

**The staff of the EPO demand: Timely access to Justice,  
Freedom of Speech, and  
Freedom of Association**

**The European Patent Office ...**

For 40 years, staff of the European Patent Office (EPO) has been working for the benefit of European industry by delivering high quality patents. Their work brings social and financial benefits to European business and consumers alike, creating the foundations for solid investments and jobs. The EPO is entirely self-financed.

The EPO has offices in Munich, The Hague, Berlin and Vienna where a total of 7000 international civil servants from 38 European countries work in three official languages (German, English, French). The EPO will soon also be in charge of granting the co-called "Unitary Patent" on behalf of the European Union (EU).

**... and its governance<sup>1</sup>**

The EPO, like other international organisations, enjoys immunity in the exercise of its official functions. It creates its own labour law and has its own social security system. This makes the EPO very much a "state within a state" without, however, the separation of powers that is the norm in modern democracies:

- The President is the executive authority of the EPO.
- The President of the EPO proposes the law to be applied within the EPO to the Administrative Council, the supervisory body of the EPO. The Administrative Council almost without exception endorses these proposals thereby *de facto* giving the President wide-ranging legislative powers.
- The President is also the head of the internal quasi-judicial system. He is the one to whom the investigation unit reports and who calls for disciplinary procedures. Disciplinary committees and the internal appeals committee only *advise* the President. The President remains free to decide. He is prosecutor, party and judge.

**What is going wrong?**

The current President, Mr Benoît Battistelli (FR), has radically changed the way the Office is managed. His highly authoritarian management style is characterized by fear, isolation and punishment. He has introduced changes to the EPO Service Regulations (the "internal law" of the EPO) that drastically deteriorate the already weak legal protection of EPO staff. More is to come.

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<sup>1</sup> See <http://www.caio-ch.org/index.html> and <http://suepo.org/public/su14012cp.pdf> for the general lack of governance and of accountability of international organisations.

- Staff of the EPO no longer has timely access to justice. It now takes almost 4 years to get an opinion from the Internal Appeals Committee. Furthermore, most of the time Mr Battistelli disregards the Committee's opinion if it is in favour of the employee. That then forces the claimant to file a complaint in front of the ILO-AT<sup>2</sup>, the only Tribunal accessible for EPO staff. The total duration of the procedure may be up to 10 years. Justice is de facto denied in the EPO.
- The President has created his own internal police and introduced so-called "Investigation Guidelines" that encourage staff to report on each other and that deny staff fundamental rights such as the right to remain silent, the right to be represented by a legal counsel of one's choice, and the right to refuse access to one's home without a search warrant.
- Mr Battistelli strongly curtailed the communication means of the Staff Union of the EPO (SUEPO) and of the Staff Committee. Incoming emails sent from the SUEPO domain are blocked, the sending of emails to more than 50 colleagues is forbidden and punished with disciplinary measures. Documents submitted for the Administrative Council are blocked by the President.
- Mr Battistelli introduced strike regulations that give him the power to decide for what issues staff may strike and for what they may not. Strike ballots may no longer be organized by the Staff Union but only by the administration. All other actions than strike (e.g. work-by-rule) have been declared illegal.
- Next Mr Battistelli plans to dissolve the democratically elected Staff Committee. Elections are to be called in June. The new election rules set by the President seem carefully designed to make the future Staff Committee unworkable. The elections will be organized and controlled by the administration, not by staff. The President will also decide on the admissibility of the candidatures and on the validity of the election results.
- In the meantime more than half of the elected staff representatives have been subjected to, or are threatened with, disciplinary measures in an apparent attempt to quash the opposition. Critical managers are simply transferred to empty posts.

### **Our demands**

EPO Staff refuse to become second-class citizens. They expect that in today's Europe access to justice, freedom of speech and freedom of association are not called into question by the implementation of measures that are unprecedented in European democracies. Whilst Europe seeks true democracy, accountability and transparency, Mr Battistelli is heading directly back to the middle ages.

The Member States of the EPO should not, and legally may not, accept proposals from the President that deprive their citizens in the EPO of fundamental rights. Nor should the Member States accept broad clauses that empower the President to introduce further regulations on his own. In doing so the delegates would fail to exercise the supervisory responsibility invested in them.

**SUEPO demands for EPO employees the same fundamental rights that all other citizens of European democracies enjoy. Nothing more, nothing less.**

SUEPO Central

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<sup>2</sup> International Labour Organisation Administrative Tribunal