Status quo
Last Friday all three of the suspended staff representatives in Munich received the decision in their disciplinary procedures. True to style, the punishments decided by Mr Battistelli were even harsher than what was recommended by the disciplinary committees. The dismissals are with immediate effect, with a “compensation corresponding to the statutory period of notice”, infringing Art. 53(3) ServRegs and depriving the colleagues concerned of 4.5 months of social security.

The decisions of Mr Battistelli were, for once, not marked as “confidential”. Instead they contained a reference to Arts. 19 and 20 ServRegs, i.e. an implicit threat with further disciplinary proceedings in case of any unauthorised publication about the cases. We are seeking legal advice about how to interpret this. For now we just mention that according to Mr Battistelli, Ion Brumme should have known that the contract used by SUEPO was illegal under German law, even though a highly placed German judge certified that the contract is perfectly legal. In two out of three decisions furthermore a link was made to the DG3 member for whom the Enlarged Board of Appeal considered the allegations not proven. The decisions seem to show that Mr Battistelli has lost touch with reality and is seeing conspiracies everywhere.

As the news spread through the Office spontaneous demonstrations erupted in Munich, The Hague, Berlin and Vienna. Despite the short notice and the icy cold the demonstration in Munich was very well attended.

Next steps
Mr Battistelli’s decisions state that a request for review may be filed with the Conflict Resolution Unit (CRU). The CRU was created by Mr Battistelli, allegedly to resolve conflicts at an early stage. In practice it doesn’t, at least not for staff: of the 375 cases in 2013/2104 that were reviewed by the external auditors, only about 4% were “allowed” or “allowed in part”\(^1\). The final decision will again

\(^1\) See CA/21/15, point 46.
be by the President. The next step after the CRU is a **complaint at ILO-AT**. ILO-AT has a massive back-log for which it **blames** the EPO. It also has a very low success rate for staff complaints.

### Union recognition, social study and more

At the same time the Battistelli administration continues to pretend that it seeks a social dialogue. One week before the decisions Ms Bergot invited SUEPO to Union recognition talks on 20 January, i.e. a day for which a demonstration had been announced. We wonder how the administration sees such talks with the Munich SUEPO chair dismissed and still banned from the premises.

The Administrative Council is the supervisory body for the President. Ms Hardon therefore informed Mr Kongstad, Chairman of the Administrative Council, of the repeated investigations against her that seemed to constitute institutional harassment, initiated at the highest level in the Office, i.e. by the President. She asked for an **independent** investigation into the accusations lodged against her. The reply of Mr Kongstad was: "I have decided to refer your request to the President as the competent appointing authority".

We nevertheless have the impression that at least some of the delegations in the Administrative Council have realised that making martyrs is not the best way to make peace and insisted that Mr Battistelli avoid dismissals. If so then Mr Battistelli’s decisions are not only aimed at showing staff “who’s the boss here” but also at the Council.

It is difficult to see how the “Social Study” decided by the Administrative Council in its December meeting (to be done “in close cooperation with the President”) will solve our problems any time soon. SUEPO has repeatedly requested **independent, external** mediation as a possible means to resolve the on-going conflict. We maintain our request for mediation and will repeat it at ministerial level. Withdrawal of the disciplinary measures against all staff representatives (five up to now, with more expected) will have to be part of any plan for restoring social peace.

### The bigger picture

We want to stress again that the unjustified disciplinary measures against staff representatives, albeit very serious, are only a small part of the problems generated by the Battistelli administration. Under Mr Battistelli we have seen a constant weakening of the internal and external control mechanism on the Office (starting with the dissolution of the Audit Committee) and a strengthening of controls by the President (e.g. Investigative Unit; "loyal", mostly French co-workers on key posts) as well as a serious degradation of almost all aspects of the working conditions of staff. SUEPO is also not blind to the impact that Mr Battistelli’s misguided efficiency drive is likely to have on the functioning of the EPO, and on the European patent system as a whole. We refer to an earlier SUEPO paper entitled "Brave new EPO".

Our claims therefore remain:
- A return to a **Rule of Law**, i.e. respect for the EPO regulations and for **European legal norms**, 
- **Freedom of Association**, and
- **Appropriate, good faith negotiation** of the staff work package, including the reporting system that necessarily has an impact on the quality of the work done.

Demonstrations will continue until the EPO is back on track: with its staff policies (respect for staff rights) and with its patent policies (quality).

**Demonstration: 20 January 2016**

**Start: 12.30h in front of the Isar building,**

**For a march to the Bayerische Staatskanzlei**

SUEPO Munich