

Received on 05.09.2013

This text was submitted electronically. Deviations from the original are possible.

PARLIAMENTARY INQUIRY

From Dr Gabriela Moser, Member of Parliament, and colleagues

To the Federal Minister for Transport, Innovation and Technology (BMVIT)

Concerning an expert opinion on the legality of a second salary received by the Director of the Patent Office.

The question of whether the second salary that the Director of the Patent Office receives - without a valid legal basis - for his parallel function as managing director of the partially autonomous unit of the Patent Office unit **serv.ip**, is lawful, has occupied politicians, the media, the public prosecutor's office and the courts, at the latest following a report by the Federal Court of Auditors on the management of **serv.ip** in 2012, which was very critical and not only in this respect.

In its issue of 31 August 2013, *Die Presse* now reports on the current status and the latest developments in the saga:

Embarrassing farce at the Patent Office

The head of the Patent Office, Friedrich Rödler, receives two salaries. And he is not thinking of giving them up. Infrastructure Minister Doris Bures is gritting her teeth over the affair.

[The content of the newspaper article is cited in full.]

In the interest of the taxpayers and in the interest of a transparent handling of public funds, a possible "sitting out" of this matter would not be appropriate and a clarification without unnecessary delays would be very desirable.

It can no longer be tolerated on your part that this Republic becomes a self-service store for individual high-ranking officials who gild a top salary with an additional higher-than-average payment.

The undersigned parliamentary delegates therefore submit the following

QUESTIONS:

1. Is the second salary received by Patent Office Director Rödler based on a contract?
2. If so, who drafted the text of this contract?
3. Who specifically concluded this contract with whom and when?
4. If the ministry (BMVIT) is a contractual partner: Who signed this contract on behalf of the BMVIT?
5. Who was specifically involved in the decision on this contract in the BMVIT and how?

6. If the BMVIT is not a contractual partner: In what other way and when was the BMVIT involved in the creation of the contract (e.g., as a supervisory authority, ...)?
7. What is the specific legal basis for this contract in the Patent Office Act?
8. If the second salary received by Patent Office Director Rödler is not based on a contract, then on what basis does the Patent Office Director draw his **serv.ip** second salary?
9. What expert opinions have you or your office commissioned on the question of the legality of the **serv.ip** second salary of Patent Office Director Rödler?
10. When did you a) commission, b) receive these expert opinions?
11. With whom did you commission these expert opinions?
12. Which conclusion and on what basis do these expert opinions draw in detail (legal text governing the [contractual] relationship /explanatory remarks, etc.) on the question whether the **serv.ip** second salary of Patent Office Director Rödler is in conformity with the law?
13. Which legal opinions, judicial decisions, etc. from previous years are referred to by the experts in this regard?
14. What conclusions do the current expert opinions draw in detail on the question of whether and for what period the **serv.ip** second salary of Patent Office Director Rödler is to be repaid?
15. What concrete measures have you or your office taken, and when, to ensure that the management of the Austrian Patent Office and its partially autonomous unit (**serv.ip**) are conducted in accordance with the law?
16. What procedural status has been reached as a result of these measures?
17. What specific measures have you or your institution taken, and when, with regard to the further points of criticism - which are hardly less problematic - concerning the management of **serv.ip** included in the Court of Audit's report BUND 2012/7 - financial investments, lavish consulting contracts, e.g. for the ELVIS project, ...?
18. What were the results of the analysis of the investment portfolio of the Patent Office/**serv.ip** which was commissioned externally in February 2013?
19. What consequences were drawn a) from the open refusal of the Director of the Patent Office to support this analysis, despite instructions, b) from the results of this analysis?
20. Can you rule out the possibility that the Director of the Patent Office uses public funds (from the Office or **serv.ip**) for legal advice concerning his activities directed against BMVIT instructions?
21. Which drafts for which legislative amendments were presented to your department by the Director of the Patent Office (or at his behest) and, in each case, when?
22. Prior to the extension of his contract, you must have been aware of the unsatisfactory professional conduct of the Director of the Patent Office with regard to his concurrent double remuneration. Why did you nevertheless agree to an extension of his contract?

Original text in German at:

https://www.parlament.gv.at/PAKT/VHG/XXIV/I/I_15919/fnameorig_322238.html