

10 Nov  
2009

## EPO presidency vote - the plot thickens as Swiss candidate claims to be in pole position

Well, it seems that the EPO presidency vote that [we reported](#) last week on this blog may actually have been only the first part of what occurred in Munich during the [Administrative Council meeting](#) at the end of October. A case of close but no banana, in other words. According to a news bulletin sent out by EPO staff union [SUEPO](#) to its members, the close to dead heat between France's [Benoit Battistelli](#) and Denmark's [Jesper Kongstad](#), which we ran with, was actually not the end of the story. This is what the SUEPO bulletin states:

*Dear colleagues,*

*Around the last Council meeting we received contradictory signals about the various closed session voting-rounds on a future President for the EPO.*

*First we heard that the Swedish and the Swiss candidates, Ms Sivborg and Mr Grossenbacher, dropped off early on in the voting with having each only collected very few votes. The remaining two candidates, Messrs Battistelli (FR) and Kongstad (DK) then each failed to attract the necessary  $\frac{3}{4}$  majority and the next voting rounds were postponed to the December Council to allow for further lobbying.*

*This clashed with a note Mr Grossenbacher had sent to staff at his office back home (see below), indicating that he was going into further voting rounds from the pole position. We did not know what to make of that until we heard the following from several independent and usually reliable sources:*

*As it transpired that neither Mr Battistelli nor Mr Kongstad would achieve the necessary majority, the chairman made an attempt to find a way out over a small-scale dinner, after which Messrs Battistelli and Kongstad are said to have returned to the Council with the proposal to share the governance burden by one becoming the President of the Office and the other the Chairman of the Council, but with permanent office and staff at the EPO and a full salary. This appears to have upset the delegations sufficiently to let these two candidates' respective votes thereafter plummet and gave Mr Grossenbacher a competitive advantage.*

*If there is substance to this rumour, the Organisation's governance problem is bigger than we thought. For at least two of the potential future Presidents their candidacy does not appear to be inspired by the desire to do good for the Organisation and the European public, but by personal advantage to be gained. Such shameless help-yourself attitude completely discredits any criticism they voice on our remunerations package and identifies their opposition as possibly being motivated by greed and envy.*

*We are seeking confirmation of what could, but is unlikely to be, mere rumour. If the plot thickens, then this is another reason for escalating the governance problem to EU level and for highlighting malpractice and hypocrisy amongst some heads of delegation at the expense of the EPOrg's mandate to the interested public.*

*The Committee*

The above is the note in its entirety. It reveals not only a potential deadlock with regards to the vote, but also the disconnect there currently is between many EPO staff and the Administrative Council - something that has been a problem for a while and which needs to be sorted out (as I have [pointed out in the past](#) SUEPO are no angels in all of this).

I have also been sent a copy of the note from [Roland Grossenbacher](#) that the SUEPO bulletin refers to. Here is its rough English translation, followed immediately by the German original:

*Ladies and Gentlemen*

*As you know, I'm one of four candidates for the presidency of the European Patent Office. This week a vote took place in Munich, and I would like to give you some first-hand information about it.*

*In the first vote, I ended up in third place, the French candidate having a lead of 2 votes over his Danish counterpart, but having failed, with 16 votes, to achieve the necessary 3/4 majority (27 Votes ).*

*In the second round, I was 4 votes ahead of the French candidate, but failed, with 22 votes, to achieve the necessary 3/4 majority.*

*In December there will now be a third vote with the same four candidates. Here, because of the recent results, I start in pole position. Nevertheless, there remains the "handicap" (promoted particularly vigorously by France) of my (non-EU) nationality. The race is therefore still open and I will continue to focus intensively on it. I thank all those who have given me the space since the summer holiday to concentrate on this.*

*Yours sincerely  
Roland Grossenbacher  
Director*

***Von: Grossenbacher, Roland  
Gesendet: Freitag, 30. Oktober 2009  
15:09 An: \*IGE; IGE\_Rat  
Betreff: EPA; meine Kandidatur***

***Sehr geehrte Damen und Herren***

***Wie Sie wissen, bin ich einer von vier Kandidaten für die Präsidentschaft des Europäischen Patentamtes. Diese Woche wurde in München gewählt, und ich möchte Sie darüber aus erster Hand informieren.***

***Im ersten Wahlverfahren bin ich im dritten Wahlgang ausgeschieden; in diesem Verfahren obsiegte zunächst der französische Kandidat mit 2 Stimmen Vorsprung vor dem verbleibenden dänischen Konkurrenten, scheiterte dann aber in der Bestätigungswahl mit 16 Stimmen an der Hürde der erforderlichen 3/4-Mehrheit (27 Stimmen).***

***Im zweiten Wahlverfahren obsiegte ich mit 4 Stimmen Vorsprung gegenüber dem verbleibenden französischen Konkurrenten, scheiterte dann aber in der Bestätigungswahl mit 22 Stimmen an der Hürde der erforderlichen 3/4-Mehrheit.***

*Nun wird im Dezember ein drittes Wahlverfahren durchgeführt, wiederum mit den gleichen vier Kandidaten. Dabei starte ich aufgrund der bisherigen Ergebnisse in der pole position. Dennoch bleibt das (insbesondere von Frankreich kräftig als solches propagierte) "Handicap" meiner Nationalität (Nicht-EU). Das Rennen ist also weiterhin offen, und ich werde mich weiterhin intensiv damit befassen müssen. Ich danke all jenen, die mir dafür wie schon seit den Sommerferien im IGE den Rücken frei halten.*

*Mit freundlichen Grüßen  
Roland Grossenbacher  
Direktor*

The one person who does look to be completely out of the running - unless there is a total turnaround - is Sweden's [Susanne Sivborg](#). In an admittedly completely [unscientific poll](#) conducted on the IP Kat blog, Sivborg was the clear choice of those who took part, gaining well over 50% of the votes. It was a similar story in another poll conducted by [Managing Intellectual Property](#) magazine. Sivborg is the only candidate for the EPO presidency with any significant industry experience, although she is probably the least experienced of the four contenders as far as European patent politics goes.

All of the above is based on information I have received and cannot be seen as definitive (although I am sure it is pretty close to the truth - SUEPO spin notwithstanding - or I would not have run it). We can only hope that the whole thing is sorted out at the next Administrative Council meeting in December, although I am not sure I would bet on that happening right now. Whoever does come out on top is going to have to find a way to work with the people who have lost. As we all know, bruised egos can sometimes take a long time to heal. The new president may have to do an awful lot of soothing, on top of having to find solutions to the myriad problems - internal and external - the EPO currently faces.

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