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Report of the meeting of the GCC on 20 April 2016

Executive summary: *The GCC meeting on 20 April dealt exclusively with the healthcare insurance scheme with four documents on the agenda. We voted against those proposals where an “opinion” was requested (see Annex). The main objection was that **we lack a proper joint committee involving your representatives for managing the healthcare insurance scheme** and providing the required level of confidence in a fair implementation of the new proposals. Our detailed analysis on these proposals can be found in the present report.*

II. Introduction

Until now, the EPO was insured for our healthcare insurance through external provider insurers for which we paid a premium. The Office also made use of an external administrator (CIGNA). The Office now proposes to end the contract with the external insurer and to replace it with self-insurance, i.e. to become our own insurer (document 1 for opinion). The Office would however keep external administration of the scheme: it has already organised a tender to this effect and CIGNA has been selected to continue to administer the scheme in future (document 2 for information). The final results for the 2015 healthcare exercise were presented in document 3 (for information). A revision of Circular 236 was proposed in document 4 (for opinion).

1. Healthcare Insurance Scheme – Switching to self-insurance (CA 15/16) ([GCC/DOC 1/2016](#)) - **for consultation**
2. Healthcare Insurance Award of a New Third Party Administration Contract ([GCC/DOC 2/2016](#)) - **for information**
3. Healthcare Insurance Figures for 2015 ([GCC/DOC 3/2016](#)) - **for information**
4. Revision of Circular 236 relating to medical reimbursements ([GCC/DOC 4/2016](#)) - **for consultation**

III. On the documents

1. Healthcare Insurance Scheme – Switching to self-insurance (CA 15/16) (GCC/DOC 1/2016) - for consultation

The document proposes that the EPO should switch to self-insurance, thereby claiming that a saving of 2 million Euros per year can be made. The Staff Committee¹ proposed this change as long ago as 2006 as a straightforward cost-containment measure. Getting rid of the external insurance provision means that certain essential terms and conditions of the insurance contract need to be

¹ See for example Annex 1 to GAC/AV 25/2006

Les membres du CCG notent également que l'OEB, en maintenant un système d'assurance externe, a dépensé environ 4 millions pour assurer le seul bénéfice des assureurs. La clause de limitation du bénéfice et la formule de calcul de la prime ne sont donc à notre sens pas efficaces pour optimiser ce poste. Nous aimerions entendre lors de la prochaine réunion du CCG les raisons pour lesquelles l'Office envisage de continuer sur la base actuelle et les raisons pour lesquelles l'Office ne considère pas, à l'image de certaines autres organisations, le passage à une assurance interne. Nous notons que ces 4 millions, issus du budget de l'OEB anéantissent quasi complètement l'effort demandé au personnel en 2007 en matière de contributions de pensions pour renflouer ce même budget. Vous comprendrez dans ces conditions que le personnel a à cœur d'assurer que les dépenses de l'Office soient faites au mieux de ses intérêts.

integrated into the Service Regulations: the Office proposes modifying the implementing rules to Article 83. So far, so good, but does this change bear some additional risks? And are there other (nasty) hidden changes embedded in the proposal?

Lack of involvement of the Staff

Staff pay one third² of the insurance bill and therefore staff should have a say how these costs are covered. By removing the external insurance provider and having all costs covered by staff and EPO, staff could be burdened with the additional short term risk in the event of a sudden increase in reimbursement levels. More fundamentally, the President retains the full right to unilaterally change both the contribution rate and the coverage. This cannot be fair. This is aggravated by the fact that without an external insurer and a corresponding contract subject to German national law, the coverage is now only defined in our Service Regulations (in the newly amended implementing rule to Article 83). The President can therefore change parameters very easily. It is our view that the move to self-insurance should have required the creation of a proper joint management Committee (Healthcare Insurance Advisory Committee) for the scheme, as is (for example) the basis of what exists in many EU institutions.

Premature change to the Salary Savings Plan

The current Article 83(5) provides for a cap³ of 2,4% on the healthcare insurance contributions levied on the Salary Savings Plan (SSP) upon termination of service. This applies to all staff recruited after 2009 (currently more than 1000 colleagues). The proposed removal of this cap would reduce their SSP value by the difference between the healthcare insurance contribution rate on termination date and 2,4%. Due to a combination of three factors⁴, this could easily

² or about 50% taking into account internal taxes

³ article 83(5), current

(5) Where applicable, the portion of remuneration owed on termination of service as a result of compulsory participation in the salary savings plan shall be reduced by the amount of the healthcare insurance contribution, a third of which shall be borne by the permanent employee, but **so that the latter share does not exceed 2.4% of the said portion.**

⁴ The three factors are the following:

mean that they will lose between one and two full month's salary, depending on the performance of the SSP. Indeed the applied rate when they eventually leave the EPO (perhaps after 20 years or more) could well be up to 4% as a result of their slow progression through the new career system. Covering the same total expenditure from smaller basic salaries will automatically require a higher contribution rate. This is unfair for them: it can be considered as a further detrimental change of the pension scheme for this group only, wherein their pension expectation is already much lower than the defined benefits pension of staff recruited before 2009. We therefore recommended keeping the 2,4% cap on contributions taken from the SSP into the healthcare insurance system. **This is typical of the kind of solidarity choice⁵ for which the voice of the Staff Representatives (acting on behalf of staff) should be heard in a proper discussion within a joint committee mandated to make the proper choices on behalf of the whole insured population.** The President should not be allowed to unilaterally impose such choices against the will of staff and to the further detriment of those staff already having less.

2. Healthcare Insurance Award of a New Third Party Administration Contract (GCC/DOC 2/2016) - for information

The document was submitted only for information. The EPO has organised a tender specifically for the administrator contract. One Staff Representative was involved in only one meeting (the presentation of the bids by the competitors). We want to congratulate our colleagues in DG4 at working level who made a very good job in preparing the tender and

1. Newcomers are more impacted by the slower progression in the new career (except for a few noticeable exceptions in current management circles). This means that for the same total amount needed to finance the scheme a higher contribution rate on their (lower) salary will be needed when they will become the majority of staff.

2. When they reach retirement age, there will be a big number of colleagues under the old pension scheme (OPS) benefiting from the system and costing on average more due to their age.

3. Newcomers recruited from 2009 will have paid for a large part of their career the higher actuarial rate whereas colleagues under the OPS will have paid it only for a lower or much lower part of their career.

⁵ Another example is the level of the ceilings for some reimbursements, which have not been adapted for inflation for the last 30 years and are no longer in line with the current medical costs.

evaluating the bids. CIGNA won the tender and will once again administer the scheme, i.e. deal with your claims for reimbursement. Our opinion was not required on this proposal, which is regrettable since the new contract will almost certainly have a great impact on the insurance coverage. It is likely to entail provisions for extra delays in processing claims, for the detection of fraud, etc... all of which potentially have a big impact on you. However, we have not (yet) been provided with the contract since apparently it has not been finalised. It is not clear whether we will ever get a copy of it. This is typical of the kind of information that should, in the interests of transparency, be submitted to a joint committee for them to decide which parts are of relevance to staff and provide them with the necessary information. This would bolster staff confidence that their claims were being handled properly and would consequently diminish the risk of litigation.

Healthcare insurance and investigations

We obviously do not support fraud and so consider it perfectly legitimate that some controls (checks and balances) are introduced in order to detect and/or prevent fraud also in the field of the healthcare insurance. However, this raises an additional big concern linked to the new contract and its external administrator: fraud control measures and the possible involvement of the EPO's Investigation Unit. We are completely kept in the dark as to how the EPO intends to put in practice these controls. What will be the role of Cigna who are obviously best positioned (access to the data) to detect fraud)? Are they bound to respect national laws? What will be the role of the Investigative Unit? How will the different parties cooperate? How will medical secrecy be preserved? Which laws will apply at which steps? Why does the Office not collaborate with (local) national prosecutors since this would be compatible with Article 20, EPC? Not only have none of these questions been answered, we have not heard about any safeguards. We fear that this is an area that may raise serious problems in the future with possible damage to the EPO's reputation.

Although we have not been required to give an opinion despite the blatant impact that this new contract will have on staff employment conditions, we nevertheless recommend that the President should not implement the planned modifications as long as a joint Committee has not been established.

Moreover, the contract with CIGNA should be made available to this committee and the procedures to be followed to detect fraud should be explained to them. Staff should be in a position to trust that the normal guarantees existing for medical secrecy, data protection, etc. in this area under national law (a very sensitive field) are in place. We regret to inform you that we are not yet in a position to give you such a guarantee. On the contrary, we observe other changes that have been put in place (like having the new health & safety directorate no longer headed by a medical doctor) as increasing the risk of a breach of medical secrecy rather than decreasing it.

3. Healthcare Insurance Figures for 2015 (GCC/DOC 3/2016) - for information

The final figures for the healthcare insurance scheme in 2015 have been provided. Already alerted by several colleagues (including pensioners) whose request for a cure had been refused, we suspected that there might have been a substantial decrease in the number of cures granted, especially A-cures. We requested well in advance detailed figures, preferably in a format that had been used in the past (until 2011), that would allow us to distinguish grants by different types of cures, by place of employment, by employees and family members, etc. Some figures were eventually provided, but only immediately before the GCC meeting and not in the required format. For example, they do not allow us to identify either the share per place of employment or per member of staff and/or per family member. But they are detailed enough to show that indeed there were limitations towards staff introduced unilaterally by the administration without due consultation. Although we favour a proper management of the scheme and are obviously interested to avoid any fraud, we cannot accept that the administration unilaterally implement new practices without consultation which de facto result in a reducing the medical coverage. This is precisely what we currently see for medical cures from our analysis of the provided figures. With an increasing number of pensioners, one would expect an increase in the number of granted cures and not a decrease, all other factors remaining the same. Some other unilateral changes unlawfully introduced through the cover guide, e.g. the mandatory approval by Cigna for B-cures, might also have played a role in this evolution.

It is unfortunately impossible to assess how

the situation will further evolve this year because we are still completely excluded from any involvement in the management of the scheme. In other words, we are all left in the hands and the good will of the EPO managers who have taken over the control. However, it seems that the current policy has already introduced additional hurdles that has led to some staff being so discouraged that they have giving up their request for cures. Again, the creation of a joint committee dealing in a transparent way with the implementation issues should only reinforce the confidence of staff in fair play. The current methodology of silently implementing unilateral changes only increases the suspicion at individual level that the rules are either not being followed or simply adapted on the fly.

4. Revision of Circular 236 relating to medical reimbursements (GCC/DOC 4/2016) - for consultation

The office plans to introduce changes in the workflow leading to litigation in the event that Cigna refuses to reimburse medical expenses. It seems to us that with this modification to Circular 236, the Office simply wants to introduce a further delay before any request can be filed with the EPO (and later with the Tribunal) by introducing an additional administrative step in the formal requests to be implemented with Cigna. It is however not clear from the proposed changes how the Office intends to implement the change and what the actual consequences may be. We have pointed out that the formal procedure to be followed (with Cigna) should be clarified if such a step is introduced. Indeed, what are the consequences if CIGNA just drag their feet? Could a staff member then directly appeal to the EPO? If yes, after what delay? This issue needs clarification.

We remind everyone that the current healthcare insurance applies some 23000 persons. For the most vulnerable amongst them, such as those having chronic diseases, or the elderly, or people living alone, an improper implementation that might include unnecessary hurdles and/or additional delays to receive approval or prolonged discussions on reimbursement for legitimate treatments undertaken in good faith based on medical advice or prescription can only add to the stress that already exists due to the medical condition. Such "circumstances" may lead to a deterioration in the health of the staff member

which could in turn lead to a personal tragedy. Again, a joint Committee based on the EU model could deal in a confidential way with the scheme's implementation (including requests) and follow up any medical progress and adapt the coverage accordingly. All could benefit from the medical expertise built-in to the EU model while unnecessary administrative burden and legal uncertainty could both be avoided by the insured person. A simple and straight-forward access to medical care should be available to all. If no joint Committee is created, then the EPO should consider handling disputes on reimbursements using the services of an independent ombudsman, as is the case in many national systems. Such a procedure would also be in line with Article 20 of the PPI of the EPO.

IV. On the consultation procedure

The move to self-insurance along with the other proposed changes raises a number of questions which have not been fully answered by the documents provided. We have proposed in the past that the social security scheme should be better managed by establishing a new Joint Committee, properly constituted and mandated, which would then make recommendations to the President for implementation of the insurance scheme, all based on the EU model.

The creation of just such a joint committee, called the Healthcare Insurance Advisory Committee (HIAC), was promised by the President of the EPO ([CA/66/10 Rev.1](#))⁶

⁶ CA/66/10 rev.1, points 38-40 (bold and underlining added)

E. CREATION OF THE HEALTHCARE INSURANCE ADVISORY COMMITTEE

38. It is proposed that a specific joint committee, appointed by the President, be created to deal with issues relating to healthcare insurance.

Deferring to the GAC in addition to another committee would create unnecessary delays while specific healthcare matters sometimes need reactions at short notice. Also, pensioners, as stakeholders, would need to be represented and they are not permitted to sit on the GAC.

39. The Healthcare Insurance Advisory Committee would be given sole responsibility to deliver recommendations and give reasoned opinion on any proposal to amend or extend the healthcare insurance scheme and its regulation, replacing the usual GAC consultation for healthcare issues.

40. The Office will submit proposals on the necessary statutory changes to the Administrative Council at a later meeting.

when the new financing was adopted in 2010 (actuarial funding without a cap). President Battistelli has failed to deliver it, thereby breaching a commitment of the Office to staff linked to those important changes.

In other words, President Battistelli has broken an EPO promise to staff to be properly involved in the management process in a **Healthcare Insurance Advisory Committee** in exchange for the additional risk put on them. President Battistelli seems to dislike advice: not only has he failed to create HIAC, he disbanded General Advisory Committee (GAC) and replaced it with the General Consultative Committee which, although fully populated by Vice-Presidents, is an inferior statutory body when compared to the GAC. The GCC is

required simply to vote YES, NO or to ABSTAIN on proposals, but not to provide reasoned opinions.

A meeting of the GCC Sub-Committee on Social Security, Remuneration and Pensions (Sub-GCC-SSRP), originally scheduled by PD43 for 3 April was unilaterally moved at the last minute to 11 April, i.e. after the final date for submitting the documents to the GCC so could not have an influence on them. This is a perfect illustration President Battistelli's attitude towards bona fide "consultation".

From all the above results of the current "consultation" process, it is also obvious that a proper joint committee is needed to better manage the insurance scheme.

V. Our current conclusions and a proposal for a way forward

These new proposals show that nothing has changed in the methodology (no consultation worth the name; and full speed unilateral changes even in very sensitive areas) and that the apparent aim of the reforms is to give more decision making power to the President (or the administration) with less transparency and fewer guarantees and safeguards for staff.

Problems due to lack of transparency and reduced stability of the coverage offered might actually increase once the coverage is no longer protected by a contract under national law with external providers. An additional layer of pre-litigation for reimbursement disputes may indeed considerably complicate the lives of the most vulnerable amongst us.

When in 2010 the 2,4% cap on contributions and the financial guarantee it provided to staff was removed, we were promised the right to have a say in the management of the scheme through the introduction of a joint committee. Six years later we are still waiting.

Therefore this major flaw in the current system remains: there is no properly constituted joint committee tasked with the management of the scheme, although staff now contributes more and bears higher risks.

The President has repeatedly declared to staff that 2016 would be a year of consolidation and review of the reforms. Healthcare insurance management would be a perfect test candidate to prove the ability of social partners to come together, discuss the issues and find common agreement.

Should the President wish to give it a try, he would only need to go to the Administrative Council in the June session with ONE simple request: get their approval to cancel the current contract with the insurance providers. We could then use the six-month notice period to properly implement self-insurance and the resulting savings (for the EPO) could be already enjoyed in 2017. All proposed changes to Circular 236 should not be implemented.

The President could also use the time before the December 2016 Council meeting to design proposals for new statutory provisions aimed at granting the Staff Representation a real say in the insurance scheme implementation from 1.1.2017 onwards by establishing the

promised joint committee.

On the one hand, should this be successfully concluded, it would send a positive signal concerning improved dialogue which has been long awaited by both staff and the Administrative Council.

On the other hand, should such an attempt fail for whatever reason before the end of the year and should all current unilateral proposals be imposed on us by the President following adoption by the Administrative Council, this will only fuel the current lack of trust in EPO management. It will also raise the probability of litigation. An essential prerequisite for staff to accept decisions (also on medical reimbursements) is that they have confidence that the rules are applied fairly. Genuine, active involvement of Staff Representatives in the management and running of the scheme will only increase this confidence.

The members of the GCC who are members of the CSC

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Date: 09.06.2016

CONSULTATION UNDER SOCIAL DEMOCRATIC

Dear Joint Secretariats,

Please find attached the opinion of the Result of GCC members who are members of the CSC after the consultation according to Article 38 (5)¹ of the Service regulations on

1. Healthcare Insurance Scheme – Switching to self-insurance (CA15/16) - (GCC/DOC 1/2016)
2. Revision of Circular 236 relating to medical reimbursements (GCC/DOC 4/2016)

The GCC members who are members of the CSC have voted against both proposals.

Should any GCC member of the administration and /or the GCC chairman be interested in the reasoned opinion of the members of the GCC who are members of the CSC we refer to the report to staff drafted by the CSC or to the minutes² of the meeting as corrected by the GCC members who are members of the CSC.

¹ Article 38 (5) reads

(3) Following the consultation, the members of the General Consultative Committee shall express their opinion by voting at the meeting for or against each proposed measure or abstaining. The Chairman shall not vote save on procedural questions.

² The CSC members do not recognise minutes that are adopted according to the Rules of Procedure of the GCC, ie minutes adopted unilaterally by the Chairman of the GCC on the basis of Rules of Procedure decided unilaterally by the President of the EPO.

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Yours sincerely,

The Central Staff Committee

We confirm that this letter was legitimately decided and produced by the Central Staff Committee³.



~~Ion Brumme~~
(dismissed Jan 2016)



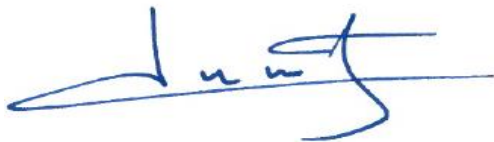
Alain Rosé



Malika Weaver
(downgraded Jan 2016)



Jesus Areso
(warned)



Alain Dumont



Laurent Prunier
(on sick leave
since Nov 2015)

³ Pursuant to Article 35(3) ServRegs, the Central Staff Committee shall consist of ten full and ten alternate members.

The CSC presently consists of 9 full and 8 alternate members, because two have resigned in December 2014, one has been dismissed in January 2016 (against the recommendation of the Disciplinary Committee) and one refused replacement of a full member against Article 7(3) of Circular 355.

One full member of the CSC has been downgraded in Jan 2016 (against the recommendation of the Disciplinary Committee). In fact, the Office has launched investigations and disciplinary procedures against several other Staff representatives as well, affecting negatively their health.



Jose Ramon Ambroa



Iordanes Thanos



Michael Kemény



François Brévier
(not allowed as the de jure
replacement for a full
member who resigned in
Dec 2014)



Thomas Franchitti
(working part-time
following sickness
since Sep 2015)




Philippe Couckuyt



Mathieu Guillaume



Loïg Plouzenec



Michael Sampels



Joachim Michels
(warned)



Florent Béraud



Carmen Schuhmann

Encl.