



Munich, 19-10-2023
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Report on the GCC meeting of 28 September 2023

Dear Colleagues,

The General Consultative Committee (GCC) met on 28 September 2023. The following items were on the agenda of the meeting and the CSC members of the GCC raised their concerns and tried to get further clarifications:

- Amendment of Circular 423 “Guidelines for applying the conditions of employment for Young Professionals” – for consultation [GCC/DOC 15/2023](#)
- Amendments of Art. 69, ServRegs and Circular 82 Dependant’s Allowance – for consultation [GCC/DOC 16/2023](#)
- Amendment of Circular 339 “Guidelines for overtime, shift work and on-call duty” - for consultation [GCC/DOC 17/2023](#)
- Extension of the recognition of partnership – for consultation [GCC/DOC 18/2023](#)
- Transfer of funds from the Office’s Treasury to the RFPSS and to the Salary Savings Plan (CA/59/23) - for consultation [GCC/DOC 19/2023](#)
- Joint report of the Actuarial Advisory Group to the President of the European Patent Office and Office’s comments on the report – for consultation [GCC/DOC 20/2023](#)
- Circular 417 : Contribution rates to the New Pension Scheme applicable as from 1 January 2024 – for consultation [GCC/DOC 21/2023](#)
- Circular xx: Contribution rates to the Salary Savings Plan applicable as from 1 January 2024 – for consultation [GCC/DOC 22/2023](#)
- Circular 416: Total contribution rate to the healthcare insurance scheme applicable (Article 83a(1) Service Regulations) – for consultation [GCC/DOC 23/2023](#)
- Death insurance: Review 2020-2022 and provisional contribution rates for 2023 (Art 84, ServRegs) – for consultation [GCC/DOC 24/2023](#)
- Adjustments to the Office’s Organisational Structure – for information [GCC/DOC 25/2023](#)

The detailed and reasoned opinions by the CSC members of the GCC are annexed to this paper.

The Central Staff Committee

**Opinion of the CSC members of the GCC on GCC/DOC 15/2023:
Amendment of Circular 423 “Guidelines for applying the conditions of employment
for Young Professionals”**

The general position on the Young Professionals program remains unchanged amongst the CSC members of the GCC. The tasks within the EPO should be entrusted to employees under permanent contracts. The growing participation of Young Professionals in the core tasks of the Office elicits concerns. The secondment of Young Professionals to NPOs is perceived as an additional stride toward the decentralisation of the EPO, a trend to which the CSC members of the GCC vehemently object.

Nevertheless, the CSC members of the GCC are committed to the working conditions of the Young Professionals. The suggested amendments represent an enhancement over the prior conditions, though two additional comments are made to provide a comprehensive perspective.

- Article 4: Young Professionals on secondment will receive a monthly payment amounting to 15% of the Office’s daily subsistence allowance for the place of secondment, multiplied by 30. This amount appears insufficient for appropriate accommodation in the host countries. The CSC members of the GCC are concerned that secondments may predominantly occur to the home counties of the Young Professionals, where lodging is naturally easier and less cost intensive. As already envisaged with the administration, the CSC members of the GCC suggest a review after one year so that feedback from the Young Professionals on secondment can be duly considered.

- Article 1(2): The CSC members of the GCC appreciate the extension of the length of time offered to the Young Professionals to achieve the language certificates. However, a further extension to 18 months is recommended.

The CSC members of the GCC would like to highlight the quality of the discussions with the administration in the preparation of this document. All essential information was available in the technical meetings and the discussions took place in a constructive atmosphere.

**Opinion of the CSC members of the GCC on GCC/DOC 16/2023:
Dependant's Allowance**

The CSC members of the GCC are pleased to note that the administration held three technical working group meetings with the Staf representation in which many issues have been discussed and could be resolved. This working practice is really appreciated.

Outcome of the Working group discussions.

1. The present document (sent to the GCC) is a vast improvement when compared with the former document presented during the first technical meeting.
2. Overall, the addition of "military" and "voluntary service" (up to two years) is seen as a positive step.
3. The maintenance of the two separate sub-articles, 69(3) and 69(4) Serv Reg is also welcomed.

History of the problem between Article 63(3)a-c and Circular 82.

Article 69(3) defines the dependency of a child and Article 69(4) the dependency allowance for children while Article 70 defines the dependency allowance for others. Circular 82 should only regulate how the dependency of Art 69(3) is granted not the allowance in Article 69(4).

Sometimes there are references to Article 69 and 70 in other parts of the codex, so Article 69 originally organising dependents' status and allowance is also used for other aspects. This makes it difficult to amend and interpret.

The SR maintained the opinion that Circular 82 should not restrict the criteria for granting dependency (status) to children before 18 or from 18-26 of age.

The CSC notes that potential problems remain and may arise for children from 18-26 years old, not studying and not following a voluntary program or military service. These issues will be mostly noticed in CIGNA coverage; survivor's pension rights; Visa (residence in the host country) and Household allowances.

This was the reason for pursuing an amendment to this procedure.

Following our intervention, last year, the office saw the need to amend the criteria for health care for children from 18-26 of age. As such following the finalising of a continuous vocation or full-time education a child will still receive health care for a 6-month grace

period (See art. 83(1)(c) Serv.reg). This is not ideal, but better than the original regulations.

With the present amendments further parts of the problems are solved with the introduction of dependency for children in voluntary programs of up to two years and military service.

The SR proposed to keep working to amend Circular 82, like improving the definition of “mainly and continuously supported by...”. We have already proposed the introduction in rule 1, Circular 82, to include the extra point: “by virtue of a legal or judicial obligation”. This point has a positive aspect which is the broader understanding of “dependency”. This amendment was not accepted ‘yet’. Nevertheless, the SR sees Circular 82 as “work in progress”.

During the GCC

1 The SR pointed out that the definition of dependents also has an impact on the orphan’s allowance while the cut of day for commencing of the health insurance appears ambiguous.

The office mentioned that it will never leave any child behind and will invoke ex-gratia the president’s power in Article 87 Serv. Reg. to allow the child to receive the orphan’s pension. Also, once in full time education or vocational training or voluntary work or military service the child will also receive the dependency allowance.

2. To the cut of date, the office noted that this is regulated clearly in Circular 411. Although this may be the case, the SR think that the cut of date can be improved as this has also an impact on the education allowance.

3. The SR asked for a clarification of the criteria used for Article 69(3) for children under 18 and above.

The Administration presented the way it interprets the dependency for children up to 18 years and after 18 years until 26.

A: Children up to 18 years of age are considered dependants on the employee. There are no further criteria.

B: Children between 18 and 26 need to further be in full time education, a vocational training or voluntary / military service in order to qualify as dependants. Under these conditions they not only will be considered dependants but also qualify for dependant allowance and will be Cigna insured.

4. Addition to Rule 4, Circular 82.

The Staff representation stated that the term “values of the EPO” in Circular 82, rule 4 (Voluntary programs) should not be introduced, as it is vague and fluid over time. Management guaranteed this rule would apply only in a limited way, for situations where voluntary programs promote war. As such the Staff representatives were satisfied with this answer. The concern was that society values such as those of ‘Green peace’ and other environmental organisations’ stance on issues such as patents on plants would not be seen in line with the EPO values. This concern has been dispelled.

The admin wants to maintain the right to approve or not voluntary work.

Conclusion

Overall, the CSC noted a vast improvement in the way the administration perceived and dealt with the issues at stake in comparison with a couple of years ago. We can only commend such an approach for all other issues to be discussed in future.

**Opinion of the CSC members of the GCC on GCC/DOC 17/2023:
Amendment of Circular 339 “Guidelines for overtime, shift work and on-call duty”**

The CSC members of the GCC noted that during the working group meetings, their representatives received some clarification to the proposed amendment of Circular 339 “Guidelines for overtime, shift work and on-call duty. This way of working is really appreciated by the CSC members of the GCC and hope for continuity in this direction.

The CSC members of the GCC believe that some improvements in the circular and service regulations are desirable and would like to make the following observations:

1. Article 58 “Shift work” of the Service Regulations: shift work should preferably end by 21:00 instead of currently 22:00.
2. Colleagues of former B/C grades are now referred to as colleagues within JG6 and JG5. In Art.57 “Overtime” of the Service Regulations on overtime, however, former B/C grades were replaced by colleagues in grade G6 and below, excluding thereby all colleagues in Job Groups 5 and many colleagues of JG6. This should be reconsidered.
3. Colleagues who are requested to be “on-call” should be provided with mobile phones from the Office. Article 2.1 “Eligibility & Authorisation” of the “[IT Equipment Allocation Policy](#)” states that “*Only staff members that based on their current job role must be reachable **anytime** and at **any location** will be provided with a smartphone...All other staff members may use their **own end devices**.*” This eligibility criteria excludes colleagues who are requested to be “on-call” since this is not of permanent nature; the alternative of “bring your own device” shall not be the only option offered by the administration, specially taking into account that by doing so, these devices cannot be shared (Article 2.3.2 Prerequisites of the “IT Equipment Allocation Policy”) and these have also to comply with the Circular 382 on “EPO Information Security Guidelines”.

**Opinion of the CSC members of the GCC on GCC/DOC 18/2023:
Extension of the recognition of registered partnerships**

The CSC members of the GCC welcome the initiative of the Office in making efforts to ensure that our regulations are not falling behind other international organisations in terms of diversity and inclusion, and that benchmarking is being undertaken. We would further support the Office being a leader in providing equal opportunities for its staff and making the example for other organisations to follow.

Regarding the extension of eligibility of benefits for those in registered partnerships to be equivalent to those in marriages or same-sex registered partnerships, the CSC members of the GCC express their full support.

The document lays out the financial implications of the proposal (para 17-18) which the staff representation found to be rather high. The administration helpfully explained that they had obtained data relating to other international organisations to make estimations, but that it was difficult to determine the accuracy of the assumptions when considering our population. It was further explained that prudence was utilised to ensure that the costs were covered and as such the estimates were likely to be higher than the real costs. The administration also offered to arrange a review meeting with staff representation after one year of the new regulation being in force to assess the real costs. The CSC members of the GCC appreciate this collaborative approach and look forward to the invite.

In broad terms, the staff representation is in favour of the amendments to the Serv. Regs, but some small issues have been identified.

The first issue is one of unequal treatment between current employees and future recruits. The transitional measures included in Article 5 introduce a time limit for the declaration in case “of employees already in service” after which they will permanently forfeit all related entitlements and benefits. However, future recruits are not referred to in this Article, which means that they are not subject to a time limit and may declare their partnership at any time under Article 65(1)c Serv Reg, wherein the latter regulates that an allowance may be paid retroactively for 6 months. Therefore, new colleagues will have an advantageous treatment when compared with the current employees.

The second issue is one of language, since the wording in Article 5(2) reads that colleagues “may, but must not, inform the Office of their registered partnership”. The intended meaning was to state that the colleagues are not obligated to inform the Office of their partnership. A potential unintended interpretation of the phrase used was raised during the GCC, and it was indicated that the language department had already identified the issue and were planning to amend appropriately.

The CSC members of the GCC look forward to future fruitful discussions in the context of diversity and inclusion, and hope to see similarly beneficial proposals for amendment under the second key policy project defined in point IV.5.2 of the document: Leave for parents.

**Opinion of the CSC members of the GCC on GCC/DOC 19/2023:
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 acknowledges 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/59/23](#)

RFPSS

The Office forecasts an annual cash surplus amounting to **EUR 400m**.

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 into the RFPSS and into EPOTIF.

The Office proposes this year to set the injection into the RFPSS to 60% of the cash surplus, resulting in EUR 240m being earmarked for pensions. EUR 213m shall be injected in the Pension Reserve Fund (PRF) thereby contributing to improving the coverage of the pension liabilities and EUR 27m shall be used for expected pension scheme deficit.

The CSC appreciates the transfer in the RFPSS as well as the increase of the injections to 60%. Cash injections into the RFPSS can compensate possible decreases of the investment return in the coming years 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 225m) represent 2.25% of the PRF assets (EUR 10 004m) on 31 August 2023. The proposed cash transfer to the SSP would be equal to EUR 4.8m, i.e. an amount proportional to the suggested PRF cash transfer (2.25% x EUR 213m).

The CSC also appreciates the transfer into the SSP. However, it cannot support the administration's proposal on the distribution key amongst the members of the SSP. 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 2023 (see [CA/59/23](#), paragraph 17).

This method creates significant distribution spreads amongst employees in the lower and higher grades of the salary scale, leading for example to a distribution ratio of **20:1** 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 much fairer distribution, such that the growing unfairness could be overcome.

Furthermore, the CSC requested clarifications on the logic of the methodology used to calculate the total amount (i.e. 4.8m) allocated to the SSP members (see [CA/59/23](#), paragraph 16), and if alternatives were considered.

In conclusion, the CSC considers that the injections into the RFPSS and SSP represent an opportunity to smoothen the inherent distortions of the NPS in combination with the SSP.

Furthermore, CSC would appreciate if the administration were to include the CSC's proposal for the distribution key in section VI. ALTERNATIVES of a revised version of CA/59/23.

The CSC members of the GCC

Opinion of the CSC members of the GCC on:

GCC/DOC 20/2023: Joint report of the Actuarial Advisory Group to the President of the European Patent Office and Office's comments on the report

GCC/DOC 21/2023: Circular 417: Contribution rates to the New Pension Scheme applicable as from 1 January 2024

GCC/DOC 22/2023: Circular xx: Contribution rates to the Salary Savings Plan applicable as from 1 January 2024

GCC/DOC 23/2024: Circular 416: Total contribution rate to the healthcare insurance scheme applicable (Article 83a(1) Service Regulations)

The CSC members of the GCC give the following opinion on GCC/DOC 20/2023, and the consequential circulars in GCC/DOC 21/2023, 22/2023, and 23/2023.

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 2023. The actuaries provided detailed and informative responses to the questions of the staff representation, and the meetings were open and co-operative. We note that their recommendations regarding changes to our social security contributions are of utmost importance for staff.

Summary of recommended changes to contribution rates

Main outcomes with of the joint report of the AAG regarding the contribution rates are that:

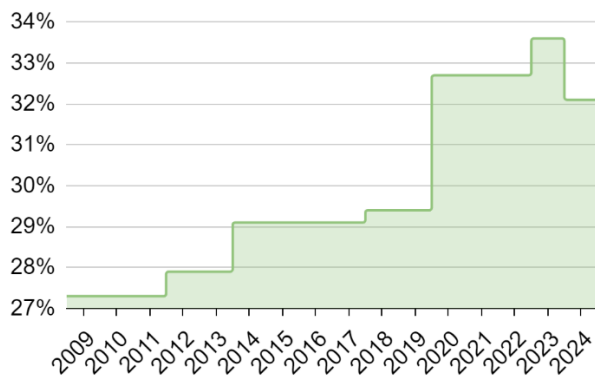
- **OPS** contribution rate is to reduce by 150 basis points (from 33.6% to 32.1%).
- **NPS** contribution rate is to reduce by 180 basis points (from 30.3% to 28.5%).
- Consequential to the above two changes, the **SSP** contribution rate below the cap of twice G1.4 (equivalent to OPS rate minus NPS rate) is to increase by 30 basis points (from 3.3% to 3.6%).
- **Healthcare insurance** contribution rate is to decrease by 30 basis points (9.9% to 9.6%).
- **Long term care** contribution rate is to increase by 30 basis points (1.5% to 1.8%).

The trend of the pension contribution rates over recent years is one of significant increases.

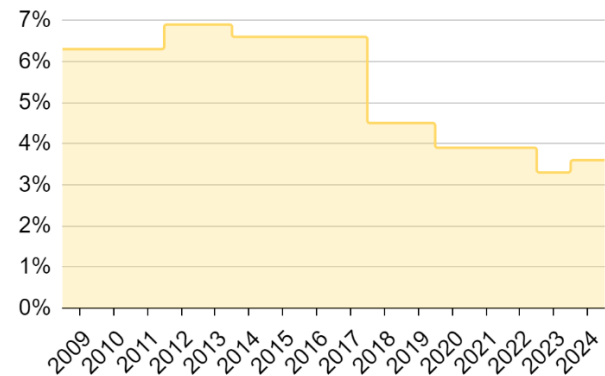
Between 2009 and 2023 the OPS contribution rate, also applicable as the global contribution rate for NPS members, increased from 27.3% to 33.6% (see left figure below). This is an increase of almost one quarter. This contribution rates for 2024 will decrease slightly from those currently in force by 150 basis points to 32.1%. Although the reduction is small, it is certainly a welcome change in the worrying trend.

Regarding the SSP contribution rate under the cap, the trend of significant reductions began in 2018. Here, the contributions dropped by around one half of their former value (see right figure below). Evidently, this has massive consequences for the expected final lump sum amount. Here, again, the small increase is very welcome. However, it is still a real cause for concern, and we hope that subsequent actuarial studies will see this rate return to similar levels as at the introduction of the new pension scheme.

OPS Contribution Rate



SSP Contribution Rate Under Cap



Discount rate

The main driver for the above mentioned increases to the contribution rates have been the changes in assumptions for the discount rate. For the last three actuarial studies, the discount rate has been successively reduced by 25 basis points (2015: 3.75%, 2017: 3.50%, 2019: 3.25%, 2021: 3.00%). To put this into context, in the years that preceded these changes back to 2007, the discount rate was 3.75% (para 90). This overly pessimistic view in recent years has not been supported by the performance of the RFPSS, which outperforms the assumptions and regularly is above benchmarks and targets.

For this actuarial study, the discount rate has been increased by 25 basis points back to 3.25%. The AAG state that the figures provided by PPCmetrics may use time periods that are too short considering the current market volatility (para 91), and therefore chose to take a “holistic approach” and apply a “smoothing” (para 92) which results in a discount rate that is lower than was possible in the current economic situation.

The CSC members of the GCC acknowledge that providing some stability to the contribution rates with a smoothing method is an appropriate approach. However, the discount rate being kept at pessimistically low values that inflates the OPS and NPS contribution rate is not at all supported.

It is also noted that the higher OPS contribution rate impacts different members of staff in completely opposing manners, which is an important peculiarity of our two-system pension scheme. To simplify the situation, two subsets of staff are identified – OPS members and NPS members in higher grades (usually management). The OPS members receive a fixed benefit (monthly pension), and therefore increased contributions are detrimental to them, since the benefit is unchanged, but they pay more to receive it. NPS members in the higher grades benefit significantly from higher OPS contribution rates, since their benefit (SSP lump sum) increases when their contributions increase, and although they must pay more in contributions from their salaries, the 1/3 to 2/3 employee/employer ratio contributions into the SSP mean that for every euro extra they contribute, 2 more are added from the Office. Taking this consequence of the pessimistically low discount rate into account, it can be appreciated that “prudence” (para 47) should not be the sole consideration.

Change in actuarial method

The actuaries decided this year to deviate from the actuarial method mandated by the IFRS (Projected Unit Credit method), and use an alternative (Attained Age method). The actuaries argue that the significant variations in the average age of staff at the Office was creating instability in the contribution rates as the old method is more sensitive to the shifting age

pyramid (para 53), and that the new actuarial method will provide stability. We note that the increasing average age at the Office is nevertheless a concern, and we hope that decisions on recruitment will take account of this issue.

The actuaries also explained that the new method has provided stability with respect to the contribution rate to the SSP under the cap. This is appreciated by the staff representation, and is the first positive action in response to the regularly stated concern of the staff representation that the SSP contribution rate has already halved (see right figure above), and since this contribution rate is merely the consequence of the calculation of the OPS and NPS contribution rates rather than being actively calculated, there exists no mechanism to prevent this rate heading towards zero. The latter is still a real concern, but the small reversal of the steep downward trend in its evolution experienced between 2017-2023, that the actuaries explained was due at least in part to the change actuarial method in the present actuarial study, is welcome.

It is noted that the full scope of the implications of the change in actuarial method cannot be commented on by the staff representation as the details of the two methods are outside of the expertise of the group. However, taking into account the above argumentation provided by the actuaries and the consequences experienced thus far, staff representation welcomes the change.

Early retirement factors

As mandated by the president, the AAG have calculated actuarially neutral early retirement factors and provided the figures in the report. These figures differ from the early retirement factors currently in force. The staff representation acknowledge that the Office does not intend to make changes to the early retirement factors, but also that the Office is committed to making no other changes to the pension system regarding retirement ages.

Mechanism for accessing funds of the RFPSS

The AAG further recommended that the Office look into mechanisms for accessing the funds in the RFPSS. The current initiative of the Office, which is to utilise the Office surplus to cover the current deficit between annual contributions and payments, that would otherwise have been used for a cash injection at a later point of the same year, has the support of the CSC members of the GCC. Such an approach allows for unencumbered decisions for investments in the RFPSS, thus leading to the greatest potential returns.

To evaluate whether the same approach can be taken in future years, the evolution of the deficit between annual pension contributions and payments are considered, and are included in para 139. We acknowledge that a mechanism for accessing the RFPSS funds may need to be defined in the future when considering the evolution of deficit as presented in the report. However, for the coming years, we express our support that the Office continue with their current initiative of first utilising the Office surplus to preserve the current conditions of RFPSS.

Conclusion

The CSC members of the GCC welcome the changes to the contribution rates, that when taken together result in a net reduction in deductions from the staff salaries of 0.5%. However, it is noted that these contribution rates are still historically very high, and the concerns raised here are yet to be addressed.

**Opinion of the CSC members of the GCC on GCC/DOC 24/2023:
Death insurance: Review 2020–2022 and provisional contribution rates for 2023
(Article 84 ServRegs)**

When we, the CSC members of the GCC, look at this document, we extend our contemplation beyond the numerical data. We memorialise 24 colleagues whose lives were cut short over the past three years. They have left behind families and friends and colleagues. Our thoughts gravitate towards them.

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Regarding the figures, the CSC members of the GCC note that death insurance system is stable. Nothing is to be added on the final adjustment and the unchanged contribution rates. The calculations are comprehensible.

The CSC members of the GCC would like to add: Drafting an opinion on the death insurance reminds us that in our daily endeavours, we should always bear in mind that there is more than the Office. *Tempus fugit.*

**Opinion of the CSC members of the GCC on GCC/DOC 25/2023:
Adjustments to the Office's Organisational Structure
(Reorganisation of PD 4.4 Facility management)**

The CSC members of the GCC would have expected to be consulted and not only informed on GCC/DOC 25/2023. In view of the positive experience with the joint preparation of GCC consultations, an invitation to a series of technical working group meetings, in view of the significant impact of this reorganisation on many staff members within PD 4.4 should as well have taken place. Instead, the reorganisation apparently is the result of a top-down only exercise by senior management, not even involving the staff of PD 4.4.

We consider such an approach as untransparent and exclusive, not even respecting the declared goals of the same senior management.

The members of the CSC have pointed out during the GCC meeting that the impact of the reorganisation as set out in GCC/DOC 25/2023 is significant on staff of PD 4.4:

- a complete group of staff is planned to be removed (the head of section layer)
- many, if not all staff, will have a change in their hierarchical line, this will create uncertainty and stress
- many staff will have to adapt to the new skill set expected of them, receiving in view of latest trends to online-training only and no proper knowledge transfer, this adds another stress factor
- the involvement of staff is not apparent from the document; it seems that only PD44 management was involved
- the involvement of other stakeholders, according to the document, has also not, taken place. Business units will therefore be informed only after all decisions have been taken, whilst PD 4,.4 is supposed to be a service provider and the users' (stakeholders') needs should be enquired and carefully considered
- Berlin and Vienna seem to have no local support any longer. The experience with centralised services in Munich and The Hague only has often been to the disadvantage of colleagues in the smaller sites (e.g. HR interlocutors not acquainted with local specificities, assumptions that what was valid for one (big) employment site should be good enough and therefore valid for the other (smaller) sites, etc.)

Conclusion

The members of the CSC take note that for reorganisations of units in the office, information instead of consultation has become the norm. Management argues that such

reorganisations mainly consist of some changes of hierarchical lines and therefore have a minor impact on other staff members only.

We regret and denounce that the impact on all staff that need to live through these recurrent reorganisations is not considered. Staff is claimed to be the most important asset of the Office. The needs of staff, however, are often ignored. We request that the staff and their representatives are properly consulted for such changes.

A phase of consolidation instead of yet more reorganisations is needed for all colleagues. Support areas, such as PD 4.4 need to provide proper services to all other units of the Office. This can only be achieved if the staffing level is appropriate, with in-house experts and responsibilities to meet the requirements of all stakeholders.