

Oral question regarding deterioration of the social climate within the EPO: Government response

Written by Richard Yung
Tuesday, 21 February 2017 13:41

On 21 February I posed some questions to the Government with regard to the **deterioration of the social climate within the European Patent Office (EPO)**

Here is the text and video of **my question session and the reply by the Secretary of State responsible for Information Technology and Innovation, Axelle Lemaire**

President: Mr. Richard Yung has the floor, posing question No. 1578, addressed to the Minister of the Economy and Finances.

Mr. Richard Yung. My question, which is unfortunately one which keeps recurring, relates to the deterioration of the social climate at the European Patent Office, the EPO.

Since 2010, the measures implemented by the management of the EPO have incurred the erosion of the basic rights of the staff. I am thinking in particular of the limitation on the right to strike, the curtailing of staff union freedom, and the attack on the right to collective negotiation.

It appears that the EPO is the organization which is most frequently brought before the administrative court of the International Labour Organization, the court which is called upon to rule in staff conflicts in international organizations.

In a ruling of 2015, the court of appeal at The Hague found that a number of the measures taken by the management of the EPO are illegal. The EPO is appealing, invoking the immunity from prosecution which international organizations enjoy.

Since the start of 2016, a number of sanctions have been imposed against staff union officers: Three dismissals and a demotion. Investigations and disciplinary procedures are also being pursued.

In a resolution adopted on 16 March 2016, the Administrative Council of the EPO, which is its highest executive body, demanded in particular that the President of the Office to “appreciate that the sanctions and disciplinary procedures are not fair but are considered as onerous, and to look into the possibility of making recourse to an external body for re-examination, arbitration, and mediation.”

This resolution has been ignored by the management of the EPO, which is content to organize a social conference – “Potemkin-style”, it might be said.

The Bavarian Parliament has recently raised the issue and debated the matter, although the immunity from jurisdiction and implementation of judgments which the EPO enjoys renders any action by State authorities difficult.

The EPO working properly is one of the essential conditions for the success of the European Patent, as is well known, and for the implementation of the patent with unitary effect. I therefore ask the Government what solutions it envisages proposing, in particular by way of the French delegation on the Administrative Council of the EPO, in order to favour the resumption of social dialogue and the emergence of a new style of management, as well as the re-examination of the sanctions.

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The President: The Secretary of State has the floor.

Ms. Axelle Lemaire, Secretary of State at the Ministry of the Economy and Finances, responsible for information technology and innovation: Senator, the European Patent Office, created by the European Patent Convention of 5 October 1973, is an inter-governmental organization which has been operating since 1977. It employs close on 7,000 staff, coming from thirty different countries. Its Administrative Council, which brings together the representatives of thirty eight Member States, has decided to reform the status of EPO functionaries in order to ensure its long-term viability.

This reform, which covers the whole range of social issues – pensions, salaries, social services – was intended to be put into effect in concert with the staff representatives. This is the start of the story...

In February 2015, the Court of Appeal at The Hague has indeed challenged certain decisions taken internally at the EPO. The Office was brought before the Supreme Court of the Netherlands, which in a decision of 20 January 2017 annulled the judgments by the courts at The Hague and confirmed the jurisdictional immunity of the Office.

In March 2016, France supported the initiative taken by the Administrative Council of the EPO, which had adopted a resolution to emphasise the urgency of resolving the social problems besetting the organization.

This resolution, therefore adopted close on a year ago, made provision in particular for the undertaking of a social audit, the presentation to the Administrative Council of developments in the regulations relating to the staff, and the suspension of the disciplinary procedures implemented.

Where does this stand today?

The objective and independent study, carried out by the company PriceWaterhouseCoopers, presented in October 2016, provided evidence of the deterioration of the social climate within the Office. This deterioration is damaging the image of the organization; it is also damaging, indirectly but certainly, the image of France abroad and within international organizations, despite the very favourable remuneration conditions for the staff in comparison with other international organizations.

This study proposed a number of approaches for improving the situation with regard to the existing disciplinary procedures.

The resolution of March 2016 makes provision for a review by the Administrative Council of the status of the staff of the EPO, in order to develop guidelines with regard to internal investigations and disciplinary procedures. The French representatives on the Administrative Council will be watching this very closely in order to ensure that this review leads to an easing and improvement of the social dialogue within the establishment. This is in fact what is at stake.

No fewer than five Ministers have been called upon by members of Parliament to provide statements on these issues: Emmanuel Macron, Michel Sapin, Christophe Sirugue, myself, and also the Minister of Foreign Affairs, Jean-Marc Ayrault. We are heavily involved in ensuring that the decisions adopted by the Administrative Council of the EPO do indeed respect the provisions and jurisprudence of international law.

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The Secretary of State for Industry, Christophe Sirugue, who has had a number of exchanges with the management of the EPO, continues to be fully committed to reaffirming the concern of France in seeing an unacceptable social situation being normalised again.

This normalisation is essential in creating conditions of greater efficiency by the EPO in the context of the introduction of the European Patent with unitary effect, which is aimed at allowing Europe to assert itself in the field of intellectual and industrial property in the world of innovation.

President: Mr. Richard Yung has the floor.

Mr. Richard Yung. Madam Secretary of State, I believe, like you, that the present situation is prejudicial to the staff, whose motivation is being affected, and to the Office as a whole. Moreover, it is tarnishing the reputation of our country, and I fear that there will be further consequences.

While taking note of the action determined by the Government, I can see that events are really taking place on the Administrative Council of the EPO, which is the determinant factor in the present case. This is why France must make its voice heard.

One other possibility, provided for by the Munich agreement, would be to convene a Council of Ministers responsible for industrial property. They could then debate a number of questions: The Unitary Patent, which you have mentioned and which should soon be coming into effect, vegetable patents, and staff management at the EPO.

This is a proposal which I leave to your good judgment, Madam Secretary of State.