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Annual report of the Boards of Appeal

2021



Boards
of Appeal



Foreword

The COVID-19 pandemic continued to have a major impact on the Boards of Appeal in 2021. While the situation improved with the widespread availability of vaccines, new and more contagious mutations brought recurring waves of infection and new challenges. While some of us may have initially hoped that the pandemic would end sooner, it has meanwhile become apparent that we are running a marathon rather than a sprint.

The Boards of Appeal have successfully adapted to this situation by amending their working methods to guarantee continued access to justice under these challenging circumstances. Out of the 1 720 oral proceedings held by the Boards in 2021, 76 % were conducted using videoconferencing technology. The Enlarged Board of Appeal clarified in decision G 1/21 that oral proceedings before the Boards of Appeal can, during a period of general emergency impairing the parties' possibilities to attend in-person oral proceedings at the EPO premises, be held by videoconference even without the consent of the parties. Moreover, after two years of practice, parties and representatives have become more accustomed to this format and now frequently request oral proceedings by videoconference.

Teleworking has also been pivotal in our ability to ensure the seamless continuation of our important judicial work, allowing members to prepare cases and draft decisions at the usual pace without exposing themselves and others to avoidable health risks. Whilst borne out of necessity, these new and more flexible ways of working also offer organisational opportunities in terms of empowerment and efficiency. They have also accelerated digital transformation, as most board members now work fully electronically instead of using paper files, thereby contributing to environmental sustainability.

In 2021, the Boards settled 2 938 cases with action, which represents a productivity increase of 11.1% over 2020. In addition to settling cases in an efficient and timely manner, the Boards always strive to uphold the highest standards of quality. Professional development thus remained a focal point in 2021. In this context too, the Boards made extensive use of videoconferencing technology.

Overall, the Boards succeeded in ensuring access to justice and rendering decisions at a level of quality befitting an international judicial body of final instance, while also doing their part to limit the spread of the coronavirus. I wish to express my sincere gratitude to the entire staff of the Boards of Appeal for making this possible through their continued commitment and dedication. I would also like to thank the users and their representatives for their co-operation throughout this challenging year.



Carl Josefsson
President of the Boards of Appeal



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1. Executive summary

The number of pending cases before the Boards of Appeal (BoA) was reduced by 13.9% to 7 131 cases during 2021. The successful introduction of conducting oral proceedings by videoconference in 2020 has been built on in 2021 – despite continuing restrictions due to the COVID-19 pandemic a record number of 1 720 oral proceedings were held. Of these 76% have been conducted using videoconferencing technology. This has helped productivity return to close to pre-pandemic levels, a trend which should continue to improve in 2022. The negative impact of the pandemic can be seen most in pendency times. Despite the success of the measures taken and the excellent response of staff, overall production did fall in both 2020 (385 cases) and 2021 (120 cases) compared with what would normally be expected. Since 2021 saw a significant decrease in overall stock and as mainly older cases were postponed, a significant improvement in the timeliness figure has not been achieved.

The pandemic continued to pose a major challenge to courts worldwide in 2021. As a judicial authority whose decisions are final, the BoA have a special responsibility to ensuring that access to justice remains guaranteed while at the same time contribute to the containment of the pandemic. The President of the Boards of Appeal (PBoA) took a series of measures in 2020 to ensure the proper and seamless functioning of the BoA during the pandemic and has continued to update these measures in 2021. Staff adapted in an impressive way to the changes in working conditions and have risen to the further challenges in 2021.

The BoA have mitigated the negative impact of the difficult situation by allowing staff to work from home and by introducing the possibility of conducting oral proceedings by videoconference. Teleworking has allowed members to draft decisions and to continue preparing communications. In response to the COVID-19 pandemic and the associated restrictions on travel and access to the premises of the European Patent Office (EPO), the technical prerequisites for conducting oral proceedings before the BoA by videoconference were established in 2020. In G 1/21 the Enlarged Board of Appeal confirmed that, during a general emergency impairing the parties' possibilities to attend in-person oral proceedings, oral proceedings by videoconference before the BoA can be held without the consent of the parties.

In parallel with conducting oral proceedings by videoconference, the BoA have, after a period of closure for external visitors in 2020, started holding in-person oral proceedings again, albeit first on a very small scale only and later on a reduced scale, due to physical distancing measures and travel restrictions. To guarantee a safe environment for staff, parties and the public alike, strict hygiene measures have been put in place.

The need to work from home has pushed forward a pilot to enable boards to work fully electronically on electronic files with the support of iPads. As part of this project, a service was put in place providing members with electronic rather than paper files. Feedback from users has so far generally been very positive, although an extra effort was required from the involved members in order to compensate for the lack of experience and the limited support. In addition, new routines need to be further harmonised among the boards and established for the Registry.

While in the course of 2021 we have seen the pandemic situation improve somewhat, especially with the widespread availability of vaccines, further waves and new mutations pose new challenges. Thus, it should not be forgotten that the impact of the pandemic on the working conditions for BoA staff continues to be huge. The relentless commitment and

In 2021, the number of pending cases before the Boards of Appeal (BoA) was reduced by 13.9%.

Despite the COVID-19 pandemic more oral proceedings than ever before were held in 2021.

Staff adapted in an impressive way to the changes in working conditions.

The impact of the pandemic continues to be huge.

tireless efforts of all colleagues have been the key element in enabling the BoA to function so successfully in this period. Now that we can look forward to new ways of working in the foreseeable future, the PBoA, in consultation with the Presidium, will ensure that a teleworking system will also be put in place for the boards which is flexible yet meets the requirements of conducting oral proceedings.

The efforts of all colleagues have been the key element in enabling the BoA to function so successfully during the pandemic.

2. Structural reform of the BoA

The BoA are the first and final judicial instance in the procedures before the EPO. They are independent in their decisions and bound only by the European Patent Convention (EPC).

The structural reform of the BoA started in 2017. It involved a delegation of powers from the President of the EPO to the PBoA, the creation of the Boards of Appeal Committee (BOAC) as a subsidiary body of the Administrative Council, and the relocation of the BoA to separate premises in Haar. The Act of Delegation was renewed in 2018 (OJ EPO 2018, A63), and in 2019 the implementation of the Act of Delegation was detailed in a Memorandum of Understanding between the President of the EPO and the PBoA (BOAC/12/19).

The aim of the reform was to increase the organisational and managerial autonomy of the BoA, the perception of their independence and their efficiency. It confirmed the status of the BoA as an independent judicial body (see CA/43/16 Rev. 1, point 14) whose responsibility it is to serve the parties to appeal proceedings, users of the European patent system and society at large by handing down final decisions on European patents.

3. Production, productivity and pendency time

3.1. Five-year objective

With a view to reducing the backlog, the objective is to settle 90% of cases within 30 months of receipt and to reduce the number of pending cases to below 7 000 by 2023. The measures taken to achieve this objective are:

- increasing BoA productivity by 32% between 1 January 2017 and 31 December 2020
- allocating additional resources for a limited period of time.

The objective is to settle 90% of cases within 30 months.

3.2. Workload and production

In 2021, a total of 2 245 technical appeal cases were received, 9% more than in 2020. Despite the continuing impact of the COVID-19 crisis, 3 395 technical appeal cases were settled, a 12.7% increase compared with 2020. Overall, this represents an increase of 52% in production since the entry into force of the structural reform on 1 January 2017.

It should be noted in this context that the BoA workload and its fluctuations depend heavily on the output of the administrative departments of the Office, in particular the examining divisions and opposition divisions. In 2021 there has been an increase in incoming workload of 9% (from 2 059 to 2 245), and as foreseen there has been a significant rise in inter partes cases as DG1 opposition divisions have increased production. However, ex parte cases have shown a decline of 15.4% (from 957 to 810).

Despite the impact of the COVID-19 crisis, 3 395 technical appeal cases were settled in 2021, a 12.7% increase compared with 2020.

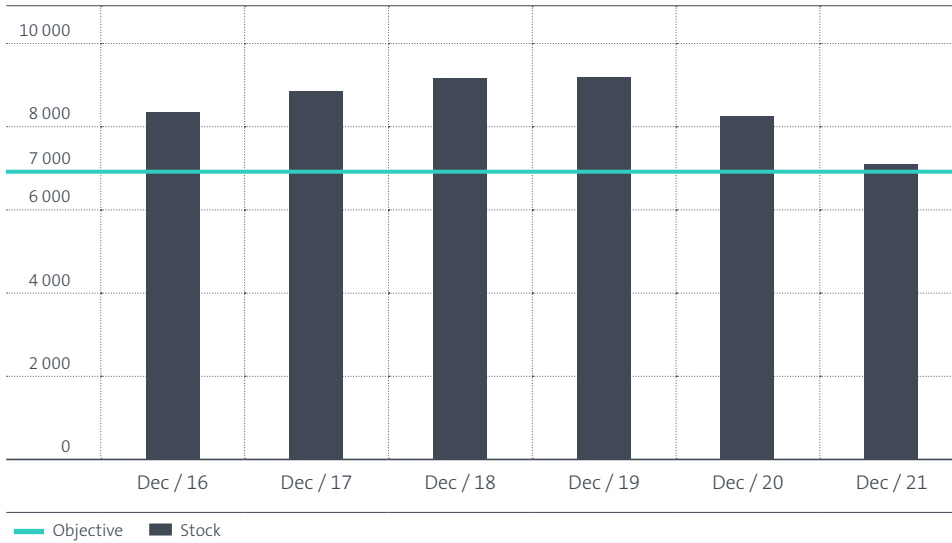
Table 1:

Number of new and settled cases

	New cases					Settled cases				
	2021	2020	2019	2018	2017	2021	2020	2019	2018	2017
Legal Board of Appeal	15	29	14	16	17	11	26	17	16	15
Technical Boards of Appeal	2 245	2 059	3 292	3 032	2 798	3 395	3 013	3 254	2 733	2 284
Enlarged Board of Appeal	17	14	12	12	10	15	6	11	15	8
Referrals	2	0	4	1	0	3	1	2	0	2
Petitions for review	15	14	8	11	10	12	5	9	15	6
Disciplinary Board of Appeal	55	3	19	18	26	6	15	12	20	17

Because of the strong recovery despite the continuing impact of the COVID-19 crisis and despite the increase in the number of appeal cases received, the number of pending cases was reduced by 1 149. As at 31 December 2021, 7 131 technical appeal cases were pending, which is 13.9% fewer than at 31 December 2020.

Figure 1:
Number of pending cases



As at 31 December 2021, 7 131 technical appeal cases were pending, which is 13.9 % fewer than at 31 December 2020.

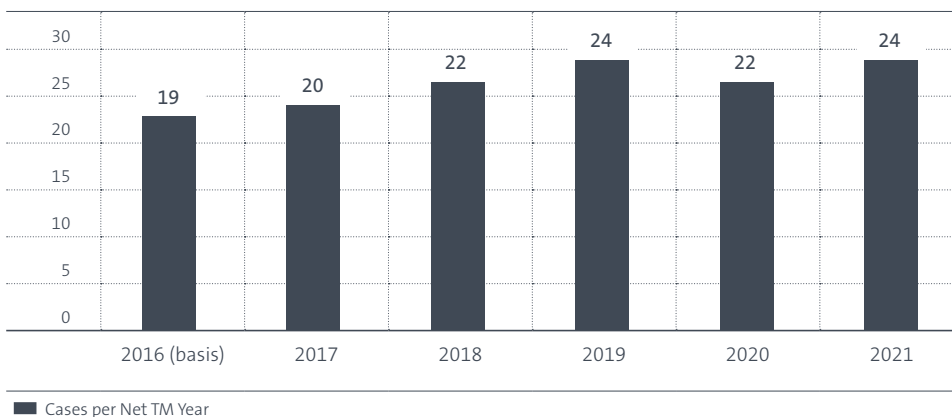
3.3. Productivity

When calculating productivity, only cases settled “with action” are taken into account. These are cases settled by a decision or after a communication has been issued by a board member and/or after oral proceedings have taken place. In 2021, the BoA settled 2 938 cases with action, requiring 1 470 net technical member (TM) months. This represents a productivity rate of 2.00 cases per net TM month. In 2020, the corresponding figure was 1.80. In 2021 productivity thus increased by 11.1%. The productivity increase from 1 January 2017 to 31 December 2021 was 26.6 %.

In 2021 productivity increased by 11.1% compared to 2020.

The increase in productivity since 2017 is due to a concerted effort by all members of the boards and their support staff. Even under the difficult conditions imposed by the pandemic, the productivity of the BoA was significantly superior to the period before 2017, which highlights the efforts of staff. It also shows that the measures taken by the PBoA to increase efficiency continue to yield results.

Figure 2:
Cases settled with an action per net technical member year



The BoA have made good progress on returning to productivity levels prior to the start of the COVID-19 pandemic. The groundwork for this improvement in production and productivity in 2021 was in part laid by the record number of first communications issued in 2020 when oral proceedings were more difficult or impossible to hold. Further progress will mainly depend on being able to return to a normal working environment, including being able to schedule and hold oral proceedings at the normal pace. In addition, any further increase in productivity is conditional on the expected positive effects of the RPBA 2020 and of the recently introduced options for staggered reimbursement of the appeal fee. The required modernisation of the IT landscape in the BoA will also play an important role.

The BoA have made good progress on returning to productivity levels prior to the start of the COVID-19 pandemic.

3.4. Pendency time

Despite the success of the measures taken and the excellent response of staff, overall production did fall in both 2020 (385 cases) and 2021 (120 cases) compared with what would normally be expected. Since 2021 saw a significant decrease in overall stock and as mainly older cases were postponed, a significant improvement in the timeliness figure has not been achieved.

As the timeliness indicator measures the 10% of oldest settlements in a given year, it will become even more sensitive to “pockets” of older stock in a number of boards. This issue was addressed through changes in the Business Distribution Scheme in 2021 and will be an ongoing priority for the BoA in the future.

Figure 3:
Timeliness results (90% of cases settled in months)

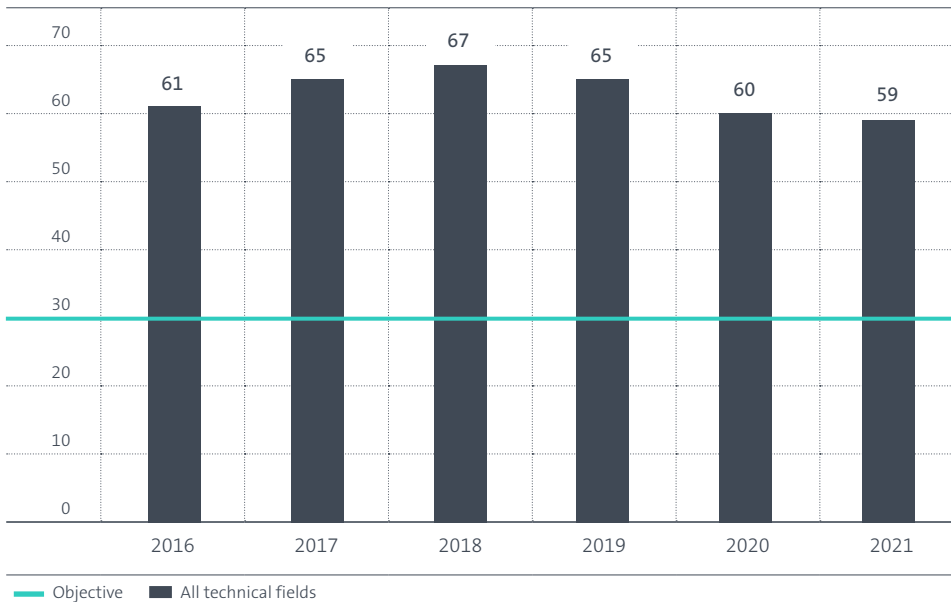


Figure 4:

Timeliness results per technical field (90 % of cases settled in months)

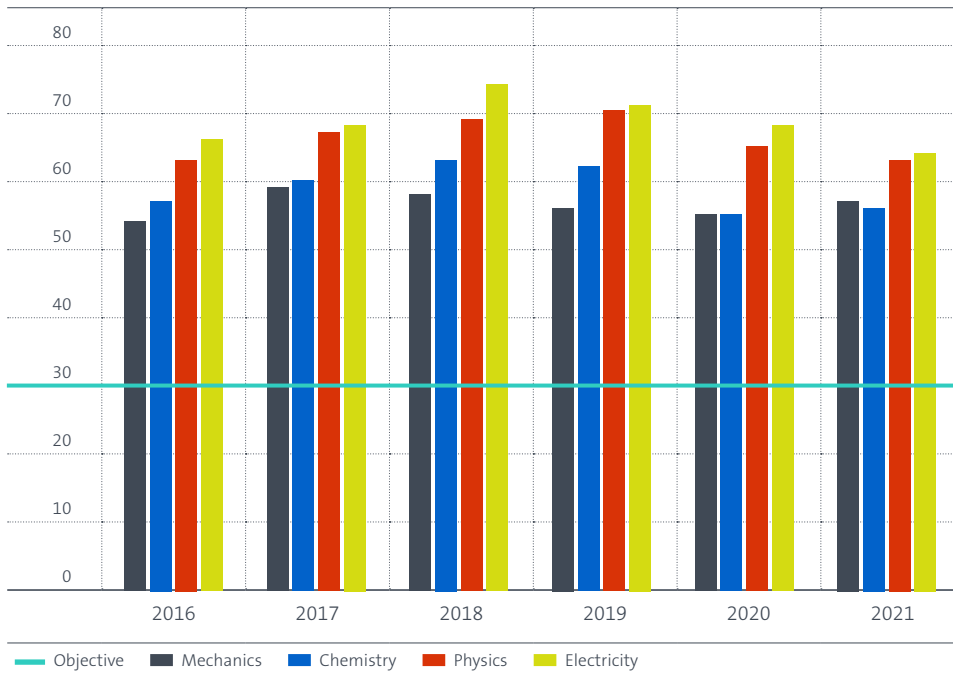


Table 2:

Pending cases per age group

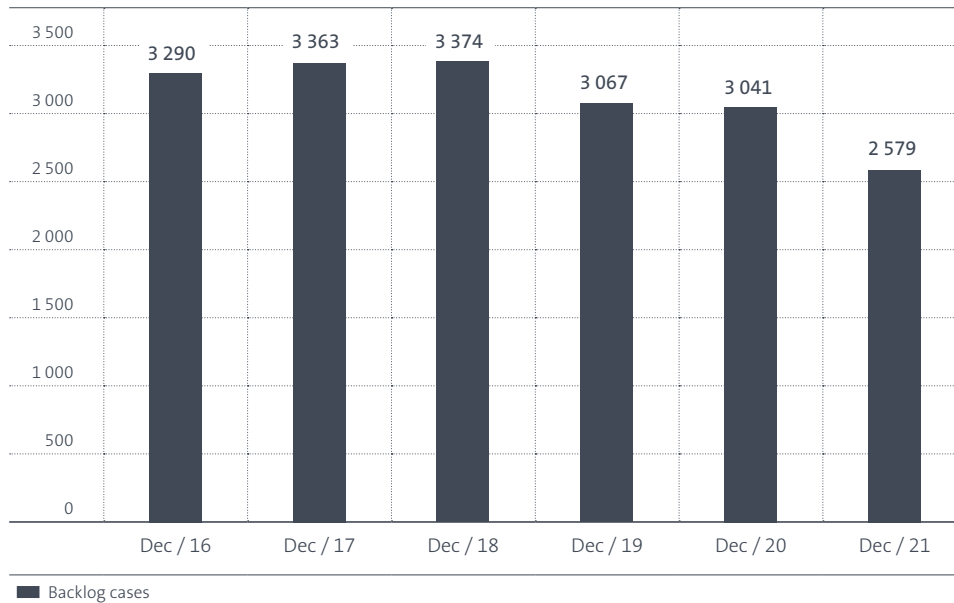
		0-12 months	13-18 months	19-24 months	25-30 months	Backlog Over 30 months	Total pending
2020	Pending cases	1 766	1 159	1 402	912	3 041	8 280
	Percentage	21.3%	14.0%	16.9%	11.0%	36.7%	100.0%
2021	Pending cases	1 963	446	1 164	979	2 579	7 131
	Percentage	27.5%	6.3%	16.3%	13.7%	36.2%	100.0%

As at 31 December 2021, 2 579 backlog cases were pending, which is 15.2% fewer than at 31 December 2020. As the backlog consists of pending cases that are not settled within 30 months, the significant drop in the number of appeal cases received in 2020 has not yet had an impact on the total backlog. Appeals filed in 2020 will start reaching backlog status during 2022. As a result, a more significant drop in the number of backlog cases is expected in 2022/2023.

A significant drop in the number of backlog cases is expected in 2022/2023.

Figure 5:

Backlog cases



The stock/backlog will be constantly reviewed by the PBoA. Taking into account the updated planning figures from the Office, the PBoA has decided that 10 of the 39 additional posts which had been allocated to the BoA for dealing with the backlog could be returned earlier than planned for the 2022 budget.

The above achievements should be seen in the context of the continued impact of the pandemic on the working conditions for BoA staff, which has been immense. Awareness of and an enhanced focus on the wellbeing of all staff under the new conditions have and will continue to be essential. In the light of all the changes, the relentless commitment and tireless efforts of all colleagues are all the more impressive.

4. Quality

4.1. Quality-focused decision-making

The legal and technical quality of the decisions taken by the BoA has been a central priority since the beginning of the BoA's activity. Users, and the public in general, rightfully expect the highest quality from a judicial authority whose decisions are final. In order to ensure that efficiency gains are made at no material cost to the quality of the decision-making, the PBoA has mandated a working group to provide a definition of quality as well as practical working aids for BoA members with regard to the workflow in appeal proceedings and drafting of decisions and communications.

The first document drafted by the working group, which outlines guiding principles for quality-focused decision-making, is available on the BoA [website](#). It lists the following as the most important elements in the quality of BoA decisions:

- In the proceedings leading up to the decision: transparency, respect of the right to a fair trial, timeliness, and completeness of examination of relevant factual and legal issues while paying regard to the respective purposes of ex parte and inter partes appeal proceedings.
- For the written, reasoned decision itself: clarity, clear reasoning, succinctness, responsiveness to the relevant arguments of the parties, particularly those of the losing party, proper analysis of the factual and legal issues, compliance with the right to be heard, and consideration of diverging lines of case law.

The working group has also drafted an internal document aimed at giving board members, especially new ones, guidance as to the workflow in appeal proceedings. This guidance, which takes into account changes in practice in the wake of the RPBA 2020, covers such diverse issues as the admissibility check, the drafting of a votum and the double-checking of certain formal aspects while avoiding duplication of work. The document has been revised after consultation of the Presidium of the Boards of Appeal, with further aspects added, and is about to be finalised.

Two further internal documents are on their way. One identifies principles of good decision drafting and includes recommendations on structuring decisions and avoiding redundant discussions. The other document provides guidance for drafting the communication in preparation for the oral proceedings and contains two illustrative model communications. Both documents have been discussed with the chairs and in the Presidium and new versions taking up suggestions from these discussions are now being prepared. Once finalised, both will be made available to all board members and will be used as a starting point for further exchange, harmonisation and training.

The quality of the decisions taken by the BoA is a central priority.



4.2. Performance evaluation and objective-setting

The third full performance evaluation cycle, for 2020, ended in mid-2021. As with the second cycle, the BOAC was provided with a report on the practical implementation of the new performance evaluation system (see BOAC/9/21).

The year 2020 was shaped by the COVID-19 pandemic. In particular the temporary disruption of oral proceedings due to the pandemic had a negative effect on the settling of cases after such proceedings. The impact on the working conditions of members and chairs was manifold. Against this background the PBoA communicated at the beginning of the pandemic that the consequences would be different for each board and that the impact remained to be seen, also in view of the steps boards were taking to cope with the situation. In the evaluation process, due consideration was given to the impact of the pandemic. For example, if a technical member had mostly reached the objectives set for 2020, this was considered a fully acceptable result in view of the COVID-19 situation.

Among other things, the report once again highlighted the PBoA's in-depth personal involvement in the annual performance evaluation cycle. During the performance evaluation cycle for 2020, he personally conducted about 85 individual meetings, reviewed about 225 individual written opinions and issued about 170 individual evaluation reports.

Finally, it can be reported that SuccessFactors, the IT system operating the performance evaluation process for chairs and members since late spring 2020, is in full production and allows for enhancements such as collaborative goal-setting and self-assessment on a voluntary basis.

4.3. Professional development

Professional development as a key contributor to the high quality of the work performed by the BoA was continued in 2021 in an online format. The Professional Development Committee continued with its string of successful talks and presentations in the form of webinars. The introductory training for new members took place online in May and June too.

A webinar on advanced legal drafting was conducted for the first time in January 2021, facilitated in a virtual format by a member of the English department of the EPO's Language Service. In March, and for the second time, four half-day sessions on legal drafting were offered by an external consultant and, due to high demand, were offered again in October.

Because of high demand, further English (legal) drafting courses are envisaged.



Professional development is a key contributor to the high quality of the work.

In March and April, a group of nine newly appointed chairs were given training on aspects of performance evaluation, followed by individual coaching sessions on a voluntary basis.

In April, the management assistants of the BoA, in the context of an Office-wide development programme, joined the EPO's internal network of management assistants, composed of around 100 colleagues. The programme also includes external networking activities, peer-to-peer coaching and training on digital and management support competence and personal effectiveness.

Finally, the EPO has introduced a new SuccessFactors application for learning called "iLearn". The tool allows all staff to manage their own learning activities by discovering upcoming events, development programmes and learning resources. In view of their independent status, the BoA will follow their own workflows in iLearn to request training.

4.4. Publications

All decisions of the Enlarged Board of Appeal, the Legal Board of Appeal and the technical boards of appeal handed down since 1979 are available free of charge on the [BoA website](#). This website gives users access not only to the BoA decisions database but also to BoA publications, up-to-date information, communications from the BoA and texts of importance for appeal proceedings.

Supplementary publication 1 of the EPO Official Journal, Information from the Boards of Appeal is issued at the beginning of each year (current version: [Supplementary publication 1, OJ 2022](#)). It contains the RPBA, the business distribution schemes of the BoA and further useful information on the boards and the appeal procedures.

In addition to the [Case Law of the Boards of Appeal](#) book, the current 9th edition of which covers BoA case law up to 2018, the BoA publish regular case law updates in the Official Journal. [Supplementary publication 4, OJ 2020, EPO Boards of Appeal Case Law 2018 and 2019](#) takes account of decisions made available in 2018 and 2019, and [Supplementary publication 2, OJ 2021, EPO Boards of Appeal Case Law 2020](#) covers 2020.

One of the main purposes of the BoA website is to provide easy access to BoA case law. With this goal in mind, its functionalities are updated or refined on an ongoing basis. Thus, the recently introduced service [Selected decisions of the Boards of Appeal](#) alerts users to newly published decisions for which the board has provided a headnote or catchword. Usually, a board will use a headnote or catchword if it wishes to provide a brief summary of a particular point of law or draw attention to an important part of the reasons of the decision.

In addition, links to these selected decisions are added to the regularly updated HTML version of the [Case Law of the Boards of Appeal](#) (9th edition, July 2019). The decision numbers are inserted in the relevant chapter and linked to the decision headnote or catchword, which can be displayed by hovering over the link with the mouse. Starting with decisions from 2019, the HTML version of the case law book now also provides links to the summaries reported in the OJ “case law” Supplementary publications. As with selected decisions, the links to the summaries in the Supplementary publications are placed in the relevant chapters of the book. This service helps readers to identify new decisions within their thematic context and brings together the content of the case law book and the OJ “case law” Supplementary publications.

4.5. Quality dialogue between the BoA and the Office

Within the framework of quality dialogue within the BoA, the BoA are keen to establish and develop regular dialogue on quality with the Office. To this end, a series of EPO-internal lectures have been held on the most relevant recent developments in the case law, with particular attention being given to topics which DG1 sectors and the boards have highlighted as being the ones which are most interesting from the point of view of their impact on the quality of decisions in both examinations and oppositions. Throughout 2021, chairs and legally qualified members of the BoA gave lectures on various topics: decision G 4/19 on questions relating to double patenting, novelty – ranges and multiple selections, substantial procedural violations, decision G 1/19 – computer simulations, claim interpretation and adaptation of description, inventive step – problem-solution approach and issues and non-issues in patenting AI. Each of the lectures given in 2021 was able to be accessed live by all staff at all EPO sites. The online lectures were highly appreciated by Office staff members, with viewing figures regularly reaching as high as 1 200.

Decisions of the BoA are easily accessible and available free of charge on the BoA website.

Various online lectures on recent developments in the case law were given by the BoA.

Live access to the lectures was possible for all staff at all EPO sites.

On 19 November 2021 the first dialogue meeting of the Office with the BoA on quality (via the SP2023 project “Learning from Boards of Appeal outcomes”) took place. This was a high-level meeting focusing on discussion topics for future events, such as best practices in DG1 decision drafting and case law trends. The dialogue aims at enabling improved harmonisation and alignment of DG1 practice with the decisions of the BoA, in order to ensure a high level of legal certainty and predictability. The approach is centred on increased engagement of examiners with the BoA case law.

5. Measures to increase efficiency

5.1. Objectives and improved planning

As part of operational planning, the production figures and filing trends of the departments of first instance are continuously analysed. The results of these analyses are used to achieve an even distribution of work between the boards and their members. Ultimately, this is reflected in the business distribution scheme. The results of the analyses are also used for recruitment planning and objective-setting. The total stock has been reduced by 22.8 % in the last two years (from 9 234 cases to 7 131 cases) and as this trend continues it will be increasingly important to balance the smaller amount of stock among the boards. In particular, one must seek to avoid larger amounts of older stock accumulating in boards as this will impede the BoA in reaching their timeliness targets.

The amount of older stock needs to be distributed evenly among the boards to avoid accumulation.

In 2021, the minutes of oral proceedings were issued within seven calendar days in 88.1% of cases, and the written decision was despatched within three months in 88.9% of cases. Where the decision on the appeal is announced orally, under Article 15(9)(a) of the amended RPBA it has been mandatory since 1 January 2020 to put the decision in writing and despatch it within three months of the date of the oral proceedings. If the board is unable to do so, it has to inform the parties and the PBoA of when the decision will be despatched.

5.2. Article 15a RPBA 2020

Following its adoption by the BOAC on 11 December 2020 and approval by the Administrative Council on 23 March 2021, the new Article 15a RPBA 2020 entered into force on 1 April 2021. This new provision states that the BoA may hold oral proceedings pursuant to Article 116 EPC by videoconference.

New Article 15a RPBA 2020 providing that the BoA may hold oral proceedings by videoconference entered into force on 1 April 2021.

According to Article 15a(1) RPBA 2020 the Board may decide to hold oral proceedings pursuant to Article 116(1) EPC by videoconference if the Board considers it to be appropriate or if requested by any party to the proceedings.

Article 15a(2) RPBA 2020 concerns oral proceedings scheduled to be held on the premises of the EPO and allows a party, representative or accompanying person to attend by videoconference rather than in person during those proceedings. Under Article 15a(3) RPBA 2020, the Chair in the particular appeal can also allow any other member of the Board in the particular appeal to attend remotely by videoconferencing means, regardless of whether the oral proceedings are scheduled to be held on the premises of the EPO or by videoconference. Under this provision, the Chair too may attend remotely.

Whether oral proceedings may be held by videoconference without the consent of the parties was also the subject of the referral G 1/21 to the Enlarged Board of Appeal (see point 8.1. below).

More information on the RPBA 2020 is available on the BoA website (<https://www.epo.org/law-practice/case-law-appeals/procedure.html>) and in Supplementary publication 2, OJ EPO 2020, which contains a table setting out all the amendments to the RPBA and detailed explanatory remarks on the individual articles.

5.3. Oral proceedings by videoconference

The internal working group set up in 2020 continued to provide advice on measures to be taken in order to enable board members and parties to attend oral proceedings by videoconference. On the basis of the recommendations of the working group, different set-ups for oral proceedings by videoconference had been introduced.

- In “co-located oral proceedings” by videoconference, the board members are located together in a room on the premises in Haar, while the other attendees (parties, representatives, accompanying persons) attend by videoconference.
- In “mixed-mode oral proceedings”, some parties, representatives and/or accompanying persons attend by videoconference while others are physically present in the oral proceedings room together with board members. Exceptionally, one or more of the board members may also attend by videoconference.
- In “distributed oral proceedings”, all members, representatives and/or accompanying persons attend by videoconference.

The BoA have further expanded their capabilities to conduct oral proceedings by videoconference. In January, peer-to-peer training of all boards was completed, enabling board members to effectively conduct distributed oral proceedings with remote interpretation. Furthermore, the technical installations and software for mixed-mode and co-located oral proceedings at the BoA premises in Haar have been upgraded to comply with the related EPO IT developments regarding the use of videoconference.

In 2021, the BoA conducted 1 343 oral proceedings by videoconference. Of these, 325 were held with interpreting and 29 were held by mixed mode. The oral proceedings of G 1/21 were broadcast via the internet to a large audience of interested members of the public. During the same period, 377 in-person oral proceedings took place. These figures show that 76 % of oral proceedings were organised by videoconference.

Technical installations and software for mixed-mode and co-located oral proceedings have been upgraded.

In 2021, the BoA conducted 1 720 oral proceedings, 1 343 thereof by videoconference.



It has been more than a year and a half since the BoA organised their first oral proceedings by videoconference, on 8 May 2020. Given that a total of 173 oral proceedings were held by videoconference in 2020, the numbers for 2021 are impressive. The very high number of oral proceedings by videoconference, both in absolute numbers and as a percentage of the total number of oral proceedings, was very much driven by the urgency created by the COVID-19 pandemic to reduce travelling and meeting in person. However, the wide acceptance of oral proceedings by videoconference has made it a highly appreciated additional means for organising oral proceedings in general.

Earlier in this report it was pointed out that the use of videoconference for oral proceedings has been of decisive importance to keep the operations of the BoA running. The effort made by all involved members, support staff, representatives and the Office to make this happen cannot be overstated.

To provide complete and up-to-date information on oral proceedings before the BoA, a new [information page](#) has been published on the internet. Within the BoA section, parties and members of the public are now able to find information on all topics related to any type of oral proceedings.

Further improvements regarding the technical means for oral proceedings by videoconference are currently being assessed, most notably means to enable remote interpretation for mixed-mode and co-located oral proceedings in close collaboration with all stakeholders involved.

During the process of enacting Article 15a RPBA 2020, the Boards of Appeal Committee expressed its intention to evaluate the experience gained from the use of videoconferencing in oral proceedings before the Boards of Appeal. This evaluation is envisaged to be initiated at the latest 18 months after the date of the entry into force of proposed new Article 15a RPBA 2020, i.e. in autumn 2022. The user community will also be consulted on how the new provision operates in practice.

The very high number of oral proceedings by videoconference was driven by the COVID-19 pandemic.

The new information page “Oral proceedings before the Boards of Appeal” has been published on the internet.

The user community will be consulted on how new Article 15a RPBA 2020 operates in practice.

5.4. Paperless working

The roll-out of iPads to all BoA staff in the first half of 2020 and the call for all staff to come to the premises only when absolutely necessary for the continuation of oral proceedings have both given a boost to paperless working. By saving paper, the Boards of Appeal contribute to environmental sustainability and reduce their carbon footprint. Many colleagues have pioneered new ways of working electronically, with the support of software applications like Acrobat® and LiquidText®. With the Office's move to make use of cloud-based solutions, new ways of collaborative working were also made available.

The provision of iPads to all board members was completed in late spring 2021. The distribution of iPads to registrars is underway and will be concluded in Q1/2022. The use of iPads allows all board members to work on digital copies of the appeal case. The BoA are also looking forward to receiving seamless access to Office systems like Aly and Digital File Repository (DFR) in Q1-Q2/2022.



Many colleagues have pioneered new ways of working electronically.

By saving paper, the Boards of Appeal contribute to environmental sustainability and reduce their carbon footprint.

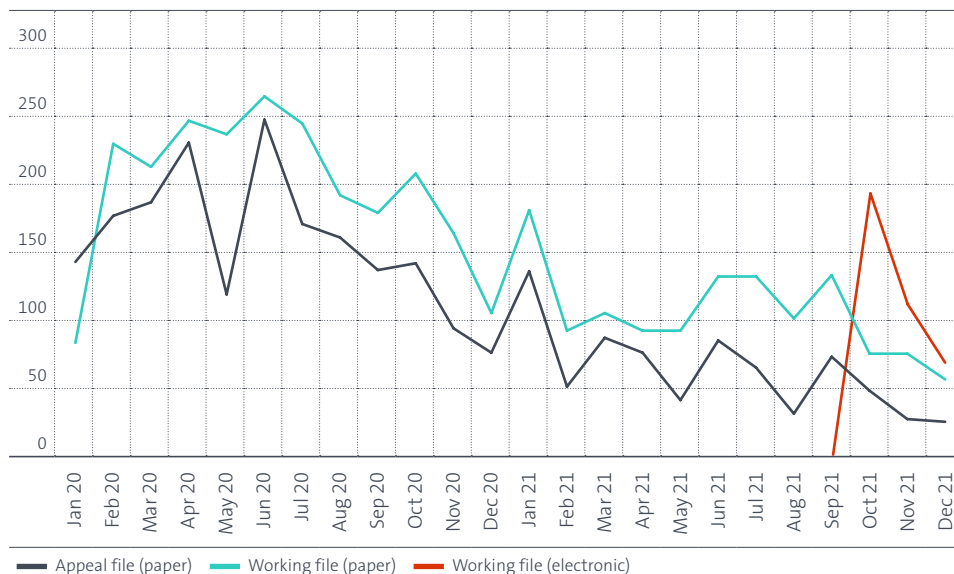
The transition from traditional ways of working to digital ones has been facilitated by contact persons representing each board. This group of contact persons shared experiences and specified requirements for improvement. Training has been provided online and the group allowed for peer-to-peer training. Following a survey organised by the group a new service was created whereby electronic working files were created centrally. The practical experiences thus collected are highly relevant and help shape BoA requirements in respect of impactful digital projects like Aly and DFR.

Almost 50% of members are now exclusively working with electronic files, while the remaining percentage prefer to continue to work with paper files to some extent.

All these efforts have resulted in an impressive reduction of paper consumption.

Figure 6:

File constitution



Despite the wealth of experience gained, there is still much potential for improving the software, on which there is close collaboration with the Office. After the pioneering stage, the discussion will also continue on best practices.

5.5. Annual list of cases

Article 1(2) RPBA 2020 states that a list of cases in which the BoA are likely to hold oral proceedings or issue a communication or a decision in written proceedings in the following working year must be published in advance of that year. The list is based on a working plan drawn up by each chair for their board. Its purpose is to increase efficiency and make the work of the BoA more transparent and predictable. The list for 2022 was published on the BoA website in October 2021 (<https://www.epo.org/law-practice/case-law-appeals/about-the-boards-of-appeal/annual-list-of-cases.html>).

The list of cases for 2022 was published on the BoA website in October 2021.

6. Code of Conduct

As part of the structural reform of the BoA (see CA/43/16 Rev. 1 and CA/D 6/16), the Administrative Council enacted Rule 12b(3)(b) EPC, which states that the Presidium of the Boards of Appeal must:

“adopt, without prejudice to regulations adopted in accordance with Article 10, paragraph 2(c), and Article 33, paragraph 2(b), a Code of Conduct for the members and Chairmen of the Boards of Appeal and of the Enlarged Board of Appeal, which shall be subject to the approval of the Administrative Council”.

According to this provision, it was thus down to the Presidium of the Boards of Appeal to adopt a code of conduct, and to the Administrative Council to approve the code of conduct for it to enter into force. The Code of Conduct concerns key principles for the BoA, including the independence of the board members.

After receiving advice from the Presidium of the Boards of Appeal, the PBoA created the working group “Aspects of internal justice”. The working group reviewed a number of example codes of conduct. A draft text obtained broad consensus among the Presidium of the Boards of Appeal. The PBoA submitted this draft (see BOAC/10/21) to the BOAC for its opinion. The BOAC praised the excellent draft Code and gave a unanimous favourable opinion (see BOAC/11/21, point 31).

Comments made by the BOAC were incorporated into the final version. The Presidium of the Boards of Appeal adopted the Code of Conduct on 23 November 2021. On 14 December 2021, the Code of Conduct was then unanimously approved by the Administrative Council during its 169th meeting (see CA/68/21 and CA/D 21/21). The “Code of conduct for members of the Boards of Appeal and of the Enlarged Board of Appeal” will enter into force on 1 July 2022.

The Code of Conduct concerns key principles for the BoA, including the independence of the board members.

The Code of Conduct was approved by the Administrative Council and will enter into force on 1 July 2022.

7. Building

During the 169th meeting of the Administrative Council, the PBoA announced that, together with the President of the Office, they would be making a joint proposal to relocate the BoA to a building that was part of the Pschorrhöfe complex. This relocation would take place at the earliest in 2025/2026.

The opportunity to move the BoA to a more central location in the city of Munich is much appreciated. The location at the “Building VII” in the Pschorrhöfe complex will facilitate access to the BoA for its users (parties and representatives), the public and the majority of BoA staff.

The envisaged timeframe for the relocation (2025/2026) means that it is also possible to define the requirements for the customisation of the building in co-operation with stakeholders.

A proposal to relocate the BoA to the city of Munich in the Pschorrhöfe will be made.

8. Staff

The Administrative Council approved three additional administrative posts in the Boards of Appeal Unit for the 2021 budget. In total, the BoA had 279 total permanent posts in 2021 (215 board members and chairs and 64 in the administrative area).

In addition, new chairs and members were recruited to fill posts that had become vacant due to retirement or replacement. All in all, two chairs, two legally qualified members, five technically qualified members and four support staff took up their duties in 2021.

As at 31 December 2021 there were 196 chairs and members of the boards. The 136 technically qualified and 31 legally qualified members were divided among 28 technical boards and the Legal Board of Appeal. The total number of BoA staff, including the PBoA, was 255.

The stock/backlog will be constantly reviewed by the PBoA. Taking into account the updated planning figures from the Office, the PBoA has decided that 10 of the 39 additional posts which had been allocated to the BoA for dealing with the backlog can be returned earlier than planned for the 2022 budget.

As at 31 December 2021 there were 196 chairs and members of the boards.



8.1. New ways of working

Following an invitation by the President of the Office, the PBoA provided comments on the “Towards a new normal” orientation document (CA/38/21, Annex 4). The BoA recognise the many achievements described in the document and welcome the new patterns described in it. Subjects of particular importance to the BoA are a new teleworking framework, an enhanced digital workspace and EPO buildings. For the BoA it is important to ensure that the specific requirements of their work are reflected in the regulations for the new normal, in particular the high number of oral proceedings and the collaborative nature of their work. Teleworking, particularly from abroad, is intended to be possible only where it does not affect the planning, organising and conduct of oral proceedings before the BoA.

It needs to be ensured that the specific requirements of the BoA are reflected in the new teleworking framework.

The draft regulatory framework on new ways of working which the Office intends to put in place foresees that the PBoA may adopt general guidelines for the application of the teleworking guidelines to the members of the BoA. The overarching importance of oral proceedings for the functioning of the BoA was discussed in the Presidium. In view of this distinctive priority, the PBoA intends to make use of the authority delegated to him to clarify that the scheduling and conduct of oral proceedings before the BoA takes precedence over teleworking. Teleworking of members and chairs of the BoA may not affect their availability for the conduct of oral proceedings before the BoA, including for oral proceedings which are re-scheduled or for which the composition is changed.

The PBoA will continue to closely follow the developments relating to teleworking, from an organisational point of view but also regarding communication and collaboration among staff.

8.2. Diversity and inclusion

The PBoA has asked a working group to draw up a proposal for a vision and mission statement of the BoA on diversity and inclusion (D&I). In making this proposal, the working party is asked to take due account of the special character of the BoA as an international judiciary of first and final instance and consider all BoA staff. It should devise a D&I strategy 2022-2027 and an accompanying communication plan for the BoA. Concerning this topic, a survey among BoA staff has been organised, and the report by the working group is expected in early 2022.

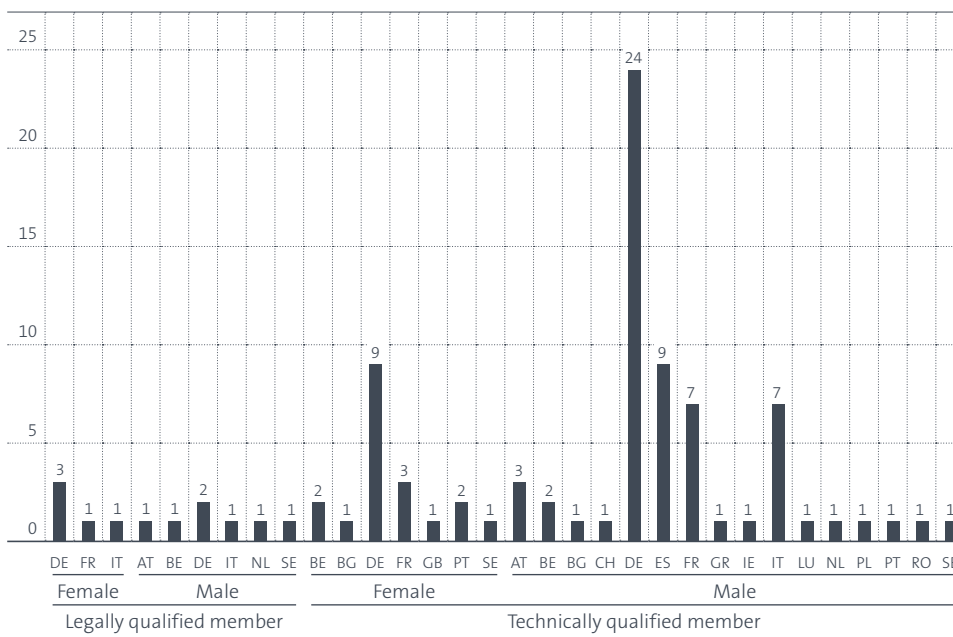
A proposal for a vision and mission statement of the BoA on diversity and inclusion is being prepared.

Since 2017, new staff have been recruited from 17 different member states, including Bulgaria, Luxembourg, Poland and Romania.

Of these newly recruited members, 26% were female.

Figure 7:

Gender and nationality distribution of newly recruited members since 2017



8.3. Reorganisation of support services

In 2021 the support services of the BoA were reorganised. New “Legal Services” composed of the Legal Research Service and a Legal Advice Service was created. The Legal Research Service was transferred from the former Directorate Legal Research and Administration, which is renamed Directorate Administration and composed of the Registry and the Administration and Business Processes Department. The purpose of the reorganisation is to strengthen the legal capacity of the support services, notably in respect of the new governance activities stemming from the reform of the BoA.

In 2021 the support services of the BoA were reorganised.

9. Enlarged Board of Appeal

The main task of the Enlarged Board of Appeal is to ensure the uniform application of the EPC. It decides on points of law of fundamental importance referred to it either by a board of appeal or by the President of the EPO under Article 112 EPC. It is also competent to decide on petitions for review of decisions of the BoA under Article 112a EPC.

9.1. Referrals under Article 112 EPC

In 2021, the Enlarged Board decided on three referrals under Article 112 EPC and received two new referrals under Article 112 EPC (on one of which the Enlarged Board decided in 2021).

In 2021, the Enlarged Board decided on three referrals and received two new referrals.

On 10 March 2021, the Enlarged Board issued decision [G 1/19](#) (Pedestrian simulation) on whether (and if so, under what conditions), in the assessment of inventive step, a computer-implemented simulation of a technical system or process that is claimed as such can solve a technical problem by producing a technical effect beyond implementation on a computer. The decision was issued in response to questions referred to the Enlarged Board by the board in case T 489/14.

The Enlarged Board answered the points of law as follows:

“1. A computer-implemented simulation of a technical system or process that is claimed as such can, for the purpose of assessing inventive step, solve a technical problem by producing a technical effect going beyond the simulation’s implementation on a computer.
2. For that assessment it is not a sufficient condition that the simulation is based, in whole or in part, on technical principles underlying the simulated system or process.
3. The answers to the first and second questions are no different if the computer-implemented simulation is claimed as part of a design process, in particular for verifying a design.”

On 10 March 2021, the Enlarged Board issued decision [G 1/19](#) (Pedestrian simulation).

On 22 June 2021, the Enlarged Board issued decision [G 4/19](#) (Double patenting) on the prohibition on double patenting. The decision was issued in response to questions referred to it by the board in case T 318/14.

On 22 June 2021, the Enlarged Board issued decision [G 4/19](#) (Double patenting).

The Enlarged Board answered the points of law as follows:

“1. A European patent application can be refused under Articles 97(2) and 125 EPC if it claims the same subject-matter as a European patent which has been granted to the same applicant and does not form part of the state of the art pursuant to Article 54(2) and (3) EPC.

2.1 The application can be refused on that legal basis, irrespective of whether it
 (a) was filed on the same date as, or
 (b) is an earlier application or a divisional application (Article 76(1) EPC) in respect of, or
 (c) claims the same priority (Article 88 EPC) as
 the European patent application leading to the European patent already granted.
 2.2 In view of the answer to Question 2.1 a separate answer is not required.”

On 28 October 2021, the Enlarged Board issued the reasons for its decision G 1/21 (Oral proceedings by videoconference) on whether it is compatible with Article 116 EPC to hold oral proceedings by videoconference if not all parties have given their consent to this format. The decision was issued in response to questions referred to the Enlarged Board by the board in case T 1807/15.

The Enlarged Board of Appeal considered the referred question to have been formulated more broadly than was necessary for the referring board to decide on the case before it.

Accordingly, the Enlarged Board of Appeal limited the scope of the referral to

- oral proceedings before the BoA (as opposed to oral proceedings before the EPO’s departments of first instance) and
- the specific context of the referral, i.e. a general emergency (namely the COVID-19 pandemic).

The order issued by the Enlarged Board of Appeal reads as follows:

“During a general emergency impairing the parties’ possibilities to attend in-person oral proceedings at the EPO premises, the conduct of oral proceedings before the boards of appeal in the form of a videoconference is compatible with the EPC even if not all of the parties to the proceedings have given their consent to the conduct of oral proceedings in the form of a videoconference.”

In 2021 the board in case T 116/18 has referred the following points of law, which are pending under G 2/21 (Plausibility):

“If for acknowledgement of inventive step the patent proprietor relies on a technical effect and has submitted evidence, such as experimental data, to prove such an effect, this evidence not having been public before the filing date of the patent in suit and having been filed after that date (post-published evidence):

1. Should an exception to the principle of free evaluation of evidence (see e.g. G 3/97, Reasons 5, and G 1/12, Reasons 31) be accepted in that post-published evidence must be disregarded on the ground that the proof of the effect rests exclusively on the post-published evidence?
2. If the answer is yes (the post-published evidence must be disregarded if the proof of the effect rests exclusively on this evidence), can the post-published evidence be taken into consideration if, based on the information in the patent application in suit or the common general knowledge, the skilled person at the filing date of the patent application in suit would have considered the effect plausible (ab initio plausibility)?
3. If the answer to the first question is yes (the post-published evidence must be disregarded if the proof of the effect rests exclusively on this evidence), can the post-published evidence be taken into consideration if, based on the information in the patent application in suit or the common general knowledge, the skilled person at the filing date of the patent application in suit would have seen no reason to consider the effect implausible (ab initio implausibility)?”

On 28 October 2021, the Enlarged Board issued the reasons for its decision G 1/21 (Oral proceedings by videoconference).

A further referral G 2/21 (Plausibility) is pending since 2021.

9.2. Petitions for review under Article 112a EPC

In 2021, the Enlarged Board received 15 petitions for review.

In its business distribution scheme for 2021, the Enlarged Board had created the possibility of including external legally qualified members in its composition for petitions for review under Article 112a EPC. External legally qualified members can now sit on the Enlarged Board in its three- and five-member composition when hearing petitions for review. However, no use of this possibility has been made so far.

A total of 23 petitions for review are currently pending. In 2021, 12 petitions for review were settled.

In 2021, the Enlarged Board received 15 petitions for review.

12 petitions for review were settled.

10. Contact with national courts, users and representatives

In 2021 the COVID 19 situation has continued to have a major impact on the usual contacts with national courts, users and representatives. If at all possible, meetings and conferences have been held in a virtual format; however, their overall number has decreased due to postponements in the hope of the contact restrictions being lifted soon. The PBoA participated at various high-level events, such as the 2020 Judicial Symposium on IP of the Japan Patent Office, which was, by way of exception, scheduled in January 2021, as well as the Fordham IP Law & Policy conference and the IP5 Trial and Appeal Boards High-level Meeting.

Meetings and conferences with national judges, users and representatives were held in a virtual format.



The PBoA participated at various high-level events.

In the second half of 2021, the PBoA and members of the BoA welcomed 20 high-level national European judges to a virtual workshop on the subject of patentability-related issues. This workshop was launched in 2019 with great success and has become an annual event. The PBoA and members of the boards also virtually met with a delegation from the International Federation of Intellectual Property Attorneys (FICPI), as well as with

representatives from industry (nominated by BusinessEurope) and the patent profession (nominated by epi). Both of these meetings are now traditionally held yearly and organised by the BoA. In addition, the PBoA and members of the boards attended the European Judges Forum, called “Virtual Venice” this year. The PBoA also gave a speech at a conference of the Swedish Patent and Market Courts.

These meetings are an important means of strengthening interaction between national judges, users and the BoA, and of deepening knowledge of the respective legal and appeal systems.

Like every year, the BoA Registry and the Registry of the Boards of Appeal at the European Union Intellectual Property Office (EUIPO) met virtually to share and discuss relevant topics and experiences.

Together with the EPO’s Patent Academy, the BoA organised their annual “EPO boards of appeal and key decisions” conference for patent law practitioners, in an online format. As in previous years, it was booked to capacity, with about 480 practitioners attending. Furthermore, the conference was streamed internally and was followed by a large number of EPO staff members.

At the request of the European Patent Academy, board members and members of the Legal Research Service of the BoA gave 17 virtual talks and presentations at conferences, seminars and workshops organised by the Office. Due to the pandemic, this number was significantly lower than in previous years. However, despite the limitations, the BoA were glad to be able to help guarantee a high level of expertise and quality for the benefit of a demanding professional audience.

All these activities continue to have the unreserved support of the BoA as they increase the overall outreach of the EPO and raise knowledge and awareness of patents and industrial property.

Meetings are important for interaction between national judges, users and the BoA.

The BoA organised their annual “EPO Boards of Appeal and key decisions” conference in an online format.

11. Statistics

11.1. Breakdown of appeal cases by type

Table 3:

Breakdown of appeal cases by type

	New cases			Settled cases			Pending cases	
	2021	2020	2019	2021	2020	2019	2021	2020
Enlarged Board of Appeal	17	14	12	15	6	11	24	22
Referrals	2	0	4	3	1	2	1	2
Petitions for review	15	14	8	12	5	9	23	20
Legal Board of Appeal	15	29	14	11	26	17	20	16
Technical boards of appeal	2 245 100%	2 059 100%	3 292 100%	3 395 100%	3 013 100%	3 254 100%	7 131 100%	8 280 100%
Examination procedure (ex parte)	810 36.1%	957 46.5%	1 355 41.2%	1 304 38.4%	1 331 44.2%	1 351 41.5%	2 769 38.8%	3 263 39.4%
Opposition procedure (inter partes)	1 435 63.9%	1 102 53.5%	1 937 58.8%	2 091 61.6%	1 682 55.8%	1 903 58.5%	4 362 61.2%	5 017 60.6%
Mechanics	704 31.4%	613 29.8%	1 026 31.2%	1 110 32.7%	928 30.8%	973 29.9%	2 077 29.1%	2 530 30.5%
Examination procedure	97	122	174	145	199	132	258	313
Opposition procedure	607	491	852	965	729	841	1 819	2 217
Chemistry	755 33.6%	573 27.8%	1 053 32.0%	1 011 29.8%	927 30.8%	1 078 33.1%	2 152 30.2%	2 407 29.1%
Examination procedure	107	123	203	215	238	281	282	390
Opposition procedure	648	450	850	796	689	797	1 870	2 017
Physics	156 6.9%	171 8.3%	331 10.0%	399 11.7%	355 11.8%	349 10.7%	867 12.2%	934 11.3%
Examination procedure	84	104	223	260	257	231	532	567
Opposition procedure	72	67	108	139	98	118	335	367
Electricity	630 28.1%	702 34.1%	882 26.8%	875 25.8%	803 26.6%	854 26.3%	2 035 28.5%	2 409 29.1%
Examination procedure	522	608	755	684	637	707	1 697	1 993
Opposition procedure	108	94	127	191	166	147	338	416
Disciplinary Board of Appeal	55	3	19	6	15	12	60	11
Total	2 332	2 105	3 337	3 427	3 060	3 294	7 235	8 329

Figure 8:

Number of new cases

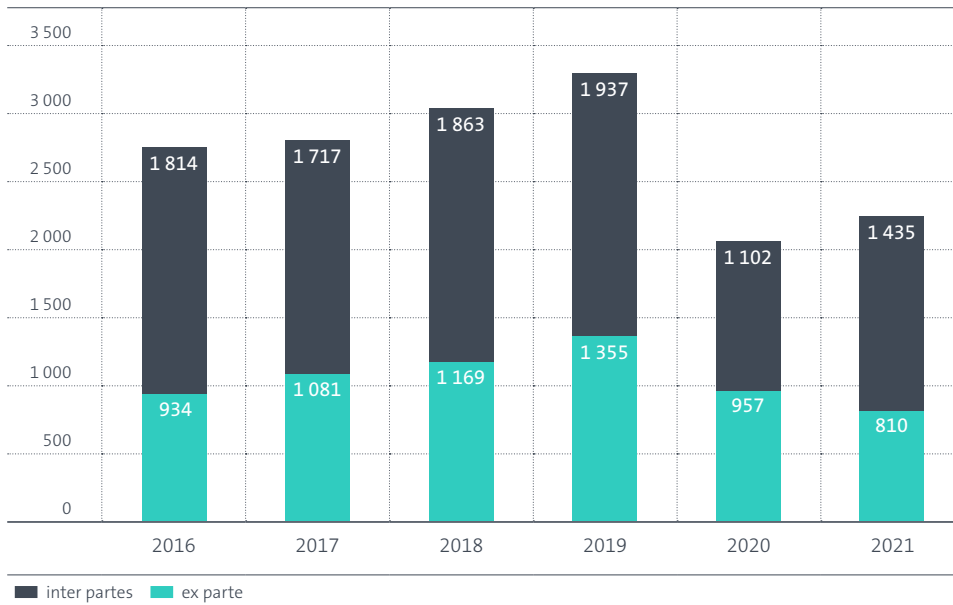


Figure 9:

Number of new cases per technical field

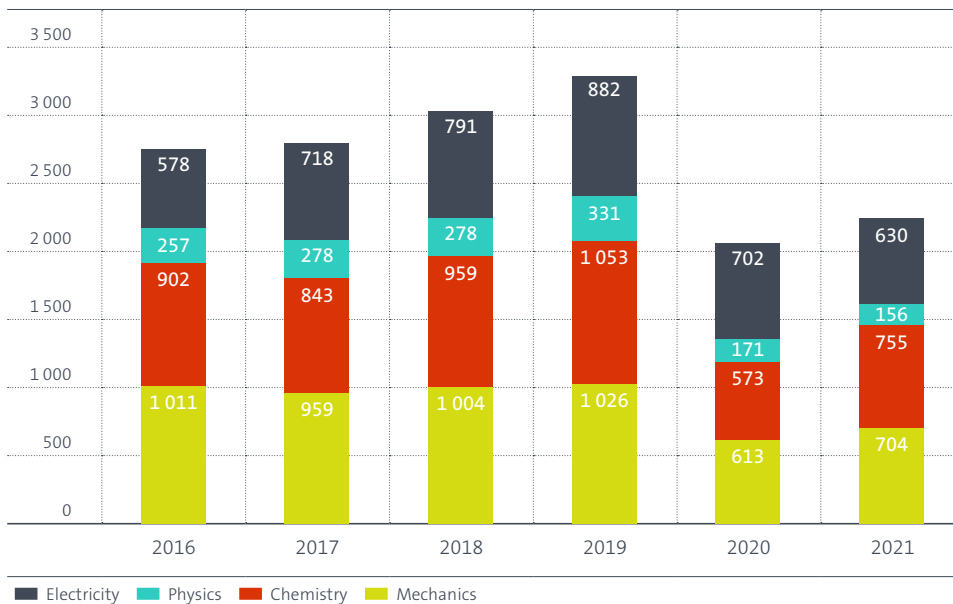


Figure 10:

Number of settled cases

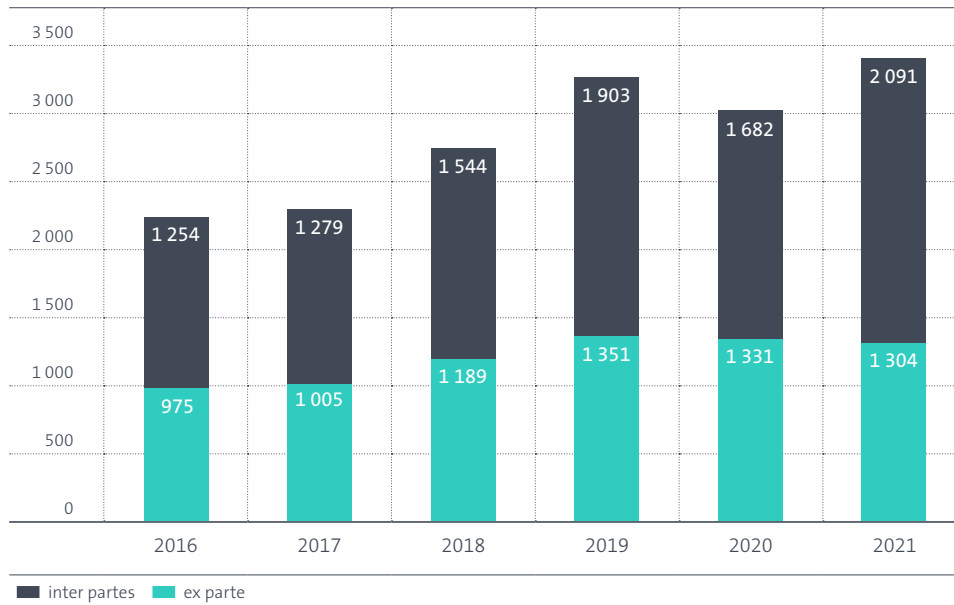


Figure 11:

Number of cases settled per technical field

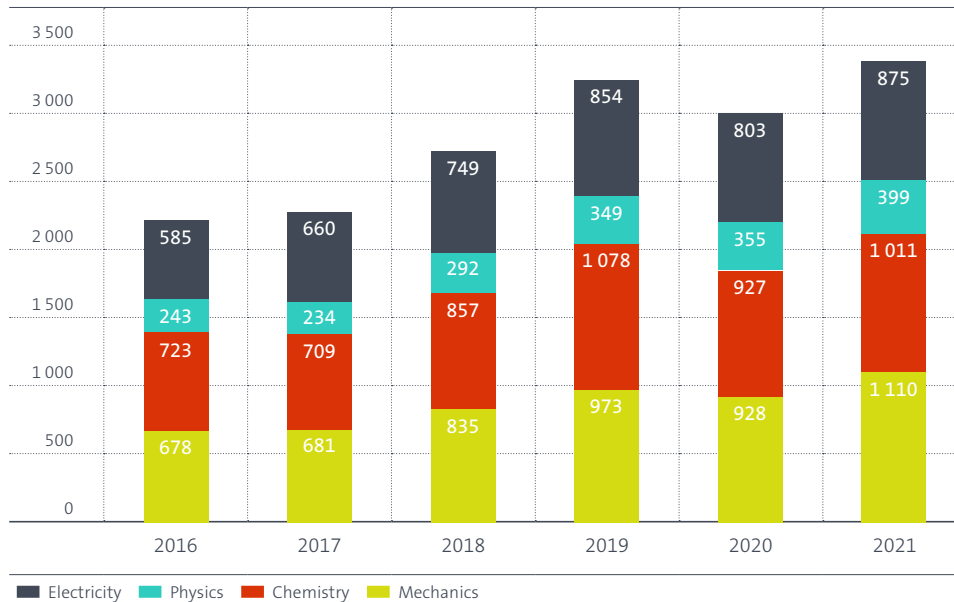


Figure 12:

Number of pending cases

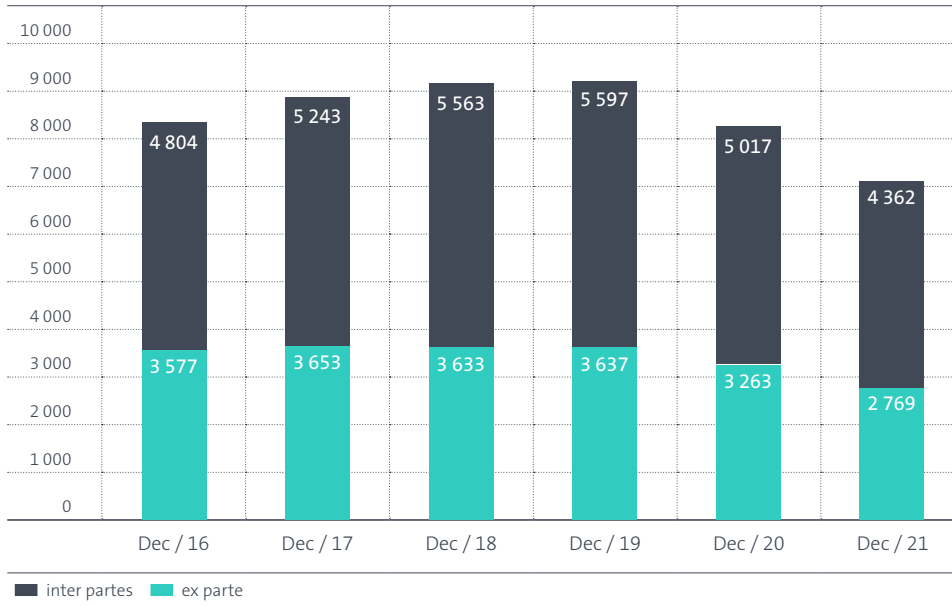
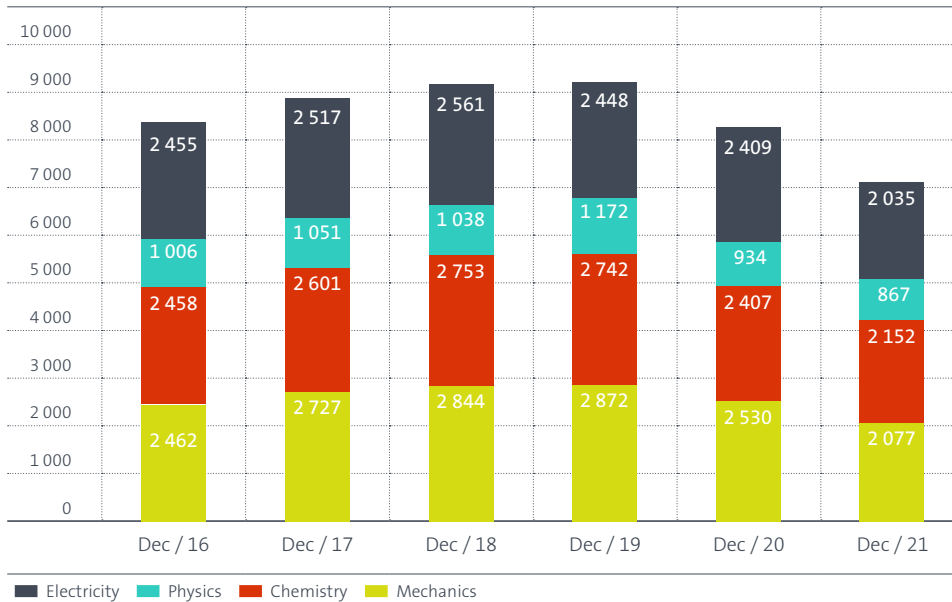


Figure 13:

Number of cases pending per technical field



11.2. Outcome of proceedings before the technical boards of appeal

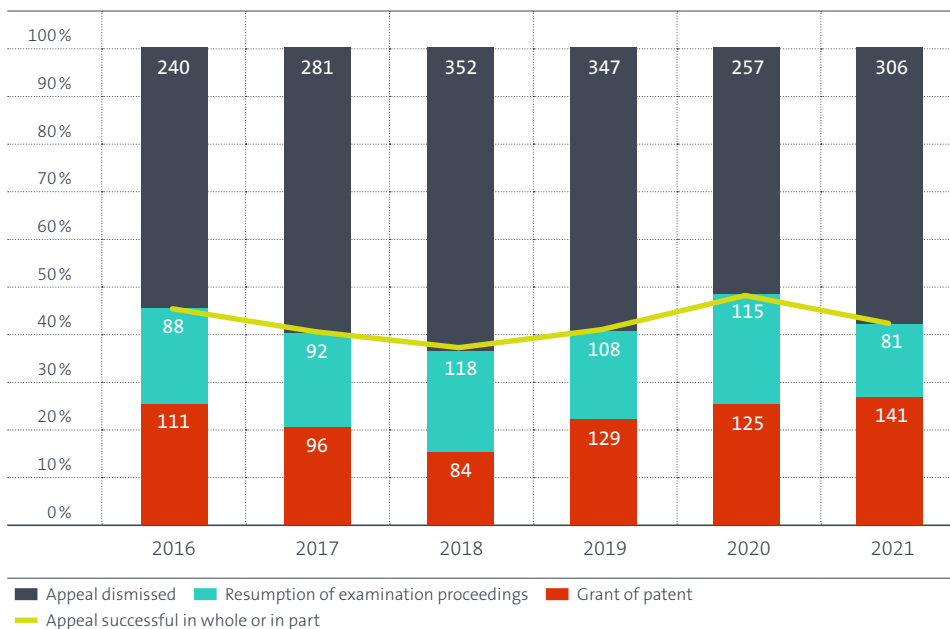
A total of 1 304 ex parte cases were settled in 2021 (2020: 1 331). Of these, 553 were settled by a decision. The remaining 751 were settled without a decision. In 545 of these (2020: 503), the appeal was withdrawn after a substantive examination and communication by the board.

Of the ex parte cases, 528 (40%) were settled after a decision on the merits, i.e. not terminated as a result of rejection due to inadmissibility, because of withdrawal of the appeal or patent application, or for some other reason. The outcome of these 528 cases is shown in Figure 14.

A total of 1 304 ex parte cases were settled in 2021.

Figure 14:

Ex parte cases settled after a decision on the merits



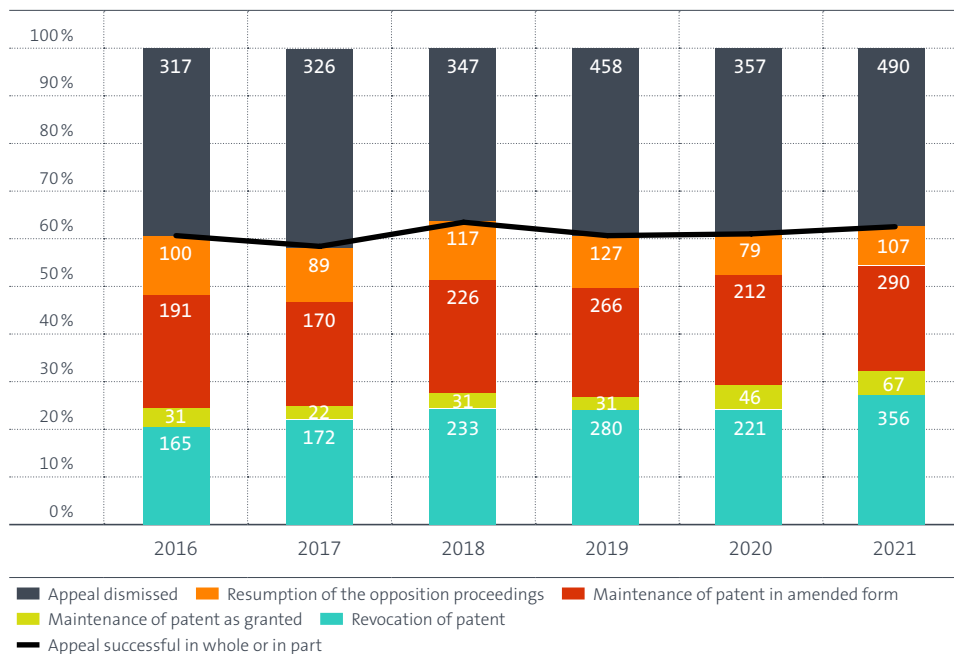
A total of 2 091 inter partes cases were settled in 2021 (2020: 1 682). Of these, 1 345 were settled by a decision. The remaining 746 were settled without a decision. In 492 of these (2020: 453), the appeal was withdrawn after a substantive communication by the board.

A total of 2 091 inter partes cases were settled in 2021.

Of the inter partes cases, 1 310 (63%) were settled after a decision on the merits, i.e. not terminated as a result of rejection due to inadmissibility, because of withdrawal of the appeal, or for some other reason. The outcomes of these 1 310 cases are shown in Figure 15 (no distinction is drawn between appeals by patent proprietors and appeals by opponents; in any one case, there may be more than one appellant).

Figure 15:

Inter partes cases settled after a decision on the merits



Following the large increase in the number of withdrawals in 2020 (36% for ex parte and 65% for inter partes cases), 2021 has seen smaller increases (8% for ex parte and 9% for inter partes cases). The reasons for this development may be related to measures such as the amendments to the RPBA 2020 (which include the mandatory despatch of a substantive communication, in most cases with a preliminary opinion on the likely outcome of the case), the reform of the reimbursement options for the appeal fee, the increased number of communications produced by the boards and reasons related to the extraordinary circumstances under the COVID19 pandemic.



11.3. Proceedings before the Disciplinary Board of Appeal

The Disciplinary Board of Appeal decides on appeals in cases relating to the European qualifying examination (EQE) for professional representatives before the EPO and in cases concerning breaches by professional representatives of their Rules of Professional Conduct. It is composed of two legally qualified members of the BoA and one European professional representative in EQE cases, and of three legally qualified members of the BoA and two European professional representatives in disciplinary cases.

Table 4:

Proceedings before the Disciplinary Board of Appeal

	2021	2020
New cases	55	3
EQE	53	1
Professional representatives code of conduct	2	2
Settled cases	6	15
EQE	5	15
Professional representatives code of conduct	1	0
Pending cases	60	11
EQE	53	5
Professional representatives code of conduct	7	6

The large increase in appeals relating to the EQE can in part be explained by the fact that in 2020 these examinations had to be cancelled because of COVID-19. As a consequence, the number of participants in the 2021 examinations, which had been organised online, was very high.

11.4. Breakdown by language of proceedings

Table 5:

Breakdown by language of proceedings

	Total	English	German	French
Appeals filed before the technical boards in 2021	2 245	75.5 %	20.1 %	4.4 %
Oral proceedings scheduled by technical boards in 2021	2 939	71.6 %	24.3 %	4.1 %
Oral proceedings held by technical boards in 2021	1 720	67.9 %	27.4 %	4.7 %

11.5. Staff statistics and distribution of responsibilities

11.5.1. Total number of BoA staff

At the end of 2021 the BoA had a total of 255 staff.

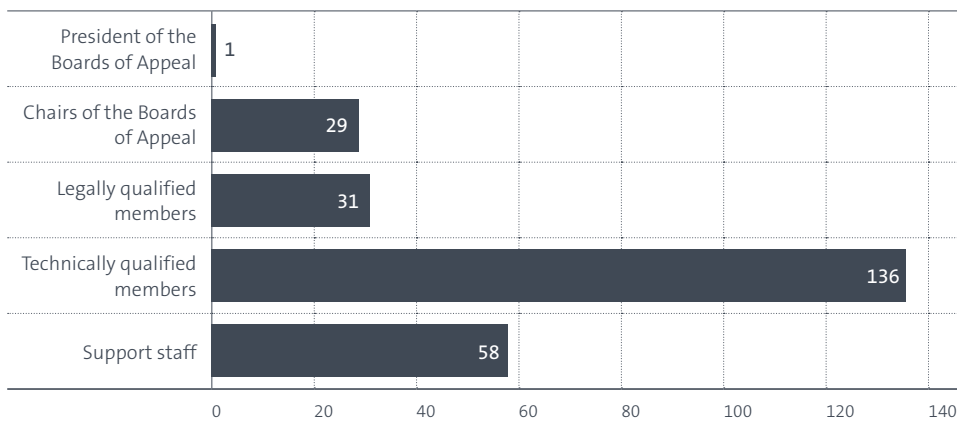
At the end of 2021 the BoA had a total of 255 staff.

11.5.2. Breakdown of staff by function

As at 31 December 2021, 196 staff were working as chairs and members of the boards. The remainder were involved in management/administrative support.

Figure 16:

Breakdown of staff by function



196 staff were working as chairs and members of the boards at the end of 2021.

11.5.3. Breakdown of staff by age and gender

The average age of chairs and members is 53. The biggest age group, for both male and female staff, is 51 to 55.

For support staff, the average age is 51. Most support staff are between 46 and 55 years of age.

Figure 17:

Age pyramid, chairs and members

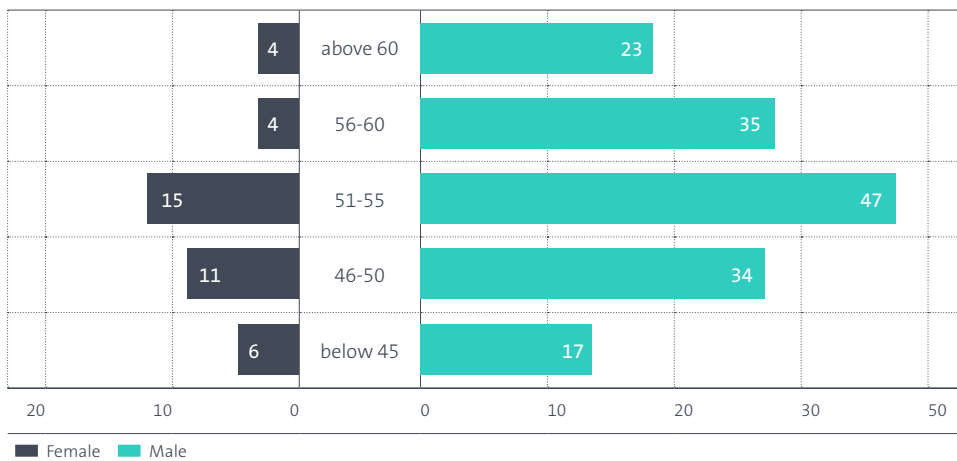
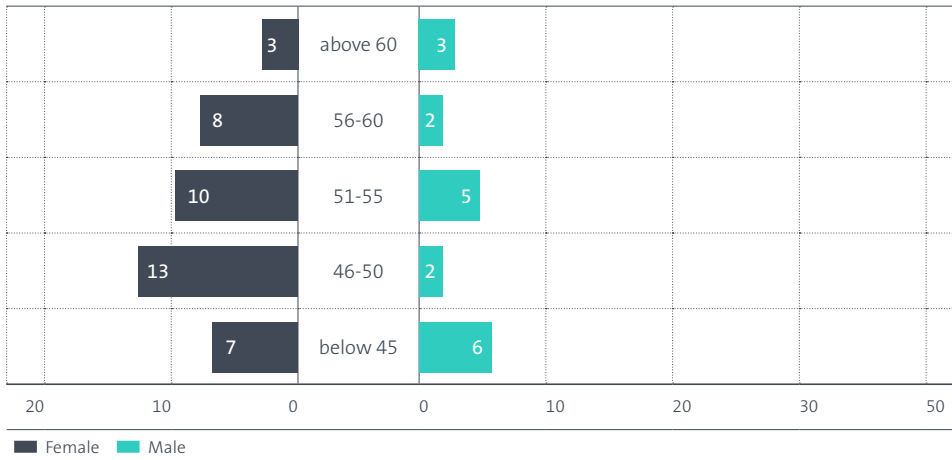


Figure 18:

Age pyramid, support staff



11.5.4. Breakdown of staff by nationality (first nationality)

As at 31 December 2021, BoA members came from 19 different member states. Out of all the members, 35% were German, 13% French, 11% Italian and 8% Spanish.

As at 31 December 2021, BoA members came from 19 different member states.

Figure 19:

Breakdown of chairs and members by nationality

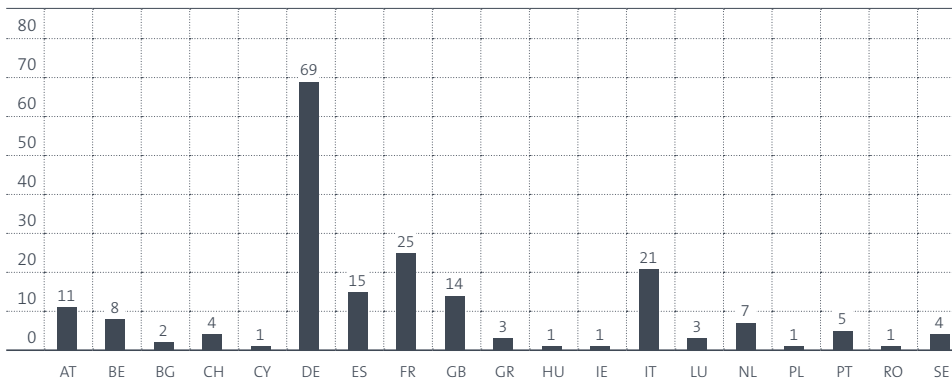
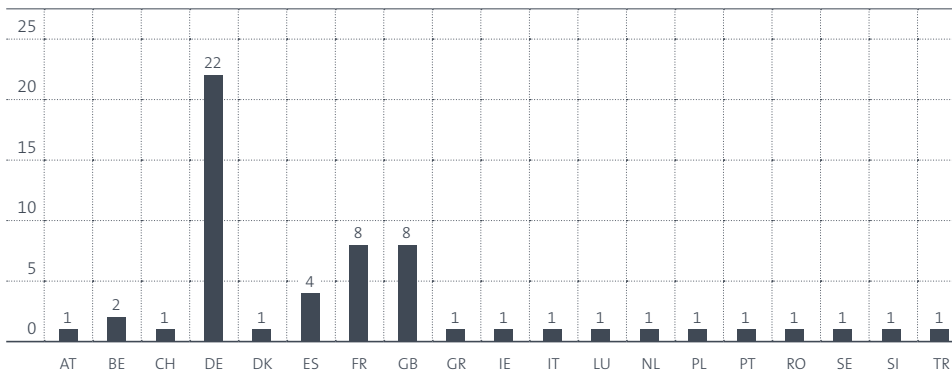


Figure 20:

Breakdown of support staff by nationality

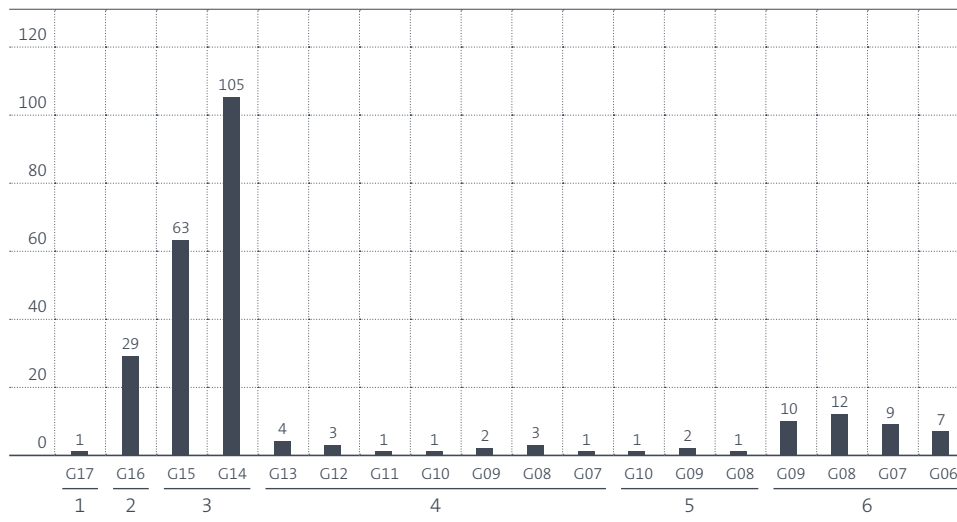


11.5.5. Breakdown of staff by job group and grade

In 2021, 168 staff were in job group 3. Of these, 105 were in grade 14 and 63 in grade 15.

Figure 21:

Breakdown of staff by job group and grade



11.5.6. Job opportunities, recruitment, nationality and gender

The BoA published ten vacancy notices in 2021. Three vacancy notices were published for chairs – one for physics and two for chemistry. Five vacancy notices were published for support services.

Up to 183 applications have been received for one vacant post. For some of the published vacancies the percentage of female and external applicants are as follows:

Table 6:

Percentage of female and external applicants

Published vacancy	% of female applicants	% of external applicants
Chair technical board	50%	published internally only
Technically qualified member	8%	31%
Legally qualified member	43%	77%
Head of department Legal Research Service	58%	80%
Lawyer in the Legal Services of the BoA	70%	95%

Figure 22:

Breakdown of vacancy notices by function

Management Assistant PBoA Office	1			
Business Processes Product owner	1			
Head of Department	2			
Lawyer in the Legal Ser- vices of the BoA	1			
Legally qualified mem- ber	1			
Technically qualified member	1			
Chairperson Technical Board	3			

(b) Recruitment by role

In 2021, 13 people were recruited to the BoA.

Figure 23:

Breakdown of recruitments by function

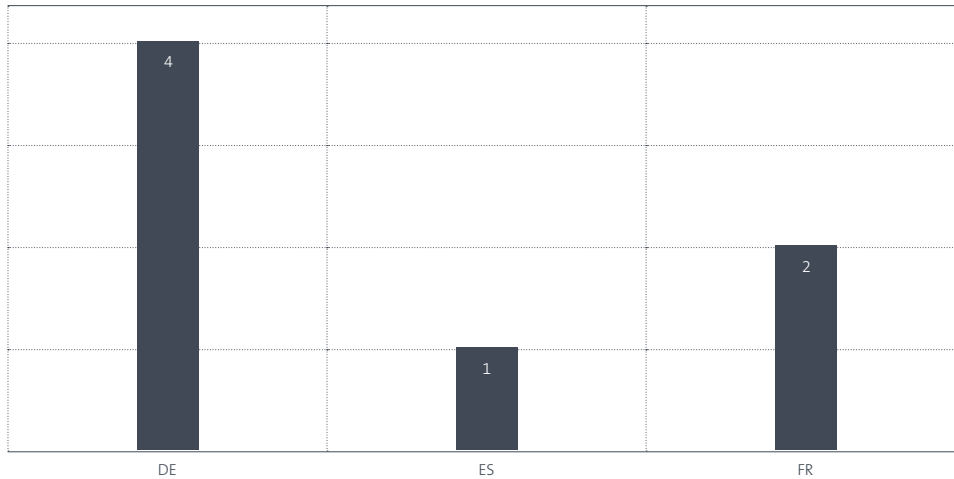
Business Process Application specialist	1			
Business Processes Product owner	1			
Head of Department	1			
Lawyer Legal Research Service	1			
Technically qualified members	5			
Legally qualified member	2			
Chairperson Technical Board	2			

In 2021, 13 people were recruited to the BoA.

(c) Breakdown of newly recruited technically and legally qualified members by nationality
Among the staff who joined the BoA in 2021, three different nationalities were represented. The majority of those had German nationality, followed by French and Spanish.

Figure 24:

Breakdown of technically and legally qualified members recruited in 2021 by nationality



(d) Age and gender of newly recruited technically and legally qualified members
The average age of the newly recruited technically and legally qualified members was 48. Of the newly recruited members, one was female and six were male.

