

Kluwer Patent Blog

‘Successor EPO president Benoît Battistelli to be chosen this autumn’

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A new president of the European Patent Organisation, the person who will succeed the controversial president Benoît Battistelli in June 2018, will be chosen this autumn. That is the expectation of Martijn van Dam, Dutch secretary of state for Economic Affairs. Van Dam said this in a debate last week with parliament on the ‘deteriorating situation at the EPO’.

The EPO has been in crisis for years due to deep conflicts between president Benoit Battistelli and the staff. Battistelli has never recognized the most important staff union, the SUEPO, he dismissed several of its leaders, introduced controversial reforms of the career system, of sick leave and other regulations and was criticized as well for intimidating staff and disrespecting the independence of the Boards of Appeal.

Last week, in a [debate on the situation at the EPO in Dutch parliament](#), secretary of state Martijn van Dam made clear he is very critical of Battistelli as well. But Van Dam thinks implementing changes in the EPO’s regulations is more important than focussing on an early departure of the EPO president, whose term ends in June 2018 anyway. He expects some improvements to be implemented next month. Hereunder a translation of the most relevant statements in the debate.

MP Martijn van Helvert (CDA, christen democratic party): *‘No society or organization can be healthy if there are no countervailing powers. Although last year 26 of the 38 member countries [voted for changes](#) and 12 abstained, nothing has changed. (...) If such a majority cannot push through changes, how can we achieve these? (...) How will the secretary of state make sure a new president will be appointed (...) and the current president will not be re-elected?’*

Secretary of State Martijn van Dam: *‘The Netherlands has been one of the most active and most critical member states in the Administrative Council when it comes to improving the social situation. I will give some examples. The Netherlands was one of the initiators of the [Resolution](#) which urged the EPO president to improve the situation at the Office. The Netherlands was also one of the initiators of the social audit, which mapped the social problems and possibilities to tackle these. (...) On 4 March 2016, I spoke to president Battistelli myself and I can assure you this was a tough conversation, in which I conveyed my concerns. Recently, our [minister of](#)*

Foreign Affairs expressed his concerns to the vice-president of the EPO. We're actively involved in reviewing the internal staff regulations. Our ambition is to make these more transparent and to improve the legal and social position of employees, for instance by reviewing the complaint and investigation procedures. We will continue to do this and will seek support from like-minded member states. (...) A decision on the review of complaint and investigation procedures is planned for June.'

'The position of EPO president will be vacant in about a year. The succession procedure is currently being started. It is an open procedure. In the end, the Administrative Council will decide who is to be the next EPO president. If all goes well, the new president can be chosen this autumn. I think it is important that we will have an (...) orderly procedure and that we will choose a good candidate in all aspects, who is also able to restore the social relations within the organisation.'



Martijn van Dam

'We are one of many members of the Administrative Council. Still, we have succeeded in implementing improvements which enjoy broad support within the AC. Without our efforts, there wouldn't have been a social audit. Upcoming improvements, which will expectedly be decided upon next month, would not have been possible without the strong commitment of the Dutch government, among others. I have already explained that the actions of the president concerning the social situation aren't always helpful.'

'I would like to focus on implementing these changes, (...) rather than press for an early departure of the president, which has never been seen before. Considering the views of the other member states, my estimate is that there is broad support for the position of the president, but for our position as well, which is that changes are necessary at the EPO. I think it is more sensible to focus on the latter.'

MP Maarten Hijink (SP, Socialist Party): *'There has been discussion about an early leave of the president before. (...) The secretary of state says much has been done. Why do people who work at the EPO hardly notice this? (...) Why does it have to take a year before a new president can take up office and implement good proposals which are available to improve the situation on the work floor? We are going to wait a year while thousands of people who are working there, are fed up with the intimidation. (...)'*

Secretary of State Van Dam: *'How much time does Mr. Hijink expect it would take to discuss the dismissal of the president in the Administrative Council, with*

representatives of so many member states? I think this will take more time than the procedure to appoint a successor of the EPO president which has now been started. (...)'

Earlier this month, the SUEPO and the Dutch trade union VEOB filed a [complaint against The Netherlands before the European Court of Human Rights \(ECHR\)](#), arguing that the Dutch government allows the EPO - which has one of its offices in Rijswijk - to infringe on the fundamental right of the unions to take collective action and to enter into collective negotiations (press release [here](#)). On 20 January 2017, the [Dutch Supreme Court had ruled](#) that the European Patent Office could invoke its immunity from jurisdiction of Dutch courts in its conflict with the EPO trade unions. By upholding the EPO's immunity claim, the Supreme Court overturned a [judgment of the Appeals Court](#) in The Hague (15 February 2015), which assumed jurisdiction and held that the unions in and of themselves did not have an effective legal remedy within the EPO.

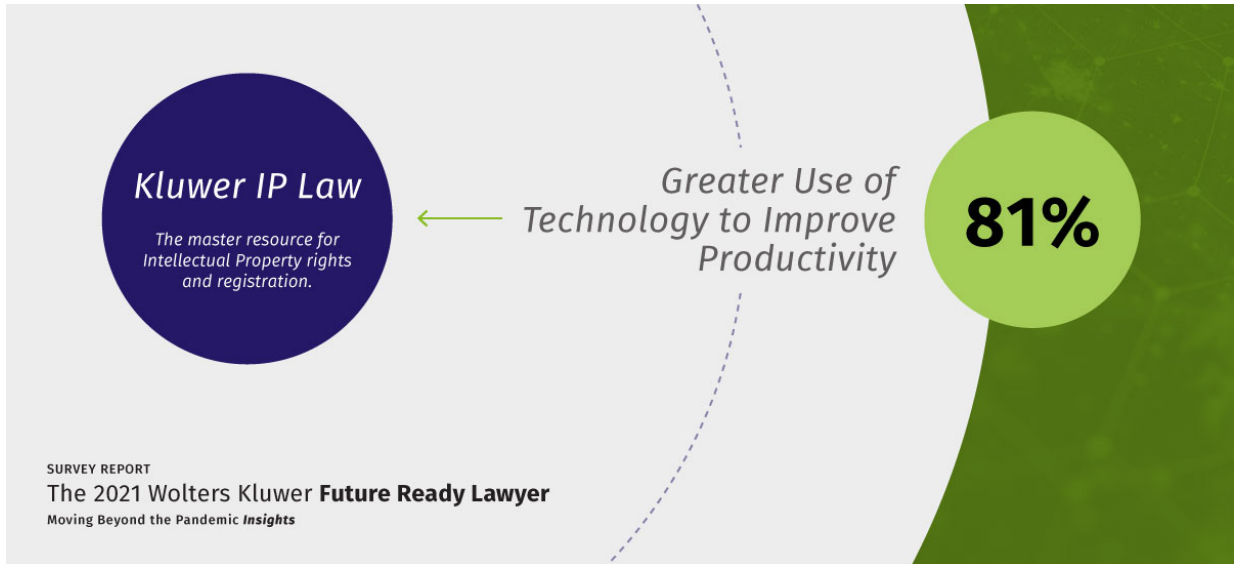
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