

Opinion of the CSC members of the GCC on GCC/DOC 8/2022

Entry into force of Circular No. 419 - Guidelines on New Ways of Working

1. The CSC members of the GCC give the following opinion on the “Entry into force of Circular No. 419 – Guidelines on New Ways of Working” proposed in [GCC/DOC 8/2022](#).
2. The document defines the date of entry into force of the New Ways of Working, the transitional measures and their period of application.

On the consultation

3. The document is tabled **for information** which means that the document shall not be subject to a vote and that the President does not expect an opinion to be submitted.
4. Circular No. 419 supersedes the Guidelines for Part-Time Home Working at the EPO which entered into force on 15 May 2018 and the emergency teleworking guidelines applicable since March 2020. However, the Circular does not mention any concrete date of entry into force (Article 16), defines only the outline of transitional measures (Article 17) and does not mention their period of application.
5. According to Article 38(2) ServRegs, the GCC shall be consulted on “*any proposal which concerns the conditions of employment of the whole or part of the staff to whom these regulations apply*”.
6. When, how and with which transitional measures such a proposal, here a Circular, is implemented directly affects the conditions of employment of staff. It is usually an integral part of the Circular. The President’s decision was therefore still required and needed to be submitted to the GCC.
7. The document should therefore have been submitted **for consultation**.
8. The content of the present document was never discussed in any of the meetings of the Working Group on Teleworking.
9. Circular No. 419 (Article 17) mentions that “*the President may decide to apply the limitation of Article 3(d) for teleworking from abroad and the minimum attendance requirement of Article 4 of the present circular only from a later date than the date of entry into force referred to in Article 16(1) and determine the corresponding number of days for the remainder of the calendar year on a pro rata basis.*”
10. However, the present document goes beyond this provision by adding that “*in the case of total absence – for any type of leave – exceeding 42 working days during this*

period, the minimum attendance mentioned will be reduced to 7 working days.” Such a provision was never discussed at any stage of the discussions with the staff representation.

11. Statutory consultation in the GCC meeting on 26 April 2022 was impossible but the President, in an email of 29 April 2022, declared that “*there are no reasons to repeat the GCC meeting*”.
12. For the above reasons, the CSC members of the GCC consider that the consultation is flawed.

On the merits

The pursuit of mandatory teleworking

13. In its [Communiqué](#) of 7 March 2022, the administration published an [EPO Gradual Reopening Plan](#) defining maximal building occupancy limits and sets it at 60% as from 1 May 2022.
14. According to the present document, Circular No. 419 will enter into force on 1 June 2022. If the administration does not lift the building occupancy limit, EPO staff willing to enter the premises and prevented to do so will be on mandatory teleworking according to Article 5(2). In the GCC meeting, we asked the administration for clarification but no answer was given.

The energy crisis – The next excuse?

15. In an Intranet [Communiqué](#) of 13 April 2022, the administration published a “[Multistage emergency plan - energy crisis](#)”. The plan is said to be based on the current situation in Ukraine causing countries across Europe to seek to reduce their dependence on Russian energy supplies and foresees the “*complete disconnection from the gas network and the closure of our buildings.*”
16. According to the EPO [Environmental report 2020](#), EPO buildings in Munich (page 9) are not connected to gas but rather to district heating which is not necessarily based on gas. The New Main building (page 12) is partly heated and cooled by groundwater heat pumps. Since most of EPO staff homes are heated with either district heating, oil or gas, sending the colleagues home would not necessarily reduce the dependence on Russian energy. The contrary might even be the case. EPO management fails to have a ‘holistic’ vision of the overall gas consumption of the EPO population.
17. In the GCC meeting, EPO management did not answer any of our questions about these contradictions.
18. Closing the EPO buildings would shift the burden of potential sky-high energy costs to staff, who would be again under **mandatory teleworking**. During the pandemic, the administration has consistently been refusing the concept of a teleworking allowance for the costs incurred when working from home. Using the energy crisis as

an excuse to continue along this line would be yet another blow to an already dispirited workforce.

19. During the consultation on Circular No. 419, the staff representation objected many times to the blanket clause in Article 5(2) and the Annex definition concerning the exceptional circumstances triggering mandatory teleworking. Mandatory teleworking would contribute to none of the circumstances expressly mentioned in the Annex ("*business continuity*", "*collective health or safety crisis*").
20. It appears that for EPO management, there will always be a good excuse, presented as an exceptional circumstance, to send staff back home and to make it unattractive to come to the Office premises. If the excuse is not Covid, then it will be an energy crisis.
21. The CSC members of the GCC consider the recent developments a precedent and it seems that management feel that they can develop an emergency crisis plan without any prior consultation with staff and their representation.
22. For the above reasons, and even if the Staff Representation is not formally asked for an opinion, the CSC members of the GCC cannot be in support of the document.