

A reason to celebrate for the European Patent Office?

President Battistelli endangers the European Patent System

European patents are granted by the European Patent Office, the central organ of the European Patent Organisation. Since its foundation in 1977, the Office has lived with serious structural weaknesses in the balance between the executive, legislative and judicial powers within the organisation.

In the sole existing supervisory body of the organization, the Administrative Council, the different Contracting States are represented generally by delegates from the national patent offices. This leads to serious conflicts of interests: How can the Council perform its assigned supervisory function in an impartial manner, when money from the self-financed cash cow EPO flows through many different mechanisms to the national patent offices and when the EPO performance influence directly their budget?

In this situation, the departments entrusted with patent granting had difficulties to safeguard their judicial independence.

The situation now is much worse than ever. Over the last years, the European Patent Organisation has:

- systematically disregarded international legal standards, declared itself not bound by international and European treaties and agreements such as the European Convention of Human rights, the European Union treaties and law, the European Charter of Social Rights, the Community Charter of the Fundamental Social Rights of Workers and the ILO Conventions and Recommendations
- abolished the independent Audit Committee and nominated President Battistelli's former assistant as head of the so-called "Board of Auditors"; other of his French associates have been recruited to key positions within the Office;
- introduced an investigation system that fails to respect basic legal principles such as the right to be informed of accusations, the right to remain silent, the right to protection of private property and to the inviolability of the home;
- substantially blocked the access to justice for staff. Procedural delays of 15 years must be expected thereby exacerbating unacceptable delays in the judicial procedures and additional obstacles for staff.
- dismantled the staff representation that had been legitimately elected and brought the elections under control of President Battistelli, including a voting method which has never been seen in Western Democracies;
- muzzled the unions by disciplinary measures against their representatives, by banning their communication and by imposing "strike regulations", thereby putting strike organisation and authorization in the hands of President Battistelli.

This leadership style combined with the lack of access to independent justice will have long lasting repercussions on both the European and on the future Unitary Patent system. Those who cannot defend themselves can hardly withstand abusive influence or unlawful instructions.