 20 years
= 20% x 70.000 x (3551 - 1300 - 235/2) x 20
[9] CA/44/19 page 7
[10] 44% x 84.000 x (3551 - 1775) x 20

Proposal 3

Offer a pre-retirement severance grant to retiring staff

A big concern for the management and the Council are the future liabilities. This concern is exacerbated due to the incompatibility of the actuarial funding approach done by the Office and the IFRS reporting, mainly because the former uses a discount rate of 3.25% over German CPI and the latter a discount rate for AA-rated corporate bonds, currently around 1.5%.

The idea is to offer retiring staff a pre-retirement severance grant in exchange for renouncing part of the defined-benefit pension or even the whole tax compensation. It must be clear that the lump sum cannot reflect exactly the tax compensation the pensioner would have received but will generally be a sort of average included in the lump sum.

The amount can be calculated based on an actuarial study, similar to what is done with inward transfers to the pension system. Since the actuaries use a much higher discount rate than IFRS, for every Euro of pre-retirement severance grant, the Office can reduce the liabilities by much more than one Euro.

As also the partial tax compensation is taxed the Office can effectively save these costs. The retiring staff may find such an offer still attractive for personal reasons.

Indeed, such a lump sum payment may be highly attractive to staff. At the age of retirement, it is normally difficult if not impossible to get a mortgage if one intends to buy a house at the place of retirement. There are many more reasons why a lump sum at the start of a new life somewhere else proves useful.

It remains to be seen how many colleagues accept that offer. To limit the cash flows, the President could set a budgetary envelope for each year and may also be subject to other limitations which ensure the feasibility in practical terms.

Proposal 3bis

Proposal 3 + Reintroducing tax adjustment for colleagues in New Pension System (NPS)
Proposal by the Staff representatives in the WG finances

The Hague, 19.12.2019

The Measure: We propose that colleagues under the NPS should benefit from the tax adjustment.

The context: We have made a proposal (proposal 3) aiming at giving the voluntary possibility for colleagues under the Old Pension Scheme (OPS) to recapitalise a part of their pension. We propose that, as a symmetrical measure, the colleagues under the NPS should benefit from the tax adjustment.

Advantage in terms of HR policy: The combination of these two measures (Proposal 3bis) would somehow bridge the gap between the two systems while fully respecting acquired rights.

Financial impact: It is likely that the second measure can be entirely financed by the gains made by the Office under the first measure if designed in an attractive way for staff. We respectfully ask for the financial impact of the combination of these measures (**Proposal 3bis**) to be assessed.

Legal assessment: the tax treatment of the NPS is an anomaly under international law. With this second measure this anomaly would be repaired. Pending the introduction by the EPO of a truly internal tax under its primary law (CA/7/03) or its secondary law (CA/78/08) which the Office should always have in mind and favour whenever a bigger European integration would be considered (introduction of the UPC, etc...), this amendment would re-establish a fair treatment of the colleagues under the NPS. The longer term objective of establishing an internal tax on pensions should be kept in mind and actively pursued, since it would also re-establish equal treatment amongst Member States, currently severely destroyed to the benefit of the two host countries.

Changes needed: the Office needs to ask the Administrative Council to repel CA/D/18/07, thereby reactivating the provisions of Article 42 for colleagues in the NPS.

<u>Proposal 4</u>

Proposal by SR to WG Finances Proposal on invalidity allowance

Proposal by Staff representatives to the WG Finances for converting the pension for health reasons into an invalidity allowance
EXECUTIVE SUMMARY

<u>Outline of the proposal and its main financial benefits</u>
It is proposed to convert the pension for health reasons (PfHR) introduced with CA/D 2/15 into an invalidity allowance (IA) as it was defined with CA/D 17/08, on the basis of the existing scheme at the EU, and CA/D 32/08, adding invalidity allowance to the list of emoluments subject to internal tax.

Acquired rights of colleagues currently benefiting from a pension for health reasons should be respected. The proposal would entail further advantages, not only financial, as developed in the **Annex**.

<u>Reduction of liabilities</u>
Instead of the EPO paying the tax adjustment for all the PfHR, the invalidity allowance would be submitted to internal tax. It would result in additional funding of the Pension Reserve Fund (PRF), since the invalidity allowance would be subject to contributions to the pension, except for invalidity granted for occupational reasons. This would lead to a reduction of the available cash every year.

<u>Request for information and simulations</u>
The President of the EPO is respectfully requested to give both the appropriate consideration to this proposal and the necessary instructions to provide the WG with:

- the numbers of beneficiaries of a pension for health reasons,
- an estimation of the number of colleagues currently incapacitated who would qualify for an invalidity allowance, but not yet being beneficiaries of a pension for health reasons due to the provisions of Article 14, Pens.Regs introduced with CA/D 2/15.
- an estimation of the savings for the tax adjustment if replacing the PfHR conditions with an invalidity allowance.
- a (anonymised) list of the cases filed against CA/D 2/15

The Staff representatives in the WG Finances

ANNEX to Proposal 4

On top of providing financial savings the proposal entails several advantages. This proposal aims at correcting the most severe deficiencies of CA/D 2/15 with as results

- an acceptable policy for the weakest population of the EPO,
- a reduction in litigation and as a further (not negligible) side effect
- a reduction of the liabilities.

Historical background

After the Administrative Council decided in 2007 to suppress the tax adjustment for newcomers entering the EPO from 1 January 2009 and to put the burden of the tax adjustment onto the EPO, the EPO decided to transform the invalidity pensions into an invalidity allowance on the model of the allowance existing in the European Union. Under this status an internal tax was introduced on the invalidity allowance. This somewhat released the burden of the tax adjustment for the EPO for the period from when an employee starts to benefit from an invalidity allowance until (s)he turns 65.

Additional HR benefits

CA/D 2/15 contains several major flaws. The most striking one is that under the incapacity regime, staff members are forced to stay in their host country. This blatantly violates their right to freedom of movement and additionally makes their life more difficult, deteriorating the chances of recovery or of being able to live a life adapted to their condition. This is especially true for expatriate staff having no family in their host country. In doing so the EPO badly neglects its duty of care. When revisiting CA/D 2/15, the EPO could address further flaws of this regulation, like forbidding activities listed in the Regulation.

Reducing litigation

Dubious provisions introduced with CA/D 2/15 are currently being challenged, e.g. Article 15 on gainful activities or employment, or on the freedom of movement under the incapacity status. Modifying CA/D 2/15 would be an opportunity to address and to solve these problems.

Legal assessment

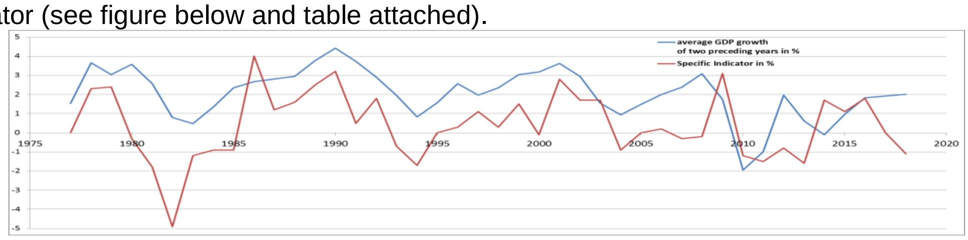
When the invalidity allowance was introduced in 2008, most countries accepted its status as an emolument subject to internal taxation. Only a few tax offices (DE, NL, BE, LU) challenged this status and tried to submit it to national taxation. All tax offices lost their challenge either in first or second instance (e.g. in DE or in NL). Unfortunately the EPO, after having helped the colleagues with their appeal, decided to reverse the invalidity allowance shortly after Mr Battistelli's re-election and before the Bundesfinanzhof had a chance to judge it.

In view of the above it seems rather safe to assume that reintroducing the invalidity allowance would not present any legal risk.

Proposal 5

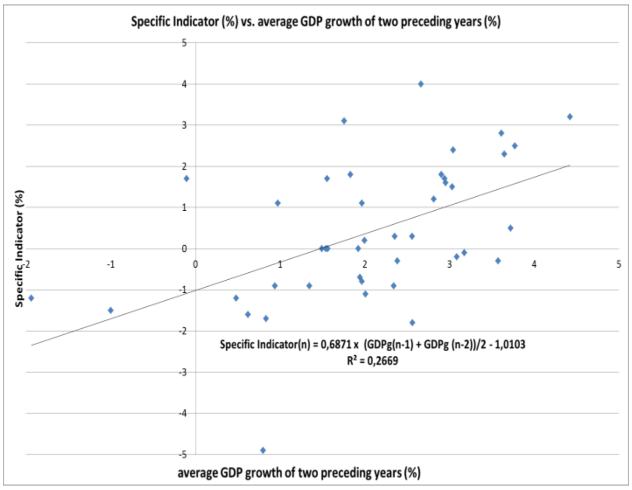
Proposal for refining the model

The Base 2 scenario of the financial study uses an economic stress scenario following the European Systemic Risk Board. It thus assumes a global economic recession starting in 2020, which normalises only from 2025 onwards. Still, the salary growth is set to 0.5%[11] over inflation which corresponds approximately to the specific indicator of 0.38%[12] observed in the past 42 years. Although this is in line with the approach by the AAG[13] it must be emphasised that in the reference countries, during the last decades, we didn't observe a period with an economic crisis even remotely as severe as assumed in the financial study[14]. **The past 42 years are thus not representative for the Base 2 scenario**. We could, however, observe some much shorter economic crisis and we could observe their impact on the specific indicator (see figure below and table attached).



It reveals that already in times of lower growth let alone in an economic crisis, the specific indicator turns negative. It must be recalled that the specific indicator is the weighted average of the real salary evolution (thus above or below inflation) of civil servants in representative member states.

The Base 2 scenario thus assumes nothing else than a salary increase for the national civil servants in excess of inflation even though the economy is in a severe crisis. This is neither realistic nor politically justifiable and cannot be consolidated with past observations. It is an oversimplification. Such an oversimplified model for the specific indicator is also **inconsistent with the modelling granularity of other drivers for the Office's finances**. Indeed, the financial study modelled the filings and equity returns in great detail, depending on economic area, year and economic situation[15] **precisely because it doesn't assume that the past is a valid predictor for the future.**



We, therefore, kindly ask that also the specific indicator is modelled with the same attention. A model could be based on a linear regression as shown in the graph. This can be obtained by drawing the specific indicator vs. the SI-weighted average GDP growth of the two preceding years.[16]

We propose a re-assessment where the specific indicator for the year n is set to

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[11] CA/83/19 page 123; Baseline

[12] CA/56/19 para. 66

[13] CA/56/19 para. 67

[14] source: https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=EU

[15] CA/46/19 pages 48-53

[16] The GDP growth is weighted according to the weightings of the Specific Indicator tabled in para 15 of CA/160/07, which is currently still in force. The specific indicator is correlated with the average of the GDP growth of the two preceding years because of the delays of the adjustment procedure.

Specific Indicator (n) = 0,6871 x (GDPg(n-1)+GDPg(n-2))/2 – 1,0103

This formula yields even a slightly higher adjustment over the past 42 years than the observed adjustment (see attached table). Since the GDP of the countries contained in the weightings of the SI cover most of the EU-GDP, we agree to take the EU-GDP as a proxy.

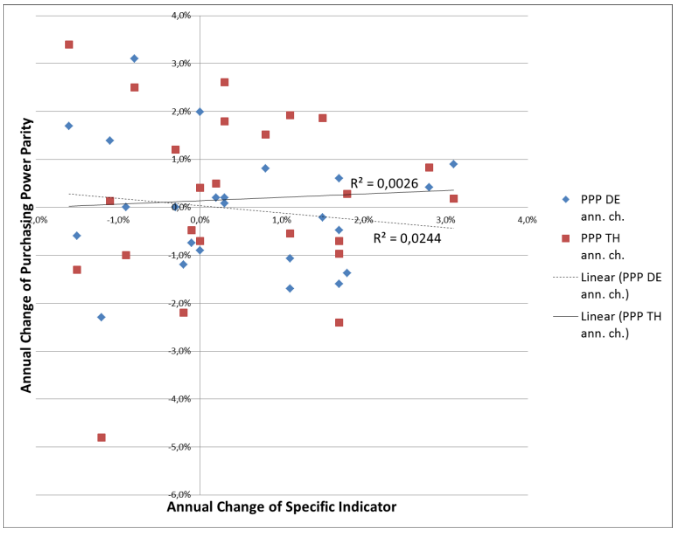
SI weight		up to 2007	23,60%	19,10%	16,10%	14,20%	10,20%	9,60%	7,20%	0,00%		Spec. Ind.
		as of 2008	19,8%	16,3%	16,6%	15,0%	8,2%	7,0%	5,2%	11,9%		acc. to
		cumul.	GDP Growth									Trendline
Year	SI %	SI	DE %	FR %	UK %	IT %	NL %	BE %	LU %	ESP %	SI weighted	(cumul.)
1975			-0,87	-0,96	-1,48	-2,09	0,00	-1,97	-6,57	0,54	-1,58	
1976			4,95	4,36	2,91	7,13	4,46	5,65	2,53	3,30	4,66	
1977	0	1,000	3,35	3,46	2,44	2,56	2,52	0,63	1,57	2,84	2,64	1,000
1978	2,3	1,023	3,01	3,98	4,20	3,24	2,70	2,84	4,07	1,46	3,45	1,015
1979	2,4	1,048	4,15	3,55	3,74	5,96	2,01	2,34	2,35	0,04	3,71	1,026
1980	-0,3	1,044	1,41	1,58	-2,03	3,43	1,34	4,44	0,84	2,21	1,42	1,041
1981	-1,8	1,026	0,53	1,07	-0,77	0,84	-0,78	-0,28	-0,55	-0,13	0,18	1,049
1982	-4,9	0,975	-0,39	2,51	2,01	0,41	-1,24	0,59	1,13	1,25	0,78	1,044
1983	-1,2	0,964	1,57	1,24	4,22	1,17	2,07	0,31	2,99	1,77	1,91	1,037
1984	-0,9	0,955	2,82	1,51	2,28	3,23	3,06	2,47	6,19	1,78	2,77	1,036
1985	-0,9	0,946	2,33	1,62	4,20	2,80	2,58	1,65	2,79	2,32	2,55	1,042
1986	4	0,984	2,29	2,34	3,14	2,86	2,79	1,82	9,98	3,25	3,08	1,051
1987	1,2	0,996	1,40	2,56	5,30	3,19	1,93	2,31	3,95	5,55	2,83	1,061
1988	1,6	1,012	3,71	4,74	5,76	4,19	3,44	4,72	8,46	5,09	4,72	1,072
1989	2,5	1,037	3,90	4,34	2,57	3,39	4,42	3,47	9,80	4,83	4,13	1,088
1990	3,2	1,070	5,26	2,92	0,74	1,99	4,18	3,14	5,32	3,78	3,31	1,111
1991	0,5	1,076	5,11	1,05	-1,09	1,54	2,44	1,83	8,64	2,55	2,50	1,128
1992	1,8	1,095	1,92	1,60	0,37	0,83	1,71	1,53	1,82	0,93	1,39	1,139
1993	-0,7	1,088	-0,96	-0,63	2,53	-0,85	1,26	-0,96	4,20	-1,03	0,28	1,143
1994	-1,7	1,069	2,46	2,36	3,89	2,15	2,96	3,23	3,82	2,38	2,85	1,138
1995	0	1,069	1,74	2,11	2,46	2,89	3,12	2,38	1,43	2,76	2,27	1,138
1996	0,3	1,072	0,82	1,41	2,54	1,29	3,50	1,59	1,39	2,67	1,66	1,147
1997	1,1	1,084	1,85	2,34	4,29	1,84	4,33	3,71	5,71	3,69	3,04	1,151
1998	0,3	1,087	1,98	3,59	3,34	1,62	4,66	1,98	6,04	4,31	3,02	1,158
1999	1,5	1,104	1,99	3,42	3,21	1,56	5,03	3,56	8,48	4,48	3,33	1,170
2000	-0,1	1,103	2,96	3,92	3,45	3,71	4,20	3,63	8,24	5,29	3,90	1,184
2001	2,8	1,133	1,70	1,98	2,84	1,77	2,33	0,81	2,53	4,00	1,99	1,201
2002	1,7	1,153	0,00	1,14	2,50	0,25	0,22	1,78	3,82	2,88	1,12	1,213
2003	1,7	1,172	-0,71	0,82	3,34	0,15	0,16	0,77	1,63	3,19	0,76	1,214
2004	-0,9	1,162	1,17	2,83	2,35	1,58	1,98	3,63	3,61	3,17	2,23	1,210
2005	0	1,162	0,71	1,66	3,15	0,95	2,05	2,09	3,17	3,72	1,76	1,210
2006	0,2	1,164	3,70	2,45	2,55	2,01	3,46	2,51	5,18	4,17	3,00	1,214
2007	-0,3	1,161	3,26	2,42	2,55	1,47	3,77	3,45	8,35	3,77	3,17	1,222
2008	-0,2	1,158	1,08	0,25	-0,35	-1,05	2,17	0,78	-1,28	1,12	0,34	1,235
2009	3,1	1,194	-5,62	-2,87	-4,25	-5,48	-3,67	-2,25	-4,36	-3,57	-4,22	1,238
2010	-1,2	1,180	4,08	1,95	1,71	1,69	1,34	2,74	4,86	0,01	2,22	1,209
2011	-1,5	1,162	3,66	2,19	1,64	0,58	1,55	1,80	2,54	-1,00	1,71	1,188
2012	-0,8	1,153	0,49	0,31	1,45	-2,82	-1,03	0,23	-0,35	-2,93	-0,47	1,192
2013	-1,6	1,134	0,49	0,58	2,05	-1,73	-0,13	0,20	3,65	-1,71	0,26	1,185
2014	1,7	1,154	2,18	0,96	2,95	0,11	1,42	1,25	4,30	1,38	1,69	1,173
2015	1,1	1,166	1,74	1,11	2,35	0,92	1,96	1,74	3,92	3,64	1,97	1,169
2016	1,8	1,187	2,24	1,10	1,79	1,12	2,19	1,45	2,41	3,17	1,87	1,171
2017	0	1,187	2,16	2,26	1,82	1,68	2,91	1,73	1,55	2,98	2,15	1,175
2018	-1,1	**1,174**	1,43	1,72	1,40	0,86	2,60	1,44	2,60	2,58	1,68	**1,179**

https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=EU

Proposal for refining the model for the Salary Adjustment Procedure in the Financial Study

In the course of the discussion on the refined model proposed for the specific indicator (SI) during the WG meeting on 3.12.2019 the management representatives stated that the specific indicator is not enough to simulate the model. Indeed, the salary adjustment procedure includes also the purchasing power parity (PPP) and a starting point, which is the Harmonised Index of Consumer Prices (HICP) in Belgium. The PPP was perceived by some of the management representatives as bringing a positive result when the SI is negative and vice versa. In technical terms this would mean that the change of the PPP and the SI are negative correlated.

For assessing this assumption, we looked into the salary adjustment procedures until 1996, which is the end of the detailed available data (see table on the second page).



A negative correlation is not apparent as can be seen in the scatter diagram. The suggestion that the change of the PPP is positive in those years in which the SI is negative and vice versa is thus not supported by the available data.

What is, however, apparent is that for the 23 years under consideration, the annualised change of the PPP for Munich was -0.042% and for The Hague, it was 0,158%.
The average annualised change of the PPP, weighted according to the size of the places of employment, yields 0,038%. The contribution of the PPP is thus indeed more than zero in the long term average. We thus suggest using 0.04% for the annualised change of the PPP.
We note further that the model of the financial study uses the EU-HICP while the salary method uses actually the Belgium HICP as a starting point. For practicability reasons we would agree to use the EU-HICP as a proxy for the Belgium HICP.

In the current salary method, the annual adjustment is calculated as (input and result in %):

Adjustment in % in a PoE = 100 x ((1 + BE_HICP/100) x (1 + SI/100) x (1 + PPP_{PoE}/100) – 1)

In view of the above we thus propose to use the following model for the adjustment:

Adjustment(n) = 100 x (1 + EU_HICP(n) /100) x (1 + SI(n)/100) x (1 + 0,0004) – 1)

with the specific indicator for the year n as proposed in the last meeting

SI(n) = 0,6871 x (GDPg(n-1) + GDPg(n-2)) / 2 – 1,0103

whereby:

Adjustment(n)	Adjustment of the Salaries in a year n in %
EU_HICP(n)	change of the EU-HICP in a year n in %
SI(n)	Specific Indicator in a year n in %
GDPg(n-1), GDPg(n-2)	GDP growth in the years n-1 and n-2 in %

Year	PPP DE ann. ch.	PPP DE compound	PPP TH ann. ch.	PPP TH compound
1996	0,1%	100,1%	2,6%	102,6%
1997	-1,7%	98,4%	1,9%	104,6%
1998	0,2%	98,6%	1,8%	106,5%
1999	-0,2%	98,4%	1,9%	108,4%
2000	-0,7%	97,6%	-0,5%	107,9%
2001	0,4%	98,1%	0,8%	108,8%
2002	0,6%	98,6%	-2,4%	106,2%
2003	-1,6%	97,1%	-0,7%	105,5%
2004	0,0%	97,1%	-1,0%	104,4%
2005	-0,9%	96,2%	-0,7%	103,7%
2006	0,2%	96,4%	0,5%	104,2%
2007	0,0%	96,4%	1,2%	105,4%
2008	-1,2%	95,2%	-2,2%	103,1%
2009	0,9%	96,1%	0,2%	103,3%
2010	-2,3%	93,9%	-4,8%	98,3%
2011	-0,6%	93,3%	-1,3%	97,1%
2012	3,1%	96,2%	2,5%	99,5%
2013	1,7%	97,8%	3,4%	102,9%
2014	-0,5%	97,4%	-1,0%	101,9%
2015	-1,1%	96,3%	-0,6%	101,3%
2016	-1,4%	95,0%	0,3%	101,6%
2017	2,0%	96,9%	0,4%	102,0%
2018	1,4%	98,2%	0,1%	102,2%
2019	0,8%	99,0%	1,5%	103,7%
annualised		-0,042%		0,158%
weighted PPP (40%TH, 60% rest)			0,038%	

Proposal 6

DRAFT BY STAF REPRESENTATION (20 December 2019)

IMPLEMENTING RULE FOR ARTICLE 64 OF THE SERVICE REGULATIONS FOR PERMANENT AND OTHER EMPLOYEES OF THE EUROPEAN PATENT OFFICE

PROCEDURE FOR ADJUSTING THE REMUNERATION OF PERMANENT EMPLOYEES OF THE EUROPEAN PATENT OFFICE, APPLICABLE WITH EFFECT FROM 1 JULY 2020

CHAPTER I

GENERAL PROVISIONS

Article 1

Adjustment timetable

(1) The levels of the basic salaries and allowances set out in Annex III to the Service Regulations are adjusted each year, with effect from 1 July, in accordance with the provisions of Chapter II of the present procedure and on the basis of a proposal drawn up by the President of the Office after consulting the General Consultative Committee.

(2) The annual adjustment proposal shall be submitted to the Administrative Council for approval at its meeting in December of the year in question. An estimate of the cost of the proposed adjustments, together with the scales concerned, is submitted to the Budget and Finance Committee at its autumn meeting, if they are available in time.

(3) Before submitting his proposal, the President obtains confirmation from independent experts, appointed by him, that it is consistent with the provisions of this rule.

(4) The amounts of the daily subsistence allowance set out in Annex V to the Service Regulations and of the kilometric allowance referred to in Article 79 of the Service Regulations are adjusted by applying the arithmetic average rate of annual salary adjustment for Austria, Germany and the Netherlands to those in place.

CHAPTER II

ANNUAL ADJUSTMENT OF THE BASIC SALARIES AND ALLOWANCES SET OUT IN ANNEX III TO THE SERVICE REGULATIONS

Article 2

Annual adjustment of the scales for Belgium

(1) With effect from 1 July, the basic salary scale and allowance amounts set out in Annex III to the Service Regulations and applicable for Belgium are adjusted by a percentage corresponding to the Harmonised Index of Consumer Prices calculated for that country, corrected by the index for remuneration trends in the central government services of the reference countries ("specific indicator"), calculated in accordance with the procedure described in Article 3.

(2) This percentage adjustment is applied to the basic salary scale and allowance amounts in force as at 1 July of the previous year.

Article 3

Calculating the specific indicator

(1) The central government services of the following eight countries are taken as a reference: Belgium, France, Germany, Italy, Luxembourg, the Netherlands, Spain and the United Kingdom.

(2) The specific indicator is obtained by performing the following operations:

(a) Establishing correspondence between the grades at each of the reference national administrations and those at the EPO.

(b) Calculating, for each of these grades and for each of two marital situations ("unmarried" and "married with two dependent children"), the gross maximum and minimum monthly remuneration as at 1 July of the adjustment year and as at 1 July of the previous year. This calculation takes account of all elements making up the remuneration paid to national civil servants. Any one-off payments made during the year are converted into corresponding monthly amounts.

(c) Calculating, for each of these grades and for each of the above marital situations, the net maximum and minimum monthly remuneration as at the two comparison dates. This is done by deducting, from gross remuneration, compulsory social security contributions (sickness, death, invalidity and long term care insurance, pension scheme) and the income tax levied by the central government authority, calculated without taking non-automatic personal allowances into account.

(d) Neutralising the effect of double-counting of variations in specific compulsory deductions from the salaries of officials in the national civil services, if the same compulsory deductions are also made to EPO staff salaries, in accordance with instructions set out in the Annex.

Deductions from national civil service salaries for benefits not granted to staff of the EPO shall not be taken into account.

(e) Calculating, for each of these grades and for each of the above marital situations, the real-term trend indices for maximum and minimum remuneration. This is done by deflating the net remuneration trend indices by the national Harmonised Index of Consumer Prices over the 12-month period preceding the date of the annual adjustment (1 July).

(f) Determining, for each of these grades and for each of the above marital situations, the average real-term trend indices per grade. This is done by calculating the arithmetical mean of the real-term trend indices for maximum and minimum remuneration calculated under (e).

(g) Determining an average trend index per grade. This is done by applying to the average real-term trend indices, calculated under (f), weightings of 0.3 and 0.7 respectively for the marital situations "unmarried" and "married with two dependent children".

(h) Determining an average trend index per reference country. This is done by weighting the grade indices, obtained under (g), by the grade distribution of staff in the central government services of the country concerned.

(i) Determining the average overall trend index (or "specific indicator"). This is done by applying the following coefficients to the country indices obtained under (h):

Belgium:	7.0%
France:	16.3%
Germany:	19.8%
Italy:	15.0%
Luxembourg:	5.2%
Netherlands:	8.2%
Spain:	11.9%
United Kingdom:	16.6%

(3) The national remuneration data used for the calculations described in paragraph 2 are those supplied by the national governments for the European Communities and the Co-ordinated Organisations.

Article 4

Determining the scales for countries other than Belgium

To obtain the basic salary scales and allowance amounts applicable in a member state other than Belgium, the new basic salary scales and allowance amounts applicable in Belgium are multiplied by the purchasing power parity coefficient relating to the country concerned and calculated with reference to Brussels in accordance with the provisions of Chapter III.

CHAPTER III

INTERIM ADJUSTMENTS

Article 5

(1) Within the reference period, each time that the relevant consumer price index in a country, as indicated in Article 5, shows an increase over three consecutive months of more than 6%, the President of the Office shall recommend that the Administrative Council provide for a special adjustment of remuneration. The first of the three consecutive months shall fall within the reference period.
(2) Each time the threshold of 6% is exceeded, the special adjustment shall be equivalent to the threshold, i.e. 6%. Any special adjustment shall take effect the month following the first month when the threshold is exceeded.
(3) The 6% threshold is measured as from the preceding 1 July or, if a special adjustment has already been granted during this period, as from the date of effect of this special adjustment.
(4) Any special adjustment granted during the reference period used for the calculation of the annual adjustment at 1 July shall be deducted from this annual adjustment.

CHAPTER IV

CONSUMER PRICE INDICES, COEFFICIENTS OF PURCHASING POWER PARITY AND DOUBLE COUNTING

Article 6

(1) The Harmonised Index of Consumer Prices for Belgium referred to in Article 2 and the purchasing power parity coefficients referred to in Article 4 are calculated by the International Service for Remunerations and Pensions in collaboration with the Statistical Office of the European Communities in accordance with the methodology approved by the decision-making bodies of the European Union after consulting national statisticians.

(2) The national price indices referred to in Article 3(2)(e) correspond to the Harmonised Index of Consumer Prices calculated by the Statistical Office of the European Communities.

(3) The double-counting effect is determined by the International Service for Remunerations and Pensions in accordance with the provisions of Article 3(2)(d).

CHAPTER V

PROVISIONAL ADJUSTMENTS AND POSSIBLE CORRECTIONS

Article 7

Provisional adjustments

(1) Should the civil services of some reference countries not forward the information required under Article 3(3) in time for the President to submit his adjustment proposals in accordance with Articles 2 to 4, the President submits to the Administrative Council a provisional adjustment proposal based on the information available to him.

(2) As soon as he is able to do so, the President submits to the Administrative Council a definitive adjustment proposal in accordance with Articles 2 to 4. This definitive adjustment takes effect on 1 July of the year for which it is calculated.

Article 8

Data corrections

(1) If the data used to calculate an adjustment have to be corrected retroactively, the President, with the agreement of the independent experts referred to in Article 1(3), modifies as appropriate the salary scales in force and submits them to the next meeting of the Administrative Council for approval.

(2) Paragraph (1) shall be applicable to payments made to staff in the administrative statuses provided for in Article 39 of the Service Regulations and to recipients of EPO pension benefits.

Article 9

Moderation clause

(1) The final specific indicator shall result from the calculation of the weighted average of the changes in percentage in real terms in the net remuneration of comparable grades in the National Civil Services of the reference countries, covering two reference periods with a weight of two-thirds for the reference period as defined in Article 3, (2), (b) and a weight of one-third for the preceding reference period. The value of the specific indicator used for the annual adjustment shall be subject to an upper limit of 2 % and a lower limit of -2%. If the value of the specific indicator

exceeds the upper limit or is below the lower limit, then the value of the limit shall be used to calculate the adjustment value.

(2) The first paragraph shall not apply when Article 10 applies.

(3) The remainder of the annual adjustment resulting from the difference between the adjustment value calculated with the specific indicator and the adjustment value calculated with the limit shall be applied as from 1 April of the following year.

(4) In the event that the annual adjustment leads to a basic salary or an allowance which is lower than that in force on 30 June of the year in question, this negative adjustment shall be set against future adjustments, and salaries and allowances shall be maintained at their level.

Article 10

Exception clause

(1) If there was a decrease in the real gross domestic product of the Contracting States the previous year and the specific indicator is positive, only part of the specific indicator shall be used to calculate the value of the adjustment. The remainder of the adjustment value corresponding to the remainder of the specific indicator shall be applied as from a later date in the following year. That remainder of the update value shall not be taken into account for the purposes of Article 9. The reference values of the gross domestic product are those calculated by the Statistical Office of the European Communities for the EPC Contracting States in the European Union, and by the competent national authorities for the other Contracting States, available at the time of calculation. The value of the GDP of the Contracting States, the consequences in terms of split of the specific indicator, and the application date are defined in accordance with the following table:

GDP of Contracting States	Consequences on the specific indicator	Date of payment of the second part
[-0,1%; -1%]	33%; 67%	1 April of year n+1
[-1%; -3%]	0%; 100%	1 April of year n+1
below -3%	0%	-

(2) When the application of paragraph 1 has led to the fact that the value of the specific indicator did not serve the adjustment of the remunerations and the pensions, that value shall form the basis of the calculation of a future adjustment once the cumulative increase of the GDP of the Contracting States measured from the year where paragraph (1) was applied, becomes positive. In any case the value mentioned in the first sentence shall be subject by analogy to the limits and the principles laid down in Article 9. The evolution of the GDP of the Contracting States shall be regularly measured for this purpose.

(3) If there was a decrease of the gross domestic product in the world the previous year, then the provisions of Article 9(4) do not apply to the annual adjustment.

(4) If relevant, the legal consequences resulting from the application of Article 9 and this Article shall continue to have full effect even after the date of expiry of this procedure as referred to in Article 11.

CHAPTER VI

INTERIM REPORT, EVALUATION OF THE PROCEDURE AND SUBSEQUENT MODIFICATIONS

Article 11

(1) After the adjustment with effect from 1 July 2024 the President shall submit an interim report to the Council on the application of the procedure.

(2) After the present procedure has been in operation for ten years, the President will undertake a full review of its results in 2029. This review will take account of the EPO's recruitment needs, the competitiveness of its salaries, and any difficulties encountered in applying the procedure.

(3) In the light of this review, the President will make a report to the Administrative Council, and if appropriate submit proposals for change. However, until such changes are approved by the Administrative Council the present procedure will remain in force.

CHAPTER VII

DATE OF ENTRY INTO FORCE AND TRANSITIONAL MEASURE

Article 12

(1) The present procedure will for the first time apply with effect from 1 July 2020.

(2) In application of Article 10(2) of the former procedure, as a result of the examination of the impact on the purchasing power conducted under its Article 10(1), the salary scales and allowances for the following countries are updated in order to correct for the relevant years the differential in purchasing power resulting from the application of Chapter IV of the former procedure.

(3) The present procedure will be applied in the light of Articles 33(2)(b) and 46 of the European Patent Convention.

ANNEX to Proposal 6

METHOD FOR AVOIDING DOUBLE-COUNTING

Article 3(2)(d) of the Implementing Rule for Article 64 of the Service Regulations introduces the principle of avoiding double-counting in order to ensure better compliance with the principle of parallelism with the evolution of remuneration in the national civil services.

To ensure proportionality of changes in the reference countries' social costs, the specific indicator shall be calculated as follows:

The changes to social costs which are comparable to those in the EPO are identified according to the definition in Article 3(2)(d).

A correction is calculated which neutralises the identified changes to social costs by using current salary data but with deductions of the relevant contribution made at the rates applicable in the previous year.

Article 2

This decision shall enter into force on 14 December 2007.

It shall apply with effect from 1 July 2008.

Done at Munich, 14 December 2007.

For the Administrative Council

The Chairman

Roland GROSSENBACHER

October