

Union members of the European Patent Office win claim against dismissal



(Picture: dpa, Frank Leonhardt)

The International Labour Organization has upheld claims by three union members against the European Patent Office. It has suspended demotions and dismissals.

Shortly before the end of his term in office, on 30 June 2018, the President of the European Patent Office (EPO) Benoît Battistelli has had his ears boxed, in public. The Administrative Tribunal of the International Labour Organization (ILOAT) has found in favour of three leading members of the EPO staff union SUEPO in their claims against the disciplinary measures and dismissals which he imposed. The EPO, as a supranational organization, is not subject to any national law. When it comes to labour law disputes, the ILOAT has exclusive jurisdiction.

With his decisions, Battistelli overrode the [findings of the disciplinary commission responsible at the EPO in 2016](#). The commission only wanted to demote the union executive Ion Brumme within the EPO hierarchy, but the President fired him instead. For the Treasurer of the EPO union, Malika Weaver, the commission imposed a block on promotion for three years, which Battistelli turned into a demotion.

Illegal decisions right from the start

The [ILOAT ruled in its decisions 4042](#) and [4043](#) that the decisions by the disciplinary commission itself were already illegal. They rested essentially on the accusation that the accused has made “confidential” EPO documents accessible to the public. The ILOAT decisions pointed out that the authorities had not been able to provide any clear definition of confidentiality. It ruled that both claimants should be reinstated in their appropriate positions, as well as awarding them damages and 5 percent interest on lost salary payments.

In the case of SUEPO chief executive Elizabeth Hardon, likewise fired by Battistelli in 2016, the ILOAT likewise found in favour of the claimant, but she had already agreed with the EPO on early retirement as at 1 July 2018.

Double victory for dismissed judge

The ILOAT has already ruled in favour of a former judge of the EPO Board of Appeal in proceedings at the end of 2017. He [had been suspended in a doubtful procedure due to “defamation”](#). The Tribunal demanded in its [decision 3958, among other things, that the judge be allowed with immediate effect to enter the EPO building again](#), and that he be compensated for the suspension. It ruled that in the proceedings Battistelli had taken decisions regardless of a manifest conflict of interests, and that rules of procedure had been broken. At the same time as the decision by the ILOAT, Munich Regional Court ruled [that there were no adequate grounds for suspicion with regard to the criminal charges made against the suspended judge](#).

Constant conflicts with the staff

During Benoît Battistelli’s term of office, the European Patent Office has constantly been rocked by conflicts between the management and staff. Among other issues, SUEPO has criticised the increasing pressure, which has led to less thorough examination of patent applications. The EPO also imposed unannounced visits by doctors to employees who had reported sick, and [installed keyloggers on publicly accessible computers in the service building](#). (*Christian Kirsch*) / (ck)