

Ortssektion München . Local Section Munich . Section locale de Munich

26.11.2019
su19027mp – 0.2.1

SUEPO proposals on the New Career System

Summary: the New Career System (NCS) has ruined the careers of many while it has boosted the career of a few, amongst which the top managers having designed the NCS. The figures attached in Annex 1 (provided by management) show exactly that¹. Do you want to keep competing against your colleagues, endanger your health and destroy your job satisfaction? Or do you think, like we do, that time has come to fix the career system, i.e. by providing guaranteed step progression and a truly merit-based career. In this paper we develop some of the measures we are proposing to amend the NCS in order to make it fit for purpose.

INTRODUCTION / IMPACT OF THE NCS

Management has at last produced figures (see Annex 1) on the application of the new career since its introduction. They are still far from complete and the whole process remains very non-transparent. However it is now clear that **a large majority of staff saw very little or no progress at all in their career since 2015**, while a few have taken an unfair advantage of the NCS. It has had its high toll on fairness.

The toll on **staff health** is also very important, especially in DG1, where sickness figures are on the increase, with a marked increase (+25%) in psychopathologies (read: depression and burn-outs).

The **quality of the work** delivered has plummeted and this has not gone unnoticed outside².

Last but not least, the **NCS is a recurrent source of litigation**, since the administration takes every year more than 6000 individual decisions, each one being susceptible to be challenged individually. Such challenges have a fair chance of success, since the decisions are taken in an arbitrary and non-transparent way and management has the greatest difficulties to substantiate them.

¹ See also [Transcripts of the LSCTH GA's](#) of 03-10 and 10-10-2019

² See e.g. Kluwer Patent Blog [\(1\)](#), [\(2\)](#), [\(3\)](#), [JUVE](#) and many more

PRODUCTION TARGETS AND QUALITY

The staff representation provided as early as February 2019 an [input for the strategic plan](#) (see conclusion, point 5.1.1) and stressed that the targets must be brought to a sustainable level. This has been ignored so far by management³.

[SUEPO has proposed 17 measures to address the social situation](#) at the EPO.

SUEPO measure 1 reads:

1. **Set production objectives at a healthy and sustainable level to ensure that the quality of granted patents returns to the level which made the reputation of the EPO.**

CAREER SYSTEM

The Staff Representation has made many proposals in order to put an end to the current “Winner-takes-all” system and to go back to a truly merit based system. So far to no avail.

SUEPO measures 2-5 are designed to repair the career system.

Permanent employment (SUEPO measure 2)

2. **Amend immediately the policy of recruiting new colleagues on 5-year contracts. The EPO is rapidly becoming unattractive, especially for examiner positions.**

If the EPO is serious about a long-term relationship with its new recruits, permanent employment should be the rule when language requirements are met at recruitment stage. Should the EPO wish to offer contracts when language requirements are not fulfilled, it should offer only one contract and not two. And it must make sure that the contract is not too long. 5 years is excessive. The three years contract when the language requirements are not fulfilled was an acceptable approach to which the EPO should come back. Should the EPO want to keep 5-years contract, it should at least make sure that staff are informed at the latest at the end of their 3rd year that, if the language requirements are met, their contract will be turned into permanent employment.

If the EPO does not want to go into this direction, we can only advise our new colleagues to have a solid plan B towards the end of their first contract.

Recognition of previous experience and PhDs (measure 3)

3. **Amend further recruitment conditions by fair recognition of PhD and of professional experience in general.**

The problem of [recognition of PhDs](#) has been addressed by the Local Staff Committee of The Hague (LSCTH). Management must urgently address it and solve

³ See also [follow-up publication](#)

it. More generally, the recognition of experience only in batches of 6 years is creating an unfair treatment of new recruits depending on their past experience. It is so poorly designed that for some newcomers it is better to leave the EPO after some months and apply again to re-enter the EPO at a higher grade! Recognition of previous experience was better regulated under the former Circular 271, which the Battistelli HR administration suppressed in 2014.

A transitional measure with a budget for it (SUEPO measure 4)

4. Introduce measures for a viable transition from the old career system to the new one ([sc19095cl](#), page 4: “Input by the CSC on transitional measures”) by including a budget earmarked for transition measures in the 2020 draft budget.

All staff should be offered the career progression that would have resulted from the old career system within their grade before the transposition. The new system applies only from the moment staff reach the end of their grade (in the old career system). This implies that all staff should be reintegrated in the salary grid and that senior expert positions should be made available “*ad personam*” for former A4-2s, i.e. not only in DG1, until they reach the level of A4-2/13 of the former salary grid. A one-off additional budget for such fair transitional measures is needed in 2020. It should be included in the draft budget CA/50/19 which will be submitted to the December Council for decision. This would drastically reduce litigation on this front.

A fair career for everybody (SUEPO measure 5)

5. Redesign the current system professionally and calibrate it to provide a motivating average career ([sc19095cl](#), pages 6-27: “Input by the CSC on transitional measures”), ensuring staff engagement over their whole career. An appropriate annual budget for pensionable rewards must be made available reliably from now on.

We want to copy more from what was borrowed from the EU system when the NCS was introduced at the EPO: we propose to reintroduce an average career. The [proposals](#) the Staff Representation made to management have so far fell on deaf ears. Changes to the Service Regulations and to Circulars 364 to 366 are necessary to repair the current career system. We propose to increase the yearly budget for pensionable rewards and to reintroduce an average career.

The Staff Representation has already proposed several ideas to reintroduce a merit-based career centred on an average career. We describe in **ANNEX 2** some concrete measures to achieve this, which would in particular allow a **much quicker career progression for colleagues in the entry grades of their Job Groups** (e.g. G7 and G8 for Job Group 4). The measures imply changes to the Service Regulations, in particular to Article 48 and 49 ServRegs and also the inclusion of a budgetary tool in the Service Regulations – as done in all EU institutions, where Mr Campinos and Ms Simon (VP4) come from, and should be aware of. An academic study on how the career system has been applied at the EU is also attached as **ANNEX 3**. We highly recommend you to read it: it illustrates how the EU administration deals with careers.

The *technical* career should truly end in Job Group 3 (as decided by the Administrative Council in 2014, cf. ServRegs, Annex I: grades G13-3 to G15-4), not in Job Group 4. There are currently only 70 senior expert positions. This number must be considerably increased in order to offer a technical career to the best colleagues in Job Group 4. We recall that there were more than 400 A4-2s (equivalent to senior experts) when the NCS was introduced in 2015.

This is all the more important in DG1, since management has decided to reduce the number of Director positions in DG1 down to 35, de facto cancelling out the prospect of a *managerial* career ending in Job Group 3 in DG1.

The number of positions available for senior expert (in Job Group 3) should correspond to at least 10% of the available posts in Job Group 4⁴. In view of the lack of any career in the Boards of Appeals in The Hague, we consider that at least 250 senior expert positions should be made available in The Hague.

How to move forward?

The EPO (consultant) has proposed 17 measures. In a provocative way, “measure 5” suggests to further *reduce* the career progression budget. Starting from a baseline at 60% of eligible staff getting a pensionable reward, the consultant proposes 3 scenarios from “Low” to “High” intensity: first reducing to 55%, second reducing to 50% and third reducing to 40%. The most interesting part is the comment of the consultant “*High parameter value with increasing intensity was favoured by Finance and HR.*” This shows that unfortunately HR and Finance are at the commands of the EPO, fully disregarding the needs of the EPO, in particular of DG1, to offer a decent career that fosters cooperation and quality. Imagine what the typical career will look like with 40% pensionable rewards, looking at how it has been implemented over the last 5 years - with 60% (or slightly more) pensionable rewards⁵!

If we leave this provocation of HR aside, we consider that an “EPO measure 5” is acutely needed – but in the other direction. **The budget for pensionable rewards must *increase*** to a level ensuring a merit-based career around an average career as described above. It can easily be done by converting (part of) the budget for bonus into the budget for pensionable rewards.

Management and reversible measures

The new slogan of top management is that some measures might be reversible⁶! Are we supposed to trust them? In any event we think that the NCS as it stands should

⁴ As a transitional measure all A4-2s should be occupying a senior expert position *ad personam*, with guaranteed step advancement to the level they would have reached under the old A4-2 scale (as a transitional measure). Currently, there are not many more than 100 former A4-2s among active staff. Most have already left the EPO (prematurely). This means that most positions would be directly available for the more meritorious G13 colleagues.

⁵ See Annex 1 & [Transcripts of the LSCTH GA's](#) of 03-10 and 10-10-2019

⁶ Especially when they refer to the salary adjustment procedure, which they also want to attack.

be *reversed*. And it should happen *now* if the EPO management is serious about fostering cooperation, improving quality and stopping staff health deterioration.

In the meantime, we suggest that [staff reverses to quality](#) (SUEPO measure 1) as delivered before the introduction of the NCS. It is likely that the [quantity delivered will also have to be adapted](#) (SUEPO measure 1).

Pending any substantial improvement of the career system, we strongly advise to systematically challenge any lack of pensionable rewards. If you have not done it this year, consider doing so next year, should management refuse to adapt the career system in the coming months. If you do no longer enjoy a fair and reasonable career progression, despite the fact that your output is in line with what you used to deliver five years ago - or even higher - then *for sure* you need to fight for making management accept the concept of an average career.

All together, we can and will change the career system.

Make sure you (and your colleagues) produce top quality work!

[Join SUEPO](#) and fight for your rights

In the past two months SUEPO The Hague has been receiving on average a new membership application a day. If you are not a member yet, maybe it is time also for you to join SUEPO and be ready to defend collectively your rights?

**A [call for strike](#) has been lodged by SUEPO.
Make sure you (and your colleagues) take part in
the [ballot on 28 November](#) and vote for the strike!⁷**

SUEPO Munich

⁷ Ballot for strike will be held electronically on Thursday 28-11-2019. **A quorum of 40% of ALL EPO staff is required.** If for whatever reason you cannot vote, make sure you give a proxy to a trusted colleague by emailing her/his name to ballot@epo.org on 26-11-2019 at the latest – **ALL STAFF is entitled – and requested - to vote.**

ANNEX 1

Histogram with the figures of staff pensionable rewards 2015-2019



European Patent Office | 80298 MUNICH |
Mr Joachim Michels
Chairman of the Central Staff Committee

European Patent Office
80298 Munich
Germany
PD 4.3
Human Resources
Elodie Bergot
Principal Director
Tel +49 (0)69 2399 - 4300
elbergot@epo.europa.eu
sd1910861-0.3.14.2.1
Date: 27.09.2019

Your letter dated 16.08.2019 on the rewards statistics

Dear Mr Michels,

I refer to your letter dated 16.08.2019 in which you requested a graph showing the distribution of pensionable rewards amongst staff since the introduction of the new career system in 2015 until today.

Please find below a histogram as suggested in your letter.



It should be noted that only staff members who have been active and eligible for a pensionable reward in each year during the whole period 2015-2019 have been considered, i.e. in total 5027 employees.

European Patent Office
Söllerstrasse 1
80499 Munich
Germany

This means that newcomers, leavers and those having reached the last step of their career group have not been taken into account in the analysis because doing so would distort the statistics.

www.epo.org

As suggested in your letter, a double step has been counted as two steps, and "mini-steps" and promotions have been counted as 1 step.

I hope this answers your question and I remain at your disposal for any further queries.

Elodie Bergot
Principal Director Human Resources

ANNEX 2

Proposed changes to the ServRegs and Circulars

The following changes to the Service Regulations are needed to bring back some transparency and some fairness to the career system. There are also needed to allow managers to properly manage their teams and last but not least to solve past litigation and avoid a constant flux of litigation in future.

Article 48 (Step advancement)

We propose to replace article 48(1), EPO Service Regulations, which now reads:

“Within the budgetary limits available, depending on performance and demonstration of the expected competencies, an advancement of up to two steps in grade may take place every year.”

with:

“An official who has been at one step in their grade for two years shall automatically advance to the next step in that grade, unless their performance has been evaluated as unsatisfactory pursuant to the last appraisal report referred to in Article 47a ServRegs. An official shall advance to the next step in their grade after no later than four years, unless the procedure laid down in Article 52(1) ServRegs is applied.”⁸

Circular 364

Circular 364 should be completely revisited in order to make sure that past experience, including PhD, is properly recognised. It should also make clear that step progression must be guaranteed every year in the lower grades of job groups 4, 5 and 6. This is a necessary calibration for ensuring fairness across the whole career. It would also have the additional advantage that it would largely fix the issue with the Salary Saving Plan⁹. Indeed: new recruits since 2015 have been treated shamefully by management and are stuck in their grade without prospect of decent career progression. Many are looking for other jobs after few years at the EPO, as soon as they understand that they have been cheated by management, whose promises to them on the returns of their SSP will never materialise under the current career system.

Article 49(2) (Promotion)

We propose to replace article 47(1), EPO Service Regulations, which now reads:

“Access to the next immediate higher grade within the same post may result from a normal promotion procedure upon a decision taken by the appointing authority on proposal from the employee's line management, under the following conditions:

- having reached the last step in the current grade and

⁸ Current EPO Art. 52(1) ServRegs should be replaced with Art. 51(1)(a) EU StaffRegs.

⁹ See also: [NPS and SSP – Some are far more equal than others](#)

- proven performance and demonstration of the expected competencies over a period of several years;
- broadening or deepening of the employee's tasks, experience, competencies and responsibilities.
The appointing authority shall take its decision each year, within the budgetary limits available."

with

"Promotion shall be effected by appointment of the official to the next higher grade in the job group to which they belong. Promotion shall be exclusively by selection from among officials who have completed a minimum of two years in their grade after consideration of the comparative merits of the officials eligible for promotion. When considering comparative merits, the appointing authority shall in particular take account of the appraisal reports on the officials."

Please note that not needing to go to the end of your grade to be promoted is equivalent to today's double steps. It is however more easy to implement in a fair way than the double steps, since it gives back automaticity to steps (and thereby reduces considerably the transactional costs and friction within teams and directorates / departments) and it puts back the merit where it belongs, i.e. at the level of the decision to promote sooner or later. In order to guarantee fairness at the level of promotion, a budgetary tool is provided to also guarantee a higher rate of promotions on the lower grades (see below an example for the examiner career in job group 4).

Article 48a (bonus)

We propose to drop this article altogether and to use the full envelope of rewards for pensionable rewards as was the case until 2014, and as is the case in all EU institutions (they do not have bonuses – which indeed in our view have no place in public service).

Should management insist in keeping bonuses, e.g. because they are the first ones to benefit from them, bonuses should be limited to staff at the end of their job group who cannot be granted any step advancement or promotion. The list of bonuses served to staff and managers – and their amounts – should be known for obvious transparency reasons. We are a public service!

The proposed modifications to our ServRegs articles have been taken over from Articles 44 and 45, EU Staff Regulations and adapted to the EPO.

Introducing a budgetary tool

The EPO salary grid, like the EU one, has a big number of short grades with only 5 steps each, contrary to the old salary grid which had few very long grades with 13 steps each. In order to make sure that such a grid is used in a fair way, there needs to be an internal budgetary calibration to ensure that progression through the steps and grades is quicker at the beginning of the career and slower towards the end.

A budgetary tool, as foreseen in Annex 1 to the [EU Staff Regulations](#), could easily be implemented in the EPO as well. The demography of the EPO population and the structure of the salary grid should be accounted for.

The table below for the examiner career is proposed for discussion. The table must be completed and adapted to take more precisely into account the EPO structure and demography to make it work fairly. The budgetary tool is meant to introduce a strong collective guarantee at the beginning of the career and a weaker one towards the end. Circular 364 is to be amended to provide this guidance.

GRADE	Job Group 4 Examiner	Job Group 3 Senior expert
15		15%
14		15%
13	20%	15%
12	20%	
11	25%	
10	25%	
9	36%	
8	36%	
7	36%	

Reintroducing **transparency and trust** (Appraisal and harmonisation committees)

We used to have a transparent system with a joint body called “Promotions Board” with clear rules for promotions. This has been brutally abolished by the Battistelli administration and we have now a fully opaque system, despite what the President claims. His words cannot defeat the sad truth staff are experiencing.

We understand that with the current size of the organisation the former promotion system needed adaptation. In this area we also suggest to copy (and adapt) what exists in all EU institutions: management would prepare and publish a provisional list of the colleagues it intends to promote every year. Those colleagues, not on the list, but who consider on the basis of the applicable criteria and their performance that they should be on the list, would then have the possibility to challenge their lack of promotions. These requests would then be examined by a JOINT body to be created in the Service Regulations (e.g. a Promotions and Reclassification Committee to replace the current Harmonisation Committee). Management would thereby save the huge transactional costs (and the resulting frustration) which it has every year to decide on who gets a (pensionable) reward – or nothing. Management would also reduce the litigation since the opportunity of litigating would disappear at the level of step advancement, but only appear for promotions and even then only in cases where staff would still feel unfairly treated, after receiving a duly motivated confirmation by a body involving their representatives, as to why their promotion could not take place in that year. In the vast majority of cases it is likely that they would accept this decision and wait one more year or the time needed for their promotion. This body would also be in charge of examining cases of colleagues who request to be reclassified from one job group to another job group.

ANNEX 3

Academic study of the new career in the EU

Several years after the introduction of their new career system at the EU, an academic study was made. Its results have already been communicated by the Staff Representation to the management (see extract of a mail below sent to the Working Group on performance on 23 May 2019):

Please find attached [...] information on the EU career system including some academic input on its implementation ("[Simulation of Career Development in the European Commission](#)"). The EU institutions and agencies, such as EUIPO, use a similar career grid as the EPO with a big number of short grades (with 5 steps each). There are however several major differences in the further design and the implementation.

In a nutshell, the EU system is applied transparently with involvement of the Staff representation. It has internal calibration at the level of the Service Regulations for the promotions. The basis is in Article 45 of the EU Staff Regulations. These differences make it a system which can guarantee a fair and transparent average career, whereas the EPO system is "winner takes it all" system, which does not reward properly and fairly the merit and lacks any average career.

Please note that the system was introduced in 2004 in the EU and accompanied with a series of transitional measures. A table below illustrates these measures. As you can see, the original EU system was also close to the original EPO system. Their experience could help design proper transitional measures. The situation of the EPO is different in that it has to implement retroactively transitional measures, whereas the EU included them in the design of their new career, as all other organisations normally do (including the EPO except for the introduction of the current career system). This system should be familiar to both the President and VP4 who come from such environment and other newly appointed top managers who come from such an environment.

We can only encourage staff – and our management - to read this study and see how the EU administration¹⁰ compares with the EPO administration in their ability to design or to modify a career system. The input by USF (the federation SUEPO belongs to) to amend the EU system is provided in a footnote¹¹. All inputs are summarized in a figure on page 5 of the study (reproduced below).

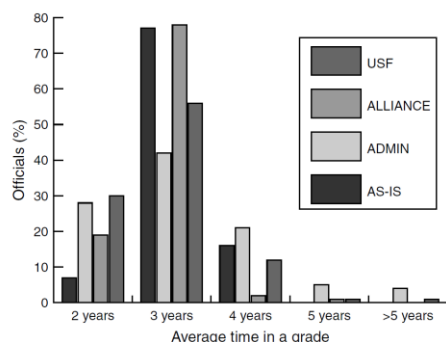


Figure 2: This figure shows a comparison of promotions speeds of entry-grade officials for four appraisal systems.

¹⁰ AS-IS represents the existing system with 0–20 merit marks awarded, an intended mean of 14.5 in each grade, and 0–10 DG priority points given. This clearly results in a narrow range of promotion speeds for entry-grade officials.

ADMIN represents an appraisal system proposed by the Commission clients. It results in a much wider range of promotion speeds; however, it retains a mean speed of three years. It uses five performance boxes to award promotion points (see Table 1).

¹¹ USF represents an appraisal system proposed by another group of trades unions; it results in a range of promotion speeds that lie between the AS-IS and ADMIN systems for entry-grade officials. Although it is similar to the ADMIN proposal, it uses seven performance boxes rather than five.