

## Building Investment Program (CA/43/19) Wrong starting assumptions lead to wrong conclusions

The [President's Building Investment Program](#) (current version CA/43/19 Rev. 1) does not stand alone, but affects - or is affected by - the documents

[Future EPO building projects – Orientation paper](#) (CA/99/18),  
[Strategic Plan 2023](#) (CA/65/19) and  
[Financial Study](#) (CA/46/19).

### Summary: **Burning money to create a burning deck**

The Central Staff Committee appreciates the commitment to preserving the EPO's patrimony in a state that it provides **a healthy and motivating working environment** and aims at improving sustainability. The proposed programme requires unprecedented expenditure. We ask ourselves whether this is in line with sound housekeeping. The planned investment over more than EUR 1 billion also appears to have future sales of property in mind. It presupposes that future owners would find the EPO's definition of modern and state-of-the-art attractive and suitable for their respective needs. It may also be the case that inflated, unachievable, values of buildings will be used for future planning decisions. With planning concepts for workspaces changing over time it is impossible to predict what a future owner might require at an undetermined point of sale. We feel that this perspective should not feature at all in any building or refurbishment plans of the EPO. **The focus should be on staff needs for accommodation.** A possible sale of PschorrHöfe 7 without considering abandoning the lease of Haar does not appear to be thought through.

Initiatives to preserve the value of our patrimony enjoy the support of staff, whilst **increasing its value for increasing's sake** does not, and especially not at a time where a flawed financial study paves the way to heavy cuts in salaries, allowances and pensions. The building of an "engaged, knowledgeable and collaborative organisation" does not require many of the initiatives at the base of the current program. The Building Investment Program is burning money to help create the burning deck painted in the Financial Study for preparing for instance an affordability-issue for tax-compensation on pensions. Faced with such prospects it is no wonder that staff are very suspicious of building projects that are **not only excessive but also detrimentally affect the day-to-day work and, ultimately, staff health.** It is undisputed that some renovation of old buildings and maintenance is necessary. But investments here should be driven by needs, not by aspirations not serving the staff's – and therefore the Office's – interests.

We request the Administrative Council to consider putting a caveat on the presented Building Investment Program and to instead **encourage the President to first explore scenarios and work on the programme of requirements in a truly inclusive manner**, involving the Staff Committees as user representatives. A revised Building Investment Program should then be presented to the AC.

Cost transparency, cost control, the lack of adequate planning, the Office's capacity and even its ability to manage such projects were an issue for New Main as well as for the Isar-refurbishment (see [CA/7/12](#), C. Report on the project costs). A program-value of in excess of EUR 1bn combined with the intended types of contract entails a **very high risk of mismanagement and fraud** occurring in the various phases of the program. The Administrative Council should not be put in a position again where it grudgingly has to approve further expenditure. The program **should be monitored by an independent body** over the whole life-cycle of the program, with uninhibited access to all information sources and reporting directly to the Administrative Council. An **Audit Committee** analogous to the one defined in [CA/D 9/09](#) comes to mind.

## 1. Consultation of staff and local authorities

The buildings we work in have a significant impact on how, and how well, we work. So it is incomprehensible that the future occupants, staff, have not been consulted. All building projects should be subject to consultation and discussion in the COHSEC and the respective LOHSECs. The members of the COHSEC and LOHSECs should be involved already in the definition of the starting hypotheses and in that context receive all information and documents, including the detailed calculations for the needs-definition.

Local authorities and external stakeholders should be involved early (workplace inspectorate, health consultants, ergonomists, fire brigade, safety experts, etc.).

## 2. Exploitation period and occupancy

The President bases his program on an exploitation period of 40 years for 7560 workplaces in Munich, The Hague and Vienna together. At the same time the Strategic Plan suggests increased cooperation with National Offices and the European Patent Network. The restructuring of the IM department into BIT, the termination of the e-dossier project and the new automation plans will have a long-term impact on processes and staffing levels per se. It is not clear whether the ratio of part-time home-working and ad hoc teleworking has been reflected properly. Allegedly, the President has taken the evolution of future needs in terms of workplaces into account. The underlying scenarios have, however, not been elaborated.

Site-dependent, the period of planning, refurbishment or building will stretch over some 4.5 to 10.5 years from project approval. In this period the workload, its distribution within Europe, the locations from which to work, and the effects of further automation will have become a lot clearer, entailing the likelihood that the planning on exploitation period and occupancy will be off the mark.

***This begs the question whether now is the moment to decide on accommodation for the future.***

## 3. State-of-the-art and cutting-edge

The New Main building in The Hague is put forward as presenting state-of-the-art and setting the standard for future refurbishments and new buildings of the EPO. Apparently, the buildings will provide for a “transparent, cutting-edge working environment”. Single offices with closed walls are qualified as old-fashioned, whilst modern is not defined.

The surface area is to be split into “space for both individual high-concentration work as well as for collaboration and communication”, where possible distributed at a ratio of 50 to 75% individual workplaces for examiners and 25 to 50% in shared areas for the corporate functions. This assumes that the work of e.g. formalities officers, lawyers, HR, BIT or Facility Management would not represent high-concentration work. The Office had involved the Fraunhofer Institut for advice on the working environment in New Main The Hague. The institute had found that the offices would have to offer the right environment for the respective specific type of work<sup>1</sup>. This advice was not considered by the previous President. Mr Battistelli merely decided the split between examiners working full-time (individual offices) and corporate functions, as well as examiners working part-time or doing part-time home working (shared offices/spaces). Mr Campinos merrily repeats the same mistake.

The change of working environment and accommodation affects the employment conditions and as such should be subject to consultation with the Staff Committees. This has not taken place despite an alleged commitment to social dialogue. The experience in The Hague with collaborative areas is very mixed, with some teams enjoying togetherness and other colleagues experiencing increased stress and distraction and a negative effect on communication, as it bothers other colleagues not directly involved.

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<sup>1</sup> <https://www.iao.fraunhofer.de/lang-de/presse-und-medien/aktuelles/2013-fuer-jeden-arbeitstypen-das-passende-buero.html>

#### 4. New Main: State-of-the-art as working environment?

The main problems of New Main are especially affecting the **health**<sup>2</sup> and the **concentration**<sup>3</sup> of the colleagues working therein.

The building design principles might be more “modern” than those applied to older EPO buildings, but are equally outdated or even off the mark when it comes to providing an inspiring and healthy working environment. ***It is a very bold assertion to call the New Main workplace concept “state-of-the-art”, especially for a patent office establishing what constitutes state-of-the-art on a day-to-day basis.***

#### 5. Shared spaces

There is by now a body of research highlighting the impact of open workspaces on collaboration<sup>4</sup> <sup>5</sup>. Flexibility in work-patterns appears to be a good thing, with offering the possibility to go to collaborative areas when appropriate, but without depriving the individual of the possibility to withdraw to solitude. With individual offices then no longer needing consulting space it may be possible to reduce surface, but not at disproportionate cost.

The decision to share space as a team should be taken the workers themselves, and where they desire to be co-located permanently, a flexible construction should allow for joining otherwise separate offices.

Colleagues in shared offices are often disturbed by colleague working in the same office/space by phone calls, consultations or laughter. Noise by movement or talk in the corridors is funnelled directly into the shared spaces.

But in New Main even colleagues in single offices are not a lot better off. They are disturbed in the same way and often close the door. Line Managers are equally disturbed by colleagues meeting in the collaborative areas.

#### 6. Shared offices decrease productivity

The negative impact of shared offices is not factored in to the cost-calculation of the program. Contrary to the President’s belief, open offices do not increase collaboration or make people more productive. Instead, it makes them feel miserable. An Exeter University study showed a 32 percent drop in "workers' well-being" and 15 percent reduction in productivity. Is the Organisation prepared to pay this price for a decision based on control-mania?

A study of 10,000 workers funded by office furniture giant Steelcase revealed that "95 percent said working privately was important to them, but only 41 percent said they could do so, and 31 percent had to leave the office to get work completed."

#### 7. Shared offices cost MORE than individual offices

The impact of shared offices on concentration, well-being, productivity and quality outweighs any calculated savings for creating and maintaining such shared spaces and it is therefore not an economically sound option to decide for shared spaces<sup>6</sup> <sup>7</sup>.

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<sup>2</sup> Employees in open-plan offices take more sick days. According to *The New Yorker*, companies with open-plan offices can expect employees to take a whopping 62 percent more sick leave.

<sup>3</sup> Office workers lose an average of 86 minutes per day due to distractions associated with open-plan offices. As a result, many employees are "unmotivated, unproductive, and overly stressed," according to the study funded by Steelcase.

<sup>4</sup> Harvard found shared offices lead to less collaboration with *face-to-face interactions among employees dropping by about 70%. Employees became more reluctant to give negative feedback or address sensitive issues in front of colleagues, which drove them to find more private ways to interact. Instead of talking to each other in person, the study participants turned to their phones and computers.* <https://www.weforum.org/agenda/2018/11/open-plan-offices-make-workers-less-collaborative-harvard-study-finds/>

<sup>5</sup> <https://royalsocietypublishing.org/doi/full/10.1098/rstb.2017.0239>

<sup>6</sup> <https://www.nrc.nl/nieuws/2019/06/04/de-kantoortuin-is-het-duurste-kantoor-dat-er-is-a3962515>

<sup>7</sup> <https://www.inc.com/geoffrey-james/why-your-company-will-benefit-from-getting-rid-of-open-office-spaces-first-90.html>

## 8. Transparent offices

Transparent offices require the use of large glass surfaces. These have an impact on privacy, sound and climate, which is perceived as negative by many colleagues. The hard surface reverberates sound. Corridor noise and silhouettes of passing people distract from concentrated work. For New Main in The Hague this translates into many colleagues working with noise-cancelling headphones and bringing big plants to the office to create privacy and to be able to concentrate. Too much external glass increases glare.

## 9. New Main does not provide thermal comfort

Too many surfaces are made of “cold materials” (glass, metal). Linked with air drafts in the corridors this leads to thermal discomfort. Climate control issues are omnipresent. In winter many colleagues wear gloves and thick jackets to be able to work at all. In summer the new building acts as a greenhouse and staff feel hot and sticky. The climate-control of the building is suboptimal and very slow. Adjusting to sudden temperature changes takes several days, during which colleagues and the work suffer.

## 10. Building structure – Airy or unhealthy?

For the refurbishments the building structure already stands. For new buildings in The Hague and Vienna it should be noted that the structure used for the New Main building results in even small impulses leading to clearly felt vibrations in the building, experienced by the occupants as discomfort and distraction. On windy days the vibrations of the structure are such that colleagues cannot work and feel seasick. This occurs mainly from the 17<sup>th</sup> floor upwards. Vibration of the floors are felt when colleagues are passing. This seems to be linked to the floor setup.

The building lay-out necessitates long walks to toilets, kitchen, copy rooms, etc..

***This puts the claim of New Main setting new safety and health standards into question<sup>8</sup>.***

## 11. New Main as benchmark for processes

Also for the planning, design and build the New Main building is called upon for reflecting best practice. The hands-off approach to building completion under a design and construct contract and the enforced early hand-over to allow inauguration by the outgoing President together have caused all manner of problems and follow-on expenditure. During the building phase the contractor has cut corners which are successively detected now that we occupy the building. The architect's design and intellectual property have produced arguable material choice and furniture solutions which are not fit for purpose. The premature hand-over implies that the EPO has to finish off work under the auspices of corrective maintenance, presenting hidden building activities and cost outside the original time-frame and budget.

A Building Investment Program in three of the five locations of the Office and stretching over more than 10 years in our opinion justifies the nomination or recruitment of an internal team of experts for planning, design, project management and coordination, and contract and claims management. Relying on hired external expertise has not served us all too well with the New Main project. In combination with better contracting based on the experiences with New Main, the new team should be able to combine experience with the interests of the Office and the occupants of the refurbished or new buildings – the staff.

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[https://www.researchgate.net/publication/313846552\\_Moderne\\_Buroraume\\_Eine\\_Untersuchung\\_zu\\_Zufriedenheit\\_und\\_Wohlbefinden\\_bei\\_Beschaeftigten](https://www.researchgate.net/publication/313846552_Moderne_Buroraume_Eine_Untersuchung_zu_Zufriedenheit_und_Wohlbefinden_bei_Beschaeftigten)

## 12. Transparency in expenditure

Verifying budget-estimates, strict control of the tender-procedures, very accurate monitoring of contract implementation, and transparent overview of the overall cost spread over consultancy, pilot projects, design, build, acceptance and ownership are a necessity.

## 13. Contract type

Again a “Design and Build/Construct” contract as for New Main is proposed for the building in The Hague. This type of contract is feasible if the quality of the works is clearly defined beforehand and no major amendments to the layout and demands are introduced during the construction period.

In The Hague, this failed during the construction of the New Main, visible in bad quality (e.g. sanitary equipment) or insufficient numbers of equipment installed (e.g. sensors in toilets only in entrance).

Why are different contract types chosen for Munich and The Hague? Is the combination of a general construction company with a project manager not suitable for The Hague as well?

### **Conclusion: The program needs more work – together with staff**

For all of these reasons we clearly advise against basing future refurbishment or new buildings on the planning principles of New Main as a benchmark. Instead, we claim that other solutions must be explored. Any possibly resulting Building Investment Program should be subject to open social dialogue already at the planning phase, during the elaboration of the detailed programme of requirements and all the way through the consultancy and tender phases. During this activity all scenarios underlying the planning need to be shared with the users (i.e. staff) and Council alike. The quite concrete proposals in the present document already prejudice and largely limit the scope of discussion.

We do not share most of the arguments used to define that now is the right time to launch the program. Condensing workspaces, increasing sale-value or creating transparency are no valid reasons, as we have outlined above.

Where we share the concerns of the administration is the apparent existence of an unsafe working environment in the Shell and the Isar buildings. Where staff health or lives are at risk action is urgent if not long overdue. The document is unclear about what causes the safety issues.

It is in any case not clear whether it requires such an over-the-top program to address the burning (no pun intended) issues.

The Central Staff Committee

**Annex: Corrected cost-table**

## Costs

The calculation of the financial impact of the Building Investment Program is flawed on several counts:

The cost-presentation for Munich for both **Isar and PschörrHöhe are misleading**. If “Package B can only be executed together with package A”, not only the respective package cost but also the cumulative total cost should be shown.

It is a bold step to already deduct the quite hypothetical **amount for the sale PschörrHöfe 7** from the calculation for the building investment costs.

For **The Hague (Shell)**, only Scenario 3 was taken into account for the total costs, even though the EPO will follow both Scenario 3 and Scenario 4b (page 11, point 33.). The costs for the **Hinge** (canteen, etc.) of about EUR 10m were omitted.

Some inconsistencies occurred when copying numbers from table to table.

A corrected Table 2 should read (see **green**) as follows:

Investments (EURm)	Maintain as-is buildings	Modern working environment	Modern working environment corrected	Difference	Difference corrected
Munich – Isar	73	165	237,2 (package A+B, see paragraph 13: “package B can only be executed together with package A”)	92	164,2
Munich – PschörrHöfe	170	240 (including sale of PH7)	480 (package A+B, see paragraph 13: “package B can only be executed together with package A” including sale of PH7)	70	310
The Hague - Shell (page 10)	58	277	277 (scenario 3) or 285 (scenario 4b)	219	219 or 227
Hinge			10	0	10
Vienna	16	35	35	19	19
Total	317	717	1.039,2 or 1.047,2 (see TH, scenario 4)	400	722,2 or 730,2

**The total amount (indexed) for the “Modern working environment” if corrected, is EUR 1.039m or EUR 1.047m (depending on TH Scenario 3 or 4b).**

This excludes planning uncertainty. The real costs are difficult to evaluate depending on the program for each building and especially the demolition of the Shell building for which asbestos-contamination is known. It is also not clear how the construction of new buildings in TH should function entirely without a budget for relocation and removal expenses.