



Munich, 09.03.2023
sc23030cp

**Report on the 62nd meeting of the
General Consultative Committee (GCC) of 28 February 2023**

Dear Colleagues,

The GCC consists of the President as chair, ten members of the Central Staff Committee (CSC) and ten members appointed by the President. The GCC shall be consulted *inter alia* on any proposals which concern the conditions of employment. The President delegated the chairmanship to VP 5. However, this should not exempt the President from continuing to meet with staff representatives.

In recent times, the administration has followed the practice of addressing important topics on the GCC agenda moderately in advance with members of the Staff Committee in dedicated working groups. Although this is a slight improvement over the times when the CSC members were periodically confronted with proposals on which no prior discussion had taken place, sufficiently early involvement remains strongly needed. Meaningful social dialogue requires that working group meetings take place well in advance of submission deadlines for Council documents, etc. A deeper change of practice is still needed here, so that the opinion of staff can be taken into account seriously and without time pressure.

The following five items were on the agenda, on which the CSC members of the GCC raised their concerns and tried to get further clarifications.

- Revision of Circular No. 364 – Implementation of the New Career System – Rewards related amendments – for consultation [GCC/DOC 02/2023](#)
- General Guidelines on Rewards 2023 (President's Instructions on Rewards) – for consultation [GCC/DOC 03/2023](#)
- Amendments of the Service Regulations related to the Staff Committee Elections (CA/9/23) – for consultation [GCC/DOC 04/2023](#)
- GCC Rules of Procedure – for consultation [GCC/DOC 05/2023](#)
- Data Protection Framework for the Administrative Council and its subsidiary bodies – for information [GCC/DOC 06/2023](#)

As expected, the members nominated by the President hardly participated in the discussion. They expressed their opinion by a simple and plain “yes” to the proposals. The detailed and reasoned opinions by the CSC members of the GCC are in the annex.

Central Staff Committee

**Opinion of the CSC members of the GCC on [GCC/DOC 2/2023](#):
Revision of Circular 364 – Implementation of the New Career System –
Rewards related amendments**

The CSC members of the GCC give the following opinion on the revision of Circular 364 proposed in [GCC/DOC 2/2023](#).

The document defines amendments to Circular No. 364 concerning bonuses, the “calibration” of the rewards exercise and the Harmonisation Committee.

On the consultation

1. The Working Group on Performance Management was created in order to discuss the career system and the assessment of staff’s performance. After early discussions at the beginning of the mandate of Mr Campinos, the Working Group remained frozen several years in a row.
2. Early February 2023, the Working Group was invited to a meeting. The meeting was conveyed on Monday 6 February 2023. Two documents labelled “confidential” were sent to the staff representation in the afternoon of Friday 3 February 2023:
 - Proposed amendments to Circular No. 364,
 - Proposed amendments to the General Guidelines on rewards 2023
3. The amount of time provided to consider the documents was less than 1 working day.
4. The amendments proposed cannot be seen as an improvement but rather a worsening of the New Career System.
5. The present document was then tabled in the GCC for the meeting of 28 February 2023 within the statutory two weeks deadline. The document was left unchanged with the exception of a few rewordings: no amendments proposed by the staff representation were taken up.
6. A second Working Group meeting took place on 21 February 2023, but the timing left no chance for any amendment to be integrated.
7. The GCC meeting took place on 28 February 2023.

On the merits

On collaborative achievements

8. **Collaborative achievements** are now explicitly listed in section IV, C. (1)(b) as a reason for granting a bonus. In the Working Group meetings, management justified this addition by the past practice described in the Guidelines for Rewards in the previous years.
9. However, in our view, the fact that a practice was applied in former years is not sufficient to legitimate its integration into a Circular. There must first be a discussion as to whether the practice was right. In this particular case, it was not the case.
10. The document “General Guidelines on Rewards 2023” ([GCC/DOC 3/2023](#)) contains a list of projects and initiatives which will be considered for the collaborative bonus to be paid this year. Such a list was introduced for the first time in the Guidelines on Rewards 2022 ([GCC/DOC 4/2022](#),

Annex III) and is different from the list proposed this year. This list is defined as non-exhaustive thereby also allowing managerial arbitrariness in its extension. Furthermore, even the wording of the listed projects and initiatives is broad.

11. The word “collaboration” appears to be a communication exercise designed to hide the fact that even during the Covid-19 pandemic, the Office decided to maintain in a morally questionable way a competition-based system that goes blatantly against the values of cooperation. The collaboration bonuses appear to be a fig leaf on the actual exclusion of 40% of eligible staff (see [GCC/DOC 3/2023](#), section II. 2. 1)) from a pensionable reward. Such a policy is impossible to reconcile with the alleged intent to “**advance the fairness of the rewards exercise**” (see [Communiqué](#) of 14 February 2023).

On the amount of the bonus

12. The amount of the bonus is not anymore limited in section IV, C. (3) to a monthly basic salary per year per employee. The applicable amounts, including ceilings for the maximum amount that may be received per individual employee are defined in the President’s general guidelines on rewards (see [GCC/DOC 3/2023](#), section II. 2. 2)).
13. Management explains that the abolition of the ceiling in Circular No. 364 aims at adding flexibility for example to adapt to salary adjustments
14. This argument is non-sensical. Indeed, by definition, a ceiling of a monthly basic salary is adjusted according to the salary adjustment procedure. If management considers the ceiling as being too high, there is obviously the possibility not to reach it and to give lower bonuses. In fact, the removal of the ceiling from Circular No. 364 now allows the President to set a higher amount of bonuses as he deems fit. This change rather goes into the direction of more arbitrariness instead of alleged flexibility.
15. Management explains that the abolition of the ceiling in Circular No. 364 will allow to reward more the Young Professionals and lower grades.
16. This argument is not convincing. The President’s general guidelines on rewards mention that Young Professionals are now among the categories of staff who may be considered for the allocation of bonuses (see [GCC/DOC 3/2023](#), section II. 1. 1)) and for which specific attention is to be paid (see [GCC/DOC 3/2023](#), section III. 1. 3)). There is however nothing binding ensuring that this will actually be the case. There is also nothing binding for lower grades. In our view, Young Professionals should be provided with a decent work package.

On the Harmonisation Committee

17. The Harmonisation Committee is defined in section IV, E. as follows:
 - (2) *Each DG, taking into account the budgetary envelope allocated to it and the proposals of the managers at each level, shall submit to the President a list of employees proposed for rewards, as the result of a **calibration exercise** at different managerial levels including the VPs and President.*
 - (3) *A **Harmonisation Committee** shall assist the President before conclusion of the rewards cycle by assessing and monitoring trends to ensure a balanced distribution among all categories of staff (such as but not limited to gender, job group, etc.). The Harmonisation Committee shall be responsible for ensuring a consistent approach across all DGs and observance of the applicable criteria Office-wide.*

(4) *The Harmonisation Committee shall be chaired by the President and composed of members of each DG appointed by the President. The President may invite observers, who do not have an active role in the Committee but can follow the Committee's discussions. The information and documents provided as **confidential** must be treated as such by the members and observers of the Harmonisation Committee.*

18. The existence of the calibration exercise was until now solely mentioned in the Guidelines on Rewards (see [GCC/DOC 4/2022](#), pages 4 and 5). It is now defined for the first time in Circular No. 364 which only mentioned a "harmonisation exercise" without any further specification. It appears that the calibration exercise will be first between PDs and VPs and then with the President and the VPs (see [GCC/DOC 3/2023](#), section III. 2.) According to the timeline, the Harmonisation Committee takes place after the calibration exercise.
19. The calibration exercise appears to confirm or revise the produced list of employees proposed for rewards by their line managers. However, the text does not define what the Harmonisation Committee actually receives as input. The text also does not define the outcome of the Harmonisation Committee.
20. Management explains that the Harmonisation Committee is an advisory body and if a trend is identified there is still the possibility for the President to resubmit to the lower calibration level although this was never deemed necessary in the past exercises. In our opinion, the text should define this possibility, otherwise the Harmonisation Committee remains a rubber-stamping exercise.
21. The Promotion Board of the old career system was a paritary body and performed a good work accepted by staff. The Harmonisation Committee is not a paritary body and lacks transparency. Staff representation is only allowed to have one observer and the latter should treat information and documents provided as confidential as such. This limitation hinders the work of the staff representation (see this "[report](#)" on the Meeting of the Harmonisation Committee of 27 June 2022).
22. We request that staff representation is allowed to have two observers and that confidentiality requirements are lifted.

Conclusion

23. The many pitfalls identified by staff and their representation over the last 8 years of application of the New Career System still remain unsolved. The proposed amendments do not constitute the improvements hoped for.

For the above reasons, the CSC members of the GCC are **negative** on the document.

The CSC members of the GCC

Opinion of the CSC members of the GCC on GCC/DOC 3/2023: President's Instructions on Rewards for 2023

The CSC members of the GCC give the following opinion on the President's Instructions on Rewards proposed in [GCC/DOC 3/2023](#).

The document defines the annual budget envelope and reward types, the eligibility and criteria for rewards and the process and timeline.

On the consultation

1. For the first 6 reward exercises following the implementation of the New Career System in 2014, the President's Instructions on Rewards were submitted each year **for information** only to the General Consultative Committee (GCC). In essence, the document could not be subject to a vote. The CSC members of the GCC argued each year that such instructions on rewards should be submitted **for consultation** in compliance with Article 38(2) ServRegs stating that the GCC shall be consulted on *"any proposal which concerns the conditions of employment of the whole or part of the staff to whom these regulations apply"*.
2. In 2021, the President's Instructions on Rewards were submitted for the first time **for consultation** and Mr Campinos invited the GCC members to send their opinion in writing. This change of practice was the consequence of an opinion of the Appeals Committee (ApC) recommending that such a document should be submitted for consultation from now on. It is regrettable that only legal action convinced Mr Campinos to make the Office comply with its own Service Regulations and acknowledge that rewards concern conditions of employment.
3. This year, the instructions are again submitted for consultation.
4. The amendments concerning the (collaborative) bonuses and the Harmonisation Committee are consequences of the amendments made at the same time to Circular No. 364 (see [GCC/DOC 2/2023](#)).

On the merits

On the pensionable rewards

5. The pensionable rewards shall be allocated as follows:

"Up to 60% of staff under II 1. 2) may receive one or two steps or a promotion"
(section II. 2. 1)

A careful look at the past, shows that Mr Battistelli's reward exercise in 2015 defined that up to 70% of staff may receive a pensionable reward ([GCC/DOC 12/2015](#)). The subsequent exercises in 2016 ([GCC/DOC 11/2016](#)) and 2017 ([GCC/DOC 16/2017](#)) were slightly below at 65%.

6. Mr Campinos maintains the threshold at the minimum level of 60% applied in 2018 ([GCC/DOC 5/2018](#)), 2019 ([GCC/DOC 4/2019](#)), 2020 ([GCC/DOC 11/20](#)) and 2022 ([GCC/DOC 4/2022](#)). The only exception remains the year 2021 ([GCC/DOC 1/2021](#)) for which the ceiling was set at 70%.
7. The low ceiling should be furthermore put in perspective with the fact that

"Staff falling in the category of the catch-up mechanism 2023 as described in Annex II are included in the 60%" (section II. 2. 1)

whereas the catch-up mechanism 2020 was under a separate budget¹ and amounted to an additional EUR 861.000.

8. In our view, separate budgets are needed because the catch-up mechanism serves a different purpose.
9. The document in ANNEX 1 mentions that:

*“With regards to career progression, **the baseline scenario of the Financial Study 2019 corresponds to granting a step to 60% of eligible staff.** Every 5% increase in quota increases the coverage gap with around EUR 160 million.” (emphasis added)*

10. It is surprising that Mr Campinos still bases the reward exercise on the Financial Study 2019. During the Budget and Finance Committee meeting of 26 May 2021, Ms Simon (VP4) stressed that *“the Financial Study was only a model and did not aim at forecasting every year exactly only over a 20-year horizon”* ([CA/33/21](#), par. 69). If the Financial Study is not a yearly model, why is Mr Campinos still basing his yearly reward exercise upon it?
11. Management should refrain from referring to the Financial Study 2019 which has by now undeniably proven fundamentally wrong as it predicts deflation (see [CA/83/19](#) page 20) instead of inflation. While management cannot provide convincing arguments, the EPO continues to make surpluses of at least **EUR 391 million** ([CA/50/22](#), page 27) in 2022.
12. After eight reward exercises, the demotivating aspects of the New Career System have also become obvious:

“Staff in service on 31.12.2022 and still in service on 01.07.2023 may be considered for steps or promotion, provided that they are not yet in the last step of the highest grade of the respective job group or “off-scale”. (section II, 1. 2)

13. The number of staff members who have reached the last step (G9(5) for JG6, G10(5) for JG5 and G13(5) for JG4) has increased and they are now deprived of any pensionable reward. This could create some possibility of granting more pensionable rewards to the younger colleagues if the envelope as approved by the Council² were used (see section below). However, the rigid 60%- quota combined with the arbitrary decrease of the envelope prevents this. The effect is that, in absolute numbers, fewer and fewer colleagues are receiving a step or promotion and thus fewer and fewer colleagues are progressing in their career. The reward exercise is more of a budget-based and quota-based exercise than a merit-based one.
14. We consider that a purely competition-based career system excluding 40% of eligible staff is not fit for purpose. It is dogmatic to consider that 40% of eligible staff, regardless of their performance, should be excluded from any career progression.
15. We would be ready to discuss within a Working Group a performance-based system defining a minimum career, an average career and a fast career. When the reward [statistics](#)³ show that 40% of eligible staff got less than 4 steps in 8 reward exercises 2015–2022, it is high time for a pragmatic revision of the New Career System. The mass-complaints filed to the Tribunal show that staff does not accept the system.

¹ [“One-off measure”](#), President Communiqué of 13-01-2020, *“this one-off measure has been decoupled from the next reward envelope. The sum will be taken out of the 2019 budget and will not come from, or affect, the funds available for the next rewards exercise.” “This one-off measure will take effect as of January 2020 and represents a total investment of around EUR 861 000.”*

² “Reward Exercise 2023: Taking away with the other hand”, CSC paper of 20-02-2023 ([sc23021cp](#))

³ “Rewards Exercise: Part 5 – Cumulated pensionable rewards”, CSC paper of 11-11-2022 ([sc22136cp](#))

On the budget

16. The [draft budget](#)⁴ for 2023 contained an envelope for steps and promotions of **EUR 14.690 million**. The envelope was then reduced in the [final budget](#)⁵ approved by the Council to **EUR 14.380 million**. Instead of sticking to the decision of the Council, Mr Campinos has further [reduced](#)⁶ the envelope to **EUR 11.700 million**.
17. The table below compares the evolution between the Council approved budget and the budget proposed by Mr Campinos:

	2022	2023	% increase
Approved by the Council	CA/D 1/21	CA/D 1/22	
Steps/promotions	€ 13,240 million	€ 14,380 million	+8,6%
			-6,4%
Proposed by Mr Campinos	GCC/DOC 4/2022	GCC/DOC 3/2023	
Steps/promotions	€ 11,500 million	€ 11,700 million	+1,7%
Bonuses	€ 10,100 million	€ 11,300 million	+12%

18. Two obvious comments come to mind:
19. Firstly, salaries have been adjusted by **+10,8%** as of 1 January 2023 to reflect the evolution of the purchasing power and the salaries of national civil servants. Steps and promotions are therefore “more expensive” in the same proportion. However, the envelope for steps and promotions will only increase by **1,7%** for 2023. This means, all else unchanged, that about **-8,2%** less steps / promotions can be granted. In contrast, the budget for bonuses has increased very slightly in real terms.
20. Secondly, when setting the envelope, the Council budget took into account the salary adjustment as well as departures, replacements and recruitments foreseen in 2023 resulting in a calculated increase of **+8,6%**. In 2022, Mr Campinos had already proposed an envelope significantly below the one approved by the Council. One would expect him to increase his envelope at least by the same percentage as the one decided by the Council. This is however not the case. By increasing his envelope by only **+1,7%** instead of **+8,6%** the ratio between the two reveals that Mr Campinos has arbitrarily decreased his envelope by **-6,4%** compared to the envelope approved by the Council.

On the bonuses

21. The document now specifies (section II. 2. 2)) the exact lump sums which shall be awarded as bonuses:
- EUR 2.000
 - EUR 3.000
 - EUR 4.000
 - EUR 5.000

⁴ [CA/50/22](#), p. 168

⁵ [CA/D 1/22](#), p. 166

⁶ [GCC/DOC 3/2023](#), p. 6

- EUR 6.000
- EUR 7.000
- EUR 8.000
- EUR 9.000

A combination of individual and collaborative bonuses is possible for eligible employees. However, any combination of bonuses shall not exceed the annual ceiling of EUR 9.000 per employee.

22. Management considers that this change increases transparency. A mere list of lump-sums still does not reveal what goes to whom and with which criteria.
23. Management explains that the abolition of the ceiling in Circular No. 364 will allow to reward more the Young Professionals and lower grades.
24. This argument is not convincing. Young Professionals are now among the categories of staff who may be considered for the allocation of bonuses (see section II. 1. 1)) and for which specific attention is to be paid (see section III. 1. 3)). There is however nothing binding ensuring that this will actually be the case. There is also nothing binding for lower grades. In our view, Young Professionals should be provided with a decent work package.

On the lack of transparency: functional allowances

25. For the first 6 reward exercises following the implementation of the New Career System in 2014, the budget for **functional allowances** was mentioned in the President's Instructions on rewards. In 2021, the budget for functional allowances was not even submitted to the General Consultative Committee (GCC) and the budget envelope was simply disclosed in an [announcement](#) published on the Intranet on 15 October 2021. The details concerning the distribution and entitlement remain undisclosed. The Office also carried out a harmonisation reform without discussing it with the staff representation and without providing any details or basis for it.
26. The CSC addressed this lack of transparency and consultation in a [letter](#) to the Administrative Council on 26 November 2021. To this day, the letter remains unanswered. In 2022, no consultation took place and no figure was communicated. We fear the same will happen in 2023.
27. Initially, functional allowances were meant to compensate employees in Job Groups 4–6 for temporarily taking on tasks above and beyond what is in their job description. This is for instance the case for Team Managers. Obviously, this did not apply in the beginning to managers in Job Groups 1–3, since the New Career System awarded them an increase in salary for higher responsibilities.
28. With [GCC/DOC 7/2017](#), management amended Article 12(2) ServRegs to open up the possibility of getting a functional allowance also to... Management. Concomitantly, the functional allowance was increased from a maximum of *“an amount equivalent to two steps in the current grade”* to *“two monthly basic salaries per year”*.
29. The Office stated that this was justified for *“the sake of efficiency and flexibility”*. Annex I to the new Circular No. 364 indicates that duties and constraints deserving a functional allowance are for *“functions of high responsibility (...) organizational and technical change management etc.”* One can easily assess the degree of self-service and how the trend will continue if the budget for functional allowances remains undisclosed and not submitted to consultation. After having opened the cookie jar to help themselves, management is now hiding the cookie jar.

On the lack of transparency: performance criteria

30. The criteria for granting a reward still consist of a broad non exhaustive list which is interpreted differently among directorates and teams.
31. For steps, one of the criteria is the *“achievement of the expected objectives and competencies corresponding to grade, seniority and job profile”* and for promotions *“proven performance and expected objectives corresponding to the grade continuously achieved over a long period of time.”*
32. However, such levels of expectations are not defined and the so-called corridors of “production/productivity” or “grade expectations” applied in DG1 continue to be purposefully hidden from staff. Furthermore, the *“long period of time”* is undefined and subject to managerial discretion which is often confused with arbitrariness at the EPO.
33. Allegedly to *“ensure a fair distribution of rewards to all categories of staff”* (section III. 1.), the proposal states that *“it is wished that specific attention is paid in the reward exercise”* for:
 - *Staff on maternity and adoption leave (periods of maternity and adoption leave are to be neutralised by considering continuity between performance prior to and after the leave.*
 - *Part-timers*
 - *Staff who did not benefit from pensionable rewards over several years.*
34. If the Office were serious about fairness, it would not define it as a “wish”, but as a requirement and the “specific attention” would be defined as a positive attention. It is also regrettable that **periods of sick leave and parental leave are not taken into account**. The period of “over several years” before making an employee benefit from a pensionable reward is undefined and open to managerial arbitrariness.
35. Colleagues are hardly ever given reasons as to why they got or did not get a reward, and how they should perform to get one in the future. Only those who file a management review start to have the beginning of an answer which raises even further questions on the arbitrariness of the exercise.
36. We hear that colleagues were successful in their appeals against a lack of reward. Their case was then submitted to a Reassessment Panel. However, this panel remains defined nowhere, its creation was never submitted to GCC consultation, and the staff representation was obviously never involved in its composition.

On the communication of rewards allocation

37. In the Working Group meetings, management explained that a line manager was allowed to inform the staff member whether they had proposed him/her for a reward or not. However, this is not specified in the documents. In practice, we have seen the opposite. Line managers remain forbidden to transparently share this information to a staff member. They are only allowed to announce the President’s decision after the completion of the rewards process. This goes against the alleged principle of “empowering managers” which was put forward by the management when disbanding the promotion board in 2014.
38. 40% of staff will be excluded from a pensionable reward. We are concerned that the text allows line managers to communicate the outcome of the reward exercise collectively. If a lack of individual reward is announced in front of the other team members, this could be experienced as humiliating for the employee concerned.

39. The amendment which consists in announcing the outcome of the reward exercise in June instead of July is minor. It is rather ambitious to label it as an “improvement to the reward cycle” (see [Communiqué](#) of 14 February 2023).

On the lack of transparency: calibration by PDs, VPs and the President

40. As in the previous years,

*“[w]hile performance is a pre-condition, it may not be sufficient to warrant a reward in view of other elements taken into account for its attribution such a comparison with peers, collaborative behaviour, **development**, priority of the Office and contribution to the Office’s achievement”.*

41. This broad statement allows management to exclude anyone from the reward exercise during the so-called calibration process at PD, VP or President level in an arbitrary manner. The term “peers” is not substantiated by any document: are the peers from the same team? from the same grade? from the same directorate? from the same technical field?

42. At a time when production is a matter of concern for management, a new amendment is made:

*“The pensionable and non-pensionable envelopes are initially distributed to the DGs on the basis of the demographic structure (number and grading of staff). **Each VP may then calibrate them within the DG considering unit performance and collaborative achievements.** However, no transfer of the different amounts between the different envelopes is allowed.”* (Section I, par. 3)

43. This new amendment now formalises the practice of arbitrarily reducing the percentage for the teams considered less productive without duly considering the specificities of their work. A COO, a PD or a VP may further reduce the percentage to show that he or she is acting more “sustainably” than other managers.

On the collaborative bonuses

44. The document contains a list of projects and initiatives which will be considered for the collaborative bonus to be paid this year (see Annex III). Such a list was introduced for the first time in the Guidelines on Rewards 2022 ([GCC/DOC 4/2022](#), Annex III) and is different from the list proposed this year. This list is defined as non-exhaustive thereby also allowing managerial arbitrariness in its extension. Furthermore, even the wording of the listed projects and initiatives is broad.

45. For example, “*Design and implementation of policies to make the Office fit for the future*” consists of managerial buzzwords which could mean anything. Restricting “*Mainframe decommissioning*” to “*Infrastructure, technology and data*” is unfair for staff members of other DGs who had to find workarounds to be able to work in parallel. Finally, it is difficult to conceive that “*Quality (specifically at the search and written opinion stage)*” has become solely a project or initiative. Quality must remain one of the main criteria not only in core business.

46. There is no transparency on the criteria for awarding the collaborative bonus: role in the project, actual bonus amount, etc. The definition of collaboration lacks transparency.

47. The word “collaboration” appears to be a communication exercise designed to hide the fact that even during the Covid-19 pandemic, the Office decided to maintain in a morally questionable way a competition-based system that goes blatantly against the values of cooperation. The collaboration

bonuses appear to be a fig leaf to whitewash the actual exclusion of 40% of eligible staff. Such a policy is impossible to reconcile with the alleged intent to “**advance the fairness of the rewards exercise**” (see [Communiqué](#) of 14 February 2023).

Conclusion

48. The many pitfalls identified by staff and their representation over the last 8 years of application of the New Career System still remain unsolved. The reward exercise is still a lottery which is unique among international organizations.

For the above reasons, the CSC members of the GCC are **negative** on the document.

The CSC members of the GCC

**Opinion of the CSC members of the GCC on GCC/DOC 4/2023:
Amendments of the Service Regulations related to the Staff Committee Elections (CA/9/23)**

The CSC members of the GCC give the following opinion on GCC/DOC 4/2023 – “Amendments of the Service Regulations related to the Staff Committee Elections (CA/9/23)” proposed in [GCC/DOC 4/2023](#).

Introduction

Following Judgment No. [4482](#) setting aside in part [CA/D 2/14](#) (“Social Democracy”), three meetings took place between the Administration and Staff Representation during 2022/2023 in order to discuss the implementation. General Assemblies organised among all places of employment also allowed staff to have a say on the matter. The discussions in the meetings were in the end constructive and the events led to an outcome which can satisfy both parties.

General Observations

On the positive side the proposed amendments reflect some of the demands of Staff Representation:

- Brussels’ Staff can decide which Local Staff Committee represents them (Article 35(4) ServRegs).
- The limitation of two consecutive re-elections is removed for staff representatives (Article 35(7) ServRegs) in accordance with the outcome of discussions in the joint working group and the demand expressed by staff in the General Assemblies.
- Redistribution of time exemption amongst staff committee members (Article 5 – Circular No. 356)
- No more quorum required for the elections

On the other side, Staff Representation is of the opinion that there are still a number of topics which require further attention and discussion with the Administration:

1. As expressed by the general assemblies of staff in **all locations**:

- Restoration of secretarial support to staff committees
- Communication resources for Staff Rep (Implementation of ILOAT Judgment No. [4551](#))

2. Further:

- Clarification of the Rewards/Career for Staff Representatives before the new elections. It is important for potential new Staff Representative members to be aware of these conditions before the elections.
- Staff Representation should have the possibility to be supported by appointed experts.
- Travel and Training Budget for Staff Representation: the current proposal shifts the responsibility to the Central Chair of the CSC for a budget which is defined by the Office without Staff Representation’s involvement in the planification and needs’ analysis.

3. Related to the elections themselves:

- Time deduction for election committee members needs to be provided.
- Concerning the support from the Administration with electronic means for the voting process in the elections, Staff Representation thanks the Administration for the offer. The Local Staff Committee (LSCs) will provide feedback in short time.

Concerning Article 35 (5) (a) ServRegs dealing with the synchronisation of elections in all places of employment AND Article 35 (7) ServRegs dealing with the duration of the term of Staff Committees, Staff Representation understands that the synchronisation of elections in all places of employment is **the normal rule**. However, if for unforeseeable reasons, a Local Staff Committee becomes unfunctional (e.g., massive resignation of members), it will be possible to hold elections locally to re-establish a functional local committee which will be in place for the remaining available time of that term until the next synchronisation elections take place again in all places of employment

Conclusion

Staff Representation appreciates that some of their demands have been reflected in the amendments and looks forward to continuing the constructive discussions with the Administration within the scope of the WG on SR Resources dealing with resources and facilities to be granted to the Staff Committee (Article 34(3) ServRegs). As a matter of priority and importance, the timely implementation of ILOAT Judgment No. 4551 and the restoration of secretarial support to staff committees as both requested by the General Assemblies of Staff in all places of employment should be discussed as soon as possible.

In conclusion the amendments indicated in CA/9/23 are only a first step in the right direction and further amendments will be needed to Circular No. 356.

The CSC members of the GCC

Opinion of the CSC members of the GCC on [GCC/DOC 5/2023](#):

GCC Rules of Procedure

Introduction

First, we will recall the context of the present amendments to the Rules of Procedure of the GCC (RoP) and then discuss the proposed amendments in detail.

Context

From May to October 2022, a series of meetings with management took place to discuss the deterioration of the dialogue in GCC meetings. A consensus was reached that one possible way to improve the situation was to try changing how the GCC is run and the type of interventions that are given. It was proposed that technical details should be discussed in technical meetings, and political or high-level views in the GCC. Staff representatives stated that the management refuses almost all their proposals for new legislation, and lamented a severe lack of transparency and lack of time dedicated for discussions with management.

Staff representation considers that the GCC has become a very formalistic event used merely by the Office to satisfy its statutory consultation requirements. The meeting should be “general” and “consultative”. However, GCC members appointed by the President seldom take the floor and never voice any feedback, let alone any criticism of measures proposed or give anything other than a positive vote. This behaviour may align with a certain sense of managerial loyalty, but it leads to a lack of trust, openness, and collaboration in the consultation process.

Thus, the concerns with the GCC are more far-reaching and cannot be addressed merely by amending the RoP. Rules of procedure can give a frame for an exchange. However, that exchange can only be successful if people are engaged and believe something meaningful is done. A major trust-building exercise is needed.

An immediate action towards this goal would be a partial change in the mode of the GCC meetings. We accept that hybrid meetings should be possible where appropriate. However, as confirmed by the ongoing “Bringing Teams Together” project, it is crucial that colleagues meet physically from time to time. This applies particularly to high-level meetings such as the GCC, which are supposed to “*normally take place at the headquarters of the European Patent Organisation*” (Article 4(1) RoP).

Therefore, we recommend that the GCC Secretariat always provides a common meeting room in The Hague and Munich where any members of the GCC can sit together during GCC meetings if they wish to do so. Split physical meetings where managers sit together in one room and staff representatives sit together in another room should be avoided. Furthermore, at least once a year and particularly shortly

after new staff committee elections, we feel that it is crucial that all GCC members try to meet physically. We believe these could be the first steps to building trust between GCC members and would significantly improve its functioning.

Moreover, we regret the decision to delegate the chairpersonship to VP5 (Vice-President Legal / International Affairs) on a permanent basis, as is apparent from the announcement of the [EPO statutory bodies and committees 2023](#) and confirmed in a later letter to the GCC. We do not believe that this is an appropriate solution to the problems faced. The delegation should be an exception and not be the rule. This, we believe, was the intent of the Administrative Council in [CA/4/14](#), paragraph 37: *“To emphasise its prominent role in the consultative process, this new committee will be chaired by the President of the Office.”*

On the amendments of the RoP

Staff representation takes note of the amendments which have been tabled in [GCC/DOC 34/2022](#) and then in [GCC/DOC 5/2023](#). However, they only touch upon minor points except for the introduction of presenters. Major shortcomings are the way the approval of the minutes is handled and that the RoP still include a vote on agenda items for consultation. We repeatedly pointed to these two issues and therefore very much regret that our comments have not been considered.

Our comments on the amendments are the following:

1. We welcome the editorial changes aiming to make the Rules gender neutral.
2. **Article 1(1)**: We do not agree with the addition that

“[t]he Chair decides on the draft agenda”.

Article 38(2) ServRegs reads:

*“the [GCC] **shall** [...] be consulted on: [...] any question which the Staff Committee has asked to have examined in accordance with the provisions of Article 36 and which **is** submitted to it by the President of the Office.”*

The wording of this provision is in our view clear and unambiguous and provides no discretion to the Chair to refuse items submitted to it. Were it the case, the final part of Article 38(2) ServRegs would have read

*“[...] and which **may** be submitted to it by the President.”*

3. **Article 1(2)**: This article implements Article 38(1) ServRegs. We believe that the will of the lawmaker was to allow for occasional delegation and not delegation on permanent basis. This is also expressed in [CA/4/14](#):

“To emphasise its prominent role in the consultative process, this new committee will be chaired by the President of the Office.” ([CA/4/14](#), paragraph 37)

4. **Article 3:** We welcome that this article includes provisions that staff representation can request presenters to attend the meeting. We strongly regret that the problem regarding time budgets for presenters has not been considered.
5. **Article 5:** We believe that the possibility for members of GCC to propose agenda items, in application of Articles 36(2) and 38(2) ServRegs should have explicitly been codified in this article.
6. **Article 5:** We agree that in urgent cases the Chair should be able to modify the agenda. We argued that as a precaution, and to make sure that everybody is given enough time to study the agenda points, formal approval during the GCC meeting of the modifications of the agenda should also be codified. Therefore, we appreciate the amendments which have been added to the RoP in respect to [GCC/DOC 34/2022](#) to that regard which reflect our suggestion.
7. **Article 8(1):** We disagree that the voting mechanism helps the GCC to function properly. We feel that this is not the goal of a meeting named “general” and “consultative”. In addition, the GCC does not issue a decision or a binding opinion following the consultation, where a vote would be justified. The primary purpose of such a meeting should be to give a reasoned opinion and highlight the strengths and weaknesses of a measure. Occasionally, an overall judgment could be given. However, summarising complex topics in a yes/no/abstain vote seems overly simplistic and misleading. We believe every measure deserves an in-depth analysis, and a yes/no/abstain vote risks giving a partial and distorted representation. Therefore, we are of the opinion that Article 8(1) RoP should have been deleted and Article 9(1) RoP and Article 38(3) ServRegs changed accordingly.
8. **Article 8(2):** We appreciate that the RoP now include the possibility of submitting a written reasoned opinion of a position to a proposed measure. We also appreciate the amendment in respect to [GCC/DOC 34/2022](#) regarding the change of terminology from “explanation of vote” to “written reasoned opinion”. We believe that such a written reasoned opinion can help decision-making by providing a thorough analysis and weighing of positive and negative points of a measure.
9. **Article 9(2):** We proposed the following amendment in order to provide minutes which reflect a common understanding of the outcome of a meeting:

“The draft minutes of the meetings are written by the Secretariat having regard to the recording. The draft minutes are then transmitted to the Chair of the GCC and the Chair of the Central Staff Committee who may make comments within ten calendar days from receipt. Both chairs may consult the recording. The Chair of the GCC finalises the minutes and puts them on the agenda of the following meeting for approval.”

The administration has not accepted this proposal. According to the RoP, it is the chair of the GCC who approves the minutes. The GCC is only “informed” about the approved minutes. The administration argued that this simplifies the process. Staff representation does not agree with this.

It should be noted that for example in the Administrative Council, the TOSC and the BFC the minutes are approved by vote and not only by the chair. Clearly, no need for simplification in this regard has emerged in those bodies. The process is indeed simplified but with the effect that the internal balance and trust of the GCC is jeopardized. One might regard the common approval of minutes as a formality. On the contrary, it is an essential ritual of mutual confirmation that what has been stated during the meetings has been understood and has been correctly and comprehensibly reproduced. The approval of the minutes at the beginning of a meeting marks a fresh start and symbolizes an advance of trust. The fact that it is still the chair of the GCC who approves the minutes for us is a clear indication that the GCC is still not working properly.

The CSC members of the GCC