



INCOMPETENCE NEEDS TO BE ANALYSED IN AN OBJECTIVE AND OPEN WAY

U4U welcomes the decision by the unions to include the subject of “incompetence” on the agenda of the social dialogue.

This is an important subject and the Staff Regulations have introduced fundamental changes without staff having been properly informed about these changes or given the opportunity to discuss them. There has been no prior dialogue with the unions to formalise procedures.

The Barroso Commission wanted to demonstrate its commitment to reform the European civil service by displaying its determination to sanction incompetence, with measures going as far as dismissal, without a joint review of the situation or genuine prior discussion of the ins and outs of such changes or a dialogue with the unions. For their part, staff members have more often than not simply discovered new forms during the annual assessment exercise, including a reference to “incompetence” as part of the line manager’s assessment. In other words, they have a sword of Damocles hanging over their head. This reform took place in a context characterised by the development of a culture of control, forced mobility, and a series of factors which have sparked fears of a challenge to the independence of the European civil service and the creativity and spirit of initiative of the services, without which the Commission will not be able to fulfil its role efficiently.

Clearly, there has been a failure to consider this issue in its proper perspective and that is why – on the basis of the staff consultation organised in 2014 on a proposal of a group of colleagues supported by U4U¹ – we have formulated the following seven recommendations, which will guide the approach of our union during the proposed social dialogue process. U4U will discuss this approach with the other unions in order to do everything possible to achieve a consensus among the unions on the steps to be taken, since such a united front is more essential than ever in this case.

¹ http://eustaff4europe.eu/doctm/pet201403a_fr.htm

1. WE NEED A PRECISE ASSESSMENT OF THE NEW INCOMPTENCE MANAGEMENT FRAMEWORK

The existing framework for the assessment of incompetence, characterised by a commitment to dialogue and anticipation, has given way, in particular, to three articles in the Staff Regulations, viz. 43, 44 and 51, intended mainly to determine a scale of sanctions, without a precise definition of incompetence, and adopted solely in response to outside pressures, and proof therefore of the institution’s growing political weakness.

As yet, there is no way of knowing how the new legal framework has actually been implemented over the past year. We call on the Administration to provide the unions with a succinct evaluation of the implementation of the new legal framework, in order to facilitate a serious dialogue based on objective knowledge of the current situation. How many colleagues have been deemed incompetent? How have they been dealt with? How does the Administration view the current situation, compared with the previous one? Where can possible improvements be made?

This failure to carry out an evaluation reminds us of the situation after the "Kinnock reform" for the period 2004–2014, on which the institution remained silent.

2. WE NEED AN OBJECTIVE ASSESSMENT OF INCOMPTENCE

We believe that "incompetence" should be assessed as objectively as possible in a way that takes account of each individual’s unique situation and working environment. It should not be trivialised and treated as a simple assessment left to the discretion of an assessor, given that it triggers, on the basis of the Staff Regulations, a procedure which can have more serious consequences than those associated with the various forms of professional misconduct.

A staff member’s previous assessment must be taken into account every time. Incompetence must be determined on the basis of the three assessment criteria – performance, competences and conduct – and not just one criterion. This complex issue must not be treated in a simplistic way. It must be based on a human approach which reflects working conditions and the changing nature of such conditions. Similarly, people in specific situations, for example pregnant women, must be given specific protection.

3. ANTICIPATE RATHER THAN IMPOSE SANCTIONS

Imposing sanctions for incompetence is a recognition of failure. The criteria for determining incompetence are to a large extent subjective, but reflect a failure of both the individual and the working environment which has not provided the necessary support and resources to enable a colleague to perform effectively and contribute fully to the institution. It may therefore reflect weaknesses in human resources management and mentoring.

In this regard, the new legal framework represents a significant step backwards in comparison to a situation which was clearly structured, albeit with the risk of excessive complexity, but with the legitimate concern of seeking to improve a difficult situation rather than the gradual uncoupling of individuals from their working conditions. A good human resources policy needs to be based on anticipation!

4. INCOMPETENCE IS NEITHER A DISABILITY (FOR EXAMPLE MEDICAL) NOR INDISCIPLINE

An individual’s poor professional performance, at a given time, must be assessed in an all-encompassing, multifaceted framework, which may involve crucial medical and/or social factors. Here again, the new legal framework opens the door to considerable risks of abuse in that it does not specify the limits of incompetence, in particular in situations that may lead to disability on medical or social grounds. In addition, incompetence must in no circumstances be confused with disciplinary matters.

U4U calls on the Administration, when developing implementing procedures for the article in the Staff Regulations dealing with incompetence, to take this fundamental distinction into account in a concrete manner in the implementation of the Staff Regulations.

5. INCOMPETENCE, ASSESSMENT AND DIALOGUE

U4U wants to retain the necessary "objectivity" of any approach to the concept of incompetence within the framework of a system of annual assessments, including individual guarantees, in particular in terms of a dialogue with the assessor.

Here again, the risks associated with excessive subjectivity in the assessment of incompetence should encourage the Administration to focus more on the need for an ongoing dialogue with staff throughout the year.

There is no reason to wait until the time of the annual assessment for line management to raise the question of a staff member’s incompetence, since a regular dialogue would have made it possible to improve a difficult situation earlier, or to attempt to find alternative solutions. It is important that assessors are given suitable training, especially in this area.

U4U also wants guarantees that details of sanctions imposed will be deleted from an individual’s personnel file after a reasonable period of time.

6. RIGHTS OF DEFENCE AND A JOINT APPROACH

U4U recognises that article 51 of the Staff Regulations provides for the development of procedures which contain relevant provisions for the necessary rights of defence and a joint approach. These elements are essential, when dealing with complex, often

conflictual situations, which require an approach that puts the situation in perspective, with the participation of outside parties, capable of helping to assess the situation objectively and attempting by means of a dialogue to find concrete solutions. However, we want to link this issue specifically to that of the evaluation of the existing system. What have we learnt in this area over the past year and what can we do to improve the situation, while avoiding in particular a treatment that varies from one DG to the next? Equally, what have we learned from the implementation of the system developed along the “Kinnock reform”?

7. INCOMPETENCE AND MOBILITY

The complex situations of incompetence require different solutions depending on the case. Such solutions also need to take account of the human relationship between the colleagues concerned and their work, material and human environment. Here again, we call on the Administration not to isolate this issue from other key issues related to good human resources management, such as that of mobility.

In some cases, a situation considered as being indicative of incompetence may simply reflect a situation where an individual’s working environment is inappropriate. Moreover, a good mobility policy can facilitate a new start. U4U calls on the Administration to demonstrate flexibility and creativity in finding solutions to problems which can be highly detrimental to both individuals and the institution.

In this area as in others, U4U advocates the development of an open, positive human resources policy that promotes dialogue and initiative. We need to avoid cases of failure reflected in incompetence, by adopting a human, anticipatory and objective approach, which enables us to restore a collective pride to our work, in order to uphold the European ideal, without stigmatisation of individuals!