

16.03.2016

# **EPO Conflict: Breathing Space for Battistelli**

**Benoît Battistelli will probably survive the meeting which starts today of the Administrative Council, and stay on as President of the European Patent Office. The resignation of the beleaguered Frenchman is not on the agenda, as a number of people in the inner circle of the Administrative Council concurred in their response to JUVE. Nevertheless, the supervisory body of the Munich patent authority does want to try once more to bring about a solution, together with Battistelli, to some urgent problems.**



Benoît Battistelli

Battistelli is locked in a bitter conflict with the staff union Suepo. Four disputed disciplinary proceedings against three union members and an Irish judge are being laid at his door. As well as this, the Office is struggling to bring about a structural reform to give greater independence to its court, the Boards of Appeal.

There has been recent public speculation that Battistelli's resignation is only a matter of the size of his golden handshake. Reports in the German and Dutch press have hinted at the sum of 15 million Euros, and the media have also been speculating about possible successors.

## **Major demands to be put into practice**

From influential sources JUVE has now learned that the Administrative Council is aiming to present Battistelli with a memorandum at today's meeting which is aimed at prompting him to implement a number of major demands. Above all, the social conflict, the sluggish reform of the Boards of Appeal, and the issue of the appropriateness of the four disciplinary proceedings are all in the spotlight.

The memorandum is said to include some significant parts of a letter from the Chair of the Administrative Council, Jesper Kongstad, to the representatives of 38 Member States of the Patent Office. This was leaked at the end of February, and for the first time documented the concerns of the Member States with regard to the ongoing conflict and the sluggish reform process.

## **Bad feeling between Administrative Council and President**

Following the letter, the members of Board 28, the Presidium of the Administrative Council, complained at their meeting at the end of February that Battistelli was not taking adequate account of the positions of the Administrative Council on key issues. Kongstad maintained that it was impossible to enter into a meaningful dialogue with the President. The Board 28 members thereupon issued a formal written demand to the President, which Battistelli then apparently rejected as being legally inadmissible.

Minutes of the two Board 28 meetings in February which are in the possession of JUVÉ attest to the at least partially irreconcilable relationship between Battistelli and the Administrative Council. There is talk, for example, of a “serious crisis”, but Battistelli denies this. The Board 28 members also voice their regret that the President evidently does not seem prepared to discuss controversial matters openly with the administrative body, in particular with regard to the social dialogue with the staff unions.

### **Agreement with smaller union**

Sources have repeatedly stressed to JUVÉ that by the time the summer comes there must be some significant progress in the resolution of the urgent issues. Battistelli has in the meantime reacted to the pressure from the Administrative Council, and last week proclaimed that an agreement has been reached with a splinter union, the Fédération de la Fonction Publique Européenne im Europäischen Patentamt (in the European Patent Office) (FFPE-EPA). This marked the first time that the Office has recognized the role of staff unions as social partners. But an agreement with the main staff union Suepo is still as remote as ever.

In formal terms, the EPO President is not bound by the instructions from the Administrative Council with regard to the conduct of his office. The Council appoints the President and is required to approve the budget of the Office. Up to now, it has been regarded as the true power base for the beleaguered Frenchman. Battistelli also appears to believe that he will survive the meeting of the Council, which goes on until Thursday. His comment to the ‘Handelsblatt’ yesterday: “Nothing unusual is going to happen on 16 March.” (Mathieu Klos)