



ipso

International and European Public
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Bundeskanzleramt
Bundeskanzlerin
Angela Merkel
Bundesjustizminister
Heiko Maas
Willy-Brandt-Straße 1
10557 Berlin

27 February 2017

Employees' rights at the European Patent Office (EPO)

Dear Chancellor Merkel, dear Minister Maas,

We, the representatives of IPSO, the International and European Public Services Organisation, the union recognized at the European Central Bank, are writing to you to express our utmost concern about the governance of the European Patent Office (EPO), with headquarters in Munich and to express our solidarity with staff representatives of the EPO who have been sanctioned by the EPO's management.

The EPO is tasked with delivering patents – a juridical product – but it seems to have become unable to respect the rule of law itself.

There have been numerous reports about these issues in respected media. We refer in particular to a [reportage](#) broadcast by BR on 21 March 2016, to many articles in the press (SZ, FAZ, die Welt, Le Monde, Médiapart, Libération, De Volkskrant, NRC, El Mundo etc), and to countless entries in blogs specialised in intellectual property matters (eg IPkat, Juve, WIPR, IAM). Prominent juridical scholars, like Prof. Dr. Siegfried Bross, have also sternly admonished the EPO.

Never ever before has an EPO management been so much criticized publicly since the current president, Mr Benoît Battistelli, has taken office. Its reputation and that of its host states is also affected.

A good overview of the toxic atmosphere has been published by [Politico](#) in August 2015; since then the situation has deteriorated further. For instance, in January 2016 Mr Battistelli dismissed two union officials and elected staff representatives based in Munich. A third one was dismissed on 4th November, in The Hague. All of them were dismissed after a witch-hunt and a Kafkaesque trial, where even the most basic legal safeguards were not respected. Two more union officials and staff representatives are currently being targeted.

To try and de-escalate, the Administrative Council of the EPO adopted resolution [CA/26/16](#) in March 2016, requesting Mr Battistelli to revise the applicable rules to ensure that justice be done and seen to be done. The Council requested that, in the meantime, no further investigations or disciplinary proceedings are carried out against staff representatives and union officials. Alas, Mr Battistelli completely ignored the resolution.

For decades Germany has been praised for the efficiency of its social model, where dialogue and negotiation prevail over conflicts and power games. We very much encourage that Germany – a prominent Member State and Host State of the EPO – takes in this situation of the worst crisis of the European Patent Office since its inception a strong and clear position in favour of defending fundamental rights of staff and staff representatives of the EPO. Unfortunately, it seems to us that the German Delegate to the Administrative Council of the EPO has not only remained passive but has on a number of occasions even supported initiatives providing Mr Battistelli with even more powers, although already the current setup led to abuses.

We are sure you agree that management by fear, isolation and retaliation has no place in a democratic society and also not within an intergovernmental organization like the EPO. It is furthermore important to prevent that the authoritarianism as we see it currently in the EPO is becoming a negative role model for other international organisations, which are notoriously difficult to bring to justice given their functional immunity.

The mandate of Mr Battistelli as president of the EPO lasts until 30th June 2018 (provided a successor can be found within this time frame). We fear that if he succeeds in dividing and ruling the delegations to the Administrative Council, he may engineer a situation where he may stay even longer. Europe cannot afford such a scenario.

We cannot wait complacently for him to be gone. We therefore would like to know, at this stage, what concrete measures Germany intends to take to restore the Rule of Law and respect for staff representatives and staff's fundamental rights in an international organisation of which it is not only a prominent Member but also a Host State.

Sincerely yours,

Johannes Priesemann

Carlos Bowles
On behalf of IPSO

Jörn Paulini

cc: USF, SUEPO