

Appendix 4 - Consultation protocol WVOI - Public Service Unions as of 1 October 2003

- **Facilities for Trade Unions and Works Councils**
- **LO Members Legal Protection**
- **Article 4.5 WHW**
- **Ministry of Education, Culture and Science Means**

Considering:

- That in case of decentralization of the employment policy in 1999 the employment policy consultation was at WVOI level, leaving the existing employment policy consultation at organizational and employer level unaltered;
- That afterwards the role of the consultation with employers organizations on organizational level was done in favour of the consultation on WVOI level;
- That it is advisable to make new agreements about the contents of the consultations with various consultation tables about employment policy and qualifications.

Parties, the Employers' Organization Research Institutes on the one hand and the public service unions: ABVAKABO FNV, AC/FBZ, CMHF/VAWO and CNV Public Affairs on the other hand, agree that:

ARTICLE 1 DEFINITIONS

1. Consultation on WVOI level: The consultation of the WVOI and the abovementioned Public Service Unions;
2. Consultation on the organizational level: Consultation of individual organizations with the abovementioned Public Service Unions, during the Local Consultation (LO);
3. Consultation at employer's level: Consultation of individual employers with the (Central) Works Council;
4. Organization: The organization as meant in article 1.1, paragraph 8, of the Collective Labour Agreement Research Institutes;
5. Employer: The legal person as meant in article 1.1, paragraph 18 of the Collective Labour Agreement Research Institutes;
6. WHW: Law on Higher Education and Scientific Research;
7. CAO-OI: Collective Labour Agreement Research Institutes.

ARTICLE 2 POINTS OF DEPARTURES AND DURATION

1. Consultation between institutes and employers' organizations takes place in compliance with what is stipulated by Chapter 4 of the WHW.
2. Consultation between employers and the (Central) Works Council takes place in compliance with what is stipulated by the WOR and other legal regulations, and also the WVOI or institutes have agreed with employers' organizations about consultation authority through this protocol.
3. This protocol is agreed for an indefinite period of time. Interim changes are possible with consent of CAO-parties. When observing a termination period of three months, termination is possible for the date on which the current CAO-OI ends. If this agreement is terminated by one of the parties, an open and reasonable consultation will take place about the contents of a new agreement.

ARTICLE 3 RELATION TO THE CAO

This protocol is part of the CAO-OI.

ARTICLE 4 CONSULTATION AT WVOI LEVEL

1. The consultation shall concern matters of general interest for the special legal position of personnel as meant in article 4.5 WHW, insofar as the subjects are not reserved for consultation at a higher level in pursuance of statutory arrangements or, in pursuance of this agreement, for consultation at the organizational level.
2. During consultation at WVOI level it can be agreed that arrangements of more precise arrangements for employees' legal positions are carried out in consultation at the organizational or employers' level.
3. Consultation at WVOI level takes place on request of the WVOI, or on request of one or more public service unions.

ARTICLE 5 CONSULTATION AT THE ORGANIZATIONAL LEVEL

1. The consultation at the organizational level concerns:
 - a. General daily routine of the organizations;
 - b. Determination of a Social Policy Framework and of social plans;
 - c. Regulations with, according to the CAO-OI, consultation at the organizational level;
 - d. Allocation of local employment policy funds.
2. In a consultation at the organizational level it can be agreed to consult at employer's level for subjects as mentioned in article 5 paragraph 1, unless expressly agreed during WVOI level consultation that a subject can only be discussed at the organizational level.
3. Consultation at organizational level takes place on request of the board of said organization, or on request of one or more public service unions and takes place at least twice a year.

ARTICLE 6 DECISION PROCESS

Contemplated decisions about matters mentioned in articles 4 and 5 are not enforced until a majority of the public service unions agree, in as far as they concern:

- a. Enactment, change or cancellation of a regulation with right and/or obligations of (groups of) employees;
- b. Allocation of local employment policy funds.

ARTICLE 7 DISPUTES

1. Disputes between parties consulting at WVOI level and disputes between organizations and public service unions consulting at organizational level, can, by any individual party at the consultation table, and as long as it concerns participation, nature, contents and/or organization of the consultation, be put before a dispute committee, instituted by CAO-parties.
2. Disputes between parties consulting at organizational level are only put before a dispute committee after consultation at WVOI level.
3. The dispute committee consists of three persons. The chairman is appointed by the WVOI and the employers' organizations collectively. One of the other members is appointed by the WVOI. The third member is appointed by the collective public service unions.
4. An advice of the dispute committee is binding if parties, prior to the dispute, have agreed to consider the advice binding.
5. The dispute committee will give its advice no later than 2 months after the dispute has been put.
6. This dispute regulation does not apply to disputes between employer(s) and individual employees or groups of employees about clarification, application or observance of the CAO.

ARTICLE 8 CONTENTS OF CONSULTATION AT EMPLOYER'S LEVEL

1. Without prejudice to all that is determined by or by virtue of the WOR and other legal regulations, consultation at the employer's level involves matters on which it has been agreed in consultation at the WVOI or institute level that they are subject to consultation at the employer's level.
2. If consultation at employer's level concerns propositions concerning allocation of local labour condition funds, or a planned decision to determine, change or revoke a regulation with rights and/or obligations of (groups of) employees, the employer needs consent from the (C)OR as stated in article 27 WOR.
3. When there is disagreement between employer and COR about a matter as stated in the first paragraph the dispute regulation of the WOR is fully applicable.

Supplementation to appendix 4

FACILITIES FOR TRADE UNIONS AND WORKS COUNCILS

The employer shall grant to the Trade Unions facilities which they in all reasonableness need to carry out activities within the organizations. Facilities are amongst other things understood to be: 'the free use of rooms for member meetings' and 'providing members with as much opportunity as possible to attend these meeting'; furthermore the use of copying machines, notice boards and the internal mail. Arrangements about facilities for works councils will be made at the employer level.

LO MEMBERS LEGAL PROTECTION

The employer shall ensure that the members and appointed members of the local consultation will not be adversely affected by their membership to this consultation group, and that their (legal) position in the organization is protected.

ARTICLE 4.5 WHW

1. In consideration of and by virtue of or in accordance with the rules of the Order in Council, as meant in the second and third paragraph, the organizational management of a public organization shall arrange and protect the legal position of its personnel and the management of a private organization will make provisions for its personnel's legal status.
2. By Order in Council or conversely by or by virtue of Order in Council rules may be made relating to:
 - a. salary scales and points of departure for job evaluation systems designed by the organization's management, conversely
 - b. rights and obligations of the personnel and the organization's management for illness, childbirth, pregnancy, disability and dismissal, insofar as they exceed the rights and obligations laid down by law, or the conditions in which the organization's management itself arranges these rights and obligations or takes care of the arrangement thereof.
3. Regulations can be determined for Order in Council relating to general duration of work.
4. Arrangements on the legal position as meant in the first paragraph also include the determination of provisions relating to appointment, suspension, disciplinary measures and dismissal of personnel. The provisions concerning dismissal may not provide personnel or the public organizations any less rights than for employees with a labour agreement resulting from the provisions of mandatory law in the seventh title A of Book 7A of the Civil Code.

5. Consultation on the arrangements meant in the first and fourth paragraph, as well as about other matters of public interest for the special legal position of the personnel of the relevant organization, save for the provision in article 10.22 first paragraph, and article 12.14, third paragraph, shall be carried out in accordance with a written agreement by or on behalf of the organization's management with the eligible trade unions of governmental and education personnel. In the event of a dispute about participation in consultation, as meant in the previous sentence, as well as in the event of a dispute about the nature, content and the organization of the negotiation, the parties involved will bring the dispute before a disputes committee. This disputes committee consists of three persons, who are collectively appointed by the parties. The decisions of the disputes committee are binding.

MINISTRY OF EDUCATION, CULTURE AND SCIENCE MEANS

1. After they have been added to the lump sum of the institutes, the means currently allocated by the Ministry of Education, Culture and Science to employee organisations will continue to be available to the employee organisations.
2. Indexation of the sum to be paid to the employee organisations occurs using the CBS's derived consumer price index of the previous year.
3. The institutes shall transfer their contributions directly to the SSCC (Stichting Samenwerkende Centrales within the Centraal Overlegorgaan Personeelszaken Wetenschappelijk Onderwijs) no later than 1 July of each year.
4. The SSCC shall annually submit an auditor's certificate to the WVOI.
5. This regulation takes effect on 1 January 2007 and is tacitly renewed as long as the Decentralisation Terms of Employment for Research Centres Agreement of 1 June 1999 remains in place.