

INTERNATIONALE GEWERKSCHAFT IM EUROPÄISCHEN PATENTAMT
STAFF UNION OF THE EUROPEAN PATENT OFFICE
UNION SYNDICALE DE L'OFFICE EUROPEEN DES BREVETS

Zentralbüro Central Bureau Bureau central



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Position of SUEPO with regard to the letter from Mr. Battistelli sent to Mr. Pierre-Yves Le Borgn', Parliamentary Deputy for French Citizens abroad

The Staff Union of the EPO (SUEPO) has 3400 members among the 6800 employees agents distributed among the four sites of the EPO. It is the only union which represents a significant proportion of the EPO staff. It is apolitical, financed solely by the contributions from its members, and is affiliated to the Union Syndicale Fédérale and to the EPSU.

SUEPO has taken note of the reaction by Mr. Battistelli to the letter from Mr. Pierre-Yves le Borgn', Parliamentary Deputy for French citizens abroad for the region of Germany and Austria, where two of the EPO sites are based, among them the head office of the Organization. We are sending this letter to Mr. le Borgn', as parliamentary deputy, in the hope that he will publish it on his Website as he did with the letter from Mr. Battistelli.

Failure to respect confidentiality and presumption of innocence

First, it must be pointed out that Mr. Battistelli is failing to respect the principle of confidentiality of enquiries and disciplinary procedures which are in progress. The information divulged in his letter to Mr. P.-Y. Le Borgn' easily allows for the alleged culprits to be identified.

In Mr. Battistelli's eyes, the culpability of the representatives of the personnel and union members concerned is already established; they in turn vehemently reject the unfounded accusations made against them. The attitude of the President of the EPO would be shocking if he were only an outside observer. However, at the EPO, the President is likewise judge and jury in matters of sanctions against the personnel, and Mr. Battistelli has already demonstrated that he has in no way availed himself of the opinion or advice of the discipline commission, even when they are unanimous and positive in favour of the staff member concerned. One must therefore anticipate the worst in respect of the colleagues targeted by this new wave of repression.

Failure to respect a matter under judgment - Defamation

Nor does Mr. Battistelli respect the elementary rules of law with regard to our colleague suspended from DG3. He maintains that this colleague is culpable *after* the Enlarged Board of Appeal of the EPO, the only body qualified to rule on the case,

has already concluded that the proceedings were not admissible, the EPO being limited to making general accusations not substantiated by any convincing evidence (the decision by the Extended Board of Appeal is now public, see <http://ipkitten.blogspot.de/2015/11/read-it-for-yourself-enlarged-board.html>).

Mr. Battistelli is nevertheless taking it upon himself to make public accusations of “Nazi propaganda” and the “storing of weapons”, among others, even appending to his letter an article from the journal "Les Echos" which portrays SUEPO members as “enemies” of the interior”. These serious accusations are not only unfounded, they are miserable travesties.

How is one to believe in internal justice at the EPO?

What credibility can now be placed in the process of internal "justice" in view of what is happening, and taking account also of the following facts:

- The enquiry directives introduced by Mr. Battistelli, and the manner in which they are put into effect do not respect the fundamental rights guaranteed by international conventions, in particular the European Convention on Human Rights, which is binding on all the Member States of the EPO. Nothing justifies the Administrative Council of the EPO, on which those same Member States sit, from exempting itself from that commitment.
- Mr. Battistelli is simultaneously taking on the roles of investigator, prosecutor, and judge within the framework of internal regulations which he himself has amended or introduced. He has no hesitation in exempting himself from the recommendations of the regulator bodies (which have nothing more than a consultative role) whenever they are favourable to the personnel.
- Mr. Battistelli does not hesitate, however, to violate these rules which he himself has introduced, such as those relating to strikes or the arrangements for sick leave, when it suits him to do so.
- Mr. Battistelli has refused to implement the ruling by the Court of Appeal at The Hague of February 2015 relating to violations of human rights by the EPO.
- The methods used by the investigation unit violate the internal directive which is supposed to establish the framework for its work, as well as violating fundamental rights.
- The suspensions of three personnel representatives in Munich took place 18 months (!) after – according to him – so-called “serious incidents” are alleged to have been incurred within the staff representation body. This suspension occurred in reprisal on the day following a meeting of the personnel representatives.

A strange conception of social dialogue: SUEPO in the first instance.

The representatives of the personnel suspended are, respectively, the President, the former President, and the Treasurer of SUEPO in Munich. In addition to these colleagues, three other representatives of the personnel, likewise SUEPO union

representatives, became ill as a result of their treatment by the management within the framework of disgraceful internal enquiries. At the time of writing, the health of a number of them remains a cause for concern.

Whatever Mr Battistelli may say, there is no prospect of any framework agreement with SUEPO, and if Mr. Battistelli maintains that this impasse is the responsibility of the union, which has suspended negotiations, he fails to point out that this was only a reaction to the serious acts of pressure exerted on the members of the union during the discussions. How is it possible to re-establish a social dialogue at a time when the pressures being exerted by the management on the most high profile elected union representatives are such that they are now suspended (or have been made ill) and threatened with dismissal? Moreover, what value would such an agreement have if one of the parties has demonstrated that it does not feel itself bound by its own rules?

The "performance" of the EPO – At what price?

The policy adopted by Benoît Battistelli and implemented by the Chief Human Resources Officer Elodie Bergot allows for the appearance of a short-term increase in productivity (according to figures of which the validity is impossible to verify, since they are not certified by any independent body). We must express the greatest reservations with regard to the consequences of this policy in the middle and long term, particularly with regard to the quality of the work provided (which it will only be possible to appreciate in reality after a period of one to two years, taking account of the specific features of the procedures at the EPO).

In addition to this, the very great pressure at work, and the state of health of the staff, visibly under stress, disturb us greatly. The changes introduced in 2015 in the manner in which days taken for sick leave are compensated (downwards) render any comparison with previous years impossible. An increasing number of staff members have confided in us that they are coming to work even when ill, since they fear being targeted by reprisal measures.

It is in this context that we have drawn the attention of the Administrative Council of the EPO to the increase in the number of suicides (5 in 42 months) following the systematic refusal of Mr. Battistelli and of Ms. Bergot (CHRO) to arrange for an independent enquiry into their causes. Moreover, they continue to oppose vehemently an audit of the EPO by the competent local authorities (Labour Inspectorate), despite the fact that the Protocol on Privileges and Immunities (PPI) of the Organization makes such co-operation mandatory in this sector (Article 20 PPI).

The conspiracy theory

Who can seriously believe in this day and age that a plot could be hatched by a handful of radical union members lurking in the shadows, with the sole aim of discrediting the management of the EPO and of impeding the introduction of the Unitary Patent, given that a rapprochement with the European Union could only protect the employees of the EPO from the deviations and excesses from which they are presently suffering?

Finally, who can seriously believe that the representatives of the personnel and the union would harbour in their midst a concentration of malignant and dangerous beings, whom the personnel had the lack of foresight to elect (on several separate and repeated occasions)?

It is propositions such as these which Mr. Battistelli sets forth in his letter, demonstrating the excesses of his actions and the absence of respect of the most elementary principles of law, and seriously damaging the reputation of our Organization. The EPO has become an object of concern and/or of consternation in the international community which is concerned with matters of patents.

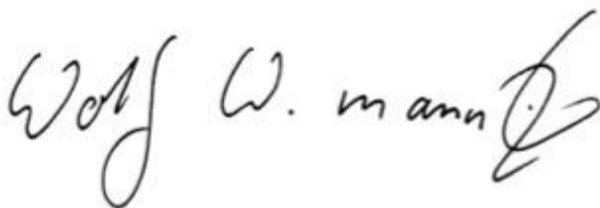
The Administrative Council of the EPO, which up to now has turned a blind eye to the actions of Mr. Battistelli and his entourage must now act. Rapidly.



Joachim Michels
President, SUEPO Central



Elizabeth Hardon
Vice-President, SUEPO Central
President SUEPO Munich



Wolfgang Manntz
Vice-President SUEPO Central
President SUEPO Berlin



Alain Rosé
Vice-President SUEPO Central
President SUEPO The Hague

A handwritten signature in blue ink, appearing to read 'David Dickinson', with a long horizontal flourish underneath.

David Dickinson
Vice-President SUEPO Central
President SUEPO Vienna

cc. Mr. Emmanuel Macron, Ministry of the Economy and Industry
William Bourdon, Liesbeth Zegveld, SUEPO Legal Counsels