

European Patent Office: Administrative Council shows annoyance with the President

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The Administrative Council of the European Patent Office has indeed been showing its annoyance with the President, but not yet to the point of revoking or reviewing decisions.

Before the most recent meeting of the Administrative Council (AC) of the European Patent Office (EPO), the AC Chair [Jesper Kongstadt had been showing his displeasure about the actions of EPO President Benoît Battistelli with regard to the Office staff](#). He was demanding that [the most recent dismissals and disciplinary measures against leading figures in Suepo, the EPO staff union](#), should be investigated by independent third parties.

Following the end of the two-day meeting of the AC, there is no longer any talk of such steps. It is true that [the Administrative Council did make it clear it did not condone Battistelli's actions](#), but it will not be undertaking any review of these decisions. For the future, the EPO President should take care to ensure that the general public also appreciate that such disciplinary proceedings are fair. As well as this, he “should give consideration” to scrutiny by an external expert assessor or arbitration court proceedings.

Battistelli needs to come to an understanding with the unions

As an outcome of the AC decision, there should also be changes in the staff regulations, in particular with regard to the internal investigation unit of the EPO. In the past, Battistelli relied on their work, among other things with regard to the controversial suspension of a patent judge and the dismissal of union leaders. The investigation unit installed key loggers on publicly accessible computers at the EPO, in order to track down someone alleged of defaming the organization.

In addition to this, Battistelli is also supposed to be seeking an understanding with the two EPO unions about rulings on co-operation. At the beginning of March 2016 the President made a big fanfare about the [concluding of such an agreement](#), but forgot to mention that the union signing the deal represents less than 100 of the EPO staff, who total more than 6,000. Suepo, with 3,400 members, has long refused to sign the paper. This makes provision, among other things, that the union must abide by the internal regulations of the EPO - but the Office is entitled to change these unilaterally.

Criticism of efficiency programme and working conditions

Within the EPO, there has long been dispute about Battistelli's drive towards increasing efficiency, and the working conditions associated with this. Patent examiners criticise the procedure, because patents which are issued too fast may not be thoroughly examined, and are therefore open to attack. [As far back as 2012 they were already raising doubts about being paid bonuses from the surplus earned by the Office](#), since this could lead to the inappropriate issue of patents. The EPO surplus of 89 million Euro at that time almost doubled in 2015.

Staff members are required, according to the [EPO regulations, if given sick leave, to stay at home between 10.00 and 12.00, and between 14.00 and 16.00 hours](#). The EPO reserves the right to send a doctor by to carry out a check during these periods. Anyone summoned to an interview with the internal investigation commission is not allowed to refuse to answer, or to bring a lawyer with them.

The European Patent Office is supported by 38 countries, which also include non-EU members such as Turkey and Switzerland. As an inter-state organization it is not subject to any national law. This means that its employees do not have any opportunity of bringing actions against the EPO before the courts of their country of employment or their country of origin. They are initially referred to internal bodies, and can therefore only take serious legal action before the International Labour Organization (ILO) in Geneva, where proceedings can last up to ten years; moreover, [in 2015 the ILO complained about the flood of complaints coming from the EPO](#). (ck)