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Report on the meeting of the General Consultative Committee (GCC) of 16 May 2019

Introduction

Before reporting on the details of the GCC meeting we would like to make a few comments about social dialogue. Firstly, the planned CSC meeting with the President of 3 April 2019 was cancelled, and the next meeting will not be until 3 June 2019. Secondly, and keeping to his “one-voice” principle, the President does not allow Vice-Presidents and COOs to directly tackle aspects of social dialogue, be it wide-ranging or very narrow. We think that this impedes social dialogue and does not contribute to a smooth running of the Office.

Hence, because recently it has not been so easy to discuss social dialogue topics with senior management, we consequently seized the opportunity at the start of the 16 May 2019 GCC meeting to propose a few points.

The President responded briefly:

- Consultation on the strategic plan is over. Staff Representatives will be informed and consulted on the implementation documents in due time (from autumn onwards?).
- Consultation means discussing policies, not discussing which managers should be involved (i.e. PD 43), how long meetings should be, or whether the meetings should be held by videoconference or in person.
- The data provided by the Administration about the staff survey is already sufficient for us to do our job.
- The President will look into the matter of *de facto* exclusion of staff representatives from selection boards, as a result of their being barred from the necessary certification process.

The President then proceeded with the official agenda.

Documents for consultation (i.e. necessitating a vote)

I. Periodical review of the Service Regulations – ([GCC/DOC 07/2019](#))

Consultation mechanism for proposals concerning Boards of Appeal (BoA) members and chairs (new Article 38(8) ServRegs)¹

The President of the BoA (PBoA) presented the solution he had agreed with the President of the Office, namely a mere addition to Article 38 ServRegs to allow for consultation in matters concerning the BoA. The reform of the BoA in 2016² transferred the Boards to a separate Unit and gave additional competences to the PBoA, some affecting the conditions

¹ Amendments to the ServRegs remain the exclusive prerogative of the President of the Office.

² See CA/43/16 Rev.1 and Act of Delegation of functions and powers from the President of the European Patent Office to the President of the Boards of Appeal

of employment for members and chairs³, and/or administrative staff⁴ in the Unit. Whereas we agree that the GCC is not the right forum for statutory consultation on matters specific to the members and chairs, the reform has not extended the competences of the Presidium in order for it to be able to replace the GCC as a consultative body⁵. For instance, staff members should normally have complete freedom in their choice of staff representatives⁶. This is hardly possible with the composition of the Presidium as set out in Rule 12b EPC⁷. Furthermore, the representation of administrative staff in the Unit should be improved. This is also the standpoint many staff members expressed in a general assembly held in Haar on 19 March 2019. Accordingly, we could not vote in favour of the proposed amendment to Article 38 ServRegs. We regret, as do the elected members of the Presidium, that alternative solutions have not at all been envisaged.

On those grounds, we gave a negative opinion to the item.

Suspending the possibility for voluntary contributions to the Salary Savings Plan (SSP)

Although permitted by the Implementing Rule to Article 65(3) ServRegs, the Office has not accepted any voluntary contributions to the SSP since the inception of the New Pension System in January 2009. This notwithstanding, national authorities might regard any such contributions, or the whole lump sum, as taxable, ultimately questioning the nature of the SSP as a deferred salary. An up-to-date analysis of the situation in the host countries does not exist. We think that, instead of a suspension “until further notice”, a solution to this problem would be to seek unambiguous and binding statements by the host countries, which would compensate for the weaknesses in the Protocol on Privileges and Immunity⁸.

On those grounds, we gave a negative opinion to the item.

Appointments to the Appeals and Disciplinary Committees when mandates end prematurely (Articles 98 and 111 ServRegs)

After a last-minute change to both Articles⁹, we were positive about the possibility for members, especially staff representatives, to resign from the Appeals and Disciplinary Committees. Still, the framework of Social Democracy must be reviewed to make it possible for non-elected staff members to represent staff, *inter alia* by being able to sit on these kind of committees.

Global opinion

The other amendments proposed were unproblematic. Finally, we had to give an opinion on the whole document as a package. Due to our negative stand on the first two items, we gave a global negative opinion. Management voted in favour.

³ I.e. appointed by the Administrative Council in accordance with Article 11(3) EPC.

⁴ I.e. appointed by the President of the Office in accordance with Article 10(2)(g) EPC

⁵ See Rule 12b(3)(d) EPC: “*the Presidium shall... advise the President of the Boards of Appeal on matters concerning the functioning of the Boards of Appeal Unit in general*”.

⁶ See Article 35(6) ServRegs

⁷ See Rule 12b(1) EPC: “... *six being Chairmen and six being other members*”

⁸ See Article 16 PPI

⁹ Deleting “*or is unable to serve in this capacity until the end of the applicable term*”

II. Reimbursement of bus transportation costs of international schools ([GCC/DOC 08/2019](#))

This Circular foresaw capping the reimbursement of such costs to EUR 830 per year for each child using the “official school bus” of the relevant international school. The President announced at the beginning of the meeting that he was willing to withdraw the document from the agenda and that he intended to review the whole education allowance instead. We do not know whether this is good news. He admitted that transitional measures and a clear drafting of the regulations would most likely reduce litigation. This we can only agree to.

Documents for information:

III. Publication of the monthly staff changes list in intranet – ([GCC/DOC 09/2019](#))

Changes were intended to the form and content of information published as staff changes, *inter alia* by deleting the reason for end of service and the exact grade for newly recruited staff, allegedly “*in order to enhance the clarity and readability... and focus the reader’s attention*” (sic). After a short debate, the President announced that he was withdrawing the item from the agenda and that it would come back later. For our part we still think that one should not confuse “clarity” with opaqueness.

IV. Healthcare figures – ([GCC/DOC 10/2019](#))

We thanked Mr Le Guern for the positive atmosphere of cooperation with his department 433. Pages 3 and 4 of this document are particularly interesting for staff.

Conclusion

Two out of the four agenda items were withdrawn during the meeting. The issues concerned had not been discussed beforehand with us at all. The same also applies to the first item (Periodical review of the Service Regulations). This further calls into question the way the President conceives statutory consultation. Presenting a document to the GCC without any prior discussion, or with only *pro forma* prior discussion is utterly impractical, unfair, a waste of time and a further erosion of the consultation process.

Your Central Staff Committee