

10.02.2014  
sc14025cp – 0.2.1

## A new management style in the EPO?

In September 2006 the Staff Committee was informed of a power point presentation shown during a DG 1 management meeting which contained some slides that intended to address problems of alleged under-performance of some 30% of all examiners with measures including **fear, isolation, and punishment**<sup>1</sup>.

Following a complaint of the Staff Committee to the President and a request for a public correction<sup>2</sup>, all staff were honoured with a letter by the Management Committee (MAC) that addressed this issue in the following terms:

### ***Constructive and responsible debate***

There are many facets to reality, and your elected representatives have a duty to focus on those aspects which they consider important. We appreciate and respect this. But we, as the guarantors of the Office's proper functioning - in the short, medium and long term - have a duty to deal with the situation as a whole and to avoid giving undue importance to single aspects that do not merit such emphasis.

It is therefore vital that there be honest and responsible dialogue. There must be a shared concern for the Office's proper and durable functioning. All reasonable and properly argued positions will be taken into account. Assaults on personal dignity and integrity, and attacks against individuals or their families, have no place in such a constructive exchange. We therefore expect that everyone we deal with, including the staff representatives, will clearly reject such behaviour.

Reliable information is a further requirement for constructive dialogue. We are sorry to note that some of the recently circulated documents show a restricted and selective view of reality; in a few - fortunately isolated - cases, the truth has been unacceptably distorted.

For example, lifting provocative questions out of their context, and accusing DG 1 management of considering intimidation, fear or isolation as possible management tools, is misrepresenting the truth. Motivation is of key importance to every staff member and thus merits the particular attention of us all.<sup>3</sup>

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<sup>1</sup> <http://www.epostaff.org/archive/ex13062cp.pdf>

<sup>2</sup> <http://www.epostaff.org/archive/csc4906e.pdf>

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[http://babylon/projects/babylon/acepo.nsf/0/C74E91577F5EDD0EC125751B004C0748/\\$File/LettreduPresident\\_08112006\\_EN.pdf](http://babylon/projects/babylon/acepo.nsf/0/C74E91577F5EDD0EC125751B004C0748/$File/LettreduPresident_08112006_EN.pdf)

According to the MAC, exposing in public a "provocative question" and "accusing DG 1 management of considering" what they indeed had considered, even if perhaps only to stimulate a debate, was "misrepresenting the truth". Which truth?

*The keyword here is blackwhite. Like so many Newspeak words, this word has two mutually contradictory meanings. Applied to an opponent, it means the habit of impudently claiming that black is white, in contradiction of the plain facts. Applied to a Party member, it means a loyal willingness to say that black is white when Party discipline demands this. But it means also the ability to believe that black is white, and more, to know that black is white, and to forget that one has ever believed the contrary. This demands a continuous alteration of the past, made possible by the system of thought which really embraces all the rest, and which is known in Newspeak as doublethink. Doublethink is basically the power of holding two contradictory beliefs in one's mind simultaneously, and accepting both of them. - The Theory and Practice of Oligarchical Collectivism by Emmanuel Goldstein — Part II, Chapter IX — (G. Orwell, 1984).*

In order to confirm that indeed, the Staff Committee had just "misrepresented the truth", DG 4 drafted in Winter 2008 a "Guidance in the dealing with poor performance"<sup>4</sup> that put its emphasis on the procedures available to dismiss low-performing staff for alleged professional incompetence and explained in detail the procedures to follow. The intervention of the Staff Committee resulted in a much more balanced draft<sup>5</sup> that still today remains unpublished.

These were the times when Circular 286, introduced to defend staff against attempts of harassment, had been "suspended" and would be replaced "by the end of the year"<sup>6</sup>. Apparently, the President meant by the end of year 2007, but this may have been another "misrepresentation of the truth", since the Circular was only replaced in 2013.

The replacement of Circular 286, Circular 341, was introduced hand in hand with the "Guidelines for Investigations at the EPO"<sup>7</sup>, that oblige all staff members to report "possible misconduct" and to "co-operate fully" with the investigation unit. It is not possible, as a suspect of misconduct, to be assisted by a lawyer. The reform of the internal appeals system introduced also at the beginning of this year brought about a further extension of already abusive delays due to the introduction of a completely useless, but compulsory review procedure, and to the reduction of the resources available to the Internal Appeals Committee.

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<sup>4</sup> <http://www.epostaff.org/archive/sc08047cl-annex1.pdf>

<sup>5</sup> <http://www.epostaff.org/archive/sc08047cl-annex2.pdf>

<sup>6</sup>

[http://my.internal.epo.org/portal/private/epo/organisation/president/?WCM\\_GLOBAL\\_CONTEXT=/epo/intranet/organisation/president/the/president/announcements/2007/1260457420478\\_circular\\_n.o.286\\_dignity\\_26\\_june](http://my.internal.epo.org/portal/private/epo/organisation/president/?WCM_GLOBAL_CONTEXT=/epo/intranet/organisation/president/the/president/announcements/2007/1260457420478_circular_n.o.286_dignity_26_june)

<sup>7</sup> Circular 342:

[http://babylon/projects/babylon/acepres.nsf/0/592CCF9805B7556BC1257AC90041AAD6/\\$FILE/CircularNr342EN.pdf](http://babylon/projects/babylon/acepres.nsf/0/592CCF9805B7556BC1257AC90041AAD6/$FILE/CircularNr342EN.pdf)

*K. wußte jetzt genau, daß es seine Pflicht gewesen wäre, das Messer, als es von Hand zu Hand über ihm schwebte, selbst zu fassen und sich einzubohren. Aber er tat es nicht, sondern drehte den noch freien Hals und sah umher. Vollständig konnte er sich nicht bewähren, alle Arbeit den Behörden nicht abnehmen, die Verantwortung für diesen letzten Fehler trug der, der ihm den Rest der dazu nötigen Kraft versagt hatte. Seine Blicke fielen auf das letzte Stockwerk des an den Steinbruch angrenzenden Hauses. Wie ein Licht aufzuckt, so fuhren die Fensterflügel eines Fensters dort auseinander, ein Mensch, schwach und dünn in der Ferne und Höhe, beugte sich mit einem Ruck weit vor und streckte die Arme noch weiter aus. Wer war es? Ein Freund? Ein guter Mensch? Einer, der teilnahm? Einer, der helfen wollte? War es ein einzelner? Waren es alle? War noch Hilfe? Gab es Einwände, die man vergessen hatte? Gewiß gab es solche. Die Logik ist zwar unerschütterlich, aber einem Menschen, der leben will, widersteht sie nicht. Wo war der Richter, den er nie gesehen hatte? Wo war das hohe Gericht, bis zu dem er nie gekommen war? Er hob die Hände und spreizte alle Finger. (F. Kafka, **Der Prozess**, zehntes Kapitel, Ende).*

The dismantling in practice of any effective legal means of redress was followed in June 2013 by severe restrictions to the access to electronic communication means to all staff<sup>8</sup>, and in particular to staff representatives, and of the right to strike<sup>9</sup>.

As if this had not been enough, all colleagues who dared to follow the duly called industrial actions after 1 July 2013 were threatened with disciplinary measures. Some have already got a reprimand. Several members of the Staff Committee have also been threatened with a reprimand/reprimanded for having allegedly dared to send e-mails to more than 50 staff members.

Nevertheless, staff has found the means to use the new (unlawful) strike rules<sup>10</sup> against the Office and call for a strike even against all hurdles. Unsurprisingly, a second attempt to call for a new strike<sup>11</sup> has not found the same astonished acceptance amongst managerial circles and did not find its way towards the poll stations<sup>12</sup>. In the meantime, lists of signatories of these initiatives have been distributed to Principal Directors, apparently with instructions to investigate the reasons for the discontent in their units. When asked about this VP 1 simply answered that

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<sup>8</sup>[http://my.internal.epo.org/portal/private/epo/organisation/dg4/?WCM\\_GLOBAL\\_CONTEXT=/epo/intranet/organisation/dg4/vp4/announcements/2013/1369992011474\\_use\\_of\\_mass\\_email](http://my.internal.epo.org/portal/private/epo/organisation/dg4/?WCM_GLOBAL_CONTEXT=/epo/intranet/organisation/dg4/vp4/announcements/2013/1369992011474_use_of_mass_email)

<sup>9</sup>[http://my.internal.epo.org/portal/private/epo/organisation/president/?WCM\\_GLOBAL\\_CONTEXT=/epo/intranet/organisation/president/the-president/announcements/2013/1371802278037\\_communique\\_30](http://my.internal.epo.org/portal/private/epo/organisation/president/?WCM_GLOBAL_CONTEXT=/epo/intranet/organisation/president/the-president/announcements/2013/1371802278037_communique_30)

<sup>10</sup> The LIFER initiative.

<sup>11</sup> The ILFRE initiative

<sup>12</sup> Link to President's reply to the ILFER initiative

*"Participation of staff members in industrial actions/and or petitions is not per se confidential information. It can be assumed that staff wanting to express their concerns do so in a transparent manner and want to do so visibly in order for their demand to carry weight. It is therefore not questionable that such information might be available to the management in order to enable them to address appropriately issues of malcontent, primarily on a bilateral basis."*

Thus a collective demand is turned into a "bilateral issue". It is left up to the imagination of the reader what the "appropriate" means to "address the issues" can be, but we have to denounce that already today some Directors do not dare to speak to your staff representatives in public and that whenever a question is posed to higher management on whatever the issue, the reaction is often one of aggression, if not retaliation.

If these are the signs of current management style in the EPO, please note, Mr Batistelli, that this style is not new:

*Si le ressort du gouvernement populaire dans la paix est la vertu, le ressort du gouvernement populaire en révolution est à la fois la vertu & la terreur : la vertu, sans laquelle la terreur est funeste ; la terreur, sans laquelle la vertu est impuissante. La terreur n'est autre chose que la justice prompte, sévère, inflexible; elle est donc une émanation de la vertu ; elle est moins un principe particulier, qu'une conséquence du principe général de la démocratie, appliqué aux plus pressants besoins de la patrie. (M. de Robespierre, "**Sur les principes de morale politique qui doivent guider la Convention nationale dans l'administration intérieure de la République**"- Prononcé à la Convention le 5 février 1794 - 17 pluviôse An I)*

The Central Staff Committee