

EPO management goes against fundamental rights of its staff



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Modern society imposes increasingly difficult constraints on every worker. The international public service, sadly, is no exception: work pressure, precariousness, loss of feeling about what human dignity really means and many other problems are a growing source of human work-related problems and management malpractice. USF members are well aware that harassment problems occur everywhere in the international public sector and use USF fora to discuss these matters, hoping to identify and promote best practice.

The internal Commission's harassment procedure, for instance, has not allowed yet to declare the problem solved, but the bodies set up by the decision provide means to fight the problem on a day-to-day basis.

Easier to tell where and by whom "best practice" is being achieved, it seems that for the moment, a case of "worst practice" is developing at the European Patent Office (EPO).

The staff of the European Patent Office is left standing in the rain after the unexpected suspension of the circular for the dignity of staff, ie the internal anti-harassment regulation, by its President Alain Pompidou. Although he chaired several ethic committees in his previous function, Mr. Pompidou - foster son of the former French President - has not hesitated, thought this measure, to deprive staff of virtually all legal defense against harassment. (1)

The suspended Circular, is the only internal regulation defining harassment and providing procedures for preventing and sanctioning inappropriate behavior. Without the Circular, staff has no effective protection against harassment or other inappropriate behavior. Because the EPO applies neither local national law nor European law, there is little legal basis left for the legal bodies of the EPO to prevent and sanction harassment, letting the EPO fall far behind EU standards.

It is currently unclear if the decision is triggered by desire to prevent an upcoming high-profile case from being prosecuted or, more generally, by pressure from EPO senior management against an "uncomfortable" regulation which was making it harder for them to ignore harassment.

The decision to abandon all safeguard to the dignity of staff is not only morally wrong, it is also illegal and reeks of a management style known only under authoritarian regimes. As in many European Institutions, the President of EPO must seek the opinion of the appropriate body before any change of the statute. After requesting the competent joint Committee (General Advisory Committee) to give such opinion at the occasion of a regularly scheduled meeting, Mr. Pompidou decided to unilaterally suspend the circular immediately, trespassing clearly the border of legality. This

sudden suspension followed a communication of SUEPO, alerting staff on their incoming loss of rights.

Moreover, it is questionable from a human-rights point of view whether the President of EPO can cancel any regulation on harassment without replacing it with new rules ensuring staff with an equivalent level of protection. The duty to provide effective protection against harassment and similar behavior stems directly from the Charter of fundamental and human rights (2). Here again, the legal protection of staff raises serious issues, since staff has no access to either European or national courts and the EPO does not recognize such fundamental rights.

The Staff Union of EPO has protested most strongly against this abolition of (human) rights, and demanded the immediate reinstatement of the circular for the protection of staff dignity. The staff Union is also looking into other means to correct the situation; however, none of the possible means are likely to provide a quick solution, and it could be years before any court ruling (if possible) successfully overturn this willful act.

In the Commission's "Communication to the Council and to the Parliament" of 21 February 2007 proposing a Community strategy in that field, we can read under the headings "new and increasing risks" and "mental health at the workplace": "The Commission stresses the importance of negotiations between the social partners on preventing violence and harassment at the workplace...". Does EPO management consider that the EPO is not concerned by this type of recommendations?

(1) Mr. Pompidou was already earlier in the eye of public, when he was reprimanded by the French government for his role in scandal on an illegal collection of dead fetus in the St Vincent Hospital in Paris and for the allegedly illegal appointment of his wife to the EPO.

(2) CHARTER OF FUNDAMENTAL RIGHTS OF THE EUROPEAN UNION, Article 1: Human dignity is inviolable. It must be respected and protected and ECHR Articles 2, 3 and 9.

(3) COM(2007) 62 "Improving quality and productivity at work: Community strategy 2007-2012 on health and safety at work"