

DECISION OF THE ADMINISTRATIVE COUNCIL
of 30 June 2016
setting up a Boards of Appeal Committee
and adopting its Regulations

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention (hereinafter referred to as "EPC") and
in particular Articles 4(3), 23 and 33(2)(e) thereof,

Having regard to Rules 12a and 12c of the Implementing Regulations to the EPC,

Having regard to Article 14 of the Rules of Procedure of the Administrative Council of the
European Patent Organisation,

Having regard to the Act of Delegation by the President of the European Patent Office,

In agreement with the President of the European Patent Office,

HEREBY SETS UP A BOARDS OF APPEAL COMMITTEE AND ADOPTS THE
FOLLOWING REGULATIONS:

Article 1

Definitions and scope

(1)(a) "President of the Boards of Appeal" shall have the meaning defined in Rule 12a(1) of the Implementing Regulations to the EPC;

(b) "Boards of Appeal Unit" shall have the meaning defined in Rule 12a(1) of the Implementing Regulations to the EPC.

(2) These Regulations shall govern the composition and tasks of the Boards of Appeal Committee.

Article 2

Composition of the Boards of Appeal Committee

(1) The Boards of Appeal Committee shall be composed of:

(a) three members appointed by the Administrative Council from among the delegations of the Contracting States within the meaning of Article 26 EPC and Article 2 of its Rules of Procedure,

(b) three members proposed by the delegations and appointed by the Administrative Council from among serving or former judges of international or European courts or of national courts of the Contracting States.

(2) Each member shall have an alternate appointed by the same procedure.

(3) The Boards of Appeal Committee shall elect a Chairman and a Deputy Chairman from among the members referred to in paragraph (1)(a) above.

(4) The President of the Office and the President of the Boards of Appeal, the latter representing the Boards of Appeal Unit, shall be entitled to participate in all meetings of the Boards of Appeal Committee.

(5) The term of the members and the alternate members shall be three years. It shall be renewable or extendable.

Article 3

Meetings

- (1) Meetings of the Boards of Appeal Committee shall be summoned by the Chairman.
- (2) Each member of the Boards of Appeal Committee shall have a vote. The Chairman shall have a casting vote.
- (3) The Boards of Appeal Committee shall hold ordinary meetings twice a year; an extraordinary meeting may be called by the Chairman or half of its members.
- (4) The procedural rules of the Administrative Council shall also apply to the Boards of Appeal Committee. However, the present Regulations or the Boards of Appeal Committee may stipulate otherwise, except where the Rules of Procedure of the Administrative Council expressly apply to subsidiary bodies.

Article 4

Tasks of the Boards of Appeal Committee

- (1) As a subsidiary body of the Administrative Council, the Boards of Appeal Committee shall advise and assist the Administrative Council in its supervisory duties under Article 4(3) EPC in so far as these relate to the Boards of Appeal Unit.
- (2) To this end, the Boards of Appeal Committee shall
 - (a) monitor the independence of the Boards of Appeal Unit, make recommendations and advise the President of the Boards of Appeal on measures to enhance its organisational and managerial autonomy;
 - (b) monitor the efficiency of the Boards of Appeal Unit, make recommendations and advise the President of the Boards of Appeal on setting general objectives for the members and Chairmen of the Boards of Appeal and the members of the Enlarged Board of Appeal in handling the caseload and reducing the length of proceedings;
 - (c) provide general guidance on the management of the Boards of Appeal Unit, including on recruitment issues and on criteria for performance evaluation;

(d) assess the Boards of Appeal Unit's general performance, make recommendations and advise the President of the Boards of Appeal on principles for setting performance criteria and general criteria for case distribution;

(e) give an opinion on the draft annual report of the Boards of Appeal drawn up by the President of the Boards of Appeal, before it is submitted to the Administrative Council together with the comments of the President of the Office;

(f) give an opinion on any request by the President of the Office concerning the Boards of Appeal Unit;

(g) give an opinion on the substantiated budget request for staff, equipment and other resources needed to meet the Boards of Appeal Unit's objectives, drawn up by the President of the Boards of Appeal and finalised by him after examination by and discussion with the relevant Office departments, before it is forwarded to the President of the Office for consideration for the yearly draft budget;

(h) give an opinion on the President of the Boards of Appeal's implementation of the yearly budget allocated to the Boards of Appeal Unit;

(i) carry out, where necessary, user consultations on matters of direct concern to users, such as proposals to amend the Rules of Procedure of the Boards of Appeal and of the Enlarged Board of Appeal.

(3) The Boards of Appeal Committee shall adopt, on a proposal by the President of the Boards of Appeal, the Rules of Procedure of the Boards of Appeal and of the Enlarged Board of Appeal, before they are submitted to the Administrative Council for approval.

(4) A joint proposal for appointment of the President of the Boards of Appeal shall be made by the Boards of Appeal Committee and the President of the Office.

(5) The Chairman of the Boards of Appeal Committee shall ensure that the Administrative Council receives all necessary information.

(6) The Boards of Appeal Committee may entrust certain tasks to a smaller group, subject to authorisation by the Administrative Council.

(7) The Boards of Appeal Committee may call upon experts or advisers either on an ongoing or an ad hoc basis, as the circumstances require.

Article 5

Entry into force

These Regulations shall enter into force on 1 July 2016.

Done at Munich, 30 June 2016

For the Administrative Council
The Chairman

A handwritten signature in black ink, reading "J. Kongstad". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Jesper KONGSTAD