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**European Patent Office**

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Amsterdam, 18 September 2015

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Dear Ms Bergot,

I represent Ms E. Hardon in the investigation to which she is currently subjected. I take note of your letter to my client dated 10 September 2015 concerning the publication of an email in which she is notified of the investigation and invited to an interview.

I observe that the said email was published on the website.suepo.org. Aside from the fact that you did not present evidence for your claim that my client leaked the email, it is immaterial to know who has disclosed the email.

Allow me to point out the following. Even if a letter is marked as "confidential", it does not mean that it is necessarily so. You seriously err that publication of the email in question amounts to a violation of the obligation of staff, including those who are subjected to an investigation, to safeguard the interests of the EPO and to protect the integrity of the investigative process.

In the first place, confidentiality during investigations cannot be imposed unless this is strictly required. Two purposes may legitimize confidentiality.

The first is to protect the accused, since (s)he is presumed innocent. In this respect, the obligation of confidentiality applies to the investigators, not the investigated.

The second is to protect the integrity of the investigation, namely to ensure that potential witnesses are not intimidated and, in some cases, to ensure that the accused or his accomplices do not destroy evidence. The said email does not reveal however information about the enquiry itself.

Merely making known the notification of an investigation has nothing to do with interference with the integrity of the investigation. A different interpretation of Circular 342 would be incompatible with the fundamental rights of the accused and of wit-

nesses. The public character of the investigation protects subjects against the administration of justice in secret with no public scrutiny. It is also one of the means whereby confidence in the proceedings can be maintained. By rendering the administration of justice transparent, publicity contributes to the achievement of due process, the guarantee of which is one of the fundamental principles.

In the second place, the particular circumstances of this case matter. Your office has deemed it necessary and wise to subject the chair of Suepo Munich to an investigation. Although the allegations are still vague and unsupported, they seem to relate to her activities carried out in her capacity as Suepo chair and staff representative. The EPO's decision to open an investigation against my client therefore directly affects her work as Suepo chair and staff representative. It is no more than normal, indeed it is imperative that staff and members of Suepo are informed of this decision as it impacts their interests as well. They have a legitimate right to know that the EPO is investigating and interrogating their representatives. The investigation against my client should especially not be kept secret as the allegations may be of a political nature.

I conclude that you have provided no evidence that my client disclosed the email concerning the investigation to which she is currently subjected. More importantly, whoever has disclosed this email has not violated his or her obligation of confidentiality under EPO's legal framework as defined, and limited, by general principles of law.

I urge you for these reasons to desist from further threats of legal measures against my client.

Kind regards,

Liesbeth Zegveld