

For the attention of the Heads of Member States' Delegations
in the European Patent Organisation

Social unrest at the EPO - and your role in it: The consequences of a vote in favour of the proposed strike regulations

Dear heads of member states' delegations in the European Patent
Organisation,

You confirmed your support of the President's HR Roadmap during
the last Administrative Council. Many of the principles and stated aims
therein are solid and would attract also the support of the Central Staff
Committee, *if* the subsequent consultation would be based on true
social dialogue. Here, from what we were able to observe of his
interactions with you, the President appears to have convinced you
that dialogue actually takes place. The HR Roadmap deals with
employment conditions that should be collectively agreed. In our
consultation-based system, that would require both a will for
convergence and **respect for the rule of law**.

What we observe instead is a **complete disregard** for statutory
consultation. The General Advisory Committee has been unilaterally
re-interpreted by the President and he completely disregards any
contrary opinion emanating from the statutory consultation process.
This shows contempt for the spirit of consultation and relevant case
law.

With the internal appeals reform he has, from our vantage point, de
jure and de facto closed the route to legal challenge of decisions
within a time-frame that is at all viable, never mind satisfying the
demands of the ECtHR.

This leaves only industrial actions for staff to signal their disagreement
with management decisions. The President is now proposing changes
to the Service Regulations, accompanied by strike regulations and
limitations to staff representatives' ability to act and communicate,
which significantly curtails staff's right of association and
representation.

Due to the extremely tight consultation time-frame - aimed merely at satisfying formal requirements - we enclose the document that has gone to the General Advisory Committee for opinion. If past performance is anything to go by, the President will disregard the opinion of the GAC and table the document as an AC document more or less as it stands.

Individually and on paper, several of the above steps taken may have looked reasonable to you. Compiling them in the light of the abusive and bad faith interpretation we are observing, we can state that your decisions in support of the President's initiatives have led to a total erosion of EPO staff's access to due process in labour relations. **The planned strike regulations are the last nail in the coffin.** When you compare them with what you are used to in your home countries with regards to the right to strike of civil servants, please consider that any limitations thereto in the national context are balanced by recourse to timely judicial review and collective tariff *agreements*.

If you were voting for that proposal, you would support a reform that is in breach of fundamental rights. This has, regrettably, not stopped you from either supporting the appeals reform or from remaining quiet when the investigation guidelines were put in place by the President. With a vote in support of the proposed strike regulations, your country would de facto opt out of an international convention to which it has subscribed, [ILO Convention 151](#), Article 5. This decision would need to be communicated to the Director General of ILO (Articles 12 to 14 of the Convention) for informing other signatories of that Convention and the Secretariat of the UN. Denouncing the Convention 151 exposes the signatories to a settlement of disputes procedure under Article 8 of the Convention.

Staff at the EPO are determined to **STOP** this most recent initiative of Mr Battistelli. SUEPO general assemblies at all four places of employment are pushing the Union committees for an escalation of actions, by externalising the debate and putting significantly more pressure on our decision makers - you. We regret that social relations at the EPO have sunk to this level, but there is a clear need to act with determination and not to let this deterioration in staff rights come to pass. Staff at all 4 sites were on strike yesterday. If the strike regulations were to be voted, **you can look forward to industrial action at unprecedented level**, which clearly would be noticed by the national offices, too.

As representatives of the member states, your voting and supervisory powers should be exercised under scrutiny of elected members of parliament, which is why SUEPO will now, in the build-up to the June Council, seek contact with governments and parliaments at national and European level to create awareness and draw attention to the risk of challenges at national and European court level of decisions supported by you, with the corresponding reputational risks for both the member states and the European Patent Organisation at stake.

Some delegations have in the past pointed out that they feel insufficiently informed prior to taking decisions in Council. We are available for explaining the shortcomings of the regulatory framework both by design and *in application*. We are happy to brief you in whatever way you prefer: telephone conversations, meetings in your office (we would be available for these in the two weeks preceding the June meeting of the Administrative

Council) or directly before the June Council if you were prepared to travel a day early. **Should you be contemplating to vote in favour of the strike regulations, you should do so in full knowledge of the full context, probable collateral damage and potential consequences.**

We will contact you to enquire whether you would like more information and how we could provide it in the format that is most convenient to you.

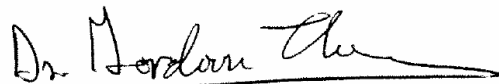
Yours sincerely,



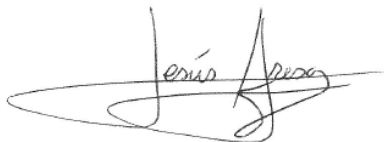
D. Radford
Chairman Central Staff Committee



P. Bocking
Chairman Staff Committee Berlin



I. Thanos
Chairman Staff Committee Munich



J. Areso
Chairman Staff Committee The Hague



J. Schaaf
Chairman Staff Committee Vienna

Copies to: Chairman of the Administrative Council
President of the EPO
Member states' delegations in the BFC (hard-copy by hand)

Enclosure: GAC/DOC 10/13 Strikes and unauthorised absence [emphasis added]