

# Statement from the management: No, the EPO is not violating fundamental human rights

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A strange rumour has recently spread across Europe in some media, political circles and even with national judges: that the EPO has not been respecting fundamental human rights. What an accusation!

On behalf of a large majority of staff who are proud to work at the EPO and on our own behalf as senior managers with a recognised democratic background at national and international levels, we, the members of EPO's management committee, are profoundly shocked by such an accusation.

## What is the reality?

Under the authority of the EPO's Administrative Council, which is composed of delegates nominated by our 38 democratic member states, we have been implementing since 2010 a quality and efficiency strategy whose objectives are to increase our quality and control our costs. Why? The EPO may be widely recognised as one of the best patent offices in the world for the quality of the patents granted, but it is certainly the most expensive one. So if we are to cope with the growing demand and complexity of patent applications by increasing capacity and at the same time improving quality, there are not so many options.

One easy solution for a patent office would be simply to increase substantially the fees paid by the users: this is not the way which has been chosen as the economic context in Europe is difficult for many enterprises. Another option would be to lower costs by making budgetary cuts, reducing salaries and pensions, postponing replacement of retiring staff, or stopping investments. This route has not been chosen either.

What has been proposed to and adopted by the Council is to review our processes and to modernize our structures and our management. This strategy is already bearing fruit: in 2014, the EPO achieved all time high results in terms of production, productivity, quality, and attractiveness on the labour market.

Of course, such major reforms generate concerns and tensions. The critics concentrate on three issues: collective bargaining, right to strike and circulation of information. Recently a Dutch court has considered that on these three issues the EPO was violating fundamental human rights, whereas in the *same week* a German court has ruled that the EPO is compliant with these rights.

**So which law is the EPO supposed to apply and where?**

Should we follow the Dutch law or the Dutch interpretation of international principles in the Netherlands and the German law or the German interpretation of international principles in Germany ? Such fragmentation would mean the end of the EPO as an effective international organisation in which more than 30 different nationalities are represented and which is located in 4 different countries

First, we would like to recall that the principle of immunity enjoyed by the EPO, like any international organisation, does not serve to protect undue privileges but rather aims at safeguarding the integrity of the institution and ensuring its neutral functioning, protected from national interference, and at preserving the equality between member states and also between staff members.

### **Secondly, what are the facts on these three issues?**

The conditions for a collective bargaining exist at the EPO through statutory bodies and regular meetings between elected staff representatives and senior management where all issues concerning working conditions (salaries, health care, allowances, pensions, changes in organisational structures *etc.*) are thoroughly discussed. For the first time in the EPO's history, all staff members (70 % participated in the vote) have directly elected in June 2014 their representatives to these local (one in each of our sites) and central committees.

Until 2013 the right to strike was not formally recognised at the EPO and erratic practices had developed. Since June 2013 the right to strike is fully recognised and regulated as a means of last resort in order to facilitate the social dialogue. This is not only a formal right. It has been exercised in reality: in 2014, there have been 22 days of strike with an average staff participation of 12.3 %.

Staff representatives and trade unions enjoy freedom of expression and benefit from various communication facilities, including the most up to date ones. They can for instance use a free space on EPO's Intranet with RSS feeds for staff members who wish to receive directly and immediately this information. They can also hold information meetings and distribute documents in EPO premises.

Our legal and social framework, our rules and procedures are compliant with international best practices and fundamental principles. They are subject to review by the Administrative Tribunal of the International Labour Organisation which is EPO's judiciary authority and a jurisdiction well known to take particular care of worker rights.

We are well aware that the EPO has a long tradition of conflict in social relations, even on the very first day the EPO opened in 1978 some of the staff were striking. But we are convinced that it is only through discussions with the staff and their representatives that we can build a positive future for the staff and the Office. We call for a meaningful and respectful dialogue between partners.

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