Europäisches Patentamt
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Office européen des brevets

Zentraler Personalausschuss
Central Staff Committee
Le Comité Central du Personnel

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Report on the 55th meeting of the GCC on 26 April 2022

Dear colleagues,

As already explained in an earlier publication, the GCC meeting of 26 April was the worst ever experienced under Mr Campinos' leadership. The CSC members of the GCC requested that the consultation on the agenda items be repeated; and that the official recording of the discussions in the meeting be made available so that staff become aware of how the President chaired this statutory meeting.

After that meeting, the CSC members of the GCC expressed the following preliminary unanimous votes on the documents on the agenda submitted for consultation.

- Professional mobility (GCC/DOC 06/2022): **negative** vote
- Directive on an in-house supervisory committee for SSP investment management and administration (GCC/DOC 07/2022): **positive** vote

No vote was expressed on a third document (GCC/DOC 08/2022), i.e. the decision of the President on the entry into force of Circular No. 419 (New Ways of Working).

On 29 April, the President informed the CSC members that "*there are no reasons to repeat the GCC meeting*" and he did not address the question of the recording. The reasoned opinions on the above documents are thus given under protest and they can be found online.

Undoubtedly, the first document (Professional Mobility) on the agenda is the one that would most profoundly change the way official EPO duties are assigned to employees, be they EPO staff or national civil servants. In best Battistelli tradition, Mr Campinos has prepared a "package" to be submitted to the Budget and Finance Committee and to the Administrative Council for approval in June 2022 (see CA/32/22 and CA/32/22 Add.1), with various measures more or less closely related to mobility:

- Young Professionals, a new category of EPO employees
- Secondment for EPO employees
- Unpaid leave
- Seconded National Experts, seconded to the EPO
- Language policy
- Praktika extern / intern

The document has not dispelled the reservations in the report on the March GCC meeting with respect to the orientation paper on mobility (GCC/DOC 05/2022; CA/19/22). Some points can be highlighted:

- Although many measures introduce new possibilities, hardly any of them lead to new entitlements or rights for individuals working for the Office. They just extend the discretionary power of the appointing authority (i.e. the President of the Office in practice) to decide "*in the interests of the Office / service*", which is vague enough as a criterion.
- Opacity: summary reports to the Administrative Council, if any, are no substitute for transparency. The selection of the candidates is consistently non-transparent. EPO staff (and their representation) will hardly be informed of discretionary decisions or bilateral agreements between the President of the Office and external entities, let alone their specific terms. The CSC regrets this drift from service law to contract law, masquerading as "flexibility", "agility" and "mobility".
- Individuals will hardly be informed about how others have been treated, calling into question the principle of equal treatment under the guise of "diversity".
- Suddenly, financial "sustainability", the buzzword used to justify many detrimental reforms of the past, no longer seems so important for some measures.
- Secondment is strikingly generous for the persons concerned and for the non-EPO entities concerned (mostly national IP offices), at a time when the President is campaigning for re-election.
- The generosity of the measures on secondment strikingly contrasts with the stinginess of the regime for Young Professionals, a new category of staff.
- The language requirements are lowered, although they cannot be separated from the technical or professional expertise in order to guarantee the quality of the services the EPO offers.

The EPO fulfils a mission of public service with the core task of granting European patents by a single procedure[1], possibly soon with unitary effect. The Contracting States have also ratified a Protocol on Centralisation. Until now, civil servants appointed by the Office / Organisation have performed this core task under conditions of employment comparable to those in other international organisations. The new package allows "Seconded National Experts" (i.e. civil servants of central industrial property offices of the Contracting States) or "Young Professionals" (i.e. EPO staff far below the usual salary range) to perform this core task, although they are not officially part of the departments under Article 15 EPC.

The CSC believes that such a fundamental questioning of the EPC framework should at least be discussed in a conference of ministers in accordance with Article 4a EPC, as already referred to in the open letter to the Heads of Delegation on 18 March. Such a conference shall meet anyway at least every five years to discuss issues pertaining to the Organisation and to the European patent system. The conference has been overdue for a long time.

Your Central Staff Committee

[1] See the Preamble of the EPC.