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Summary report by the Staff Representation from the 138th Administrative Council – 12 and 13 December 2013

Dear colleagues,

The 138th Administrative Council (AC) took place in Munich (Isar). The AC delegates were welcomed by a demonstration by Munich Staff, whose purpose was to remind them that the social unrest is still ongoing at the office.

B28 and President's activity report

The Council chairman, Mr Kongstad, reported on meeting of 4 December of the special sub-group of the Council - the Board 28 (B28) - where the President outlined his intention to present next year a document to the AC on “social democracy”. Furthermore, the Association of the Members of the Boards of Appeal (AMBA) [petition](#) of DG3 stating the case for continued judicial independence of the boards was noted.

As in the last council meeting, there was initially no mention of the on-going social unrest in the AC. The President provided (as usual) as one of the first contributions his "Activities report", this time in form of a presentation. One of the first items related to Office performance, where he had to state that it will probably remain below but close to the set target. Nevertheless, performance had improved year-on-year, but he remained silent on strikes/industrial actions as a possible reason for any shortfall.

He reported that:

- Despite the “difficult social climate”, the HR roadmap will continue to be implemented: e.g. a new career system will be implemented in 2015.
- First results from the “targeted sick leave control” (aka “Well-being”) show already a reduction of up to 2 days annual sick leave, although no link between his policies and these results was proven.
- He is ready to make efforts to resolve the current social conflict.

Following the presentation, many delegations took the floor and (as usual) thanked both the President and the staff (not necessarily in that order) for the results. Some reminded us all that a resolution of the social conflict was expected.

The CSC delegation intervened as follows:

- Despite many requests at the last AC for all parties to negotiate and try and resolve the social conflict, there was very little progress to be reported (promotions partly resolved; an agreement on salary adjustment).
- Instead of looking at and resolving the reasons for the social unrest, the announced reform on "social democracy" might be perceived as one side trying simply to reform the other social partner to "fix" the problem.
Staff Representation considers this an affront to the good work we have done and continue to do within the Office as a counterpart to the President and his management.
- Under "social democracy", we would rather seek improvement by developing in the direction of a real dialogue or even "*Mitbestimmung*" and providing staff with access to an independent and functional legal system.
- The Staff Representation has the strong opinion that we should first try to resolve the ongoing social conflict **before** engaging in any further reforms based on "social democracy", all of which so far proposed would only add more heat to any on-going discussions.
- On the other hand, we are (always) pleased to hear from the President that he is ready to make efforts to resolve the social conflict. Nevertheless, such words need to be followed-up by real action in this direction.

Confidential session

We note with regret, that although the delegates had not been previously informed by the Office of the tragic suicides of two colleagues, they nevertheless avoided any meaningful open discussion regarding such uncomfortable matters. Instead, we understand such a discussion involving just the President and reduced-sized delegations took place behind closed doors. We are not aware that the AC will initiate an independent investigation to look into these painful matters, although this was the main intent behind sending the letter to the delegations.

The delegations took note of the ongoing tension between staff and management.

The above mentioned "AMBA" petition would be forwarded to the President for his consideration.

Salary method and salary adjustment (CA/81/13)

The salary adjustment for 2013 (DE +1.6%, NL +3.3% and AT +1.7%) was approved with only four abstentions (DE, IE, AT, SI). This is in principle the last adjustment to be made using the current calculation method for which an agreement was reached 5 years ago. Some of the usual comments about our salary adjustment being too high were made by some delegations.

Later in the Council, the Office proposed to introduce a biannual (every two years) general adjustment of all its fees (search, examination, etc.). Delegations found it normal that the EPO adjusts its fees in-line with inflation in order for fee income to be sustainable. This is done on a biannual basis.

The adjustment of the Office fees will amount to an increase of 4.3%, corresponding to the cumulative inflation of 2012 and 2013. Here the delegations were unanimously in favour. Note that in this case, no delegation found the adjustment particularly high.

The Staff Representatives intervened to support this fee adjustment. In order to meet its daily operating costs on for example electricity, heating, buildings and any of the other thousands of bills reaching the EPO daily, it necessitates adjusting our fees to compensate for inflation. Otherwise EPO operations would not be sustainable in the medium term. In the same manner, the families of staff need adjustments to their income, i.e. their EPO salaries, also in-line with inflation. This is only normal and expected. We explained to them that this was to be considered an essential component of any salary method that aims to assist in preserving social peace.

We advised the AC to take a longer-term view of the results of the salary method as it has been applied over the last few years. Taking the example of the annual adjustments in The Hague, the result this year (+3.3%) has to be seen together with the results in previous years: 0 % in 2011 and 0% in 2012.

A small but fatal amendment of the Rules of Procedure of the AC (CA/109/13)

The AC took a momentous decision with regard to the transparency of procedures for the settlement of disputes.

Until now, a request for review submitted to the AC used to be put on the meeting agenda so that each delegation had the opportunity to read it in advance. Also every staff member had the chance to read these (anonymised) requests in the intranet together with the comments of the administration.

Apparently, the AC delegates did not like the large number of requests coming in. Therefore, they decided that in future their Chairman should refer most requests directly to the President, in particular those requests which, in the Chairman's opinion, should have been submitted directly to the President as the competent appointing authority anyway. The decision was taken that instead of putting the requests on the agenda, only a regular report thereon should be produced.

The problem we foresee is that the AC seems to follow the line that a request for review directed against a general decision by the AC will always be considered irreceivable, and that only its implementation at individual level by the President can be challenged by a staff member. As a result of this proposal, the AC delegates are depriving themselves of any opportunity to be directly informed upon the consequences of their decisions. We made an intervention to make them aware of losing this important feedback loop. However, no delegation took the floor to debate this aspect and the proposal was unanimously approved.

Requests for Review from a considerable number of staff members concerning rules on strike, sick leave and invalidity (CA/104/13)

In line with the above-mentioned rule adaptation and normal practice as experienced in previous meetings for all such requests for review, the AC followed the legal opinion presented by VP5 (sic) and simply either dismissed outright or re-routed the requests back to the President. An intervention by staff representatives was not allowed by the Chairmen: he regarded SR as being a party in this matter.

Status of RFPSS (CA/72/13) and cash injection (CA/94/13 Rev. 1)

A very positive report on the RFPSS was provided by Mr Prof. Bank, Chairman of the Supervisory Board. He thanked the funds administration team for their excellent performance in 2013, achieving meanwhile a total fund value of more than €5 billion.

The cash injections of € 43m by the Office into the RFPSS were welcomed by the delegations to ensure a high coverage and thereby increased security in the health and pension schemes. Some delegations demanded even further injections. The injections will possibly moderate the required RFPSS contributions in future.

Budget and table of posts (CA/50/13 + Add. 1)

The council accepted the presented budget and table of posts as presented. They reflect the expected benefits from the IT Roadmap will continue to enable the Office to increase the examining capacity through a reduced need for B posts in administration and support being replaced by new A1-A6 posts in examination.

For the Central Staff Committee