Zentraler Personalausschuss
Central Staff Committee
Le Comité Central du Personnel

Munich, 21/10/2021
sc21120cp

Report on the GCC meeting of 5 October 2021
An exercise in generosity?

Dear Colleagues,

The GCC meeting had a packed agenda with six documents for consultation and only 1,5 hours to discuss them. The meeting lasted longer, amongst other to deal with the content of a document on reorganisation. The general atmosphere was much calmer than in previous meetings, possibly due to the technical nature of many documents.

The documents for consultation

Public Holidays 2022 (GCC/DOC 10/2021)

We welcome the return to the normal practice of aligning with the place of employment with the higher number of public holidays. However, we cannot agree with the practice of closing the Office between Christmas and New year, depriving staff of the free choice of four days off, despite the fact that the pandemic and the generalisation of teleworking have profoundly changed the way of working. We made three proposals to mitigate the situation. The President rejected them all on the grounds that we should not repeat the discussion of previous years.

He criticised that staff had accumulated too many 100 000 days of leave to be carried over in 2022. Instead, he offered an additional leave day in 2022 under the condition that staff manage to limit their carry-over of leave before the end of October.

The CSC members in the GCC unanimously voted against the document (read their full opinion in annex for more details).

Report by the Actuarial Advisory Group (CA41/21) - Office's comments - Implications for the budget and financing of the RFPSS (GCC/DOC 11/2021)

The actuaries identified the main drivers for change: the decrease in the discount rate from 3.25% to 3.00% and the lower estimates for the salary evolution

(Eurozone inflation + 0.2%[1]).

The President allowed us to address the flaws of the studies but not to speak about salary adjustment. He refused to envisage questioning the assumptions underlying the report, or the salary method for instance, but proposed to postpone the application of the changes until January 2023 "*as an exceptional social gesture*", because no salary adjustment will take place in 2022 as the result of the exception clause[2]. He further announced that next year might be another exceptional year.

The President then warned that the delegations in the Administrative Council would not easily accept funds being taken from the RFPSS to top up the contributions of active staff to pay the pensions. He recalled that any surplus would not be lost since it would remain "for ourselves".

We warned of possible discontent and social unrest, in the face of repeated yearly cash surpluses (€310m in 2021), assumptions that contradict real-life experience (e.g. as to inflation), an accumulation of cuts in benefits in real terms and an increase in many contributions. Instead of postponing the application, we also proposed to redo the actuarial study on a sounder basis with a view to applying it in two years' time – without success.

The CSC members in the GCC unanimously voted against the document (read their full opinion in annex for more details).

Contribution rates to the New Pension Scheme and to the Salary Savings Plan (GCC/DOC 12/2021)

As this document is closely linked to the previous one and its underlying assumptions, we cannot agree to the proposed increase in the contribution rates. Consequently, the CSC members in the GCC unanimously voted against the document (read their full opinion in annex for more details).

Total contribution rate to the healthcare insurance scheme (GCC/DOC 13/2021)

The increase from 9.0% to 9.9% of the basic salary or pension is also a direct consequence of the biased assumptions and flawed methods underlying the report of the Actuarial Advisory Group. Consequently, the CSC members in the GCC unanimously voted against the document (read their full opinion in annex for more details).

Contribution rate to the incapacity scheme for fixed-term employees upon termination of service (GCC/DOC 14/2021)

The scheme applies to a small number of former staff on fixed-term contract. In the future, it will become more important as the Office limits recruitment almost exclusively to fixed-term contracts. On the basis of the information given, the CSC members of the GCC unanimously abstained on this document (read their full opinion in annex for more details).

[1] "Sustainability clause" in the Salary Adjustment Procedure
[2] "Exception clause" in the Salary Adjustment Procedure

Transfer of funds from the Office's Treasury to the RFPSS and to the Salary Savings Plan (CA51/21) (GCC/DOC 15/2021)

We support the principle of transferring parts of the 2021 cash surplus (€310m) to the RFPSS and to the SSP, including increasing the part injected into the RFPSS from 40% to 50% (€150m), as they benefit staff as well as the long-term financial sustainability of the Organisation. However, as in previous years, we are strongly opposed to the unfair distribution key[3] for the individual SSP accounts, which is proportional to the amount of contributions paid into the accounts in 2021. As in previous years, we also proposed alternatives for a fairer distribution and regret that the document presents the top-manager-friendly alternative as the only one.

For the first time, pensions payments exceed the pensions contributions of active staff, so that an exceptional transfer of €5m is also necessary. We certainly prefer this option to an early depletion of the RFPSS.

Weighing up the pros and cons, the CSC members in the GCC unanimously abstained on this document (read their full opinion in annex for more details).

The document for information

Target Operating Model for DG1 Organisational Steps & Other Organisational Changes (GCC/DOC 16/2021)

This document is a prototype of managerial jargon. We asked what some of its content meant. The answer was essentially another load of managerial jargon.

Nevertheless, elements can be identified, a few positive and some negative. Many colleagues will be affected by the "rebalancing", which means for instance a change of technical field or reporting line in DG1. The new structure will also reduce the number of director posts, which raises questions about real career opportunities. Therefore we remain of the opinion that such far-reaching changes should be subject to statutory consultation, or at least prior discussion with the Staff Representation.

The President repeated (once again) that reorganisation is a matter for managers and that consultation with us would mean falling below any standard. The President did not expect a vote. You can read the full opinion of the CSC members in the GCC in annex for more details.

[3] For every one Euro injected into the SSP of a colleague in G7, our top managers in G17 take 16 Euros: see also the CSC announcement "SSP cash injections" of 7 October 2021.

Any other business

The Administration would publish an announcement on the functional allowances distributed in 2021[4].

The meeting closed on a personal note. Jesus Areso was given a personal farewell on the occasion of his upcoming retirement and thanked for his many years of service as a staff representative.

Conclusion

The President often argues that we are in a dramatic situation and that it could be much worse. So he would protect us from too negative effects of studies and reforms. We think he underestimates his powers. He is the initiator of many of the reforms, especially the Salary Adjustment Procedure, and of all of the recent studies, with him deciding on the assumptions used. This year he felt that the outcome would be so socially unbearable (a net decrease in salary) that it would justify postponing its application out of sheer generosity, thus actually deviating from the rules he set up together with the Administrative Council.

A similar pattern applies to the public holidays. The President first decides to close the Office at Christmas regardless of the actual situation, denying staff the free choice for four leave days, but then considers mitigating this with the free choice of one additional leave day in 2022, again out of sheer generosity[5].

At first glance, the moves seem noble. However, staff expect rules that do not systematically disadvantage them from the outset. Then they expect predictability in their application, not an accumulation of exceptions through discretionary decisions, *ex gratia*.

If assumptions and rules result in outcomes that consistently disadvantage staff, to the point that their application has to be postponed, we suggest that the first option would be to question these rather than make exceptions.

Your Central Staff Committee

Annexes:

Opinions of the CSC members of the GCC

[4] This has been done in the meantime: see the needy announcement "Harmonisation of functional allowance" of 15 October 2021.
[5] Please note that he has not confirmed this intention, expressed orally in the GCC meeting, in any publication to staff, as of today.

Opinion of the CSC members of the GCC on GCC/DOC 10/2021:
Public Holidays 2022

The CSC members of the GCC note that the official regional or national holidays at the places of employment are included in the proposed lists again. In 2017, the Reformation Day on 31 October was an official holiday in Germany, but not in the EPO. In 2018, Corpus Christi on 31 May was an official holiday in Munich and Vienna, but not in the EPO. In 2019, the International Women's Day on 8 March became an official holiday in Berlin, but not in the EPO. It is welcomed that since 2020 the good habit of adopting local holiday regulations has been reinstated (including Corpus Christi in Munich and Vienna as well as the International Women's Day in Berlin).

Still 2022 is an advantageous year for the employer because New Year's Day, 1 May, Christmas Eve, Christmas Day and New Year's Eve are all on a weekend. This results in 10 holidays for Munich and Vienna, and 7 holidays for The Hague and Berlin. The CSC positively recognises the re-establishment of the good old practice featuring compensation in form of additional annual leave to staff at the places of employment with fewer public holidays, aligned to the location with the most public holidays.

However, the CSC members of the GCC have a critical view on the proposed additional closure days on four days at the end of the year 2022, from 27 to 30 December 2022. Even upon request the administration was unable to provide a reference to the "Office's closure policy", which is listed in the document as the sole reason for the decision to close the Office on said days. The President's argument that closure days at the end of the year were discussed in the year before was not convincing because from a formal point of view the situation in 2022 is different to 2021 and from a practical point of view the situation has changed in the meanwhile. In particular, during the ongoing pandemic further experience with teleworking schemes has been obtained. Furthermore, a different behaviour of staff in taking leave has been observed. Closing the Office at the end of the year 2022 and asking staff to take authorised leave is thus regarded as an arbitrary and unjustified measure.

Three alternatives should be considered:

1. If the President decides to close the Office from 27 to 30 December 2022, these days should be recognised as official holidays.
2. If the President decides to close the Office from 27 to 30 December 2022, at least two days should be added to the annual leave balance for 2022.
3. The Office should not be closed from 27 to 30 December 2022. If closed, at least telework should be possible.

Such measures are justified because of the extraordinary achievements of staff during the pandemic. Moreover, the already few public holidays in 2022 give rise to such measures. Many colleagues taking special leave further shows that the freedom of taking annual leave according to personal circumstances should not be limited.

In conclusion, the CSC member of the GCC give a **negative opinion** on the proposal in GCC/DOC 10/2021.

The CSC members of the GCC

Opinion of the CSC members of the GCC on GCC/DOC 11/2021:

- **Joint Report of the Actuarial Advisory Group to the President of the European Patent Office – Actuarial Valuation as at 31 December 2020**
- **Office's comments on the joint report of the Actuarial Advisory Group**
- **Implications for the budget and financing of the RFPSS**
- **Joint report to the President of the European Patent Office on the actuarial study on healthcare funding RFPSS/SB 3/22**

The CSC members of the GCC give the following opinion on document GCC/DOC 11/2021.

Joint Report of the Actuarial Advisory Group to the President of the European Patent Office – Actuarial valuation as at 31 December 2020

The CSC members of the GCC welcome the fact that three meetings with the Actuarial Advisory Group (AAG) were arranged for the members of the GCC SSPR group in the course of 2021. The professional qualities of the actuaries and their willingness to reply to our technical and non-technical questions deserve our recognition. Their recommendations regarding the future service contribution requirements are of utmost importance for staff. As the results amount to changes in the contribution rates of +90 bps for the total contribution, +150 bps to the new defined-benefit pension scheme and –30 bps for the long-term care contribution rate, the application of such changes would have a high (negative) impact on the net salaries of staff.

Even if the actuaries' calculations cannot be checked in detail, they are subjected to a plausibility check and at least the underlying assumptions and parameters are examined more closely. It is with regret that the CSC members had to observe a sloppy preparation of the document tabled to the GCC, erroneous references for example provided in paragraphs 48, 91 and 127.

Worse than that, however, is the fact that the President only "provided access to all relevant data" as stated in paragraph 19. As the modelling of the new Salary Adjustment Procedure (SAP) is highly relevant for the calculation of the contribution rates, a more active role in explaining the details of the SAP would have been advisable. As the revised assumption of future salary increases has an impact of –239 bps to the total contribution rate, of –215 bps to the new defined-benefit pension scheme and of –17 bps to the long-term care contribution rate, although the assumption of real increases has only changed from 0.5% to 0.2%, a cautious and precise approach is required.

The actuaries rightly point out in paragraph 81 that the methodology does not allow for catching up real increases below that level [0.2%]. Their conclusion that still a rate of 0.2%

is a reasonable best estimate for the annual future increase in salary scales is thus not convincing. At least an analysis of the Specific Indicator in combination with the cutting mechanism at 0.2% real increase would have been appropriate. Therefore, it appears that the calculated contribution rates should have been lower when based on a more detailed analysis of the new SAP.

Furthermore, the reduced discount rate of 3.00% – a reduction of 25bps compared to the previous actuarial study – is not based on the latest available documents on the future investment strategy of the RFPSS (see agenda of SB RFPSS meeting on 14 September 2021). It is mainly based on the "Phase I" report dated 11 May 2021 by PPCmetrics. As the revised discount rate has an impact of +196 bps to the total contribution rate, of +177 bps to the new defined-benefit pension scheme and of +12 bps to the long-term care contribution rate, an approach based on the latest figures would have been preferred. The reduction of the discount rate appears premature leading to an increase of the contribution rates.

In consequence, the CSC members of the GCC conclude that two essential factors for the calculation of the contribution rates have been chosen based on insufficient information. The discretion in coping with these insufficiencies has then been exercised with results leading to increased contribution rates. While the present recommendations should not be applied, a further actuarial study – as suggested by the actuaries – at 31 December 2022 is supported. This would then also help to solve the problem mentioned in paragraph 57, namely that the impact of the pandemic has not yet been taken into account although it has an impact on the mortality assumption.

Office's comments on the joint report of the Actuarial Advisory Group – Implications for the budget and financing of the RFPSS

The AAG comes to the result that the global pension contribution rate should be increased from 32.7% to 33.6%, the contribution rate to the New Pension Scheme increased from 28.8% to 30.3% and the long-term care contribution rate decreased from 1.8% to 1.5%.

However, the Office deviates this year from the implementation date and proposes *as an exceptional social gesture, to apply the new rates from 1 January 2023* while maintaining the bi-annual schedule of the actuarial study (next actuarial study will be conducted in 2023).

The reasoning brought forward by the Office is *to avoid a net decrease of salary for EPO's staff that would result from the simultaneous implementation of the exception clause for salaries (no increase of salaries for 2022 is foreseen in the 2022 budget) and the increase of social security contribution rates*.

Based on the reasons given above, the CSC members of the GCC request that the contribution rates be frozen until the next actuarial study, foreseen in 2023, is conducted based on sufficient information and consequently leading to more realistic assumptions.

Joint report to the President of the European Patent Office on the actuarial study on healthcare funding RFPSS/SB 3/22

Introduction

For the first time since 2011 when the EPO started to fund the healthcare insurance scheme, the AAG recommends that the total contribution rate be increased to its **highest historical level of** +9.9%, namely +10% since the 9.0% recommended in the last study. The two main drivers contributing toward this increase are:

- The new salary adjustment procedure reducing the assumed rate of future real increases in salary scales (counting for +0.97% of the increase)
- The reduction in the discount rate from 3.25% to 3.0% (counting for +0.40% of the increase)

Both drivers are actually the result of management choices which are arbitrary and dogmatic.

The new salary adjustment procedure

Since 1 July 2020, Mr Campinos has introduced a new salary adjustment procedure (CA/D 4/20, Article 9) containing a "**sustainability clause**" capping the overall growth in the basic salary mass resulting from any adjustment to annual Eurozone inflation + 0.2%.

In the former actuarial studies, the actuaries assumed that in the long term the general salary increases would be "inflation" + 0.5%. When the actuaries started to work and to meet virtually together on 19 February, 1 March and 22 March, they had not been informed of a reform of the salary adjustment procedure. It is only on 22 April that they became aware of it, when talking for the first time with the staff representation. The actuaries stated that such a reform does certainly have an impact. When the staff representation met with again with the actuaries on 1 July and 6 September, the latter explained that their assumptions needed to be revised. Instead of "inflation" + 0.5%, they decided to lower their assumptions to Eurozone inflation + 0.2% in the long term, namely the cap imposed by the sustainability clause of Mr Campinos.

Experience has shown that the increase of healthcare costs (RFPSS/SB 3/22, par. 26) has often been faster than general salary increases. The cap on general salary increases this discrepancy. The contributions of EPO staff which are a percentage of the basic salary will hence lag behind the evolution of healthcare costs. The new salary adjustment procedure

is disconnected from reality. It is hence blatant evidence that the so-called “sustainability clause” of Mr Campinos is nothing but sustainable for our healthcare insurance.

In 2022, the situation will not improve. There will be a general freeze in salaries due to a clause introduced by Mr Battistelli back in 2014, the “exception clause” (Impl. R. Art. 64, Remun. Adj. Article 11), and maintained by Mr Campinos as a double cut on top of the “sustainability clause”. Any salary adjustment will be delayed until the Gross Domestic Product (GDP) of the Contracting States has recovered from its pre-crisis level (MAC report of 14 May 2021).

In a “DG1 All Event” taking place on 14 September in front of all staff, the disastrous result was hard for Mr Campinos to admit (see video at 1:22:40). Mr Campinos just stated that EPO staff would get Eurozone inflation + 0.2% and purposefully obscured the actual salary freeze.

Indeed, it is hard to admit that the EPO has the worst salary adjustment procedure among International Organisations. The new salary adjustment procedure was based on a flawed Financial Study by Oliver Wyman and Mercer in 2019. Mr Campinos chose a Base-2 scenario (CA/83/19, page 20) forecasting deflation risks although inflation in Germany for instance has now reached +3.9% in September (see Statistisches Bundesamt).

It is now clear that the salary adjustment procedure was a major mistake. Today, the healthcare insurance is paying the price of it.

Discount rate

The EPO healthcare insurance is funded and constitutes a share of the RFPSS (Reserve Fund for Pension and Social Security). In order to justify dogmatic reforms and to avoid accusations of making savings just for the purpose of it, one trick used by EPO management constitutes in underestimating returns on investments, namely to reduce the **discount rate**.

Since 1992 and until 2016, the discount rate varied between 3.50% and 3.75% (see CA/41/21, par. 22). Since the second mandate of Mr Battistelli, the EPO administration has consistently lowered it from 3.75% in 2014, 3.50% in 2016 and 3.25% in 2018. The actuaries now lower it again to its lowest level ever, namely 3.00%.

The actuaries justify this (CA/41/21, par. 75) from discussions with the RFPSS’ investment risk advisers (PPCmetrics), according to which the current investment strategy that has been deemed acceptable by the RFPSS and the Office can be expected to produce a real expected long-term return of around 2.3%, and that this strategy could potentially be revised to produce a real expected long-term return of closer to 2.5%. In short, the message is that the discount rate could have been lowered down to 2.5%.

Already in 2012, the average real long term return was expected to be an annual 2.9% (see RFPSS/SB 6/12, page 4/47). However, the results in 2021 (see RFPSS/SB 44/21, page 1/17) show that the long-term annualised performance over the last 10 years was 7.3% way and hence above benchmarks and targets. When having a look at the past, there is no reason to decrease the **discount rate**. But continuing with overly pessimistic assumptions (*"We will not obtain our investment target"*) is a convenient trick for EPO management to create an imbalance in staff benefits and to justify further cuts.
The unjustified decrease in the discount rate contributes to an increase in the contribution rate.

Conclusion

It is a matter of concern for staff that the management choices and reforms negatively impact the EPO healthcare insurance. With an aging population which had contributed for many years for the healthcare insurance and expecting proper coverage in case of sickness, it would be perceived extremely unfair that the Office does not take the appropriate measures to stop the imbalance in our healthcare insurance by other means that increasing contributions.

Taken as a whole, the CSC members of the GCC give a **negative opinion** on document GCC/DOC 11/2021.

Opinion of the CSC members of the GCC on GCC/DOC 12/2021:
Contribution rates to the New Pension Scheme and to the Salary Savings Plan applicable as from 1 January 2023

The CSC members of the GCC give the following opinion on the Contribution rates to the New Pension Scheme (NPS) and to the Salary Savings Plan (SSP).

Introduction

In the framework of the 2021 actuarial study (cf. CA/41/21), the President has requested the Actuarial Advisory Group to examine the level of the contributions to the pension schemes, considering the latest actuarial hypothesis and parameters. The recommendation for the contribution rates as from 1 January 2023 have been defined as follows (see also overview table of evolution of the contribution rates).

On the global contribution rate

The global contribution rate to both the NPS and the SSP has steadily increased from 27.3% at the time of inception of the NPS to 32.7% based on the actuarial study conducted in 2019. The current actuarial study (2021) comes to the result that the global contribution rate shall be raised from 32.7% to 33.6% of the basic salary.

On the NPS rate

The NPS total contribution rate (Office and staff) will be raised from 28.7% to 30.3% of the basic salary. The basis for levying the contribution rate to the NPS is the ceiling of twice the basic salary G1/4, i.e. slightly above EUR 6.000.

On the SSP

The SSP total compulsory contribution (Office and staff) will be the sum of 3.3% of the employee's basic salary, up to a ceiling of twice the salary for grade G1, step 4, and 33.6% of the part of basic salary exceeding that ceiling.

Year of actuarial study	2008*	2009	2011	2013	2015	2017	2019	2021
Global rate	27.3%	27.6%	27.8%	29.0%	29.0%	29.6%	32.7%	33.6%
NPS	22.9%	21.0%	21.0%	22.4%	22.5%	25.1%	28.7%	30.3%
SSP	4.4%	6.6%	6.8%	6.6%	6.5%	4.5%	4%	3.3%

* initial rate after design of the NPS

Opinion

In general terms an increase of the global contribution rate into pension schemes contributes to their financial solidity.

However, as the NPS has been designed on the one hand to reduce the liabilities of the Office by 50% and on the other hand to guarantee a similar pension for the colleagues in the NPS as for the colleagues in the original pension scheme (OPS), the increase of the global contribution rate as well as the increase of the defined benefit (DB) of the NPS jeopardise the originally defined key objectives of the NPS/SSP (see *Actuarial Guidance* by Mercer presented on 25 April 2008).

Consequently, the pensions of the colleagues in the NPS will not arrive at a similar level as the pensions of the colleagues in the OPS, as initially foreseen and promised. Especially, colleagues starting at e.g. G7/G8 and not progressing or only slowly progressing in their career under the New Career System (NCS) will have insufficient contributions into the SSP, compared to what was originally designed to provide a pension for the colleagues in the NPS similar to the one in the OPS.

The Staff Representation requests to be involved in a review of the NPS/SSP, which the President wants to conduct as of the last quarter of 2021, and requests a reassessment based on the key objectives that stand at the origin of the NPS/SSP and especially, the impact that the NCS and the decrease of the discount rate have on it.

In conclusion, the CSC member of the GCC give a **negative opinion** on the proposal in GCC/DOC 12/2021.

The CSC members of the GCC

Opinion of the CSC members of the GCC on GCC/DOC 13/2021:
Total contribution rate to the healthcare insurance scheme applicable as from 1 January 2023 (Article 83a(1) Service Regulations)

The CSC members of the GCC give the following opinion on the document.

Introduction

For the first time since 2011 when the EPO started to fund the healthcare insurance scheme, the Actuarial Advisory Group (AAG) recommends that the total contribution rate be increased to its **highest historical level of** +9.9%, namely +10% since the 9.0% recommended in the last study.

The two main items contributing toward this increase are:

- The **new salary adjustment procedure** reducing the assumed rate of future real increases in salary scales (counting for +0.97% of the increase)
- The **reduction in the discount rate** from 3.25% to 3.0% (counting for +0.40% of the increase)

Both items are actually the result of management choices which are arbitrary and dogmatic.

The new salary adjustment procedure

Since 1 July 2020, Mr Campinos has introduced a new salary adjustment procedure (CA/D 4/20, Article 9) containing a "**sustainability clause**" capping the overall growth in the basic salary mass resulting from any adjustment to annual Eurozone inflation + 0.2%.

In the former actuarial studies, the actuaries assumed that in the long-term the general salary increases would be "inflation" + 0.5%. When the actuaries started to work and to meet virtually together on 19 February, 1 March and 22 March, they had not been informed of a reform of the salary adjustment procedure. It is only on 22 April, when talking for the first time with the staff representation that they became aware of it. The actuaries stated that such a reform does certainly have an impact. When the staff representation met again with the actuaries on 1 July and 6 September, the latter explained that their assumptions needed to be revised. Instead of "inflation" + 0.5%, they decided to lower their assumptions to Eurozone inflation + 0.2% in the long term, namely the cap imposed by the sustainability clause of Mr Campinos.

Experience has shown that the increase of healthcare costs (RFPSS/SB 3/22, par. 26) has often been faster than general salary increases. The cap of Mr Campinos on general salary increases this discrepancy. The contributions of EPO staff which are a percentage of the basic salary will hence lag behind the evolution of healthcare costs. The new salary adjustment procedure is disconnected from reality. It is hence blatant evidence that the so-called "sustainability clause" of Mr Campinos is nothing but sustainable for our healthcare insurance.

In 2022, the situation will not improve. There will be a general freeze in salaries due to a clause introduced by Mr Battistelli back in 2014, the "exception clause" (Impl. R. Art. 64, Remun. Adj. Article 11), and maintained by Mr Campinos as a double cut on top of the "sustainability clause". Any salary adjustment will be delayed until the Gross Domestic Product (GDP) (MAC report of 14 May 2021) of the Contracted States has recovered from its pre-crisis level.

In a DG1 All Event taking place on 14 September in front of all staff, the disastrous result was hard for Mr Campinos to admit (see video at 1:22:40). Mr Campinos just stated that EPO staff would get Eurozone inflation + 0.2% and purposefully obscured the actual salary freeze.

Indeed, it is hard to admit that the EPO has the worst salary adjustment procedure among International Organisations. The new salary adjustment procedure was based on a flawed Financial Study by Oliver Wyman and Mercer in 2019. Mr Campinos chose a Base-2 scenario (CA/83/19, page

20) foreseeing **deflation risks** although inflation in Germany for instance has now reached +3.9% in September (see Statistisches Bundesamt).

It is now clear that the salary adjustment procedure was a major mistake. Today, the healthcare insurance is paying the price of it.

Discount rate

The EPO healthcare insurance is funded and constitutes a share of the RFPSS (Reserve Fund for Pension and Social Security). In order to justify dogmatic reforms and to avoid accusations of making savings just for the purpose of it, one trick used by EPO management constitutes in underestimating returns on investments, namely to reduce the **discount rate**.

Since 1992 and until 2016, the discount rate varied between 3.50% and 3.75% (see CA/41/21, par. 22). Since the second mandate of Mr Battistelli, the EPO administration has consistently lowered it from 3.75% in 2014, 3.50% in 2016 and 3.25% in 2018. The actuaries now lower it again to its lowest level ever, namely 3.00%.

The actuaries justify this (CA/41/21, par. 75) from discussions with the RFPSS' investment risk advisers (PPCmetrics) according to which the current investment strategy that has been deemed acceptable by the RFPSS and the Office can be expected to produce a real expected long-term return of around 2.3%, and that this strategy could potentially be revised to produce a real expected long-term return of closer to 2.5%. In short, the message is that the discount rate could have been lowered down to 2.5%.

Already in 2012, the average real long term return was expected to be an annual 2.9% (see RFPSS/SB 6/12, page 4/47). However, the results in 2021 (see RFPSS/SB 44/21, page 1/17) show that the long-term annualised performance over the last 10 years was 7.3% and hence above benchmarks and targets. When having a look at the past, there is no reason to decrease the **discount rate**. But continuing with pessimistic assumptions (*"We will not obtain our investment target"*) is a convenient trick for EPO management to create an imbalance in staff benefits and to justify further cuts.

The unjustified decrease in the discount rate contributes to an increase in the contribution rate.

Conclusion

It is a matter of concern for staff that the management choices and reforms negatively impact the EPO healthcare insurance. With an ageing population which had contributed for many years for the healthcare insurance and expecting proper coverage in case of sickness, it would be perceived extremely unfair that the Office does not take the appropriate measures to stop the imbalance in our healthcare insurance by other means than increasing contributions.

The actuaries recommended an application of the increased contribution rate as of 1 January 2022. Mr Campinos decided to delay the increase by one year and apply it as from 1 January 2023 *"as an exceptional social gesture* [to] *avoid a net decrease of salary for EPO's staff that would result from the simultaneous implementation of the exception clause for salaries (no increase of salaries for 2022 is foreseen in the 2022 budget) and the increase of social security contribution rates."* In the GCC meeting of 5 October, Mr Campinos additionally justified this "exceptional social gesture" as a way to reward staff for their work during the Covid-19 pandemic. We doubt staff will be convinced by the argument that not decreasing salaries and freezing them should be seen as a reward.

Instead of offering a postponement, which sounds like charity, Mr Campinos should rather solve the problems caused by the new salary adjustment procedure and ask his services to stop lobbying for a dogmatic decrease of the discount rate.

For the above reasons, the CSC members of the GCC give a **negative opinion** on the document.

The CSC members of the GCC

Opinion of the CSC members of the GCC on document GCC/DOC 14/2021: Contribution rate to the incapacity scheme for fixed-term employees upon termination of service, applicable as from 1 January 2023.

The CSC members of the GCC give the following opinion on the document.

The CSC members of the GCC recognise the importance of an incapacity scheme for our fixed-term colleagues, similar to the one for permanent employees. The document relies on document GCC/DOC 11/2021. In paragraphs 44 and 45, the AAG "*continues to believe*" that the former approach is appropriate, without any update or concrete further piece of information. The scarce information contained in GCC/DOC 14/2021 itself, together with the lack of a proper discussion in the GCC SSPR, makes it impossible to build an informed opinion as to whether the rate defined in Circular No. 404 should be maintained.

As a result, the CSC members of the GCC unanimously **abstain** on the document.

The CSC members of the GCC

Opinion of the CSC members of the GCC on GCC/DOC 15/2021:
Transfer of funds from the Office's Treasury to
the RFPSS and to the Salary Savings Plan

The CSC members of the GCC give the following opinion on the document.

On the transfer of funds to the RFPSS and to the SSP
As in the previous years the CSC appreciates the transfer of surpluses into both the RFPSS and the SSP, especially because a) these surpluses are the result of staff's hard work and b) pension and salaries are by far the main expenses and liabilities the Office has.

Furthermore, the CSC supports the transfer of funds since it ensures the long-term stability of the pension schemes for the benefit of the staff and the pensioners as well as the long-term financial sustainability of the Organisation.

On the transferred amounts according to document CA/51/21

RFPSS
The Office forecasts an annual cash surplus amounting to **EUR 310m.**
According to the Administrative Council's approval of the long-term sustainability bundle of measures (CA/18/20) it is proposed to invest cash surpluses in to the RFPSS (40%) and into EPOTIF (60%).
The Office proposes this year to increase the injection into the RFPSS from 40% to 50%, resulting in EUR 155m being earmarked for pensions. EUR 150m shall be injected in the Pension Reserve Fund (PRF) thereby contributing to improving the coverage of the pension liabilities and EUR 5m shall be used for expected pension payment deficits.

The CSC appreciates the transfer in the RFPSS as well as the increase of the injections to 50% (last year 40% have been transferred into the RFPSS).
Cash injections into the RFPSS can compensate possible expected decreases of the investment return in the coming years as calculated by PPCmetrics (Review of the SAA Phase I) and thus help to reduce liabilities.

SSP
The Office also proposes a cash transfer into the SSP on the basis that the SSP assets (EUR 184m) represent 1.783% of the PRF assets (EUR 10 302m) on 31 August 2021. The proposed cash transfer to the SSP would be equal to EUR 2.675m, i.e. an amount proportional to the suggested PRF cash transfer (1.783% x EUR 150m).
The CSC also appreciates the transfer into the SSP. However, it cannot support the administration's proposal on the distribution key. As in the previous years since 2017, the administration proposes an amount paid into each individual salary savings account **proportional to the amount of contributions** paid into that account in 2021 (see CA/51/21, paragraph 17).
This method creates significant distribution spreads amongst employees in the lower and higher grades of the salary scale, leading to a distribution ratio of 16:1 between a colleague in G17.1 and one in G7.1. This distribution ratio is perceived as being completely unfair by staff.
The CSC proposes that the distribution should reflect the benefits provided by the injection into the RFPSS. Cash injections into the RFPSS protect members of staff against potential future rises in global contribution rates. Those global contribution rates are **proportional to salary.** This calculation method results in a distribution ratio of **3:1**, which maintains a difference between the

lower and higher grades. This proposal would provide a fair distribution, such that the growing unfairness could be overcome.

Broken promises on the cash injections into the SSP

The CSC has made similar proposals to the administration in previous years. The President announced in the AC/158 meeting (see CA/PV 158, paragraph 112) that he would have a discussion on the topic so that there would be a positive outlook. He mentioned in the GCC on 22 November 2018 that it was important to start the discussion as soon as possible (see minutes GCC 4/2018, paragraph 48). Since 2018 this promise has not materialised.

The CSC requests the administration to include the CSC's proposal for the distribution key in section VI. ALTERNATIVES of a revised version of CA/51/21.

Transfer ratio into RFPSS and EPOTIF

Following the orientation provided in CA/18/20 ("Long-term Sustainability - Bundle of measures for the period 2020 – 2038"), it is proposed to inject 40% of the annual surpluses in the RFPSS and 60% in the EPOTIF. The reasons being "*that the EPOTIF is less exposed to market fluctuations than the RFPSS, due to the asset allocation. Moreover, the cash injected in the EPOTIF has no specific attribution and can always be redirected to cover other needs while the transfers to the RFPSS are definitive*."

The CSC doubts that the transfer into the EPOTIF is a safer option than the transfer into the RFPSS, since the EPOTIF has no supervisory body comprising all stakeholders, namely the AC, the staff representatives and the pensioners' representatives. Moreover, the RFPSS is geared towards long-term sustainability, which the EPOTIF is not.

The CSC maintains the request that in future the transfer of funds shall be weighted such to be transferred mainly into the RFPSS and SSP.

As a result, the CSC members of the GCC unanimously **abstain** on the document.

The CSC members of the GCC

Opinion of the CSC members of the GCC on document GCC/DOC 16/2021:
Target Operating Model for DG1 Organisational Steps &
Other Organisational Changes

The CSC members of the GCC give the following opinion on the above document.

This document was the only document classified on the agenda as "for information" and not "for consultation".

Procedural problems

We need to recollect which subjects should be for information or consultation in the GCC. Article 38(2) ServRegs, General Consultative Committee reads:

> "*The General Consultative Committee* ***shall****, in addition to the specific tasks given to it by the Service Regulations,* ***be consulted on****:*
>
> *- any proposal to amend these Service Regulations or the Pension Scheme Regulations,* ***any proposal to make implementing rules*** *and, in general, except in cases of obvious urgency****, any proposal which concerns the conditions of employment of the whole or part of the staff*** *to whom these Service Regulations apply or the recipients of pensions;*
> ***- any question of a general nature*** *submitted to it by the President of the Office;*
> *- any question which the Staff Committee has asked to have examined in accordance with the provisions of Article 36 and which is submitted to it by the President of the Office.*" [Emphasis added]

The lack of willingness to table the document for consultation implies that the President either interprets the Codex in a way fundamentally different from that of the Staff Representation (SR), or that he does not want that the SR should be consulted. Both options are not encouraging.

This GCC meeting was the first and only opportunity for the Staff Representatives to comment and ask questions on the new DG1 reorganisation.

Comments on the document

The positive part

- One single Office approach to planning, budgets, training, development and sustainability appears to be an improvement.
- The legal and the procedures departments in PD QBUS (D1321 and D1322) moving to DG5 Patent law (521) and (522) European and international affairs, PCT appear to be better located, concentrated in one single place.
- The staff in the management area in DG4 "managing" the Staff Representation is called 'Joint Social Dialogue Secretariat'. This team is moved from DG4 to DG0 directly under the President and is headed by the Chief of Staff. This move appears to give the SR the importance it deserves.

The confusing and vague part

- Why would one COO and 3 PD's be more efficient than one VP and 3 COOs?
- Why would 3 PD's avoid any possible silo effect better than the previous 3 COO's?

- Why would the line PD's have more collaboration with the transversal PD's when according to the diagram they have to communicate to the transversal PD's only via the single COO?
- Why would the hierarchy line be leaner with still: a VP, COO, PD, Director, Team Manager (TM) and Examiners / Formalities Officers (FO's) / Administrators? The hierarchy line appears to be just as long as in the past.
- One of the new transversal PD's will be in charge of the "Customer Journey and key account Management". Beside the fact that the name is entirely confusing (like a travel agent in charge of someone's journey), the EPC requires that all applicants should be dealt with equally. Having key account managers for applicants with higher number of applications appears to distort this equality.
- At directorate level it is mentioned that the director posts will be reduced "organically" from 48 to 35 which is by 25%. At the same time according to the document this reduction would give career opportunities to existing directors and TM. If the post are reduced how will any career opportunities arise?
- Arising career opportunities is also mentioned in the document under the heading 'Staff and Teams'. This is very vague since career opportunities may arise also without any reform at all (For instance due to unforeseen circumstances like resignations, unexpectedly retirement or else: the "organic" way).

<u>The not so positive in DG1</u>

- Grouping technologies in different ways, to be done within a couple of months starting in October 2021 and ending in March 2022. This appears to be quite optimistic in view of the fact that a similar exercise was performed only a few years ago and caused a lot of unrest in the Office and negative consequences for many examiners and FO's. Informing the staff that they will be moved in different technical fields does not really foster a culture of inclusion and understanding.
- There does not seem to have been any real discussion with the FO's. It will be seen how their tasks will be defined, what the upskilling will entail and whether the management will this time listen to their needs.

<u>Other comments</u>

- The managerial jargon is extensive and therefore the document is sometimes difficult to understand.
- The document looks like a *green washing" exercise. For good measure almost every paragraph has the word "'sustainability"' in it. Confusingly, sometimes "sustainability" is used in its financial meaning, sometimes in an environmental meaning, sometimes in both meanings in the same paragraph.
- Another new high position is created in DG4. The Chief Sustainability Officer (CSO) will be situated directly under VP4. It is questionable if a new post at such high level is absolutely necessary in view of the expressed fear of lack of financial "sustainability" of the Office.
- To secure long-term sustainability the Office argues that it delivered results in key areas of for instance "governance". It is questionable that anything has been delivered in this area. For instance the present document is for "information", not for "consultation". Hence the SR was not involved and was excluded from the decision-making process. The document mentions career opportunities, however the SR is still excluded from virtually all selection boards. All decisions are taken without any SR involvement although the SR are present in the Administrative Council (AC) when they decide over organisational matters. Many new staff at higher levels are hired from outside the Office without the SR even being

informed. This shows that there is a lack of transparency and governance in the Office.

- The staff in DG1 has a lot of experience with being "professionally" supported by the HR department. It is probably better if this support is only activated when absolutely necessary. The support along the structural changes in DG1 should be more from within DG1.

During the meeting the management was visibly irritated by our understanding of the document. However, not being involved in setting the parameters for the reorganisation tends to lead to different understandings of the intention, especially when this intention is deeply wrapped in managerial jargon. The reorganisation may be very well intended but the execution and implementation appears to have had a bumpy start.

This is exactly the reason why the Staff Representation should be involved in discussions prior to just being faced with a wide-ranging document as this one.

The CSC members of the GCC