



Report of the 223rd meeting of the GAC on 31.05.2010 in Munich

Summary

The 223rd meeting of the GAC (General Advisory Committee) was the fourth GAC meeting of 2010. The meeting was called unexpectedly and had two documents on the agenda. Both related to financing of the healthcare insurance system.

Introduction

This topic was originally presented to the 219th meeting of the GAC for initial discussion, and then to the 221st meeting for the GAC to give a reasoned opinion (see our reports of said meetings). As reported in our report of the 221st meeting, the time allowed for discussion in that meeting was inadequate for a topic of such complexity.

After that meeting, we thus sent a letter of protest to the President concerning this treatment of the GAC. In this, we regretted that the input she would receive following the GAC would be tainted because of the lack of time for proper deliberations. We insisted that it would be wrong for her to consider the consultation as complete, and we recommended that she ask the Chairman to reconvene the GAC in order to take the time it would need to arrive at properly reasoned opinions.

The President never had the politeness to bother replying to the letter. However, we take the calling of this meeting as recognising that the consultation in the 221st meeting was indeed flawed.

To this meeting the President submitted two documents on this topic. One was a revised version of the document submitted to the 221st meeting. The other related to the setting up of a healthcare insurance advisory committee.

Before the meeting, we were informed that the

members nominated by the President had invited Mr Edfjäll, former vice-president of DG4, to the meeting as an expert of the administration. However, at the start of the meeting he stressed that he was present not as an expert of the administration, but rather as a representative of the pensioners association, and to represent their views. If the intention was that he was there as an expert of the administration, he would leave the meeting immediately. This led to an amusing discussion amongst the members nominated by the President on the functioning of the GAC, consultation with pensioners and what (if any) Mr Edfjäll's status should be at the meeting. We (and Mr Edfjäll) left the room to allow these members to decide amongst themselves how they wished to proceed. Eventually, the members nominated by the President concluded that Mr Edfjäll's status was indeed that of expert nominated by the administration; his expertise was to represent the point of view of the pensioners. This seemed acceptable to the man himself, who remained. The position of the CSC (which we also support) on the question of representing the interests of pensioners is that they should have a right to be consulted on matters which directly affect them (for example concerning sickness or healthcare insurance). However, this must not be at the expense of the consultation rights of serving staff in general or the Staff Committee in particular.

It should be noted that this meeting was not originally foreseen and was called during the

holiday period. Indeed, owing to vacation the Chairman was unable to attend. In accordance with the rules of procedure, he was deputised by a member nominated by the President, who is a permanent member of staff. Thus the objections made at the start of all previous meetings this year concerning the (we believe faulty) constitution of this year's GAC do not apply for this meeting.

Introduction of a funded system to finance the health insurance scheme

Since this topic has been the subject of much discussion in the Office, including podium discussions in both Munich and The Hague, and has previously been presented to two meetings of the GAC, we assume that the reader knows the background of this topic (see also our earlier reports from the GAC). It is, however, worth recalling again that the time allowed for discussion at the 221st meeting was totally inadequate. In fact, the document itself was not even discussed in the 221st meeting! Rather, one of the Office's actuaries presented the background to the proposal. Accordingly, as set out above, after the meeting we sent a letter to the President telling her that it would be wrong for her to consider the consultation as complete.

To this meeting of the GAC, the administration originally presented a Rev. 1 version of the draft CA document submitted to the 221st meeting. However, before the meeting, this was replaced by a Rev. 2 version. In the meantime, a further corrected version has been sent to the Administrative Council via Micado. As before, the document sets out the necessary changes to Article 83 ServRegs (the article which deals with sickness insurance) for introducing an actuarially funded healthcare system. As before, the other changes which will be necessary to actually implement the system, and which have not yet been fully worked out, were missing.

Compared to the earlier version, editorial changes have been made to the introductory "Part I" section of the document. In the decision "Part II" section, an Article 3 dealing with transitional measures for the years 2011 to 2013 has been added, Article 4 dealing with the date of entry into force has been modified and previous Article 3 (editorially amended) is now numbered Article 5. Accordingly, in our opinion no

fundamental change has been included in the Rev. 2 document submitted to the GAC compared to the proposal originally submitted to the 221st meeting of the GAC.

However, during the discussions, the members nominated by the President suggested modifications to Articles 1, 3 and 4 of the draft decision! Article 2 merely concerns a minor correction to the German language version of Article 83(2)(c) ServRegs of no direct importance to the proposal. Article 5 relates to changing the term "sickness insurance" into "healthcare insurance" throughout Office texts. That is to say, they were in effect suggesting modifications to all articles that are central to the proposal!

We have consistently argued (both in the 221st meeting of the GAC, and in the current meeting) that without all measures necessary to make the proposal function, it is premature to implement the changes outlined. We took the fact the administration was proposing further amendments in the meeting as further proof that the proposal is not yet ripe for implementation! Moreover, we pointed out that in the light of these suggested amendments, we argued that further consultation was probably necessary. After all, should the President take into account the amendments being suggested by her own members, then the document would look significantly different than the one upon which she had initially requested the GAC's opinion.

As in the 221st meeting of the GAC, we gave a negative opinion on the proposal. Since, with respect to the proposal submitted, the reasons given in our earlier opinion remain mostly still valid, we annexed our earlier opinion to the written opinion we submitted after the 223rd meeting. Moreover, we also provided a list of observations on the document which had arisen during the 223rd meeting. In particular we pointed out the discrepancies within the document itself, and between the document and other documents, including other CA documents. We also pointed out that, in our opinion, the administration is misleading the Council as to the urgency of the situation. We also requested that the President provide the GAC's opinion to the Council, and not just a cherry picked

summary thereof.

Moreover, the current proposal is not adapted for the Office and its staff but will only encourage cost explosion in Germany, to the benefit of said single host country. This will mean that staff of The Hague, who are already heavily subsidizing the system, will be asked to pay even more for a future bill in Germany. This gravely threatens the social peace in The Hague. Unfortunately, this is not even considered as a problem by the ones in charge of the file - who are unsurprisingly mainly located in Munich..

We therefore referred in our opinion to several promises made by Ms Brimelow to "get this right" before implementation and not to rush it to the June Council if more time was needed. More time is indeed needed, unless Ms Brimelow wants to "mine the field" for her successor or, worse, if he has asked her to complete this job for him before he takes over running the Office.

The members nominated by the President gave a positive opinion on the proposal. However, as set out above, they made a number of suggestions for amendment.

Healthcare Insurance Advisory Committee

One part of the administration's plan to transform financing healthcare at the Office is the creation of a so called "Healthcare Insurance Advisory Committee" (HIAC). The intention is that this committee should be tasked with delivering recommendations and opinions, thereby substituting the GAC, on any issue in respect of the healthcare insurance system.

When we received the document, we were quite taken aback by its form and quality. It essentially comprised a quick "cut-and-paste" from Articles 38 and 38a ServRegs and their implementing rules (Article 38 concerns the GAC; Article 38a the central and local occupational health, safety and ergonomics committees). The document had three parts: an introductory note, a rough outline of a draft CA document and a "Directive on the Healthcare Insurance Advisory Committee". The draft CA document comprised only an incomplete draft of the Part II of a CA document. There was no Part I, that is to say, no introduction, background and justification

for the proposal, as required by the usual template for CA documents. In the Part II, the usual formal introduction was mostly missing, as was the closing.

In the GAC, we were told that the current consultation was only intended as an initial exchange of ideas and whilst the GAC's opinion was requested on the document, this was so as to get feedback which could be taken into account when amending (and completing) the document prior to renewed consultation in the GAC and (possible) submission to the Administrative Council. This is just as well, since as it stands, the document was in no way suitable for submitting to the Administrative Council let alone implementation. Moreover, since the document requires major amendment, resubmission to the GAC is in fact necessary.

One interesting feature of the proposal is that it foresees that the representatives of the pensioners should have a nominee in the committee. As mentioned above in the introduction, neither the CSC nor us has anything against this, provided that the rights of serving staff are not reduced in order to accommodate this. After all, on any particular topic, serving staff and pensioners might have different interests!

Moreover, we have no objections to the creation of a Healthcare Insurance Advisory Committee per se, if this were an expert body which would allow early involvement of the Staff Committee in discussing proposals and figures, **prior** to discussion in the GAC. That is to say, the HIAC should be an expert body **in addition** to the GAC, not replacing the GAC. Examples of such bodies already exist at the EPO, for example the GTR and the LTCI consultative committee.

However, we consider the way that the administration proposes to set up the HIAC to constitute an attack on the consultation rights of the Staff Committee. In particular, whilst currently, the minimum of consultation rights for the Staff Committee is consultation in the GAC, guaranteed by Article 38 ServRegs, according to the current proposal, the so called HIAC is weaker than the GAC for a number of reasons.

In particular, according to the proposal, the President (always) appoints the Chairman and

three members to the proposed HIAC. The CSC appoints two members and the pensioners' association one. Serving staff are thus always in a minority in the proposed HIAC.

Worse, the Office has four places of employment (plus the Brussels bureau). These four places of employment experience different problems with their respective local medical systems, which can also lead to different interests between the different places of employment. Limiting serving staff to two nominees will make the functioning of the proposed HIAC more difficult and less transparent. It will thus serve to undermine the credibility of the proposed HIAC, at least in the eyes of staff, and, we fear, management.

Moreover, the document submitted makes no mention of any time limits for submitting documents or giving opinions.

For the members nominated by the CSC (and, we suspect, the pensioners' association), however, such time limits are essential. The administration knows well in advance what documents will be submitted to the proposed HIAC. After all, the administration writes them! However, if the proposed HIAC will function as the GAC has done in the recent past, the first that the other members will know of a proposal is when the document is submitted. These members, however, are the ones who have to consult: with the CSC, with (other) experts, with staff in general, and last but not least, with each other. We can imagine that this problem will be particularly acute for the member appointed by the pensioners' association, given that the pensioners are spread out over the globe and lack the internal email and telecommunications (ViCo) facilities available within the Office. Clearly, the members appointed by the CSC and the pensioners' association require adequate time for this consultation.

Additionally, the directive comprises regulations setting out the composition of the proposed HIAC. These regulations can be amended by the President of the Office. The equivalent for the GAC is the "Implementing rule for Article 38 of the Service Regulations". Under Article 124 ServRegs, such implementing rules are adopted by the Administrative Council. That is to say, for the GAC, amendment to its implementing rules requires involvement of the Council. For the

proposed HIAC, the President can do this without Council oversight. This also demonstrates that the proposed HIAC will have a lower legal basis and thus provide staff with less security, than the committee (the GAC) that it replaces.

Finally, we fear that there will be interference with other committees. The proposal states that "the Healthcare Insurance Advisory Committee shall, in addition to the specific tasks given to it by these Service Regulations, be solely responsible for giving a reasoned opinion on" a list of items related to health insurance. The GAC, however, is tasked to give reasoned opinions on "any proposal to amend the ServRegs or the PenRegs, any proposal to make implementing rules and ... any proposal which concerns the whole or part of the staff to whom the ServRegs apply". The obvious question is "where are the borders?" The members nominated by the President could give no answer to this! In our opinion, this will not only create problems for the GAC, but also for the LACs, COHSEC and LOHSECs. It is for this reason that (possibly different aspects of) the same items are currently discussed in both the GAC and the COHSEC.

For the above reasons, we gave a negative opinion on the proposal. We also made an alternative recommendation which would allow most of the above objections to be overcome. In particular, as set out above, we suggested that the HIAC should be an expert body **in addition** to the GAC, not replacing the GAC. In this way, a number of the objections outlined above, for example those of time limits and of where the borders of responsibility between this and other committees lie, as well as fears about the diminution of consultation rights, would no longer be valid.

We also recommend that any such advisory committee should comprise CSC nominees from all places of employment.

Finally, we additionally recommended that, such a committee should operate from 2011 within the framework of the current payGo system, as part of a moratorium on the healthcare insurance reform, which would allow a full review of the current system and broad consultation with staff to take place, and not just the statutory minimum of consultation in the GAC.

It seemed that some of our concerns were shared by the members nominated by the President. Some of them expressed the concern that according to the proposal, the GAC should give up part of its mandate and give it to another committee. However, they also argued that the mandate of said committee is not clear, and its rights seem to be lower than those of the GAC.

Mr Edfjäll stated that the pensioners association were rather more positive on the principle. However, they would prefer full membership of the GAC for items which affect them. Indeed, they will continue to push not only for this, but also for full membership, rather than mere observer status, of the supervisory board of the RFPSS.

It remains to be seen if, and if so, with what content, the document returns to the GAC.

The members of the GAC nominated by the CSC.