

ADMINISTRATIVE COUNCIL 25 / 26 MARCH 2015 – A REPORT & NEXT ACTIONS

The Administrative Council: deaf & dumb?

Leading IP blogs have become rather critical of Mr Battistelli's attitude and behaviour, as well as of the EPO Administrative Council's passivity in this respect, see e.g.:

<http://kluwerpatentblog.com/2015/03/20/behavior-benoit-battistelli-is-bad-for-the-epos-reputation/>
<http://www.fosspatents.com/2015/03/epo-human-rights-issues-and-eu-patent.html>
<http://ipkitten.blogspot.de/2015/03/a-kat-may-look-at-administrative.html>

[SUEPO](#)¹, [EPO staff in general](#)² and the [Members of the Boards of Appeal](#)³ have also called upon the delegations not to rush through the fundamental reforms on the agenda, namely an outline of a reform of the Boards of Appeal ([CA/16/15](#)) and the second health reform ([CA/14/15](#)), without thorough reflection and proper consultation of the internal *and* external stake-holders. To no avail.

DG3 matters

Despite all the comments and objections (see above), the delegations unanimously approved the framework for the proposed reform of the Boards of Appeal. Another controversial decision concerned the suspension of a DG3 accused of "anonymous defamation of VP4" which was prolonged. And again there were no new appointments to DG3, meaning that DG3 will be forced to cope with an increasing workload through increased "efficiency" rather than increased capacity.

The health reform

The health reform also passed, albeit with 10 abstentions. The delegations discussed a 8 (!) hours in **closed** session (i.e. with the usual observers and without their "social partner"), probably mostly about the social dialog and the social reforms. The **open** discussion of the health reform was planned to take a mere 10 minutes. It seems for the Office difficult to signal more clearly to your "social partner" that you are not interested in his opinion. On the other hand: the open session finally took 50 minutes rather than 10. And the 8 hours in closed session are a clear sign that discussions are now taking place. That can almost be qualified as "progress". The three major delegations (**DE**, **FR**, and **UK**) were amongst those who **abstained**. They were joined by CZ, IE, IT, MT, SE, SI and SK. This voting pattern shows that

¹ <http://munich.suepo.org/archive/su15023ml.pdf>

² <http://munich.suepo.org/archive/su15024mp.pdf>

³ <http://amba-epo.org/page/get/ca1615> and <http://www.epostaff.org/archive/ex15146cp.pdf>

traditional alliances in the Council have shifted. A majority of mostly small countries with a weak or negligible patent system are now outvoting countries with a much bigger population and a greater interest in a functional patent system. This does not bode well for the stability of the EPO and for its functioning as administrator for the Unitary Patent.

What next?

The Council's approval of the reform of DG3 was not a final decision. The topic will be back on the agenda in June. We can only hope that by then the responsible politicians will have finally woken up and realised what is really going on: a hostile take-over of DG3 by the Administrative Council involving the creation of 8 new "jobs for the boys" – presumably Mr Battistelli's boys.

For the health reform SUEPO will provide staff with the requests for management review that are now the necessary first step before filing an internal appeal. We will renew our contact with the [Bayerische Laendesarztekammer](#) in order to get answers to some pertinent questions about the extent to which medical doctors in Germany may fulfil the tasks the EPO intends to assign to them. Finally, SUEPO will provide legal support *for its members* who are denied invalidity or otherwise disadvantaged by the latest reform.

Union matters

Amazingly, after having once again brushed aside the concerns of staff and their representation and pushed through yet another ill-conceived reform, Mr Battistelli and Mr Kongstad now [jointly announce](#)⁴ "new initiatives to restore social peace" starting with an invitation to the trade unions (note the plural) to a kick-off meeting on 22 April 2015. Given the [previous positions](#)⁵ of Mr Kongstad, he and Mr Battistelli seem an unlikely pair to negotiate social peace. Whereas SUEPO wishes to echo Mr Battistelli's statements that "our door is always open", we also make it clear that we are not interested in merely improving "**the perception of a social dialogue**".



Next actions

Should the discussions with Mr Battistelli and Mr Kongstad lead to unexpected progress (e.g. the withdrawal of the above health reform) then SUEPO would be more than delighted to postpone further actions. Until this happens, however, *SUEPO intends to organise a demonstration every month for as long as it takes to bring the EPO back on track.*

Details of the next demonstration will be published after the Easter holidays.

SUEPO Munich

"I am not talking about SUEPO at all: SUEPO has no standing in this Office. SUEPO has no role to play in this Office."

Željko Topić (VP4), 19 March 2015, in a meeting with the Munich Staff Committee

A SUEPO membership application form is available [here](#)

⁴ <http://www.epo.org/news-issues/news/2015/20150326.html>

⁵ <http://ipkitten.blogspot.de/2014/12/battistelli-and-kongstad-respond-to-epo.html>