

Kluwer Patent Blog

Industrial action at the EPO to demand restoration of fundamental rights

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Members of the trade union of the European Patent Office, SUEPO, have voted for industrial action, including ‘work to rule’, ‘go slow’, and a strike on 22 March 2022 during the meeting of the Administrative Council. They SUEPO members demand the restoration of fundamental rights at the EPO and the suspension or reversal of major reforms detrimental to working conditions and staff’s wellbeing.

According to a SUEPO announcement, 1100 of its members voted, with 84 percent of them in favour of the action, which had recently been called for by the EPO’s trade union. The call for industrial action follows the recent decision 4482 of the ILOAT that the EPO [violated the fundamental right of free association of its staff](#) in 2014 by giving (former) president Benoit Battistelli the power to determine the detailed conditions relating to the staff committee elections. Last year, the ILOAT had already ruled that Battistelli abused his power in July 2013 by restricting the rights of staff members to strike (case 4430).

In a ‘Call for Action’ publication, issued earlier this month, the SUEPO noted that:

*A series of ILOAT judgments have ruled that the EPO violated both individual and collective rights of staff to freedom of association since 2013;

*The EPO justice system proved to be inefficient and biased against staff;

*Under these conditions staff has been subjected to several major reforms detrimental to working conditions and staff’s wellbeing;

*The EPO has no current financial difficulties and an alleged financial gap predicted for 2038 has already been filled today;

*The new salary adjustment procedure causes a disastrous loss of staff’s purchasing power and does not reflect the massive efforts made by staff during the pandemic.

It demands that the administration:

*Revises the EPO Service Regulations so that they comply with fundamental rights, and the principles of legitimate expectations and acquired rights;

*Restores a deterministic career system;



*Suspend the implementation of the “exception clause” and the “sustainability clause” of the new salary adjustment procedure;

*Reviews and eliminates the detrimental effects of the Education Reform.

The ‘work to rule’ and ‘go slow’ industrial actions are precisely the forms of action that the ILOAT described as “legitimate forms of industrial action protected by the ordinary conception of the right to strike” in its decision 4430; actions which however had been prohibited by the EPO’s management in 2013 in Circular 347, which was declared illegal and void by the ILOAT.

In its call for action, the SUEPO sets out in detail what this can look like: “In principle, all colleagues can take part in the ‘work to rule’ or ‘slow work’ campaigns by adhering exactly to the applicable working time regulations and not exceeding the specified daily working hours. (...) all directors and team leaders are also called upon to make their contribution to the campaigns, because their interests are also represented with the demands for salary methods and careers.

As a first measure, all examiners are called upon to concentrate on working on the search backlog. Since the search backlog increased from 2020 to 2021, there should be enough research files on average (...)

The second measure aims to significantly improve the quality of the grants. According to the quality report, the rate of non-objectionable grants in recent years was well below 80%. Therefore, all examiners are called upon to apply the provisions of the EPC, the case law of the Boards of Appeal and the internal rules for patent examination, especially for grants, with particular care. (...)

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