

Mr B. Battistelli
EPO President
Isar, room 1081

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European Patent Office
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IFLRE request for strike

Dear Mr Battistelli,

We refer to your recent communication to Mr Michels dated 31 October 2013 in which you address the issue of the IFLRE request for strike. You seem to have the intention not to honour your obligation to organize a ballot because in your opinion:

- the initiative does not meet the requirements of the strike rules,
- the CSC is unwilling to discuss,
- the initiative contains insulting language.

We find your arguments disingenuous and provide the following comments.

On your interpretation of the strike rules

1. You say that the time limits for organising a strike are to provide a cooling-off period and de-escalate the conflict. This might be a valid point only if fair and transparent mechanisms were provided to ensure that dialogue take place. This has been made very clear by the ILO Committee on Freedom of Association. Such mechanisms take the form of independent and professional mediation, and arbitration mechanisms. No such mechanisms exist within the EPO.
2. You say that the IFLRE request for strikes is neither in accordance with the letter nor the spirit of Circular 347 because the new request has been submitted during a current period of strikes. With respect, neither Art. 30a nor Circular 347 forbid this, not even if there is an overlap in the scope of the claims. We advise you not to exacerbate the current conflict by adopting inappropriately restrictive interpretations of your own rules.

On the willingness to discuss

3. In your letter you refer to Article 34 of the Service Regulations claiming that the CSC refuses to take a position with regard to the actions and also refuses to enter into “real discussions”. We firmly deny this allegation. The CSC has repeatedly expressed its concern for the proper functioning of the EPO, which should logically include dialogue with all social partners including Staff Unions. The CSC has clearly expressed its views on the issues of concern to staff and will continue to do so in discussion with you.
4. On the other hand, in past meetings between the CSC and yourself, you have made it abundantly clear that you are not willing to move on any of the issues that staff find essential. That being the case, we believe we are justified in considering that, for as long as you take such intransigent a stance, participating in any meeting is likely not bear fruit. What is needed is real dialogue and genuine efforts by your administration to address the legitimate concerns of staff. At present this is not the case, despite you declaring that “your door remains open”.

On alleged defamation

5. You object to the use of the terms “Battistelli's Reich” and “Resistance” and ask us to apologize.
6. Please note that the cover letter with which we transmitted the petition to you did not contain any intemperate language. The Staff Committee is neither the initiator nor the instigator of the petition we have transmitted to you. We cannot and will not be held responsible for what other people write and circulate, nor are we willing to act as censors on your behalf.
7. Clearly the CSC does not support defamation or the use of inappropriate language, but we do support the right to freedom of expression.
 - a. You seem to believe that the term “Battistelli's Reich” has a sinister connotation. This goes too far, as the term is open to different interpretations and translations. What can be safely inferred, however, is that staff perceives your administration as highly authoritarian, and as being characterised by intimidation rather than consensus.
 - b. The reference to “lawful resistance” is also hard to consider inappropriate. It is a direct result of the perception of staff towards Circular 347. Your strike regulations are perceived as an excessive limitation to otherwise lawful and legitimate industrial actions. The legality of these regulations is being challenged both internally and in national courts. Until the Courts hand down their decisions, Staff feels compelled to engage creatively in forms of protest – lawful resistance – that does not expose them to the threat of arbitrary sanctions by your administration.

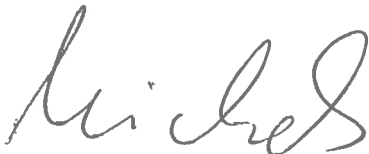
We advise you against using the alleged use of inappropriate language as a pretext to refuse to proceed further with the IFLRE request.

8. You enjoin the CSC to act in a manner compatible with the rule of law and minimum standards of respect and decency. We can only agree with you. However, it seems we have a different understanding what "rule of law" and "decency" mean.

We understand the Rule of Law to include: recognising fundamental standards and rights and that the EPO acts consistently with them. Where there are disputes, fully independent means must be provided to arbitrate, protect and enforce rights and obligations within reasonable time frames. We see little resembling this understanding within the EPO. In fact this is one of the main claims of the staff: that the EPO recognises fundamental rights and provides effective means to ensure these rights are protected fully. Until such time you show yourself willing to address actively these issues, in words and deeds, it is unlikely that the current social conflict can be resolved.

Given the reasons behind the LIFER and IFLRE initiatives, we anticipate that a refusal to hold a strike ballot will result in further escalation of the conflict. To avoid this we urge you to implement the request as soon as possible. If a reminder were necessary, please note that deadline to complete the ballot procedure is 24th November (Sunday) so in practical terms the results must be announced by end of work on the 22nd November. Based on the experience with the earlier LIFER ballot, organisation will take at least two weeks; therefore, we are concerned that if staff have not been notified of your intentions by 8 November this could well be interpreted as an implicit rejection of the IFLRE request.

Sincerely,



Joachim Michels,
Chairman Central Staff Committee