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**Mr Henrik Sass Larsen**

Minister of Business and Growth in Denmark  
Danish Ministry of Business and Growth - Erhvervs- og Vækstministeriet,  
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**Unitary Patent and European Patent Organisation - Your duty to safeguard the fundamental rights of EPO staff**

Dear Mr Sass Larsen,

We are writing to you as the Central Chairs of the Staff Union of the European Patent Office (SUEPO). Around 50% of the 7000 staff members of the European Patent Office are members of our Union.

At a time when Denmark is facing an important referendum on whether or not to join the Community Patent Court, it is important to ensure that no relevant factors that could potentially prove damaging are disregarded.

The Kingdom of Denmark is a member of the European Patent Organisation, whose supervisory body is the Administrative Council (AC) of the EPO. The current AC Chairman is the Danish representative, Mr Jesper Kongstad who is also concurrently Director General of the Danish Patent Office (DKPTO). As head of the Ministry of Growth and Business, all of Mr Kongstad's actions fall ultimately under your responsibility.

There are well-reasoned concerns that suggest that the EPO is flouting established and internationally recognized principles of labour law. SUEPO has brought these concerns to the attention of the Administrative Council and Chair in a letter dated 3 March 2013 entitled "Social Democracy - Mr Battistelli's reform of the Staff Representation". You will find a copy attached to this letter.

As executive President of the EPO, Mr Benoît Battistelli (FR) has adopted a dubious management style that may be characterized by authoritarianism and a complete disrespect for rights that are assuredly fundamental rights within a democratic country like Denmark. To give you just a few of many examples:

- Mr Battistelli has severely limited the right to strike: it is contingent on his accepting the grounds for striking and eventually approving the request to strike, all before he will then allow any industrial action to take place
- Freedom of speech is severely curtailed; staff who voice dissent are punished.
- Any staff member can be subject to an investigation by a newly created internal police force; they can neither keep silent nor be assisted by legal counsel.
- Access to independent justice is both limited and very ineffective.

All these unilaterally enforced changes have led to the worst social conflict at the EPO in its 40 years of existence. There is no indication of any improvement in the situation on the horizon - on the contrary, it seems the situation will only get worse. Not only are these changes one-sided, they risk emasculating the checks and balances in place to moderate EPO governance. We fear that in the medium term there will be heavy costs to pay in terms of the health and welfare of staff: such a regime will lead to stress, burnout or something worse. In the long term, legal inadequacies could pose problems of liability for the organisation itself, and for the Member States that fail to ensure that EPO employees enjoy the same fundamental rights as all other citizens of Europe.

Moreover, as a minister in a genuinely social-democratic government of a country that has a long-standing reputation for transparent governance, you should be concerned about the opacity of any available information concerning the EPO. The salary and terms of service of Mr Battistelli (in contrast to those of his predecessor) are kept secret. His accountability to the Administrative Council, and therefore the Member States, is limited. The perceived impartiality of one of the Auditors who, in theory, should work on behalf of the Administrative Council, might be questioned when the successful candidate happens to have been the closest associate of Mr Battistelli during his tenure at the French Patent Office (INPI). Indeed, Mr Battistelli has appointed to several key positions within the EPO a number of former associates from INPI, far exceeding the normal level of representation for France (please see <http://suepo.org/public/su14062cp.pdf>).

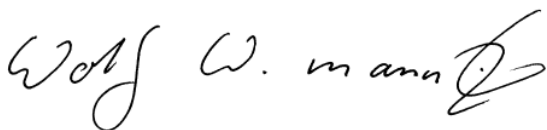
All of these changes have happened under the eyes of the Danish delegation and the Chairmanship of Mr Kongstad, both of whom have always supported Mr Battistelli.

Taking all the above information into consideration, we would ask you to take a position on your duty to safeguard the fundamental rights of EPO staff and brief your delegation and Mr Kongstad before the next AC meeting accordingly.

Yours sincerely,



Joachim Michels,  
Chairman SUEPO Central



Wolfgang Manntz  
Vice-Chairman (SUEPO Berlin)



David Dickinson  
Vice-Chairman (SUEPO Vienna)



Elisabeth Hardon  
Vice-Chairwoman (SUEPO Munich)



François Brévier  
Vice-Chairman (SUEPO The Hague)

ANNEX

Letter to the Heads of Delegations dated 3 March 2013 entitled "Social Democracy - Mr Battistelli's reform of the Staff Representation"