

des Services publics européens et internationaux

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Attention to : All the Members of European Parliament

Dear Members of the European Parliament,

USF, the largest federation of unions of the European Public Service wishes to draw your attention to the seriously deteriorated situation at the European Patent Office and the soon to be launched candidacy procedure for the post of President of the European Patent Office (EPO based in Munich), to be filled on 1 July 2018.

Countless reports in the media about dismissed staff representatives, other scandals and a total loss of trust of the staff in the current EPO President, Mr. Battistelli, are evidence of the seriousness of the situation at the EPO. The respect of fundamental rights and rule of law principles is no longer safeguarded at the EPO, so that the fundamentals recalled in the Commission's Communication "A new EU Framework to strengthen the rule of Law" (COM (2014) 158 final/2)" are far from being met at the EPO. The Judiciary competent for internal litigation at the EPO, the ILOAT, is flooded with appeals. Legal redress has become excessively slow. Although the Supreme Court of the Netherlands recently upheld the immunity of the EPO, the finding of a Court of Appeal that fundamental rights have been violated remains on the record.

Beyond internal governance problems, external governance problems of the European Patent Organisation have become increasingly worrying. External commentators of the European Patent System start wondering about examination standards. The recent increase of patent grants by 40% is difficult to explain through production pressure on the employees alone or improved working tools. Lower examination standards may well entail counter productive consequences like serious distortions of competition, especially in favour of internationally operating large companies. A recent survey amongst external intellectual property professionals reveals that the trust of the users in the system is down to a historical low.

It seems to be commonly believed that EPO actions have not been subject to conformity with EU legislation. This will change soon with the new tasks assigned to the EPO through the EU Regulation No 1257/2012 that entrusts the EPO with tasks under the EU Regulation. The governance problems of the European Patent Organisation are therefore also problems the EU Institutions need to thoroughly examine. The EU Commission has an official status as observer in the EPO Council.

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Fundamental institutional upgrades that would oblige the EPO to return to rule of law standards and ensure conformity with EU legislation are probably difficult to achieve within a year. It is therefore of utmost importance that a very high profile candidate be found to take over, to start re-establishing as fast as possible both internally and externally the trust in the EPO leadership by July 2018 at the latest.

USF is asking the European Parliament to submit a Parliamentary Resolution to this effect to all EU Institutions and all governments of the EU Member States.

Bernd Loescher

USF President

Cc: EPO Council, EPSU

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