Vereinigung der Pensionäre des Europäischen Patentamts
Association of the European Patent Office Pensioners
Association des pensionnés de l'Office européen des brevets
Vereniging van de gepensioneerden van het Europees Octrooibureau

Der Vorsitzende
The Chairman
Le Président
De Voorzitter

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Mr Josef Kratochvil (**per email**)
President of the Industrial Property Office of the Czech Republic
Chairman of the Administrative Council of the EPO

cc: All Heads of delegations on the Administrative Council of the EPO (**per email**)
President of the EPO (**per email**)
Central Staff Committee (**per email**)

Dear Mr Kratochvil

I respectfully request that this letter is added to the agenda when documents CA/83/19 and CA84/19 are discussed at the meeting of the Administrative Council this December.

I also reiterate my earlier request that the Association should be allowed to take part as an observer when this point on the agenda is being discussed.

The Association of EPO Pensioners of course agrees that the EPO needs to plan its financial future prudently. It is however important that such planning is based on realistic assumptions and not on merely speculative elements as explained below. This has resulted in a calculated financial gap which is largely overestimated.

1. Decision Basis for Selection of Scenario

The EPO has chosen the Base 2 scenario in the Financial Study resulting in a calculated financial gap of 3.8 BN€ and then added to this a further 53% or 2.0 BN€ as a safety buffer, resulting in a total financial gap of 5.8 BN€.

The Association of EPO Pensioners having made an in-depth analysis of the study calls into question the calculation and selection of the Base 2 Scenario as well as the financial gap(s) arrived at.

a) The Base 2 Scenario is not based on an economic forecast but on a theoretical stress test scenario performed by the European Systemic Risk Board (ESRB). The Association is of course not calling the results of the stress test into *question, but wishes to point out that the* ESRB itself states as a disclaimer for its scenario that the "**Scenario presented is not a forecast. It should not be interpreted as the ESRB's expectations about future economic and financial developments**."
b) In the Financial Study the Base 2 Scenario is based on a global recession. However, the stress test scenario of the ESRB which has been used is nothing but a financial crisis scenario with a 30% drop in equity values assumed in 2021.
c) The Base 1 Scenario on the contrary is based on proper economic and financial forecasts performed by OECD, the World Bank and the International Monetary Fund.

The Association finds that it would therefore have been appropriate to select the Base 1 Scenario for the discussions about the financial gap and how to close it and **NOT** to select the Base 2 Scenario, which is based on a theoretical "what if" scenario. To then add another 2.0 BN€ safety buffer for which the only justification is a speculative assumption that the present low interest environment will persist for another 20 year is not plausible.

2. Closing the Financial Gap in Base 1 Scenario

The financial gap in the Base 1 Scenario is calculated as 1.6 BN€. This financial gap can effortlessly be more than covered by two measures entirely under the control of EPO management. These measures are:

- To digitise the Patent Grant Process (PGP) end-to-end (Measure 13).
- To invest 60% of cash surpluses in EPOTIF (Measure 15).

In CA/83/19 and CA/84/19 the positive financial impact of digitising PGP end-to-end is calculated by the Office to bring savings of 1.2 BN€. Despite the fact that the financial study includes spending of over 1.0 BN€ on various building projects, investing 60% of remaining surpluses in EPOTIF is calculated by the consultants to still have a positive financial impact of 1.0 BN€. The table below summarises the result in Base 1 Scenario applying these two measures:

	Value
Base 1 Calculated Financial Gap	- 1.6 BN€
Digitising PGP end-to-end (Measure 13)	+ 1.2 BN€
Invest 60% of cash surplus in EPOTIF (Measure 15)	+ 1.0 BN€
Net Result	**+ 0.6 BN€**

The Association of EPO Pensioners, for the reasons given above, is of the opinion that Base 1 Scenario should form the basis for any measures to be taken to close the financial gap. As shown above the financial gap is more than closed by the proposed two measures identified in the Study which are entirely under the control of EPO management.

3. Closing the Financial Gap in Base 2 Scenario

For the sake of completeness, this analysis will show that also the calculated financial gap in the Base 2 Scenario and Base 2 + Buffer Scenario can equally be closed without resorting to measures having a serious negative impact on present and future members of the Association of EPO Pensioners.

There is already a proposal for decision by the Administrative Council at its December 2019 meeting to increase contributions to the Pension scheme by 3.3% from 2020 onwards. This corresponds to measure 10 in the Financial Study where it is given the monetary value of 0.3 BN€.

It is worthwhile to recall that in the Financial Study salary expenditure for the next 20 years has been calculated based on an annual salary adjustment of inflation +0.5%. For the same period only one single fee adjustment of +4% has been included in the revenue calculations, whereas the Administrative Council has adopted a policy of biennial inflation based fee adjustments. In document CA/80/19, presented for decision by the Administrative Council at its December 2019 meeting, the President of the Office advocates the necessity to continue to pursue this policy of biennial inflation based fee adjustments. The continued consistent implementation of this policy (Measures 11 and 12) would improve the financial result with a further +1.3 BN€.

The table below summarises the result in the Base 2 scenario applying all of the above:

	Value
Base 2 Calculated Financial Gap	- 3.8 BN€
Digitise PGP end-to-end (Measure 13)	+ 1.2 BN€
Invest 60% of cash surplus in EPOTIF (Measure 15)	+ 1.0 BN€
Increase contribution to Pension Fund (Measure 10)	+ 0.3 BN€
Biennial inflation based fee adjustments (Measures 11 and 12)	+ 1.3 BN€
Net Result	**+/- 0 BN€**

As can be seen from the table above, the financial gap of 3.8 BN€ resulting from using a scenario based on a financial crisis, is also covered. As already stated, the Association of EPO Pensioners is of the opinion that Scenario 1 is the only one that constitutes a realistic basis for discussion of any measures to be taken.

Should the Administrative Council, after deliberations and taking into account our in-depth analysis, decide that the Base 2 Scenario is to be used, it is reassuring to note that even the case of a Financial Gap in this scenario, which is calculated on the basis of a financial crisis, can be completely addressed by applying five measures (Measures 10,11,12,13 and 15) already planned or proposed the President of the Office.

4. Closing the Financial Gap in Base 2 + Buffer Scenario

The Association of EPO Pensioners is of the firm opinion that the gap now presented to be 5.8 BN€ by the addition of a further 2.0 BN€ as safety buffer to Base 2 Scenario is not based on real facts. The only justification for adding 2.0 BN€ to a scenario based not on a forecast but on a financial crisis seems to be an assumption that the present low interest environment will remain for the next 20 years.

The Association wishes to draw the attention of the Administrative Council to the fact that the 2008-2018 long- term annualised performance of the RFPSS was 7.9%, thereby exceeding the annualised long-term objective for the Fund by 2.9%. Moreover, this performance has been achieved in spite of very volatile financial markets and a continuous low interest environment!

In their calculations before applying the safety buffer of 2.0 BN€, the consultants have already indirectly introduced a further safety buffer of about 2.6 BN€ by reducing the expected net return on investments made by the Reserve Funds for Pensions and Social Security (RFPSS) to 2.1% above inflation. This is in clear contradiction to the Strategic Asset Allocation (SAA) **unanimously** agreed by the Supervisory Board of the RFPSS (SBRFPSS) on which also the Office is an important stakeholder with voting rights. This SAA is expected to give a net return of 3.5% above inflation. The much lower return on investment used in the Financial Study results in the above-mentioned further safety buffer with a net return which is about 2.6 BN€ less than the net return to be achieved using the SAA agreed by the SBRFPSS.

Since this further safety buffer of about 2.6 BN€ has already been incorporated in the calculations made by the consultants by their use of a much lower return on investment by the RFPSS than agreed by the SBRFPSS, it is impossible to understand why a safety buffer of another 2.0 BN€ has been added to a financial crisis Base 2 scenario in which financial losses have already been accounted for.

5. Conclusion and Request

The analysis performed by the Association of EPO Pensioners and presented here in this letter, highlights several questionable assumptions made in the Financial Study, amongst others, the basis for selection of Scenarios and also putting into question the validity of the financial gap(s) presented.

To avoid serious consequences and impact on present and future members by implementation of Measures which are not needed, the Association therefore requests that the Administrative Council mandates the Office to revisit and reanalyse the Scenarios and the financial gap(s) to enable further discussion in the Supervisory Bodies of the Organisation before returning with concrete proposals, if any are needed, to be adopted by the Administrative Council.

Yours sincerely

Curt Edfjäll
Chairman, Association of EPO Pensioners