

PRESS RELEASE

STAFF UNIONS VEOB AND SUEPO TAKE CASE ABOUT STRIKE TO ECHR

Amsterdam 8 May 2017 – Today, two staff unions at the European Patent Agency, VEOB and SUEPO, filed a complaint against the Netherlands with the European Court of Human Rights (ECtHR) for violation of article 6 ECHR in combination with articles 10, 11 and 13 of the Convention.

The European Patent Organisation (EPO), which is located i.a. on Dutch territory, is infringing on the right of the unions to take collective action and to enter into collective negotiations. These are internationally recognized rights that are also guaranteed by article 10 (right to freedom of expression) and article 11 (right of freedom of assembly and association) of the ECHR. For years now, there has been a culture of intimidation by EPO-management that has severely affected the work environment. The EPO is making it impossible for the unions to effectively serve the interests of their members.

Though an organization like the EPO ordinarily enjoys immunity from jurisdiction, this does not apply if the unions do not have an effective legal remedy through which to (internally) address the problems. According to standard ECtHR-case law, a national court can then assume jurisdiction.

In its judgment of 15 February 2015, the Appeals Court in The Hague held that the unions in and of themselves did not have an effective legal remedy within the EPO. The Appeals Court assumed jurisdiction and then ruled largely in favour of the unions. The EPO filed a cassation appeal, primarily in light of the dismissal of its immunity claim. The State of the Netherlands joined the cassation procedure as a party on the side of the EPO. In its judgment of 20 January 2017, the Supreme Court ruled that EPO enjoys immunity from jurisdiction after all. The consequence of this verdict for the unions is that they do not have a true legal remedy by which to address the violations of their ECHR-rights.

As state party to the Convention, the Netherlands is obliged to ensure that the ECHR is safeguarded on its territory. As this is impossible in the light of the Supreme Court judgment, the Netherlands is violating article 6 ECHR in combination with articles 10, 11 and 13 of the Convention.

The unions are represented by lawyer Liesbeth Zegveld.