



**Zentraler Personalausschuss
Central Staff Committee
Le Comité central du Personnel**

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REPORT ON THE GCC MEETING ON 10 OCTOBER 2014

SUMMARY: Three major subjects were on the agenda of the second meeting of the General Consultative Committee: career and performance management reform, invalidity reform, tax on partial compensation. All these topics were announced for information only. The meeting was overshadowed by many procedural flaws: none of our proposals was admitted to the agenda, some of the presented documents were only available after the meeting, time for questions was drastically limited, the Chairman insulted some CSC members etc.

The information on the career and performance management reform was similar (but not the same on careers!) to the presentations that have been given to many directorates in the meantime. The amount of details which remained unclear was high, but the intention to introduce the reforms in January 2015 was firm. We got the impression that from next year on, staff will suffer from an unfinished system which causes massive financial cutbacks for almost all colleagues up to grade A4(2).

The invalidity reform intends to limit the number of invalidity cases drastically. Instead, invalid colleagues shall be held in an incapacity status for many years with obligation of residence. Fully paid sick leave will be reduced from 250 to 125 days, extended sick leave as well. The lump sum for permanent invalidity shall be deleted.

The partial compensation of taxes on pensions shall not be declared any longer as free from national taxation. This proposal will result in financial cuts for pensioners in countries which accept the above declaration. The reform shall be made without waiting for the result of litigation cases in other countries (Germany, Netherlands, ...) and at the AT-ILO.

INTRODUCTION

The President convened a meeting of the GCC on 10 October 2014, to provide information on:

- the reform of the career system ([GCC/DOC 6/2014](#)) and on the reform of the performance management (staff reporting).
- the reform of the invalidity system ([GCC/DOC 7/2014](#))
- the partial compensation of taxes on pension benefits ([GCC/DOC 8/2014](#)).

The GCC documents 6/2014, 7/2014, 8/2014 were not published to staff.

Although the reform of the performance management was mentioned on the agenda, the corresponding document was distributed only after the meeting. When reminded that the GCC Rules of Procedure demand that GCC documents be made public, the

President retorted that the documents on career and performance management were not documents: they were “only a set of slides put together”.

Meanwhile, managers have shown their staff the slides available to them. Please be aware that their content is not identical to what the GCC received one week before the meeting, by way of confidential information not to be disclosed to staff.

Since this meeting was “for information”, we expect that the actual “consultation” for opinion will take place on 19 November 2014. It is likely that, by then, the content of the documents will change again. Actually it should: the current documents are so grossly incomplete that we wonder how the Office is hoping to implement the reforms, respecting the timeline it has announced, without running into major problems.

At this stage, we will only give you an overview of the outstanding procedural and substantial problems.

CAREER REFORM

The President refused to allow discussion on the [counterproposal](#) on careers designed by the CSC, even though Articles 36 and 38 of the Service Regulations allow the submission of documents by the CSC.

The salary scales have been devised by the administration, without the involvement of the Working Group.

By now, you are aware of the main gist of the new career system, through the presentations given by your managers.

Many questions remain open, many issues unresolved. For instance:

- How will the budget be fixed in coming years?
- How will B grades be reclassified, and what competences are expected from them?
- How many G14/G15/G16 posts will be open for “technical senior experts”, outside of DG3?
- Why is it foreseen to give step advancements only to 50% of the staff? Why, since the 15-million budget would be theoretically sufficient to finance all the steps and promotions due to employees qualifying for advancement? Which part of the 15-million budget is meant to cover discretionary bonuses?
- Why insisting on introducing individual bonuses when the President should know that Staff is strongly opposed to them and that they are not appropriate for a public service?
- How many bonuses and functional allowances will be granted, and on what basis?
- How to deal with the unrealistic timeline, which makes impossible both proper consultation and ironing out remaining issues (too many to list here)?

We proceeded to ask these questions and others, but on the one hand we received no satisfactory answer and on the other hand we were not even allowed to go through the above short list of questions. The President regretted that we were merely asking questions, instead

of making proposals. He then rather abruptly stopped the discussion. We asked that the minutes record that we had not been in a position to ask all questions. The President forbade such entry in the minutes.

We could also not be given a guarantee to be given a complete documentation in time to provide a reasoned opinion by the next GCC of November.

Although many aspects are not yet clear, it is already clear that the budgetary envelope of 15 million Euros combined with the limitation to 50% for step/promotion and the absence of any reasonable transition scheme are a recipe for a disaster.

If the President keeps the unrealistic timing and imposes brutally on Staff a far reaching career reform, without meaningful consultation, he will demonstrate again that is not interested at all in social dialogue but is ready to enact a dogmatic reform no matter if this durably jeopardizes the proper functioning of the EPO.

PERFORMANCE MANAGEMENT SYSTEM

VP1 made a talk, referring to a document outlining a new performance management system. He said the system was the result of the discussion in the Working Group (WG) on Performance Management. We observed that the WG had not met since June and that to the best of our knowledge the document he was referring to had not been seen by the Working Group. VP1 could not deny this.

The document we received after the meeting is rich in theoretical concepts that obviously sprung from a mind of a consultant – including some ideas like the staff member “agreeing” with individual objectives which would be cascaded down from senior management, possibly following an “arbitration procedure”. A staff member would be “fairly” appraised in relation to others in similar roles, however without comparing him/her to peers. Aside from such ideas and, again, an ambitious timeline, there are not many details. We simply do not know yet how it is supposed to work, even though training for managers is planned for as early as next November, and Council Documents and Circulars are foreseen to be issued in 2014 and further Circulars in 2015.

We can only infer that the “typical appraisal year” will include:

- In January: a “self-assessment of objectives of previous year”
- In February and March: definition of some “standards of appraisal and calibration” (whatever this means)
- In April: Staff members will receive their appraisal of the last year and will be invited to a “dialogue with their reporting officer and with their countersigning officer in case of disagreement. This “dialogue” is to take place in April and May.
- In June some requests can be sent to a “specialised Committee on appraisals” without Staff representatives to help you, and
- In July this Committee could meet.
- In August and September some decisions could be taken and implemented (including writing new reports if applicable).
- In October/November, the so-called “step/promotion exercise” will take place. We understand that this means that your manager will tell you whether he/she thinks you have worked hard enough to deserve step advancement. As mentioned above, according to the confidential document on the Careers reform, only one staff member out of two can get a step advancement on average
- In November-December a “Cascading of objectives” will take place. This seems to imply that objectives come from above. A “harmonisation of level of objectives” will also take place in November-December.

INVALIDITY REFORM

During the presentation, it became clear that the President intends to:

- Reduce the number of invalids every year.
- Limit access to invalidity to very sick elderly colleagues, so as to make invalidity “the exception”.
- Create a new “incapacity” status, different from sick leave and from invalidity, for staff who cannot work to full capacity for health reasons. The degree of incapacity will determine how much they will have to work and will vary from 1% to 100%. Essentially, incapacity will be active service, so that the rights and obligations of active

employees will apply. For instance staff on 100% incapacity can be forced by the administration to maintain the residence at the place of employment. The role of the line manager and of HR will also be maintained.

- Incapacity is essentially a temporary status, which will be reassessed periodically. It can be extended until retirement age.
- Definitive, full incapacity (=invalidity proper) will be allowed upon unclear criteria with less involvement of medically qualified doctors but more involvement of DG4. An age criterion was orally mentioned during the presentation. **No invalidity insurance “lump sum” will be paid any longer.** The invalidity benefits will be reduced.

Many questions remain open and many issues unresolved. For instance:

- On which authority can the President take medical decisions, such as deciding whether or not someone is definitively invalid?
- How can it be laid down in law that invalidity can only be granted “à titre exceptionnel”, as apparently intended by the President?
- What are the consequences for sick staff, who will have to endure an insecure situation for much longer than needed?
- Why should sick staff be obliged, at the whim of the Administration, to reside in the country of their place of employment, where many have no family support?
- How does the Office intend to safeguard the medical confidentiality of patients’ data, with such unorthodox procedures and with the health service in HR?
- Will the new procedures comply with national and European law?
- As we had already asked in a previous [letter](#), what is the financial impact for the invalids? Will the Office guarantee the net level of income of current invalids? How much would host countries benefit?

No answer was given.

Moreover, the attempt was made to put the invalidity problematic in a wider context, namely that of the well-being of staff. One of us attempted to raise the point of suffering/stress at the workplace, its potentially disastrous effect on physical and mental health, and the possible link between work-related stress and suicide risk (bearing in mind that we have had 3 suicides in 18 months).

The President reacted violently and said “*encore un mot et vous êtes viré*”.

PARTIAL COMPENSATION OF TAXES ON PENSIONS

Since 1978, the Office has tackled the problem of double taxation of pensions on several occasions: see for example [CA/7/03](#), [CA/8/04](#). In short, although our pensions are calculated on the basis of our net salary and should in fact be net pensions, they can be taxed by the majority of our country of residence, and therefore pensioners are entitled to a compensation that partly defrays the amounts of national income tax. Before 2009, this was disbursed by the member states themselves (via the Office); currently, it is the Office that bears the burden (much to the delight of the host countries and in contradiction with the principles of International law and the practice in other International Organisations).

Because the partial compensation is paid as an emolument, itself subject to internal tax, pensioners in many countries do not have to pay national income tax on it.

By contrast, the tax authorities in Germany and The Netherlands (and a few more countries) have decided to tax the compensation, therefore reducing the total pension to which such pensioners would normally have a right in those countries. Pensioners have challenged that tax levy. In the past, the Office has supported these

pensioners in challenging the domestic tax authorities.

Now, the President intends to transform the partial compensation into a “tax adjustment” that would be fully taxable under national law, thereby basically accepting the claims of Germany and The Netherlands without even waiting for the outcome of the pending court procedures and the final judgments in those countries and in front of the ATILO. Indeed, we feel that the document we received might as well originate from the German or Dutch tax authorities.

We wonder: Will our pensioners be sold down the river? Why? Quid bono?

In a [letter](#), we reminded that the current situation results from Germany and a few other countries ([CA/161/06](#)) convincing the Administrative Council to put the burden of the tax adjustment on the Office ([CA/D 25/07](#)). The Administrative Council also decided to stop its payment for newcomers ([CA/D 18/07](#)) recruited from 1.1. 2009. We also asked for detailed figures on the financial impact of the partial compensation and which countries benefit from it.

The following table shows that the EPO has paid for pensioners in Germany and the Netherlands more than 14 million Euros, ie 62% of the total paid by the EPO which amounts to 23 million Euros in 2013.

| COUNTRIES | AMOUNT PAID BY EPO | Percentage of total | Attitude towards EPO Pensions |
|--|--------------------|---------------------|---|
| NETHERLANDS | 7.493.177 | 32,38% | Partial Compensation taxed* |
| GERMANY | 6.847.333 | 29,59% | Partial Compensation taxed* |
| BELGIUM | 5.031.417 | 21,74% | Partial Compensation taxed* |
| FRANCE | 1.866.671 | 8,07% | Partial Compensation NOT taxed |
| UNITED KINGDOM | 535.573 | 2,31% | Partial Compensation taxed* |
| LUXEMBURG | 226.071 | 0,98% | Partial Compensation taxed* |
| Switzerland, Czech Republic, Denmark, Spain, Greece, Ireland, Italy, Malta, Portugal, Sweden (10 countries) | 1.144.216 | 4,94% | Partial Compensation NOT taxed |
| AUSTRIA, ANDORRA, HUNGARY, LITHUANIA, MONACO, SLOVAKIA, TURKEY (7 countries) | 0 | 0% | Pension***NOT taxed => No Compensation paid |
| 15 other countries | 0 | 0% | ?****(no pensioner) |
| TOTAL | 23.144.456 | | |

*Only 5 countries out of 38 try to tax the partial compensation

**At least 11 countries where pensioners live do not tax the partial compensation

*** 7 countries do not tax the pensions at all!

****There are no pensioners living in the remaining 15 countries

91,76% of the partial compensation (more than 21 million Euros) is paid by the EPO in only 4 countries out of 38.

No wonder that **both Germany and the Netherlands are interested in maintaining the payment by the EPO of the partial compensation introduced by the decision CA/D 25/07, against the principles of International Law.** No wonder that they encourage the EPO to turn it into a tax adjustment (GCC/DOC 8/2014) in order to tax it without violating the EPO Service Regulations. They will also get an additional advantage of several million Euros per year with the invalidity reform (GCC/DOC 7/2014). Such an undue advantage is unknown in other international organisations and illustrates the problems of the governance at the EPO. This undue tax advantage for the Host countries will increase in future (29 million are reserved in the 2014 budget for the partial compensation)!

MINUTES OF PREVIOUS GCC

As regards the last topic on the agenda, i.e. the minutes of the previous GCC Meeting of 5 September, the President announced that they were not yet in a state to be distributed. We also feel that the draft version we received was indeed far from perfect. We question again whether the President will in the future be able to reliably make informed decisions on the basis of such minutes, instead of reasoned opinions. We fear this all the more that we anticipate that it will be difficult for the President to accept to have all his numerous procedural violations, threats and demeaning words against your representatives be incorporated in the minutes of the meeting.

CONCLUSION

The staff of the EPO is now facing attacks on its conditions of an unprecedented level. This happens after the President of the EPO has convinced the delegates of the Administrative Council Member States to attack fundamental rights of staff in several areas:

- -access to justice (lack of support, flawed procedures and excessive delays)
- -investigation guidelines (right of defence violated)
- -strike regulations (violation of freedom of association)
- -"well-being" (sickness control procedures against German Law)
- right to be represented violated (social democracy)
- -violation of the article 20 of the PPI (access to EPO refused to the Dutch labour inspectors after a suicide)

It is very astonishing the Host countries themselves have been the witness of the above violations and did not intervene to prevent it happening on their soil. Why?

A fact is that the Host countries will benefit outrageously from some additional reforms that the President is pushing urgently, right after his re-election with their support, and against the principles of International Law. If it does not answer the question why this happens, it answers the question: QUID BONO?

We are all the more preoccupied that VP1 is now planning a 10% production increase for 2015 along with a new more intrusive reporting system. This will happen after additional sickness control measures have been put in place and along with a new incapacity/invalidity reform including an additional control by the HR department.

We consider this cocktail could be constitutive of a noxious management policy that could threaten seriously staff health in future. Unfortunately, the Administrative Council seems to have been silenced. The Host countries will have a very good deal with Mr Battistelli's reforms. And the careers of the upper level of management will be spared. The only voice which can still be heard (when it is not censored) is the voice of the Staff representatives (pending the next round of disciplinary sanctions).

Staff is thereby left on its own to fence off these new attacks. Will YOU, like the Host countries turn a blind eye on what is happening at the EPO? Will YOU accept that the President jeopardize the future of YOUR Office? The answer is YOURS.

The Central Staff Committee