

CONFERENCE OF STAFF ASSOCIATIONS OF INTERNATIONAL ORGANISATIONS  
CONFERENCE DES ASSOCIATIONS DU PERSONNEL DES ORGANISATIONS INTERNATIONALES



# **PROCEEDINGS OF THE 9<sup>th</sup> CONFERENCE**

18 – 19 SEPTEMBER 2008  
EMBL, HEIDELBERG

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**CSAIO9 – Programme****Thursday, September 18th****13:00 – 14:00 Conference Registration**

At the Operon Foyer to prepare identification and conference registration

**14:00 – 14:10 Conference Introduction**

Welcome by Doros Panayi, Chairman of EMBL Staff Association

**14:10 – 18:00 Session A / moderator: Doros Panayi, EMBL**

14:10 Presentations on performance management

- Francois Basti, EPO
- Valérie Seguin, FICSA
- Anya Demarle, OECD

16:00 Coffee break

16:20 Discussion

18:00 End of Session A

**19:00 Bus departs for the evening boat trip including dinner along Neckar River****Friday, September 19<sup>th</sup>****08:15 – 09:00 Breakfast in the EMBL canteen****09:00 – 12:15 Session B / moderator: Farrah Baut-Carlier, EIB**

09:00 Presentations on work life balance

- Joel Lahaye, CERN
- Félix Geradon, Council of the European Union
- Mauricio R. Bertrand Flores, IADB

10:30 Coffee break

10:50 Discussion

12:45 End of Session B

**12:45 – 13:45 Lunch in the EMBL canteen****13:45 – 14:30 CSAIO internet site****Preparation of next Conference**

Venue and format

Themes/topics

**14:30 – 16:45 Session C / moderator: Marie-Christine Delcamp, Scientific organizing committee**

14:30 Presentations on the missions of Staff Associations: communication and legal assistance

- Cayetana Borrego Cabezas, AASC
- Penelope Denu, Council of Europe

15:00 Planned fire drill

15:15 Coffee break

15:35 Discussion

16:45 End of session C

**16:45 – 17:00 Conference wrap-up**

## WELCOME

Welcome by Doros Panayi, Chairman of the EMBL (European Molecular Biology Laboratory) Staff Association

“Hello everybody.

I am the chairman of the Staff Association here at EMBL and I would like to say a few words before starting the conference. Even though the weather hasn't been very warm to us, we would like to offer you a warm welcome here to the EMBL Heidelberg campus. This is the main research centre for EMBL. It has four other smaller outstations. To us there seems to be various types of Staff Associations and Unions, large and small and those who do it full time and those who have no time. We are in the category of small and no time to do this work so this kind of forum is extremely important to us, because we are able to tap into a wealth of information from colleagues all around the world, who have been through these similar circumstances in negotiations in rights for staff, for pensions, whatever. Certainly over the last 2-3 years I have been involved in the Staff Association, we have benefited a lot from contacts with many of you and we have been net benefactors of the information flow. It's normally us asking the questions and receiving information back and it's been very, very useful. That's why we're very happy to be hosting the 9<sup>th</sup> CSAIO meeting. We are not big participants on the international stage of staff associations but it's our contribution and encouragement that these forums take place and carry on taking place. It is not just on the content that we will discuss today, but also on the contacts that we make and the discussions we have now and in the future.

An official welcome to you all from the Staff Association of EMBL. The one or two meetings that we have attended, it has also been the tradition that at some time during the event the Administration also makes a welcome speech. That won't be coming at this time because this meeting clashes with our faculty retreat so most of the senior staff are not here. However, they asked me to express their welcome and they are sponsoring tomorrow's lunch.”

Before passing the floor to the Scientific Committee, D. Panayi explained a few practical points for the conference.

Marie-Christine Delcamp thanked the EMBL for the great job they have done to organise the conference. 34 organisations were represented with 53 participants, which she said is a great success. She explained that two of the sessions would be quite technical sessions, regarding performance management and the balance between private and professional life. She explained that the final session would be less technical and many organisations had requested this topic at the last conference in Aix-en-Provence. She agreed with Doros Panayi in that there are many different levels of time and staff who are involved within Staff Associations, so that we can't offer the same but we hope we can take some information from the session of tomorrow afternoon. She hoped everyone would be happy with the outcome from the conference.

# **SESSION A - PERFORMANCE MANAGEMENT**

## Presentations

Doros Panayi was the moderator for Session A. He explained that there is no performance management at EMBL except for once every three years when management decides whether someone receives another contract or not. He explained it is an active topic and they are in talks to reintroduce a system, but there is a lot of resistance from the scientific community.

### **Presentation by Francois Basty, European Patent Office**

### **Presentation by Valérie Seguin, Federal of International Civil Servants' Associations**

### **Presentation by Anya Demarle, Organisation for Economic Co-operation and Development**

## General Discussion

### ***Benchmarks***

At EPO the statutes had just been changed to include directors in the rating system; it also includes the General Directors and Vice Presidents. They do not have benchmarking but only one third of staff can receive "1" (excellent) or "2" (very good) for their performance.

The OECD has also started to rate directors this year with performance appraisals, which had not happened before. Directors who do not rate their staff could in theory lose their steps.

At the Council of Europe (COE), there is a good appraisal system with benchmarks for competency repertory where job references and certain levels of responsibilities and competencies are required for different levels of grades of posts.

### ***Timing for transition to a new performance management system***

At WIPO a new programme management and development system is being implemented in 2008. A pilot phase was started in 2006 in certain areas of the organisation (followed closely by the Staff Association). It was discussed with staff first to see how it would be perceived and integrating it progressively proved to be a good way.

The CERN representative recommended the later the better for moving to another system, even if there is nothing already in place. At CERN, there is a rating system which started with very little merit and a lot of seniority. After 3-5 years it was changed to add merits and spread them out where some get fewer steps and some get more.

The FICSA representative recommended that representatives of the Staff Associations/unions be fully prepared and be fully involved in the process from the beginning together with the HR representatives. Both parties should negotiate when the suitable time would be for the implementation of the new performance management system and if a transitional measure and trainings are needed.

### ***What happens after the appraisal if it is not good?***

At the OECD and the EPO staff can be dismissed for unsatisfactory services but it is necessary to have implemented the performance assessment beforehand and give the person room to improve. At the OECD a staff member went to court for non-renewal of a short-term contract and won as a performance assessment had not been conducted.

The representative from the Council of the European Union (CoEU) explained that the EU institutions have introduced a procedure for bad performance in the framework of the 2004 Staff Regulations Reform. In the CoEU, no implementing measures have been adopted so far. If there were a case, the Staff Regulations provisions would be sufficient. They require a procedure for warning and helping "bad performers" before any measure (including possible dismissal) can be taken. The same theoretically applies to probation periods : an interim report and a final report on the probation period must be notified to the employee. Last year there was a case where the Staff representatives managed to get a probationary contract extended for a second period because both reports (interim and final) had been given to the person on the last day of the probation period, but the lawyers were unsure whether the court would be on their side, although the administration had disregarded all the procedures. The contract was prolonged but the protection given by the Staff regulations is not as good as it looks.

In the United Nations system, like at the IMO, there is a disciplinary process although most of the time, the supervisors do not want to use it. But it does exist and it should be used properly.

At CERN the disciplinary procedure in such cases is being used more often, especially if there are budgetary constraints. It is then used in a negative way when management want to try and get rid of someone. When managers assess performance, clear criteria are not always given or it can be misinterpreted which can lead to problems. The problems occur when comments are added rather than giving "yes" or "no" answers.

At EUROPOL underperforming on your assessment means your contract will not be extended. As most staff are on fixed-term contracts there is always a fear as to whether you will get another contract. This has no link to promotion as this is done through an external recruitment procedure. She explained that appraisal systems and disciplinary systems are two different things; appraisal is about performance and disciplinary measure is if someone really did something wrong and will be punished up to being dismissed.

### ***Withholding steps at the end of the career***

The FAO/UGSS is currently in the process of implementing a performance appraisal system. In the UN system, the only way of linking in the bonuses is with the steps which are ultimately linked to a pension. He explained that withholding steps at the end of someone's career consequently decreases his pension for the rest of his life.

### ***Rebuttal procedures***

At the IAEA, if the staff member is unhappy, there is a box on the form called "unresolved issue". This issue remains unresolved until the staff member is satisfied. There is a high degree of involvement between HR and the staff representatives and

they resolve issues with managers. They are in the unique situation where they have developed a relationship with managers.

The rebuttal mechanism at UNESCO has three stages. For the first stage HR plays the mediator role when there are problems between the supervisor and the appraisee. Following this there is a panel that reviews the rating and if their assessment is not satisfactory then the person can challenge it through a reporting committee. Ultimately he can go to the Administrative Court but it does not mean that the person will be dismissed. Alternatively, the contract may not be renewed which is much easier than going through the dismissal process.

At the ICC there is no rebuttal system at all so everything is negotiable. The person should be given the opportunity but it should not be linked to their duration/extension of the contract.

### ***360-degree evaluation***

At the Council of Europe (COE) everyone is appraised except for the Secretary General and the Chair of the Staff Committee. Management training courses are available where some 360-degree appraisal is required so there is hope for taking this further. On the appraisal form there is a box where the appraisee gives their remarks which is filled out more and more consistently.

The EPO uses a north-south appraisal which involves staff giving their opinion on his or her supervisor. There is a huge job acknowledgement between line managers and the middle management but there is a divide between middle management and the rest of the personnel. The outcome was even mentioned in the Financial Times when this survey came out and is an example of how an appraisal system can go the other way around.

The UN does not have a 360-degree evaluation. They are told that there are agreements of performances with the Secretary General but there is no intervention from the staff representatives or other bodies.

The EUROPOL representative said honesty could be a concern with the 360-degree evaluation. For example, if someone is frightened of their line manager, how honest will they be if they have to assess him or her? She recommended not linking merits with performance but to concentrate on developing people and managing underperformance.

The Staff Associations at the FAO and WFP (sister organisations) have been asked to evaluate a performance management system used by the UNFPA. What it has not got is to link the individual's work plan, i.e. objectives and competencies, to the organisation's values and what their strategy and performance is. One thing it does have is the 360-degree evaluation where staff are evaluated by their supervisor as well as by at least 5 people they must nominate. If the supervisor gives an evaluation which is quite different from the other people who have given the evaluation it could be useful for the rebuttal process. FAO and WFP are favourable to the 360-degree system because the peer aspect works horizontally and eliminates some problems you may have when you go the rebuttal process.

The IAEA representative said the basic problem with the 360-degree evaluation is getting meaningful information out of it. The IAEA stuck with a 180-degree system



but it is only used for someone who is supervising at least 5 staff members where the group can use the reverse appraisal system. If all the comments are very bad or very good, they are disregarded to make the data as useful as it could be. The whole process is transparent to the staff members. The performance review of the staff member is done in April and reverse appraisal of the supervisors is done in October. The president of the Staff Council is not subject to reverse appraisals as the annual elections say it all and the Director General is not a staff member so the rules do not apply to him.

### ***Confidentiality of appraisal documentation***

At the FAO/UGSS promotion or selection committees could use the performance appraisal. There is a clash of interest concerning the confidentiality of the documentation available.

At the Council of Europe (COE) appraisal forms are used by panels for promotions and transfers internally. It helps to appraise the appraisal system because staff representatives participate in the panels so they see the end result and they make comments on the forms and the effectiveness of the system. There has not been an outside assessment of the success of the appraisal system but the internal means of monitoring are quite well done. Because of a recent change in the recruitment policy there have been general external competitions at A, B and C levels. This is mainly for internal contractual staff to be able to pass the competition in order to apply for permanent jobs. The panels used the appraisal forms if they were available so that external candidates were actually at an advantage or disadvantage compared to internal candidates. The Staff Association thought about protesting the use of the appraisal forms but usually it enhances the files of the internal colleagues so a complaint was not filed. The appraisal forms are confidential but the panels are also confidential so it is possible to use these.

### ***Appraising the appraisal system***

At CERN the performance system has been changed but there is no tool to appraise the appraisal system. Such a tool is important to ensure that the next change includes listing the strengths, weaknesses as well as objectives of new system.

### ***Management review group***

At the OECD the immediate superior proposes the appraisal of his official and transmits this to a group according to the grade of the official. Up to A5 (head of service) level there is a management review group composed of the Director and a HR consultant and sometimes someone from the Administration. The group reviews and approves the appraisal conducted by the immediate superior. Above A5 level they have a top management review group which includes the Executive Director, the Head of HR and the Head of the Secretary General.

### ***Developing professional activities***

The OECD had proposed "special development activities" in order to develop staff and give them a chance to get promoted to another job within the organisation. Other than training, staff could also participate in special meetings/conferences which

may be more interesting than their normal work. There is no exhaustive list of such activities which enables a person to develop himself or herself without having to give them more money.

### **Appraising Staff Representatives**

At UNESCO-AIPU the chairman of the Staff Association has not been evaluated since 2004, as it was previously only a part-time job. Since UNESCO launched new reforms for personnel management, the representatives have to be evaluated. Becoming staff representatives could have consequences on the rest of their civil service career. Each personal file contains different administrative data over your career so if you were chairman of a Staff Association for 5 or 6 years and you applied for position within the organisation it could have a negative influence on your career.

At the OHIM appraising staff representatives has worked for some years. Staff representatives are being assessed for their position within the Staff Committee as well as for their performance in their core-business. They have tried different systems but they found the best was to do a self-assessment by giving themselves a score according to different performance criteria. All staff representatives meet and discuss the reasons why each representative gets a certain score, and sometimes this is improved or worsened. The Chairperson of the Staff Committee supervises the appraisal procedure. The appraisals are given to HRD and the two evaluations (for staff committee duties and for core-business duties) are put together and an average score is made out of the two.

Regarding the career consequences of being a staff representative/president/chair, the IAEA representative said there is a downside. It could have consequences as representatives could sometimes know the rules better than Administration and maybe they helped write some of them. It does not exist for all organisations but there is protection through the *standard of conduct for international civil servants*. The representative believed it is a matter out of what someone wants out of their life/work situation and how they think their responsibilities are.

At the FAO none of the staff representatives have ever been promoted since joining the Staff Association. The FAO representative was told that until he resigned from the union he would not be promoted. He considered going to the Appeals Committee but then decided to have a break for a year. The day the nomination list for the committee was published without his name on it was the day that he got promoted.

At the EIB there are 9 representatives and 2 functions. Their Administration reviewed the rating system for the staff representatives who now get 2 different ratings: one for their job function and one for their activities as staff representatives. The final rating would be the average of the two. Only one person who gets a rating from his team and that is the Chair of the Staff Association.

The OECD Staff Association representatives have never taken part in any performance assessment and it is not foreseen. The management review groups are going to take the final decision of the assessment. It could be a risk having representatives in the review group, as it could get messy if the official wants to go to Administrative Court but the staff representatives agrees with the organisation.

## ***General Comments Performance Appraisal Systems***

The IAEA has used a number of performance appraisal systems and have now settled on one which has been used over last 6 years. It is evaluated annually and improvements are made. There is a high co-operation between Staff Associations and HR. For about 3 years, they used a 180-degree reversal appraisal system which was met with mixed results. On performance appraisals the basic principles behind it are work evaluation and planning. For the evaluation process, the onus is placed on the supervisor. If they spot a performance issue, they have to identify it immediately, notify the staff member when they do the performance appraisal and they have to explain how they are going to help fix the problem. This is different from in the past where only problems were listed without solutions. It is strongly stated in the review process that all the grievances cannot be saved up and "dumped on the table" at the end of the year. Some managers had valid complaints but couldn't use them because they didn't use the process. The representative believed that out of all the systems they have used, it is one of the best.

UNESCO is still in the experimental phase of a new appraisal system which was introduced in March 2004 and will be evaluated after 4 years. After 2 years a first assessment was made where two problems had to be resolved: writing the basic job descriptions and how to assess 800 people. This involved introducing a new management culture, as the assessor did not know how to lead people rather than just projects. The first round was satisfactory as only 17% were problematic cases which needed to be resolved the next time. Through this the staff representatives learnt that the appraisal approach was not measured well by the management as they forgot about the training side of the assessment and concentrated on the performing.

ITER is a brand new international organisation and the Staff Committee has only been set up 7 months. There is not only no automatic promotion but there is also no merit. The merit-based one is normally withheld because there is no budget for the automatic step increases. There is a mechanism for a uniform salary increase according to inflation. Most organisations calculate what the budget increase would have to be in order to reward the seniority increase but it is very difficult to make a budget request in order to reward the merit increase. The proposal from the ITER Staff Committee is that their Director General asks the Council for a budget based on a percentage of the total salary that will be at his discretion in order to be able to make the merit increase.

The FICSA representative said governing bodies are fully involved in the budget which usually raised many issues when it comes to promotion, salary increases, rewards. The trend in the UN system is unfortunately to reduce budgets and to downsize organizations. This is also combining with another issue, which is appointments and/or promotions are too often based on the geographical status rather than on the performance and/or skills of the staff member.

The staff representative from EUROPOL said their appraisal system is good, however there is no system to get rid of the people once they are assessed. Most of their appeals and court cases go around incremental points (steps). Every two years staff can be awarded one or two incremental points. The problem is SMART objectives are difficult to measure the work done. EUROPOL depends on data from Member States, however, it does not really say anything so they do not get the right results.

At the IDB they have bonuses or apply for another job. Bad performance can be used as a reason for termination but it has to be well documented. There have to be at least 3 warnings. Performance is part of a termination process (for permanent or

fixed). The evaluation is not for promotion it is just for merit. Promotions can happen in three ways: 1) if you are part of a career stream and can be promoted with certain criteria, 2) your function has changed so the job needs to be reclassified or 3) by applying for a new job. In the past, cost-of-living was used together with merit so everyone got the same; now only the merit is awarded. The IDB are changing their system. They have an ombudsperson, conciliation committee and tribunal. In the evaluation process they have opportunity to participate in the appeals process when it concerns underperformance. HR forms a panel and the Staff Association recommends someone for the panel but the person who is appealing needs to agree. Most of the time when the employee has been underperforming in the evaluation, it has not been documented and in all cases the employee wins. The panel is very important to staff.

The EIB has a satisfactory appraisal system but the rating given before the beginning of the assessment is only visible to the examiner, not the appraisee. The correlation between the proposed rating and the end rating is very strong. The reform of the assessment took place this year for the appraisal of the staff representatives.

At the OECD if a manager proposes an assessment, the official has 2 weeks to note his comments. Those are given to the group who take the final decision. Beyond this, there is a rebuttal mechanism but it has not yet been finalised. Under the new system, the date of advancement was proposed for 1 May, although this had not yet been finalised. The project evolved as objectives were not being fixed early in the year for the Board and 30% of officials do not yet have objectives for 2008. If the date of advancement were earlier the year, the whole process (including 2 weeks to comment, going to the Board, maybe a rebuttal) would take time and this is why it was decided to take May 1.

The Council of the European Union (CoEU) representative feared that systems from the private sector could be implemented in all international organisations with performance assessed through objectives and resulting in step increases or money incentives. The CoEU is considering a new evaluation system. Objectives are neither used in their current system nor foreseen in the future system. Instead of helping to improve the performance of employees, objectives could also be misused by the person assessing the employee just in order to have arguments to give a good or bad score the following year. He believed that if SMART objectives and benchmarking were used the evaluation would no longer be considered as a subjective process but as an objective truth which cannot be argued against. The CoEU representative explained about the EU reform in 2004 which has resulted in the re-organisation of the grading system. This has resulted in a system with more grades and hence more promotions (based on merits as evaluated) during a career. So, the merits get more importance. The general idea was that some 80% of staff deserve average evaluations and 5-10% are either underperforming or outstanding. The representative said that the real danger lies in forcing managers to identify x% of staff being "bad" and the CoEU tries to avoid this.

The UNESCO-AIPU representative said an organisation cannot recruit staff and 1-2 years later decide that the person is bad or has to lie, as the civil servant is not really that bad. It could be that the organisation has different needs and cannot provide sufficient training to comply with the new requirements or there is insufficient money for the training. If someone has been recruited and the organisation lets them become less specialised then this also has an affect on new civil servants who are in turn are paid less because their salaries have to be lower than those of long-term staff.

At CERN the salary increases can be 5%, 2% or 1% every one to two years. In 2000 they introduced a new promotion system. Before it was introduced, everyone had an annual step increase as well as a 2% salary increase. At that time almost everyone got a step increase of 2% and 16% of staff got a 4% increase. In 2005, their system changed again where no evaluation was necessary but it was at the Director General's discretion. They now receive steps which are the equivalent of a 1.15% salary increase and 1 to 5 steps (or more) can be granted. Human Resources and the Director General decided on the following percentages for step increases:

25-30% of staff get only 1 step, 30-35% get 2 steps, 15% get 3 steps and 5% get 4 steps. Back in 2000 managers were supposed to find 16% of people who deserved a bonus from their good work but now they have to find 30-35% of staff who have not really performed so the promotion process has become a nightmare. On average the budget for promotions should be constant which is the reason they went from steps of 2% to 1.15%.

At ESO staff have a performance appraisal every year. The appraisee can provide his own comments and the supervisor writes down any action points which are needed. HR now makes sure everyone gets an appraisal and that the supervisor carries out any action points.

At the CSSA they have a fixed salary, including the Secretary General, and unless there is a review (which can be every 3 years or more) the salary does not increase. There has been a system to recognise someone's performance through non-financial awards. The CSSA representative suggested there could be a balance school card (similar to that used by the EPO) to address non-performance issues. He thought that rather than going through an ombudsman regarding performance matters, such issues should be addressed to HR and then on to the arbitral tribunal which is the highest body one can approach. Like other organisations, the CSAA does not have access to the UK courts but staff can go to the tribunal to address their grievances.

At the ICTY the tribunal is completing its mandate in the next two years for the downsizing of the organisation from 2010. They have been discussing with management what the criteria will be for the downsizing, which is partly going to be on seniority or appraisal performance. Their problem will be that the appraisal system has not been applied uniformly throughout all the sections. Since management have a preference for the appraisal system there has been a large rise in the way people are being appraised. For example, normally no more than 10% of staff consistently exceed expectations but in the last cycle over 50% of staff reached this level on their appraisal.

The FAO representative warned that the *belt curve* method is a dangerous item. Management normally try to sell performance appraisal with the belt curve by claiming it is zero cost because the 5% that is taken away is given to the 5% you want to merit. He explained that the appraisal system should be a tool to try to get the best out of staff and not to punish, discipline or for contract renewal. Managers need to be convinced and this is why the Staff Association needs work with them to get to that goal. The FAO representative said that staff representatives needed to ensure higher management ensures full compliance of the performance appraisal.

At the OHIM they have a system where they promote internal mobility. The change can apply to the nature of the job (changing post and changing functions at the same time) or to the working environment (changing post but maintaining similar functions). Managers can use the appraisal report as a motivation or award tool...For example, for the administrators the line manager can indicate that the jobholder has a

potential to assume another function or other duties, such as passing from a non-managerial post to a managerial post. For assistants, there is the possibility of a certification procedure. An official of the function group Assistant, grade 5 or higher if it is noted over 3 consecutive years that the person is prepared to go into the next category, then the person could be proposed to be part of the certification procedure. The certification procedure replaces the internal competition, as foreseen in the previous Staff Regulations, aiming at the change of categories from Assistant towards Administrator.

At the ICC there is no merit system. Step increases could be halted for bad performance but this is an exception and it could be appealed and reversed. The ICC representative believes that exceptional performance can only go together with punishing those who are not performing. One is in theory and one practice but punishing (versus rewarding) could be a way of having the subjectivity controlled by the whole organisation.

At the ICC they also have concerns regarding fixed-term contracts. Their performance assessments come at the end of the contracts so if you have no problems with your line manager your contract will be extended. They cannot envisage a system which would work when you have one line manager and a fixed-term contract.

The EMBL representative said they do not have a performance assessment system. Most staff are on fixed-term contracts and are given some form of assessment at the end of the contract which may or may not lead to a new contract. For staff on permanent contracts there is a review every 4 years but it is not done.

The FAO encouraged staff representatives to be part of the selection committee. This is where you will see job descriptions and where you will see how managers create shortlists or value staff. It's very important to have at least 2 staff representatives on the selection committee. Their Staff Association never goes to a meeting with Administration unless at least 2 staff representatives are present. In committees, they try to create a tripartite or try to be impartial.

## **SESSION B – WORK LIFE BALANCE**

## Presentations

Farrah Baut-Carlier was the moderator for Session B. She explained that there is would be 3 presentations following by discussion and comments.

**Presentation by Joel Lahaye, CERN**

**Presentation by Félix Geradon, Council of the European Union**

**Presentation by Mauricio R. Bertrand Flores, IADB**

## General Discussion

### *Adoption leave*

At the ICC adoption leave is exactly the same as maternity leave except it starts once the child has been adopted. Most children who are adopted come from outside of Europe so the parents need to travel to take care of the bureaucracy and the legal procedures. The older the child is, the longer the period which precedes the adoption. The problem is that the leave does not start until after adoption has already started.

At the IDF there are no proposals for adoption leave but staff can use leave without pay or annual leave.

At the Council of the European Union (CoEU), the Administration can allocate supplementary leave beyond the normal leave if the parents have to stay in the country of adoption, but it is at the discretion of the institution.

At CERN the representative said adoption leave is normally taken from someone's annual leave. It could be from the moment when the person knows that the adoption is going to be taking place, maybe a week later or once the child is at his new home. There is no specific provision which might allow them to take leave beforehand.

At the WIPO the adoption leave is based on the maternity leave. The person who wants to adopt a child can take 16 weeks but if they have to go to another country they can ask for a special leave which comes under a different category.

The ESO had recently talked about possibly having 16 weeks for adoption leave (based on the maternity leave) but this did not seem be fair for biological fathers who get less paternity leave. It was therefore aligned with parental leave which is 4 weeks, with a further 4 weeks if both parents work at the organisation. There are more requests for paternity leave compared to adoption leave.

At the Council of the European Union (CoEU) from the moment when the adoption takes place the parents have rights to adoption leave, whether they are heterosexual or homosexual as long as the legislation authorises adoption by homosexual couples or by a single parent.



The Council of the European Union (CoEU) representative referred to a judgement made by the European Court of Justice and the Administrative Court on maternity leave case is [Negenman T225/04](#).

### ***Leave, overtime and part-time work***

At the Council of Europe (COE) there can only be part-time compensation if you work 50%. If you work 80-90% it is not compensated.

At the IDB part-time workers are compensated with 50%.

The FAO has something called a "service differential" for General Service staff for paying shift workers. They are awarded a percentage of their salary extra, which is also pensionable. It is part of the pay package and staff can decide on the percentage. The union recently agreed with management to decrease slightly the amount of money as a cost-saving measure although the shift workers were not happy.

At the Council of the European Union (CoEU) there is usually no possibility to replace someone or have additional staff for staff working part-time (50-90%). In some cases, the administration is now obliged to find solutions because of the relatively large proportion of colleagues entitled to work part-time. The budget is supposed to correspond to the number of positions in the establishment plan and allows for additional staff to be recruited temporarily to replace staff working part-time. But the member States reduce the budget with a fixed-rate rebate because there are always vacancies, which makes it nearly impossible for the institution to compensate part-time by temporary recruitments. For the people on long-term personal convenience leave, it is possible to replace the person; the person returning should be offered the first vacant position but it does not happen straight away.

At CERN they need time to recruit certain positions and it is not easy to replace them quickly. At Administration level part-time work can be implemented the easiest but there are generally not many part-timers. There are more female workers in Administration but mainly male throughout the whole organisation; normally more women ask for part-time work. There are some female managers but not many. In some departments it is easier to replace part-time workers although this does not apply to the senior posts.

At CERN, staff can buy holidays/free time and 10% of a salary is calculated for getting days off. The departments are budgeted for time that staff work which means if someone takes 10% off, they are only count for 0.9 full-time equivalent of the budget. There are problems with a new accounting system so Administration are not as keen as on this as they were before.

At EMBL there is no automatic right to change to part-time and it is completely up to the manager. If a person asks, it is up to the group. However, normally there is some kind of compromise found. The advantage is that posts are costed but not in absolute financial terms. For example, if a group lets a person go part-time (50%), the manager has a right to hire a second person at 50%; although 2 part-timers are normally more expensive than having one full-time person.

The situation is similar at the FAO where a staff member can request to go part-time and the post is made part-time. When the staff member wants to return to full-time they have to find themselves a different job which can become complicated.

At the ICTY internationally recruited staff members often have to work on Saturdays and do not have any right to compensation. They could get compensation but it is the head of department who decides. For the General Service (local) staff, they can take time off in lieu.

At the CSSA the staff regulations allow time off in lieu especially for staff who frequently travel overseas. Time off in lieu is not given for Saturdays, however, working during weekends and official UK holidays are given. In the past, there used to be a column on the performance appraisal asking whether staff had good time keeping but this was removed after many objections.

### ***Technical fee for vacant positions***

The Council of Europe (COE) has a 3% "technical fee" for all services on all departments in order to remain within budget. It is for the time when a position is being made free when, e.g. when someone leaves. The fee is high so that managers are encouraged to leave a position open and the Director General will express his wish to keep a position open. This becomes a problem if you want to take non-paid leave because managers know it will be difficult to find someone to replace that person.

### ***Kindergarten***

At CERN all staff working within the Kindergarten work just like any other national citizen working in Switzerland; there are no contracts with CERN. The Kindergarten must follow the same programmes and rules as other schools in Geneva. The Swiss authorities are authorised to come and visit the Kindergarten and take away their permit if they do not comply with something. The Staff Association is the employer and is responsible for the funds and they make the rules and agreements in case the Kindergarten should have to close. It also states what kind of services the Kindergarten has to provide for the staff and for the building (which costs 3000 Swiss francs per year.) The Staff Association is mentioned in the statutes of the organisation so it is part of the organisation and it is just like any other employer in Switzerland. A separate company takes care of the bookkeeping. The president of the Staff Association could go to jail if something serious happened. In case of lawsuits staff would need to go to the civil court in Geneva as staff have Swiss contracts.

### ***Integration of family members***

At the IDB, the Staff Association coordinates with the family association by giving resources and participating in events. Members and their families benefit from the events. The Staff Association also helps families working in the overseas offices by providing at least 400 dollars for an event through the family association.

### ***Recognition of homosexual couples***

UNESCO does not officially recognise homosexual couples; only heterosexual couples are currently recognised.

The Council of the European Union (CoEU) representative referred to a judgement made by the European Court of Justice and the Administrative Court on same-sex partnership, [Mrs Roodhuijzen F122/06](#).

In the EU institutions, the new Staff Regulations now give exactly the same rights to homosexual married couples and to heterosexual married couples. Non-married partners are only given very limited rights : special leave in the case of illness or death, social security as well as health insurance being granted to the partner if he/she is not working. They are not eligible for the widow's pension, or for a family allowance which is not given to non-married couples.

Unmarried partners can also get the full range of rights granted to married couples if they "have no access to marriage", which is the general rule for homosexual couples. Belgium has introduced the same-sex marriage so now homosexual partners in Belgium do not get those full rights but the same rights as heterosexual unmarried partners.

The ESA Staff Association came to an agreement with Administration on the definition of what a partnership should be. They agreed that couples need to have a legally registered partnership in one of the member state countries, regardless of whether they are heterosexual or same sex. The Council finance subcommittee wanted a cost estimate, however, the only option was to use national statistics and see whether they could be applicable. They have asked the member states to give the situation in each of their countries so that they could see what applies in each of the host countries. There are some implementation difficulties when it comes to fairness so the Staff Association is not hopeful that progress will be made in the near future.

The FICSA representative explained that the UN Secretary General decided to adopt a UN circular in 2002 to recognise legal partnerships but only if it is allowed under the law of the country where the marriage was celebrated. Due to its controversy, the circular was never been adopted by the General Assembly so the agency and other international organisations are trying to adopt their own rules. There are many cases regarding domestic partnerships at the tribunal.

The ICC also follows the UN circular. The staff rules were only created 2-3 years ago so they use gender-neutral language for everything from adoption to parental leave. She believed a partnership should be legally recognised in the country the person comes from; it does not solve all the problems, as people with different nationalities will receive different treatments. She noted that, for the time being, it is the only reasonable and practical approach.

The FAO/UGSS representative explained that the UN pension fund is a separate organ from the agencies. The fund is now recognising same-sex marriages which means that for partners working at different agencies, one could be eligible for a widow's pension whereas the other is not. The pension fund will accept all registered marriages and UN organisations have been asked to send the information to the fund regardless if they accept same sex-marriages or not.

At the EPO a newly elected president wanted to employ his wife so he created a position for her. Some staff members went to court (see [ILOAT judgement #2762](#)) saying that the president should not have been in a position to be able to employ his wife. The organisation no longer has the right to create such a new position.

The UNESCO representative thought it could be a difficult situation where civil servants are not treated in the same way because of national legislations being different. He thought there should be a harmonisation of internal rights between each institution. Before the UN circular of the Secretary General in 2002 they had a situation concerning a homosexual couple. The partnership was recognised but they want to reopen this file and achieve the overall equality of civil servants.

The ICC representative did see why same-sex marriages should be recognised according to the rules of the original country when, for example, women coming to a European country would not follow the rules of her original country where domestic abuse would be legal etc. She noted that it is clear for budgetary reasons but not for human rights.

The OECD thought that it should be according to the law of country in which you are living. Someone may travel to another country which has specific rules but these rules do not have a greater power than the laws of your country in which you live.

The FAO representative explained that the reasoning behind the UN's decision to recognise the law where the marriage was celebrated is because different countries have different rules. The marriage certificate is the important thing which is why the country where the marriage was made is the important documentation.

### ***Flexi-Time: Time recording or trust?***

ESA had flexi-time only at their headquarters but when management became security conscious after 9/11 that they decided to put electronic gating on all of their sites. In order to do this, records had to be kept which caused considerable disturbance amongst staff who did not want to be "spied upon". The Staff Association decided to take advantage of the situation and asked for flexi-time to be applied across the whole agency, which was granted. The arrival and departure times are recorded at the gate and used track the accumulated or negative hours. There are rules which limit on how much and when the accumulated time can be taken off. If someone is absent for a medical reason this information can be entered in order to recuperate those hours. It was well accepted by staff and everyone likes it. The system is based on core time 9.30 – 11.30 until 14.00 – 16.00 when staff have to be on site but the accumulation period runs from 7.30 a.m. until 7.00 p.m. and is not accounted for on weekends. As far as they know, Administration is not abusing the system although this can never be guaranteed.

The CSSA does not have any electronic mechanisms to record time, however, an attempt was made to ask all colleagues to complete a roster showing their arrival and departure times. Managers and directors were trying to look at it and see how best the staff kept to those hours. They have core hours between 10.00 a.m. and 4.00 p.m. but some staff must work from home during periods when there is a lot of work.

The Council of the European Union (CoEU) used a flexi-time system where staff recorded their own hours, but this system was limited to certain departments. About six years ago Administration decided to introduce flexitime with a time recorder in all departments. The official reason was to help people record their hours of presence, but the administration also thought that logging hours manually was open to fraud. Some staff were opposed but others thought it was quite normal to be controlled. Just over 50% of staff voted in favour of flexitime with badges as a means of control. But the system is not fraud-proof at all since time recording and access control are based on two different systems. Administration is convinced that everyone is cheating the system and staff are convinced that the system is only there to control and supervise them. There are a lot of problems and there is no trust anymore.

The ICTY has high security and badges are used for entry and to control the working hours. In certain cases, there is also a follow-up history on computers which can also be used as a control. Concerning flexi time they use a similar system to ESA, where the staff have to be there between 10.00 a.m. and 4.00 p.m. and lunch must be taken between 12.00 p.m. and 2.00 p.m.

The OHIM uses a SAP system to record flexi-time. They went away from using badges as they thought it was controlled but still open to fraud as badges could be handed to other people. They have a control system in all departments. Surplus hours can be recovered to a maximum of 15 hours per period (four weeks). Overtime is only possible for assistants (AST 1 to AST 4) working between 19:30 and 7:30, or on Saturdays and Sundays or on public holidays of the Office. Overtime is not worked systematically but is limited to cases of urgency or exceptional pressure of work. They get compensation for the overtime worked. Staff are the ones in charge of controlling themselves. The system works well and everyone is happy with it.

At the EPO office in Vienna there is a flexi-time system but this is not the case at the other EPO sites. The EPO staff representative will send short presentation of the system. Everyone is happy with it and motivated to work with it.

One of the reasons that ESA Staff Association agreed to flexi-time is because they were convinced that people were working overtime in their agency. With the statistics showing the flexi-time they could measure where the overworking was happening. Staff can only carry forward a maximum of 24 hours from one quarter to the next; hours above this are lost. The numbers are very useful to the Staff Association when they want to discuss with their Administration other issues concerning our work-life balance. They would recommend everyone to consider it as a potential benefit.

## **Conclusion**

The session chairman concluded the topic of work-life balance by summarising the flexi-time system in place at the EIB. Their system is being improved every year. They did not want to be tricked by the control from Administration and concluded that the system has to be based on trust otherwise it cannot exist. Their direction is to give responsibility to the team members so that the team managers can handle the time keeping and control.

**SESSION C -  
PRESENTATIONS ON THE MISSIONS  
OF STAFF ASSOCIATIONS:  
COMMUNICATION AND LEGAL  
ASSISTANCE**

## Presentations

Marie-Christine Delcamp was the moderator for Session C. She explained that there is would be 2 presentations following by discussion and comments.

**Presentation by Cayetana Borrego Cabezas, OHIM**

**Presentation by Penelope Denu, Council of Europe**

## General Discussion

### **Communication**

At ITER they have four formal levels of communication with their Director General:

1. A formal request where he has to reply in writing.
2. A request for information which goes to his staff before going to him and they must respond in writing.
3. Subjects for discussions when either side is informing each other of something.
4. Actions which are tracked to make sure a timely answer is made.

The UNESCO representative said that communication with the delegates of the Members States needs to be approached very carefully as it could be misunderstood or misused by Administration. At UNESCO, they used to be able to talk to the delegates but they were not allowed to lobby and get support for their proposals. Now, they are not entitled to contact them at all.

At the OHIM, if the Administration does not answer it is called "Administrative silence", which after 2-3 months means "no". However, there are certain topics the Administration needs to give an answer on. The staff representatives can contact the Presidents of the Administrative Board and the Budget Committee to share their problems with them, e.g. regarding downsizing or suppression of posts, however, they are not entitled to contact them directly. They can go through the Secretariat of the Administrative Board. To distribute documentation to the members of the Administrative Board and the Budget Committee (EU Members States delegations), staff representatives have also to go through the Secretariat of the Administrative Board, which does not have the right to censor the documentation. It did happen once where the President of the Administrative Board stopped documentation prepared by the Staff Committee from being passed on to the representatives of the Member States. The staff representatives are observers at the meeting of the Administrative Board and the Budget Committee .

At the Council of Europe (COE) there is no real procedure but they can randomly ask the Secretary General for his opinion. It is mainly through circumstances (e.g. issuing information via a newsletter or on the intranet) that he is forced to answer. During the statutory consultation he is also forced to answer questions related to regulation changes.

Regarding communication with the Member States, the staff representatives are not allowed to organise briefings with the delegates. The Secretary General once reproached the chair for going directly to one of the delegates. They are not entitled

to address one or many delegates separately as it is considered lobbying or putting pressure on them.

CERN has a formalised communication within their Standing Concertation Committee consisting of general representatives of the Director General within a multi-party committee. There is also an informal communication between the Director General and the president and vice chair of the Staff Association, so that issues can be discussed informally and then formalised within the Standing Concertation Committee.

At CERN there are 20 member states and Council meetings are held twice a year. After the Financial committee meeting they invite the delegates to come and meet the staff representatives in the cafeteria. They also invite non-staff representatives. The Staff Association visits the ministers of the Member States if there is an important issue at stake. They do not have to agree to see the representatives but it gives an opportunity to discuss topics affecting all staff prior to the financial meeting.

At the OECD they have a statutory formal consultation where they meet with their Secretary General and his representatives annually to discuss current topics. They also communicate in writing with Secretary General or meet him any time upon request.

Concerning the delegates, the OECD staff representatives do not normally but can attend the Council meeting upon request, or provide them with a document concerning any topics under discussion. They meet with delegates individually if there is delicate topic on the agenda. They have also organised meetings with delegates in the past for specific topics to involve them in the process.

At the ICTY, nothing hinders nor allows the representatives from lobbying. The committee recently had 3-4 representatives attend the Assembly to express their disapproval of a financial change, although the changes were approved anyway.

The IDB suggested summarising information to staff rather than copying them in on letters between the Staff Association and Administration. It took a long time for regain the trust from the president after doing such a thing.

The IAEA representative said it is strictly forbidden within the UN common system to contact the Member States directly. The president of the Staff Council is allowed to address the Members States once a year at the Programme and Budgetary Committee meeting. This is used to raise staff concerns but it needs to be done carefully. About 6-7 years ago an official statement was made to all staff saying that if anyone were caught contacting delegates, it would be grounds for immediate termination.

EUROPOL is similar to other organisations in that communication is done via the Director, however, the liaison offices of the Member States and non-Member States included in the global e-mail list so they automatically receive information. The Staff Association is not allowed to have meetings with the highest board of Member States but can address issues through the Secretariat although this has not yet been. The Staff Committee is always invited to a sub-committee meeting as observers through which over time they have managed to raise issues.

At the EPO they are the right to attend the Administrative Council meeting as participants and to take part in the debate, it is even mentioned in the rules of procedure of the Council.



At UNESCO the representatives are allowed to talk to the Member States when the Statutory Bodies have their meetings every 6 months. The staff representatives can talk openly to the delegates and in front of the Administration. There are problems when they discuss budget restrictions, when the staff representatives need to convince the delegates that reducing staff would have a catastrophic impact on the work.

### ***Legal Assistance***

For legal assistance at the ICTY, staff members pay for insurance for questions not related to work issues. They have 30 lawyers on the staff committee who work on administrative laws and are able to follow procedures up to the end.

The UNESCO representative suggested that a legal network be built within the CSAIO. He explained that getting legal help can be expensive and the staff committee does not always have the time or knowledge to help staff.

The ITCY representative said there would be an issue with the procedure, skills and competencies as each organisation has a different tribunal.

The ICC agreed with the ICTY representative in that each organisation is subject to a different tribunal and their own internal rules and regulations. He stressed that their rules are internal documents and it is difficult to find people externally who can help staff with internal procedures.

At the OECD they have a legal database with all the decisions from the Administrative Tribunal. There have been similar cases judged in different fields although it is not well known; it could be of great help for current cases. The major problem is time to collect the data and it may be difficult for organisations to have the competencies and time to do this.

The IAEA explained that the larger organisations tend to have their own legal insurance or pay for their expenses, assuming they will collect their legal costs if they win. He suggested that FICSA could help smaller organisations who normally cannot afford to pay for insurance or the costs. They can now collectively buy legal insurance from one company.

He explained that the IAEA does not report to the UN but to the General Assembly. They have developed their own procedures where a staff member can file an appeal 60 days after they have become aware that they have a possible appeal. The Director General has 30 days to respond; if he does not, that is considered an answer. The staff member can take it directly to the ILOAT if they wish but they are advised to go through the internal appeals process first.

In the ICC's internal rules for the Appeals and Disciplinary Board it states that only staff members (or former staff members) of the ICC are allowed to assist staff as counsellors. The Staff Union tried to change this so that external counsellors can help but this was disapproved by Administration. She suggested having a collaborative webpage where people could post information about significant cases.

The UNESCO representative proposed for an exchange of information or consultation where if one organisation has certain problems, they can ask whether similar cases have arisen at other organisations.

The OECD representative noted that the group regularly receives questions from participants of the SAIO conferences from the last eight years. She explained that some questions take time, which some representatives do not have. She stressed that not all Staff Associations have the same competencies, skills and time for this.

The EPO representative suggested contacting Phil Bocking (Vice-chairman of Berlin Staff Committee), who is already working with a network of people.

The ICTY said there is a problem getting hold of older cases, as they do not exist in electronic form. He explained that most decisions are confidential.

The OECD representative suggested using TRIBLEX (<http://www.ilo.org/public/english/tribunal/>) which has all the judgements by the ILOAT. All judgements can be searched by key words, with extracts and access to the full judgements. She believed the European Court of Human Rights also list of their judgements online. The ICTY confirmed it did.

The OHIM agreed that judgements are also available in different languages and they go back several years. Every time they need something relating to the ILOAT, they get the information.

### ***Staff Associations representing staff at court level***

The OECD Staff Association is entitled to act in front of the court only if the decision of the Secretary General affect it or directly prejudice any rights accorded to it by the Staff rules. Otherwise, they just help staff with lodging individual complaints.

The Council of Europe (COE) representative explained that their staff committee could contest a decision of the Secretary General if it directly affects the rights or prerogatives of the personnel.

At the EPO 7 staff representatives lodged a complaint and wanted one symbolic Euro per represented person. They won so the office had to pay to the 7 staff representatives for non-respect of the staff rights as well as pay one Euro to each of the 6,700 members of personnel.

He explained there was a case law at the ILOAT in Geneva where it stated that a staff representative is entitled to lodge a complaint in the name of the people they are representing. On this basis, a case took place in 2007 which allowed 7 people to represent all personnel.

The ICC representative noted that staff representatives could only go to court for staff on general issues, not on behalf of individuals.

The EUROPOL representative explained that trade unions are legal entities but they cannot make a complaint as a trade union in some courts, but this is more due to the court.

The UNESCO representative had read that the ILOAT had accepted a plea from the Staff Association but it was to defend collective rights and not individual rights. He understood that the Association went there not as a party but as onlookers, which is not a legal status in itself. He noted that the internal statutes normally determine the procedure regarding going to court. He did not believe that there had been such a case at the UN.

At the CSSA the Staff Association is a recognised body which is the first legal instrument. He explained that their Secretary General and the Council of the Commonwealth recognise the Staff Association as a body which is going to negotiate on behalf of the staff with the Secretary General and his bodies. In the past the Staff Association has taken the Secretary General to the Tribunal over the cost-of-living allowance and the judgement was upheld. The Tribunal decided that the Secretary General was wrong and every staff member was awarded a token of one pound each.

Regarding funding, the organisation has diplomatic immunity and is recognised as an international organisation therefore the funds which the Staff Association receives as a contribution from staff members is immune from any taxation.

Marie-Christine Delcamp thanked the interpreters and everyone for attending the conference. She thanked EMBL for hosting the conference.

## CSAIO10 – Preparation

### Venue

The EIB, Luxembourg, and the ICC, The Hague, and offered to host the next conference between the 2<sup>nd</sup> and the 4<sup>th</sup> week of September.

The scientific committee will decide which venue would be most suitable. The ICC would need to request permission from their Administration.

### Topics

The following topics were suggested for the next conference:

- Occupational Safety and Health Issues (including health programmes, disability issues, committees): EPO
- Downsizing and dissolution of organisations: ICC, CERN, WEU
- Conflict Management & Ombudsman: EIB
- How to set up a Staff Association: FAO
- Same-sex marriage and partnership programmes: FAO
- Outsourcing and off-shoring of organisations: FICSA
- Pensions: COE, EIB, CSSA
- Evolving of salaries and wages: EIB
- Rights and privileges of staff: CSSA
- Delegation of power from recruitment to dismissal: UNESCO
- Social security: ICC
- Promotion and advancement systems: WIPO

### Website

CERN has hosted the SAIO website for the last eight years. Joel Lahaye presented the website explaining how to access the proceedings and presentations from the former conferences. He asked for further suggestions and comments.

- Links to other organisations that participate in the conference either directly to the Staff Association website and the organisation websites: ICC
- FAQ section where some questions can be set up with feedback: ECMWF
- Information on the upcoming conference: EUROPOL
- Best practice for new Staff Associations: CSSA

Joel Lahaye thought that a FAQ section would be a good idea but the topics are broad and there are constant changes within organisations. He said there is a need to be careful about misinterpretation of information.

Links to other organisations would be possible to include e-mail addresses to the Staff Associations.

Philippe Deffert suggested setting up a platform where everyone would be able to access so that web content would be updated by each organisation separately.