

VESNA STILIN

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Zagreb, December 4th 2013

EUROPEAN PATENT ORGANISATION

ADMINISTRATIVE COUNCIL

Dear Ladies and Gentlemen,

Some time ago, I received a query from an anonymous source in Munich asking if I could provide any information as to whether or not there was any substance to accusations which had been published in the Croatian media concerning Mr. Željko Topić, the former Director General of State Intellectual Property Office of the Republic of Croatia (SIPO). Following his appointment by the Administrative Council of the EPO, Mr. Topić has occupied the position of Vice President DG4 of the European Patent Office since May 2012. In view of the evident public interest in the controversy surrounding his appointment, I hereby address these submissions to the Administrative Council of the EPO.

By way of introduction, I would like to inform you that I was previously a former Deputy Director General of the Croatian SIPO and later an Assistant Director General in charge of the Copyright and Related Rights Department.

To the best of my knowledge, apart from various civil proceedings, initiated by several persons (from SIPO and outside of SIPO), there were at least two criminal law cases pending against Mr. Topić prior to his appointment to the position which he now holds in the EPO. One of these cases concerned the circumstances surrounding my dismissal from the SIPO, and the other one concerned matters which the Ministry of Education, Science and Sport as the government department with supervisory authority over the SIPO had failed to properly investigate despite its statutory obligation to do so. Evidence to support these assertions is enclosed (Annex 1).

My dismissal from the post of Assistant Director General of the SIPO in 2008 was based on statements of an untruthful nature by Mr. Topic which prompted me to sue him for defamation. In appeal proceedings held before the County Court (Komitätsgericht) in December 2012, for the second time, a verdict was delivered in my favour(Annex 2). The case was remitted to the court of first instance. The case is still pending before the County Court for the third time. Additionally, I filed criminal charges against Mr. Topić with the Prosecutor's Office (Annex 3). The latter case which includes a charge relating to bribery is likewise still pending. (Annex 3). A key accusation here is that Mr. Topić effectively „bought“ his re-appointment as Director General of the SIPO by bribing the former Minister of Education, Science and Sport, Mr. Dragan Primorac, who proposed to the Government that Mr. Topić be re-appointed for a second term in 2008 (Annex 4). There is extensive documentation about this matter, including a complaint which I filed with the European Court of Human Rights in Strasbourg. I can provide copies of this documentation on request.

As a tactical manoeuvre in response to the legal actions which I had initiated against him, Mr. Topić belatedly filed a private action for defamation against me at the Municipal Criminal Court in Zagreb on 22 April 2013. However, Mr. Topić's complaint was dismissed by the court which recently delivered its judgment in my favour (Annex 5).

I am also in possession of documentation which shows that Mr. Topić ignored the recommendation made by independent EU experts in field of Copyright and Related Rights in the context of the Community Assistance for Reconstruction, Development and Stabilisation (CARDS) Programme for South-Eastern Europe (Official Reference No. 96-022 and 60 343) where the EU provided Croatia with about 2 million € to assist the development of the SIPO, including its Copyright and Related Rights Department.

At that time the number of legal staff in the Copyright and Related Rights Department was insufficient as there were only two persons at the SIPO, including me, responsible for dealing with these matters. However, instead of increasing the number of legal staff in accordance with the recommendation of French experts and as formally agreed in his own commitment given to the EU on behalf of the Republic of Croatia, Mr. Topić proceeded to effectively abolish the Copyright and Related Rights Department, by reducing the personnel dealing with these matters to a single person who was involved in the so-called HDS-ZAMP* affair. Mr. Topić's actions in this regard were carried out without any coherent explanation and, according to my considered opinion, in an illegal manner.

It is a matter of record that the President of the EPO, Mr. Benoit Battistelli, sponsored Mr. Topić's candidature for Vice President of DG4. Would he have done so if he had been fully informed about these matters, in particular the criminal proceedings pending against Mr. Topić prior to his appointment ?

It should be emphasised here that, in contrast to Mr. Topić, it appears unlikely that the other candidates for the position were the subject of criminal proceedings and such public controversy in their home countries.

I believe that it would be in the public interest for the Administrative Council of the EPO to initiate an impartial and objective investigation into the circumstances surrounding Mr. Topić's appointment and, where appropriate, to exercise its disciplinary authority in the matter. On the face of it, it would appear that Mr. Topić abused the trust of the President of the EPO by concealing or misrepresenting important facts such as those relating to criminal cases pending against him in Croatia. Either that, or Mr. Battistelli was aware of the aforementioned matters and, despite this, supported Mr. Topić's candidature. For the moment, it is only possible to speculate about these matters. The truth can only come to light if a proper independent and impartial investigation is carried out.

Some of the major political scandals in Croatia in recent times have been those relating to the prosecution of the former Prime Minister Ivo Sanader on corruption charges, accusations against the former Minister of Education, Science and Sport, Dragan Primorac (who Mr. Topić is alleged to have bribed), and the HDS-ZAMP affair relating to the collection of royalty payments for musicians. The details of these various political scandals may not be familiar to people who are not well acquainted with Croatian current affairs but I am willing to assist any impartial inquiry conducted under the auspices of the Administrative Council by providing a more detailed explanation accompanied by supporting evidence, including the documentation referred to above.

Yours sincerely

Vesna Stilin

* The HDS-ZAMP affair relates to alleged irregularities and conflicts of interest in the area of musical copyright management. The name is derived from an acronym for the Croatian composers' society – a „collecting society“ which is responsible for protecting the rights of of copyright holders on musical works and, in particular, for managing the collection and distribution of royalty payments.

Enclosures

- Annex 1: Minutes of proceedings before the Criminal Court of Zagreb – May 4th 2010,
Letter from Ms. Stilin to the Ministry of Science – June 21th 2012
- Annex 2: Court Judgment Kž-368/2012-5 from December 12th 2012
- Annex 3: Criminal charges against Mr. Topić, from January 9th 2013
- Annex 4: E-Mail correspondence between Croatian President Mr. Ivo Josipović and Ms. Stilin
- Annex 5: Court Judgement 9.K-99/2013 from September 30th 2013