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Zentraler Personalausschuss
Central Staff Committee
Le Comité Central du Personnel

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Report on the GCC meeting of 1 June 2023

Dear Colleagues,

As is now regrettably normal, the meeting took place by videoconference and in the absence of the President of the Office, i.e. with Vice-President Legal / International Affairs (Christoph Ernst) chairing.

The agenda was as follows:

Periodical Review of the Service Regulations	GCC/DOC 11/2023
Public Holidays 2024	GCC/DOC 12/2023
Introduction of a strategic bonus to reward achievement during current year	GCC/DOC 13/2023
Healthcare Insurance figures 2022	GCC/DOC 14/2023

The first three documents were "for consultation", the last one "for information". We wrote reasoned opinions on the first three documents. They are appended to this report.

Business as usual

The first two documents are of the usual type, with no spectacular changes. It was possible to avoid an intended amendment to Article 71 ServRegs on the education allowance before thorough discussions could take place. The third document introducing yet another type of non-pensionable bonus is more problematic.

Bonuses

The strong reservations[1] we made when the reward exercise 2023 was announced apply more than ever: the budget for pensionable rewards decreases and non-pensionable bonuses of all kinds proliferate. The "strategic" bonus is created in the middle of a reward exercise, to be awarded twice a year in the future. It can hardly be considered an "additional" reward since it will be paid in July 2023 from unspent funds of the 2023 exercise, where other bonuses were already awarded for "contributions to strategic projects"[2].

We consider the initiative problematic:

- It signals the Office's focus on short-term contributions to management projects rather than on fulfilling the long-term core mission of the Office (which must be rewarded with pensionable promotions and step advancements).

[1] See our publication: "Reward Exercise 2023 : Taking away with the other hand" of 22 February 2023
[2] See the President's Guidelines on Rewards 2023

- It looks very much like improvising a new rule in the middle of the game, in addition to the rules announced in the Guidelines on Rewards for 2023.
- In future, it will give staff opportunities twice a year to wonder why they (did not) receive a bonus, or yet another bonus[3]. We doubt that this will contribute to social and legal peace.

Conclusion

We understand that the Office does not want to question the New Career System now, as the ILOAT will deliver in public the judgments of its 136th session on Friday 7 July 2023[4], including three important cases relating to the EPO's New Career System. However, we expect a system in the future that shows that the Office is willing to invest in the long-term careers of its staff.

The Central Staff Committee

Annexes:
- Opinions on documents GCC/DOC 11/2023, GCC/DOC 12/2023 and GCC/DOC 13/2023

[3] In theory, such bonuses can be cumulated in Job Groups 3 to 6.
[4] See the ILOAT announcement "136th Session - results and public delivery".

Annex 1

Opinion of the CSC members of the GCC on GCC/DOC 11/2023:
Periodical Review of the Service Regulations

The CSC members of the GCC appreciate that an advanced version of the present document could be discussed in a technical meeting on 15 May 2023. The discussion resulted in several changes in document GCC/DOC 11/2023.

In particular, intended amendments to Article 71 ServRegs concerning a pro-rata reduction of the ceilings for reimbursement of educational costs could be avoided. Further discussions are needed and a more detailed analysis of further exemplary cases is required in order to find appropriate solutions for special situations. The Staff Committee is ready to participate constructively in these discussions.

The discussion on the amendments to Article 53(5) ServRegs concerning the job loss indemnity for staff on fixed-term appointment resulted in a confirmation that an employee on a fixed-term appointment is to be informed of the non-extension or non-conversion of the appointment no later than 12 months before it is due to end (see Article 2(5) of Circular No. 405). It is therefore not necessary to include such a time limit to the cases regulated by the intended amendments. The original concerns of the CSC members of the GCC are hence redundant.

The clarification of the timeline for decisions by the Administrative Council resulting from the proposed amendments to Articles 107, 108, 109 and 110 ServRegs is appreciated. They clarify by when an implied decision of rejection can be seen to have been taken and when requests for reviews are submitted for decision. With regard to the provisions foreseen in Article 29(3) EPC, the CSC members of the GCC base their favourable view on the confirmation of the long-standing practice of having four meetings of the Administrative Council per year.

The CSC members of the GCC welcome the proposed amendments to point 4.5 of Annex II of the ServRegs making a ranking of suitable candidates possible in selection procedures. The reference to ILOAT Judgment No. 3619, however, remains unclear.

The proposed changes regarding gender neutrality are also favourably received.

As periodical reviews of the Service Regulations are inherently on the GCC agenda on a periodical basis, the CSC members of the GCC recommend that discussions with the Staff Committee be sought even earlier in the future.

Annex 2

Opinion of the CSC members of the GCC on GCC/DOC 12/2023:
Public Holidays 2024

The CSC members of the GCC are pleased to note that the official regional or national holidays at the places of employment are included in the proposed lists. It is welcomed that since 2020 the good habit of adopting local holiday regulations has been reinstated. Also, the special regulations for Brussels according to local circumstances and business needs appear adequate. The pragmatic approach is positively acknowledged.

The CSC members of the GCC positively recognise the longstanding practice of 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 negative view on the proposed closure days on 27 and 30 December 2024. The document is silent on the reasons for said closure days. A reference to an "*Office's closure policy*" can hardly be considered a reference to Circular No. 22. And even if so, Circular No. 22, Rule 4 provides only for a discretionary decision by the President ("*may decide, in the interest of the Office, to close the Office between Christmas and New Year*"). A balanced exercise of discretion has not been demonstrated. It is not apparent from the document that the administration has made any efforts to weigh the advantages of the proposed closure days for the Office against the disadvantages for staff. Even upon request and after pointing out that the situation changes from year to year, the administration did not answer in the meeting of the GCC how the President exercised his discretion. For example, neither were statistical elements presented, nor was the experience with staff working from home and as gained recently during the Covid-19 pandemic analysed.

In particular, the CSC members of the GCC have a negative regard for the order that staff would have to decide at their discretion which type of authorised leave to take on the above two compulsory closure days. Said order amounts to a deduction of authorised leave days, which are thus no longer at the disposal of staff. While Article 59(2)(b) ServRegs in combination with Article 10(2)(a) EPC authorises the President to lay down the list of public holidays applicable to each place of employment, no authorisation is given for the deduction of leave days. The practice of deducting compensation hours in case the staff member does not follow the above order is also not authorised. Compensation hours constitute an arrangement of working hours, not additional leave or any form of reduction in working hours. The deduction of compensation hours thus amounts to an order to work overtime. However, an employee may not be required to work overtime except in cases of urgency or exceptional pressure of work (see Article 57(1) ServRegs). A supposedly discretionary and planned closure of the Office can hardly be considered urgent or caused by exceptional pressure of work. Consequently, the regulations in the document (and the corresponding regulations of Circular No. 22) in this regard travel beyond the ServRegs and the EPC. The order must therefore be found illegitimate.

The CSC members of the GCC regret that the discussion on compulsory closure days and in particular on the deduction of authorised leave days has still not led to a satisfactory solution. An intensified social dialogue should avoid having this issue decided by the Administrative Tribunal of the ILO.

**Opinion of the CSC members of the GCC on GCC/DOC 13/2023:
Introduction of a strategic bonus to reward achievements during current year**

The CSC members in the GCC give the following opinion on the proposed changes as outlined in GCC/DOC 13/2023 on strategic bonuses.

The changes have been discussed in a technical meeting on 25 May 2023. The administration mentioned it would provide additional information in writing, which however never materialised.

According to the document, every 6 months the work in a strategic project (initiative) should be rewarded starting from July 2023, i.e. already in one month from the GCC meeting.

General remarks on bonuses in general

The CSC is of the opinion that bonuses are not a form of reward for work done by staff in an organisation performing administrative civil acts.

This new scheme for bonuses promotes competition between staff, even within the same teams or projects. In that, it jeopardises the efforts for collaboration put forward in the recent past.

This new scheme sends once more a negative message to staff performing the core work in DG1 as well as all staff performing the mundane tasks every day to ensure the functioning of the Office. They seem to be the ones not meritorious of that recognition of “high-level contribution”. Core work is by its nature a strategically essential work, as it is the mission of the Office to do so.

We understand that this new form of bonuses shall be paid to staff for their extraordinary engagement in contributing to the “Office’s strategic initiatives”. It is commendable that the administration concluded that the staff deserve a further reward because of their efforts. The staff would however, appreciate much more this recognition if it would be reflected in a better and predictable career, with yearly pensionable rewards rather than a multiplication of *ad hoc* arbitrary bonuses.

The CSC is of the opinion that not only 60% of staff worked in the Office but 100% of staff work towards achieving the Office’s strategic initiatives and therefore they all deserve to be rewarded.

To the new “strategic” bonus itself

Following the career reform in 2014, the Office proposed to distribute pensionable and non-pensionable rewards to staff. This separation already negatively affected the staff career by lowering the budget available for pensionable rewards in order to introduce an individual/general/collaborative non-pensionable reward. This was done with no real necessity, in view of the huge yearly surpluses staff have contributed to produce.

The budget agreed by the Administrative Council for the non-pensionable rewards does not seem to have been fully distributed to staff. Instead a part has been saved in order to pay for the strategic bonuses. This gives the impression that this is a new bonus rewarding the staff more, when actually it uses the money saved by not distributing it to staff in the first place.

Specifics

Lack of transparency

The rewarding process is unclear and untransparent in that there are three hurdles for a staff member to get the reward:

1) The initiative owner chooses and picks;
2) The line manager adds a subjective filter;
3) The President decides without criteria what is to be shared by which staff.

It remains also unclear how strategic bonuses are different from individual or cooperative bonuses and according to which criteria bonuses can be cumulated. However, failing any knowledge of any projects or tasks which are to be rewarded strategically, we fear that the same projects that are rewarded for collaboration or individual achievements will be rewarded yet again for strategical usefulness this year.

Risk of uneven distribution

We also fear that the majority of staff in the Office are not in a situation where such strategic events happen every six months and therefore will miss the opportunity of also receiving such bonuses.

The administration confirmed that strategic bonuses of up to EUR 2000 per bonus will come on top of the up to EUR 9000 bonuses already agreed for this year. The possibility of cumulating more than one strategic bonus every 6 months has also been confirmed.

Most staff don't have the luxury to participate in strategic projects because they have to work under pressure to achieve high targets to secure the income of the Office and fulfil its core mission. Paired with a total lack of transparency, the new bonuses pave to way to concentrating multiple bonuses on some "happy few", i.e. on some staff fortunate enough to work for strategic initiatives who can then receive more than one bonus while others doing the mundane routine work will go empty. These bonuses are arbitrary and biased by construction.

The administration could not confirm a ceiling for the strategic bonus for the years to come.

A perspective for fairer rewards

The CSC is of the opinion that the staff deserve a fairer form of rewarding.

The CSC suggests that the administration consider opening the ceilings of the career for all job groups. Allowing staff to move up the pensionable career ladder would be a start. Presently, staff that reach the last step in their grade (like G 9/5 or G 13/5[1]) are stuck there for the rest of their career, which could be 10-15 years without any kind of pensionable reward.

An example of a start of how the career could be improved has passed the GCC in May 2023 (GCC/DOC 9/2023) and has been adopted in the Administrative Council (CA/23/23). It introduces (as of 2024) a fairer career reform which allows further pensionable steps for chairs and members in the Boards of Appeal. Besides the fact that in the 'outside word' it is the lower grades who are first helped in their career not the highest, this is already a good start. The CSC can only encourage the administration to continue in this direction also for the rest of the staff.

[1] 827 staff are presently stuck in G 13/5.