

It will be a painful meeting

European Patent Office

This week, the member states must choose a side in the conflict between the boss of the European Patent Office, who they appointed, and the staff.

- Eppo König 16 March 2016

Employees of the European Patent Office demonstrated in The Hague last year against the punitive measures taken against members of the SUEPO union and the works council.

Photo FREEK VAN DEN BERGH

It was a short and heated discussion between a critical Dutchman and an indignant Frenchman. This is how the meeting between State Secretary Martijn van Dam (Economic Affairs, PvdA - Dutch Labour Party) and President Benoît Battistelli of the European Patent Office at the beginning of March can be described, according to sources at the organisation.

Van Dam (38) and Battistelli (65) seemed to be talking at cross purposes. Van Dam expressed his concerns about the conflict between Battistelli and the union SUEPO. The Netherlands and many other member states of the patent office want an investigation into the punitive measures taken against prominent members of both the union leadership and the works council: two of them have been dismissed whilst the salary of another has been docked.

But Battistelli denounced the union's 'smear campaign' and felt he had the support of the member states. When the state secretary repeated his criticism, Battistelli reached the end of his tether. The Frenchman stood up in anger after half an hour and left Van Dam's office at the ministry. The state secretary had already expressed his concerns, said a spokesperson. This conversation did not result in 'any new insights'.

The internal tensions at the patent office will be thrashed out on Wednesday and Thursday in Munich. The Administrative Council, the highest body, in which 38 member states are represented, will be meeting there. This council wants to force Battistelli into openness about the punitive measures taken against employees. This was stated in a leaked draft proposal drawn up by Battistelli's regulators: a motion of no confidence.

Own investigation department

The conflict at the European Patent Office, which in addition to Rijswijk also has sites in Munich, Berlin, Vienna and Brussels, concerns many different interests. The office, established in 1977, approves patent applications and grants patents that are applicable from Iceland to Turkey. The office therefore protects the products and competition positions of multinationals like Philips, Samsung and Siemens, but also independent inventors.

Under Battistelli, the number of patent investigations by the 7,000 employees rose by 14 % last year, according to the patent office. But the employees complain of stress and authoritarian management. The work pressure is alleged to be having a detrimental impact on the protection of patents and health of employees. The office screens employees through its own investigation department and rejects the labour inspectorate. Even when someone jumped from a seventh floor window at the Rijswijk office in 2013.

As an international organisation, the office does not recognise national labour laws or the SUEPO union. The Dutch government cannot intervene on its own territory, but at the same time wants to remain a good host country for other international organisations, such as the International Criminal Court and the European Space Agency. Member states are now being forced to speak out about the conflict, as international media attention is growing. But none of the critical countries dare to be the first to publicly disagree with Battistelli – they themselves have reappointed him until 2018.

Earlier this month, Battistelli stated in this paper that his relationship with the member states is 'excellent' and that the proposal for an external investigation has been withdrawn. But those involved as well as documents tell a different story.

Battistelli is said not to be 'willing' to enter into an 'open discussion'.

This is according to leaked notes from the board of the Administrative Council, published by the blog *Techrights* in February. These state that Battistelli demonstrates 'a clear unwillingness' to enter into 'an open discussion' on 'contentious issues' – and especially the 'social dialogue' with the union. The resolution could not have come as a surprise to Battistelli: the Administrative Council had already given him 'numerous signals' over 'a significant period', according to the document.

Last December, Battistelli received harsh criticism when the Administrative Council met in Munich. The president presented good annual results and spoke proudly about the increase in productivity as well as the decrease in the number of sick days and internal objections. There were also no strike days.

The representatives of the Netherlands, Germany, France and Switzerland were all shocked. Yes, Battistelli deserved praise for the good results, but why had he said nothing about the crisis situation? The member states had serious concerns about the image of the patent office.

It's no great surprise that there were no strikes, as Battistelli has to provide permission for strikes, the works council continued. If employees want to make a career for themselves or receive a bonus, they have to work harder. Higher production *and* higher quality doesn't exist. Volkswagen also sold so-called powerful *and* clean diesel cars – we know how that ended.

Limits to immunity investigated

All lies, said Battistelli. If there was a climate of fear, the results would not be so good. The president received support from Italy and Croatia, who said the media representation was one-sided.

It's hard to say how the meeting in Munich will go. The proposal has been watered down in order to gain more support among the member states, sources say. Battistelli must *ensure* that punitive measures against employees are fair and *consider* admitting external investigators. How that could be measured is unclear. It is also possible that Battistelli will accept the watered-down proposal himself.

The patent office may simply continue to operate, but the union and member states will remain alert. Later this year another investigation into the working conditions will be published. The Supreme Court is also considering the limits of the office's immunity.

The patent office says it cannot comment on the leaked documents or the conversation with the state secretary. Spokesmen say that discussion between the member states is very common.