

# EPO FLIER No. 41

The EPO-FLIER wants to provide staff with uncensored, independent information at times of social conflict

## The Price of Quality

During his first three months in office Mr Campinos has met staff members of all grades and from all departments. Among his most frequent questions were: “How do you define quality?”, “How can we measure quality?” and “How can we improve quality?”

Last week Mr Campinos published a document headed “Moving forward with quality” in which he announces the creation of a dedicated working group, consultation of internal and external stakeholders and the reinforcement of quality audits. **This careful consultative approach is appreciated.**

We will take his example and not try to give a quick answer to the above questions. We do, however, wish to highlight one aspect that is rarely mentioned in the discussions and that needs more attention, namely the price of quality.

Some of the costs of quality are obvious: although this is often denied by those in management, there is a trade-off between quality and production. All other conditions remaining the same<sup>1</sup>,  $quality \times production$  is a constant<sup>2</sup>. In a patent office, the value depends on both the technical field and the level of experience of the individual. But for each person, after a certain point, a higher output can only be obtained by lowering quality (“cutting corners”). Raising the quality normally involves more work<sup>3</sup>, which takes time and hence goes at the expense of output. That this is relevant also in the EPO is shown by the 2016 Technologia staff survey: 65% of the respondents indicated “lack of time” as a factor why they were unable to carry out their work correctly<sup>4</sup>.

But there are other aspects. One is that the EPO cannot **produce** high quality. The EPO does not write patent applications, the applicants do. The EPO cannot correct applications either. It can only request the applicant to do so. All the EPO can do is **refuse to grant bad quality patents**. Reducing bad patent applications to appropriate scope or ultimately refusing them takes much more time than granting them as it involves written exchanges with the applicant, often oral proceedings involving three examiners, drafting of the minutes and writing a properly reasoned refusal.

Refusing applications is not only more work than granting patents, thereby making the procedure costly, it also reduces the future income of the EPO and of its member states through renewal fees. This probably explains why the vast majority of the delegations in the Administrative Council

<sup>1</sup> Clearly the external conditions are not constant. e.g. the volume of prior art is growing rapidly. Improvements in IT are necessary to compensate for this. Applications have also become more voluminous and more complex.

<sup>2</sup> See for example *MEASURE FOR MEASURE - Quantity, Quality & Timeliness for Europe* (LSCTH, 12.09.2016)

<sup>3</sup> e.g. a final check before grant through a more extensive votum, as recently demanded by one of our COOs.

<sup>4</sup> 2016 Staff Survey, commissioned by SUEPO, p. 103 (<https://www.suepo.org/documents/43311/54958.pdf>)

preferred to believe Mr Battistelli when he claimed that there was no problem with quality despite clear signals of the contrary<sup>5</sup>.

Additionally, there are the costs of recruiting and maintaining high quality staff, of continuous staff training and of modernising the EPO's patchwork of vintage IT systems.

**We appreciate the fact that Mr Campinos is tackling the issue of quality.**

We hope that he will have the courage to explain to the Administrative Council that if the Office wants to be serious about quality, it will have to **invest** in quality.

With an operating surplus of over 1 million EUR per calendar day and a reserve fund that covers its liabilities to over 100% (CA/61/17), the Organisation can afford it.

---

5 The biggest beneficiary is Germany, with about 160 million euros a year. Maybe not surprisingly Mr Ernst (Chairman of the Council, previously Head of the German delegation) has stubbornly refused to see any quality problems that would need addressing; see for example [EPO – All Problems solved?](#) (Thorsten Bausch, Kluwer Patent Blog, 16.10.2017).