



Open letter addressed to WIPR

REBUTTAL: BATTISTELLI ACCUSES SUEPO OF DEFAMATION.

In an exclusive interview with *WIPR*¹ at the AIPPI World IP Congress in Toronto on September 17, President Battistelli said the EPO's staff union "*has been contacting the media throughout Europe*" to complain about issues such as transparency and governance, and accused it of mounting a "*defamation campaign*" against him by alleging that he is guilty of "*non-accountability, non-transparency and dictatorship*".

The Staff Union of the EPO (SUEPO) responds as follows.

SUEPO actively opposes any lack of transparency and any questionable form of governance in the EPO. Primarily, SUEPO opposes the fact that the EPO concentrates wide legislative, executive, and quasi-judicial powers essentially in one function: that of the President, without any effective democratic control, without any guarantee of compliance with fundamental rights otherwise enjoyed by all European citizens. If, in addition to these systemic problems, Mr Battistelli uses his powers in ways that not only anger staff but also would not be countenanced in any of the (European) member states, it is only normal that a Union should react.

SUEPO has voiced its criticism to the President himself, to the Administrative Council of the EPO, to Ministers of the Member States, and before Courts of Law. Criticism does not necessarily amount to defamation. Defamation is the communication of a *false* statement that harms the reputation of an individual. None of the information published by SUEPO is untrue, and we challenge the President to show otherwise. In particular, we challenge the President to deny the following:

- **Non-accountability:** Mr Battistelli himself has boasted that he is free to do what he deems right without having to report to anyone². The Head of the French Delegation in the last Administrative Council recommended organising an independent audit on the social governance of the EPO, but so far there are no indications that Mr Battistelli has agreed.
- **Non-transparency:** In spite of repeated calls to disclose the information, the President has kept his contract and its terms (including, but not limited to, the extent of his generous remuneration) a jealously guarded secret. Many decisions, including in the Council, and involving expenditures of hundreds of millions of Euros are taken behind

¹ <http://www.worldipreview.com/news/aippi-2014-battistelli-accuses-epo-union-of-defamation-7152>

² <http://www.usinenouvelle.com/article/le-strategie-du-brevet-europeen.N182255>

closed doors. All this would not be possible in any other public European institution. Meanwhile, a request for the Office's governance to be assessed by a transparency and governance specialist (Transparency International) has not been accepted³.

- **Dictatorship:** This is a strong word that SUEPO has not used in public. SUEPO has criticized and does criticize Mr Battistelli for acting unilaterally, for ignoring his own rules, for muzzling dissenting voices, for using intimidation as a “managerial tool” (including using disciplinary sanctions against staff representatives and union officials for acting according to their mandate).

If Mr Battistelli is so certain of being in the right, perhaps he should stop invoking immunity from jurisdiction and let independent Courts and national Labour Inspectorates do their job and assess objectively what is truly going on at the EPO.

SUEPO Central

³ <http://www.worldipreview.com/news/calls-for-epo-transparency-investigation-ignored-7142>