Zentraler Personalausschuss
Central Staff Committee
Le Comité Central du Personnel

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Forgotten income of € 6 billion in Financial Study?

Pension payments made after 2038 are taken into account when calculating the alleged gap. By contrast, National Renewal Fees paid back to the Office after 2038 are not even considered. We estimate this forgotten income to be far in excess of € 6 billion.

The EPO's financial model rests on two pillars: procedural fees and renewal fees. Our procedural fees do not cover the costs arising from all the services provided by the EPO to the applicants. Despite EPO claims to the contrary, we are not aware of any patent office where renewal fees ensure full cost coverage. National Patent Offices always require additional taxpayers' money.

In the EPO's case, the renewal fees income can be split into two categories: the internal renewal fees (IRF), which the EPO charges before grant and a proportion of the national renewal fees (NRF), which the EPO receives from the Member States for patents granted by the EPO[1].

Evidently, the NRF are only due after all the work in the EPO has been completed and no further costs related to these granted patents can accrue for the EPO. It is, however, this very income which is needed to compensate for high earlier expenditures so that the total cost is met over the complete life of the patent. Thus all the NRF remitted to the EPO in 2039, the year after the end of simulation of the financial study, aim to cover the costs incurred by the EPO[2] until the end of simulation in 2038. The NRF in 2040 still relate mainly to patents granted until 2038 and only a minor share relates to patents granted in 2039, i.e. after the end of simulation. Therefore, the sum of all these NRF relating to patents granted until 2038, but due after 2038, form the Net Present Value[3] of the future NRF in 2038.

The pension payments show a similar pattern. A pension is only paid in return for earlier work. Thus pension payments in 2039, the year after the end of simulation of the financial study, are only paid in relation to pension rights accrued until 2038. The Net Present Value of the future pension payments in 2038 relates thus exclusively to pension rights accrued up to 2038.

[1] Art. 39 EPC
[2] mainly for search and examination
[3] Whereby the NRF received after 2038 are corrected to account for the inflation.

In view of the very purpose of the NRF, to compensate the Office for earlier work, one would think that the NRF due after 2038 should be included in the financial study in the same way like the pension payments due after 2038.

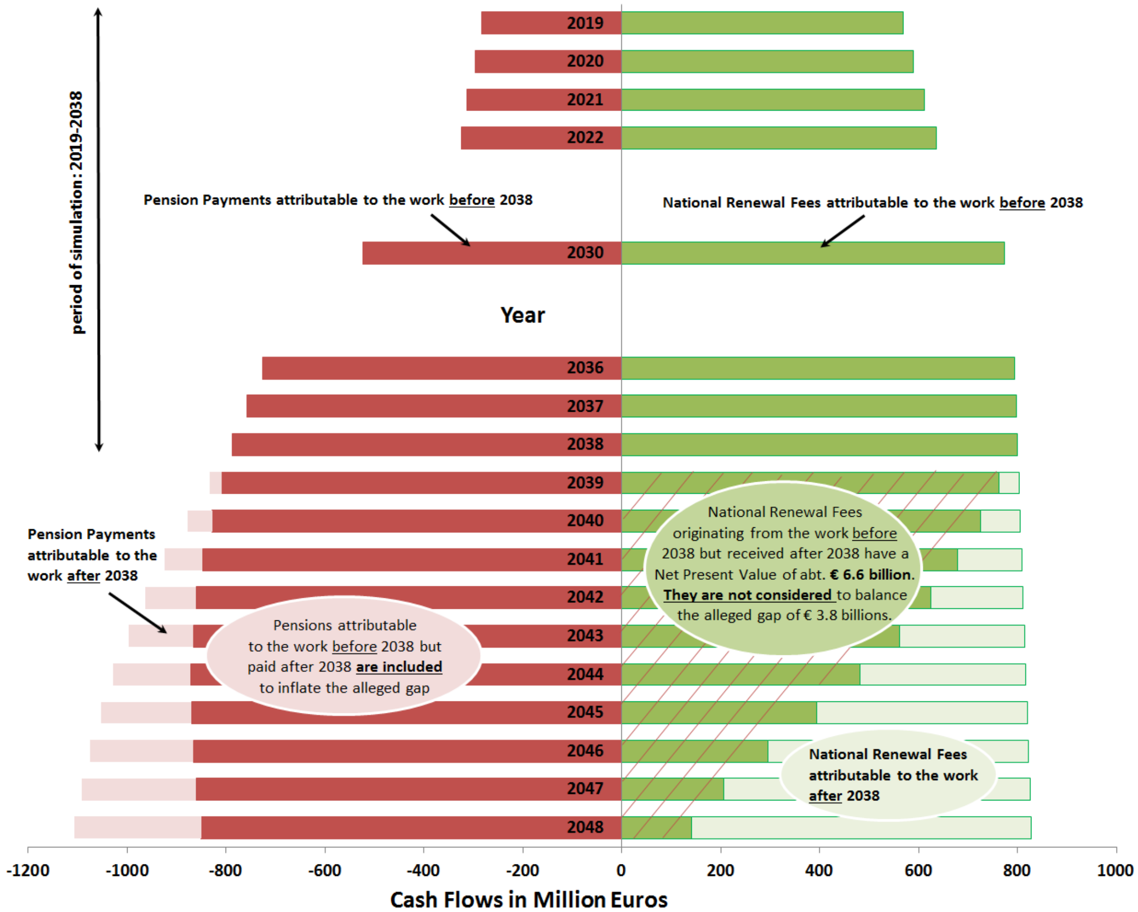
However, the EPO is inconsistent and treats these two elements in the financial study differently and to our disadvantage: w**hile the Net Present Value of the future pension payments was used to inflate the alleged gap, the Net Present Value of the future National Renewal Fees wasn't included at all**[4]**.**

This has strange consequences (see also figure).

The most important is that, if the simulation didn't stop in 2038 but in 2039, both the pension payments and the NRF due in that year would have been considered in calculating the gap.

Thus while the pension payments are included in the Financial Study irrespective of the simulated period, the inclusion of the income from NRF attributable to pre-2038 patent grants depends on the simulated period.

However, the simulated period is evidently unrelated to the financial situation of the Office. If a simulation result depends on a parameter of this type, it is generally considered a major flaw in the art of producing a good simulation.



4 see Financial Study, CA/46/19, page 82

Despite our repeated inquiries, management has not (yet) been prepared to disclose the Net Present Value of the NRF in 2038. We can thus only provide you with a rough estimate.

In 2018, the net present value of the future NRF amounts to € 4.7 billion[5]. According to the forecast for 2038, there will be even more patents in force. The figure will thus be much higher. In the year 2019 alone, the income from NRF is estimated to € 569 Mio while in 2038 alone this figure is estimated to € 799.9 Mio[6], thus 140% higher.

Therefore, it appears reasonable to assume that the Net Present Value of the future NRF will increase by the same magnitude, to be in the order of € 6.6 billion[7] in 2038.

This is almost € 3 billion more than the alleged coverage gap of € 3.8 billion[8] for the base II scenario and still € 1.4 billion above the alleged coverage gap of the stress scenario.

> Unfortunately, management was neither prepared to discuss this topic nor would it disclose the exact figure of the Net Present Value of the future NRF in 2038.
>
> We can only conclude that management just wants to cut staff benefits for the sake of making savings.
>
> Therefore we expect there to be a wave of complaints against any decision of the AC based on the “findings” of this study, just like we have seen following the introduction of the New Career System.
>
> This will only be viewed as another strong sign of distrust in the administration of the Organisation.

Your Staff Committee

[5] CA/60/19 note 4 on page 34
[6] Financial Study (2019) Phase II, CA/83/19, page 93
[7] € 4.7 billion x 799.9 / 569
[8] Financial Study (2019) Phase II, CA/83/19, page 4