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## Campinos' Strategic plan – or is it?

### Introduction

Mr Campinos' recent survey of the users of the patent system and drawing up of a strategic plan is reminiscent of past consultations held by earlier Presidents before 2010. But the projects are of a very different calibre with respect to both the consultation process and the importance of questions addressed. In comparison, the current [draft strategic plan](#) is a disappointment.

It promises “motherhood & apple-pie”, i.e. obviously desirable objectives, but without indicating the technical means by which these objectives may be obtained. Moreover, many of these promises are not credible in view of past staff experiences<sup>1</sup>. And most of the plan isn't strategic at all: the “fundamental questions” identified by the President on the first page are in fact mostly operational and rather basic<sup>2</sup>. The main strategic considerations that we could find are on pages 38 and 39 and concern the cooperation with the national patent offices (NPOs) and the EUIPO.

The staff representation has provided [input](#) for the strategic plan at an early stage. These contributions have been disregarded. The present publication explains how we read Mr Campinos' draft strategic plan.

### Motherhood & apple-pie

The document is full of bold statements, mainly about what the EPO “will” achieve. To cite just a few:

- “Structures to ensure effective corporate and political governance will be strengthened” (p. 43, 2nd para.).
- On the EPO IT infrastructure: “It will ensure the necessary level of agility and reliability needed for the development of a new end-to-end tool for the patent granting process, the improvement of existing tools and the IT tools needed to support corporate services, among others” (p. 18, 5th para.).
- “Annual results of the Office have shown that in recent years the production of the Office has increased, while external surveys have shown that quality also continued to improve in parallel<sup>3</sup>, as has timeliness” (p. 31, 2nd para.)
- “With quality assured, and staff working in a more collaborative environment, supported by a digitized process and balanced workloads, the Office will be firmly on course to achieve a more innovative environment” (p. 26, 4th para.).

### What does this really mean for staff?

As can be understood from the above, the 50-page draft strategy document makes for arduous reading and it is not easy to separate fact from fiction. This makes it difficult to understand what the document means for staff in concrete terms. Most topics are only touched upon in a rather

<sup>1</sup> Significantly, the recent staff survey showed that only 16% of the respondents have confidence in the decisions made by higher management. We can presume that this also applies to the promises made by higher management.

<sup>2</sup> « How can we organise our Office and our work to balance the needs of all stakeholders, and to make sure that we are delivering our very best to all of those who have come to rely on the services we provide? »

<sup>3</sup> EPO internal quality controls found that quality has decreased to the extent that by now about 1 in 4 patents delivered is flawed (see e.g. CA/20/19, point 224).

general manner. Nevertheless some information can be gleaned from the buzzwords that keep coming back throughout the document. One of those is “**collaborative working**” (p.7, p. 27, p. 30). For examiners we have already seen a pilot along those lines. It seems to be “back to the old way of discussing more within the examining division” but without the extra time needed and with more bureaucracy (recording of the discussions). Allegedly in order to support that collaborative working and improve communication the buildings will be refurbished to create more **open office space** (fewer individual offices) like in the New Main (p. 12; see also [CA/43/19](#)). Staff in The Hague who are already experiencing those new “transparent” office spaces (with glass walls) are not happy with them. Recent publications, e.g. The Economist magazine from July 2018 entitled “[Open offices can lead to closed minds](#)”, show that open spaces actually create many problems and do not foster collaboration. It is therefore doubtful whether Mr Campinos’ ambitious refurbishing project is worth the additional money needed for it, the more since the latest financial study once again seems to indicate that substantial savings on staff benefits are on the books<sup>4</sup>.

The draft strategy also repeatedly mentions **certified training**, up-skilling and mobility (p. 10/11, p. 26, p. 31). In recent years training investments in examiners have been constantly decreased as these were considered to take time away from production. What we observe currently in 2019 makes us doubt that this is now to change, and wonder whether there is more to that than a desire to increase flexibility (bottom of p. 31). There is also mention of a secondment (in fact: exchange) policy with other organisations (p. 7, p. 11, p. 38). The main intended beneficiaries seem to be the national patent offices, but such exchanges may nevertheless also be of interest to EPO staff, if not limited to management’s favourites.

We should maybe appreciate the frequent references to the EPO’s “highly skilled work-force” (p. 7, p. 8, p. 25, p. 31). But such statements sound rather hollow in view of the very recent decision of EPO management to unilaterally downgrade the assessment of *hundreds* of competent and dedicated colleagues to the levels “below expectations” or “far below expectation” in their 2018 appraisal report. The strategy document also frequently claims that the Office offers attractive conditions of employment. In reality, however, the conditions of employment have become much less attractive during the last decade. This is not only so from a financial point of view (fixed-term contracts, slower career, reduced pensions) but also with respect to fundamental rights (freedom of association, access to justice) and working atmosphere (lack of respect). This explains the increasing number of colleagues leaving the Office only a few years after they joined the organisation.

The strategy document gives the usual empty promises about “social dialogue” stressing even on “focus groups” designed to bypass the statutory consultation and tries to remain vague about future salaries and pensions. However it is not difficult for an attentive reader, especially in view of the now published [financial study](#), to perceive clear threats on this front: “*Firstly, any proposed measures will be transparent, with a full explanation as to what is to be carried out and why. Secondly, they will be proportionate and fair, responding with the right level of action for the outcome required. Thirdly, the measures will be based on the principle of shared effort, and fourthly, the measures will be implemented gradually, **where possible***”<sup>5</sup> (emphasis added). Neither respect for acquired rights of staff nor transitional measures are mentioned.

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<sup>4</sup> It is also difficult to identify any long-term strategy between leasing a building in Haar and selling Pschorrhöfe BT7 ([CA/43/19](#)). Remember that previously Westend and Capitellum were given up allegedly because the Office did not want to rely on rented buildings.

<sup>5</sup> cf. page 49, last paragraph under “Key Initiative 5: Ensure long-term financial sustainability”

It also worrying to note that *social* sustainability is not even a topic in the draft strategic plan, and that the disastrous results of the recent staff survey “Your voice, our future” are not triggering any strong response from the President.

### **The European patent network & beyond**

As indicated above, some strategic directions can be found in the section about cooperation. For instance, “*The Office will continue to prioritise Validation agreements*” (p. 36). We understand this to mean that the Office will try to further extend its influence beyond Europe. The European Patent Network is apparently to be strengthened again. We understand that **the ceiling on the cooperation budget<sup>6</sup> will be lifted** and replaced by a fixed ratio in contribution: 80% EPO, 20% NPO, where the NPO may also contribute “in kind” (p. 38). This seems quite generous at a time the Office requested a financial study to pretend that it is necessary to cut again on the benefits of its staff. At several points (p. 11, p. 39) there is mention of exchanges with the NPOs (bi-directional secondment programs). These are to be supported by fully **location-independent working methods**. Cooperation is to go further (p. 39): “*bringing the EPO, EUIPO, member states and stakeholders together under the same cooperation platform*” and “*to explore with its EU partners the possibility of offering a single point of access to information made available by the Commission, EUIPO, and CPVO and national offices.*” The EPO is obviously to provide the necessary IT and other tools. We recognize that a good cooperation between the national patent offices and the EPO could be beneficial for the European patent system. But the obvious conflicts of interests in the [governance system](#) of the EPO and raise serious doubts as to whether true benefits for the European public (the EPO’s main stakeholder) will be realized or just more cash for the Member States – eventually at the detriment of EPO staff and of the public good<sup>7</sup>.

### **Conclusions**

In summary, the draft strategic plan is disappointing:

- most of the stated **aims** are not supported by a disclosure of the technical means to obtain these aims,
- many of the stated **claims** are not supported by facts,
- even the rather modest statements of good **intentions** concerning quality, staff working conditions and social dialogue lack credibility in view of the experiences made by staff in recent years, including the period during which Mr Campinos has been in Office (almost one year by now),
- little, if any, consideration seems to have been given to the societal aspects of the patent system, and the role and responsibility of the EPO therein.

The Administrative Council gave to Mr Campinos the mandate to restore social dialogue. Yet nothing of importance for staff has been taken on board nor does the plan reflect pertinent messages from the staff survey.

We would have expected better.

Your Central Staff Committee

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<sup>6</sup> « *Until recently the budget for cooperation with the Member States was officially limited to 13 million Euro (not counting EPO staff costs)* » ([CA/50/17add1b](#), p. 34, point 33)

<sup>7</sup> For a discussion see e.g. Peter Drahos, « *The Global Governance of Knowledge, Patent Offices and their Clients* » (2010).