

European Patent Office

Mr. Pierre-Yves Le Borgn'
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Date: 20.11.15

Mr. Deputy,

You have published on your Internet site a letter addressed to the Minister of the Economy, Industry, and Digital Affairs, dated 18 November 2015, in which you drew attention to the "deterioration" of the situation at the EPO, making reference to the proceedings against personnel representatives. I can only deeply deplore the adoption of such a position in a public forum, without communicating with the Office beforehand, and therefore without having taken the time to familiarise yourself with all the aspects of the matter.

The proceedings which have been instigated are due to serious incidents which have been occurring within the staff representation body over the past 18 months, and to which any responsible employer would be obliged to react. In fact, shortly after the election of the staff representatives in June 2014, six of them decided to resign from their posts, the most striking case being that of a person who was elected to the central committee of the personnel representation body, and was then subjected to a veritable campaign of harassment due to his opinions diverging from those of the majority of the EPO internal staff union, SUEPO. The result of these actions is that all the elected representatives who do not belong to SUEPO or who express alternative views have left the staff representation body.

Such a situation, which defies the basic principles of freedom of expression and of association, of democratic pluralism, cannot be tolerated within our Organization, and enquiries aimed at establishing the facts and allocation of responsibility have been instigated by respecting the rules and regulations of the EPO. When necessary, particular in cases in which pressure has been exerted on witnesses in order to obtain their retraction, it may be decided to implement suspensions. The EPO has an obligation of diligence in respect of all its personnel, and we must protect our employees, regardless of their status.

In this context, your public intervention with regard to proceedings which are in hand seems to me therefore to be all the more damaging. First, it is entirely erroneous to contend that "*interrogations of unusual violence*" have been conducted. This can easily be proved, since these interviews are recorded. Moreover, it is not acceptable to cast discredit on the investigation unit at the Office, which is made of mothers and fathers, family people, who are devoted to a task which if often difficult but nevertheless essential in the fight against fraud, harassment, and other offences which could destabilize our organization. Finally, I am afraid that your adopting a position in favour of certain individuals who are members of SUEPO, which could be interpreted by the staff representatives who have left office as a form of pressure, while they themselves are victims of actions which have been made known to the administration.

These individual proceedings, which are associated with the circumstances described heretofore, do not in any way impinge or prejudice my readiness and willingness to partake in a social dialogue at the EPO, both beneficial and respectful, with the different social partners concerned. In order to improve the overall situation, last spring I launched an initiative aimed at formalizing in a legal manner the integration of the staff unions within the body of the Office. I am determined to pursue the discussions and to sign a framework agreement with every union who wishes to do so, including SUEPO.

If the Office has in fact encountered a difficult period, it is principally due to an intense defamation campaign conducted by certain employees of the Office, with outside connections, against the management of the Office and the Administrative Council of the Organization, wrongfully accusing them of a whole range of misdemeanours. The principal author of this shameful enterprise, a member of the Board of Appeal, a specialist in information technology systems, has been discovered, and a substantial number of items of evidence have been obtained attesting to his considerable number of misdemeanours (among others, leaking of confidential documents of the Boards to the advantage of an outside third party, attacks on the computer system of the Office, the storage of weapons and Nazi propaganda in his office, and a letter with racist overtones sent to a Minister of State of the EU). This person, thanks to his technical expertise, knew how to create dozens of false identities, appearing to be the owners of blogs and Internet sites, by means of which he disseminated defamations, insults, and threats. A number of these communications have been sent to national parliamentarians, in particular French, among them yourself, and of other European states, and petitions have even been lodged with the European Parliament.

The aims of this operation were to discredit the management of the Office in order to damage its capacity to reform, and to impede the introduction of the Unitary Patent, the management of which has been assigned to it by the institutions of the EU. The disciplinary committee of the Administrative Council of the EPO engaged in this matter, an independent and impartial body presided over by Lord Schiemann, a renowned judge and former member of the Court of Justice of the European Union, has validated the whole of the enquiry procedure, and considered that the dismissal of the perpetrator was commensurate with the facts. The impact on the Office in terms of image and reputation have been very serious, even if some media have begun to appreciate better the nature of the conflict (see enclosure). I myself have come to appreciate better the scope of this, after becoming aware of your letter.

With regard to the results and performance of the Office, the year 2015 has been reported as a record year both with regard to the level of production (+13%), of control of costs (-10%), and of quality of products and services, recognized as being the best in the world on the basis of enquiries conducted by external bodies among users. Such results can only be obtained by the commitment of employees who are motivated and who are confident of their professional future, supported by a new performance-based career system. We have also observed a substantial reduction in time off due to sickness (-35% in five years), a very low leaving rate (2.5% of the employees per year), as well as the strengthening of the attractiveness of the Office both as an employer (close on 20,000 candidates for 200 positions in 2015). These performance values allow for the financing of fair remuneration to the employees of the Office. Some examples are +10 to 12% average increase in salaries since 2011, an overall amount of 18 million Euros distributed in bonuses and premiums in 2015, and close on half a billion Euros injected into the retirement fund.

Regrettably, I did not have the opportunity of sharing this information with you before the publication of your letter. My door naturally remains open to all those who can bear witness to the interests of the European Patent Office and to the positive role which it plays in the European economy. I have no doubt, taking account of your commitment to transparency and proper information of your readers, that you will publish this letter in its entirety on your site.

With my best regards

Benoît Battistelli

Copy: Mr. Emmanuel Macron
Minister of the Economy, Industry, and Digital Affairs