



Comments on letter of President Battistelli to Pierre-Yves Le Borgn' dated 20.11.2015

In an apparent effort to put a positive “spin” on his position, Mr Battistelli’s [letter](#) (translation in [English](#)) can at best be described as being economical with the truth. In an effort to put the record straight, we establish the facts that will clearly refute a *mere selection* of his more amazing statements.

Part 1: Allegations of harassment amongst staff representatives

The second paragraph is a key part of the letter, wherein it mentions six resignations from the staff representation. One particular case in The Hague is attributed to a “campaign of harassment”. It is later implied that all elected staff representatives who either were not SUEPO members or who express opinions contrary to the union have left the staff representation. In the context of a response to Mr Le Borgn’s reaction to the news of the suspension of three staff representatives in Munich, the President seems to suggest that these “facts” alone justify all the suspensions.

The truth is:

1. Of the three suspended staff representatives, two are accused of an alleged misconduct that is totally *unrelated* either to resignations in the staff representation, or to harassment of staff representatives.

Evidence: first pages of the reports setting out the reasons for the disciplinary procedures against two of the three suspended colleagues.

2. The initial accusation of harassment raised against the third staff representative who has been suspended has not been maintained in the disciplinary procedure. The same elected official is now accused of allegedly harassing other colleagues, this time in Munich. Yet none of these purportedly “harassed” colleagues has actually filed an individual complaint.

Evidence: first page of the report setting out the reasons for the disciplinary procedures against the third suspended colleague

3. Two colleagues elected since the introduction of Social Democracy to the local staff committee in Munich have resigned. These colleagues were both “SUEPO candidates” who resigned primarily or exclusively because they received threatening letters sent by the President and/or Ms Bergot. Moreover, two other colleagues in Munich who were not “SUEPO candidates” are still active, i.e. they have not resigned. There is a similar situation in The Hague. In other words, there is no simple one-to-one correlation between being “SUEPO candidates” or not and these resignations, as is suggested by Mr Battistelli.

Evidence: The colleagues who resigned from the Staff Representation are all in a position to confirm this.

4. It is important to note that apparently *none of the alleged victims has filed an individual complaint*. The investigation into the alleged harassment by one colleague which was later expanded to embrace other staff representatives seems to be solely based upon a complaint filed by **Ms Bergot**, Principal Director HR. Even if acting on the harassed party’s behalf, Ms Bergot has a rather blatant conflict of interest.

Evidence: first page of the report of Control Risks on the third colleague.

Conclusions:

- a) The second paragraph of Mr Battistelli’s letter grossly misrepresents the basic facts and may lead the reader to draw the wrong conclusions.
- b) The accusations against all three suspended staff representatives are both vexatious and absurd:
 - A public comment on the allegations that form the basis of the cases against two of the three suspended staff representatives, ridiculing the Office, can be found here: <http://ipkitten.blogspot.de/2015/10/epo-bids-to-save-litigating-employees.html>
 - Public comments on the specific case against the third colleague can be found here: <http://ipkitten.blogspot.de/2015/10/when-harassment-gains-new-meaning-epo.html>
 - Public comments on the suspensions in general can be found here: <http://ipkitten.blogspot.de/2015/11/eponia-land-of-suspense-and-suspensions.html>

Note that IPKat blog, although often humorous, is a highly respected and influential, independent IP blog, see <https://en.wikipedia.org/wiki/IPKat>

Part 2: Allegations against the suspended member of the Boards of Appeal

Paragraph 3 on the second page simply repeats allegations against the suspended Boards of Appeal member that were apparently raised by the Investigative Unit. Amongst these are “storing weapons and Nazi propaganda”.

Even should such allegations eventually be found to be true, then the President of the EPO’s action *publicly commenting on a pending procedure* would represent:

- (a) a serious breach of confidentiality,
- (b) an offense against the presumption of innocence,
- (c) an unacceptable interference with an on-going procedure,
- (d) and a potential case of him defaming our suspended colleague

The President should, however, have known that the Enlarged Board of Appeal had already dismissed the case because the accusations were too generic and unsupported by a detailed correlation to any evidence available that would allow the accused to defend himself adequately and have allowed the EBoA to assess the case in accordance with proper judicial standards.

Evidence: Decision of the Enlarged Board of Appeal of 17 Sept. 2015 (the reasoning of which was only published recently), pages 24, 25 and 33.

Conclusions:

- a) Under such circumstances, it is incomprehensible that the President of the EPO continues to publicly accuse the suspended Board member in such an outrageous and misleading manner.
- b) As always, the comments of IPKat on this topic are worth reading:
<http://ipkitten.blogspot.de/2015/11/why-enlarged-board-rejected-ac-in.html>

Part 3: Remaining parts of the letter

The remaining parts of the letter are of a comparable level. What is particularly striking is the contrast between the noble principles and intentions expressed by Mr Battistelli and the reality.

The question arises as to why Mr Battistelli insists on making statements that are so readily refuted: whether it proves to be deliberate or just defiant, only time will tell.