

**RULES OF PROCEDURE
OF THE ADMINISTRATIVE COUNCIL
OF THE EUROPEAN PATENT ORGANISATION**

THE ADMINISTRATIVE COUNCIL OF THE EUROPEAN PATENT ORGANISATION,

Having regard to the European Patent Convention, and in particular Article 33, paragraph 2(b) and (e), thereof,

HAS DECIDED AS FOLLOWS:¹

Part 1: Attendance at meetings**Article 1
Members**

- (1) The names of the Representative and the alternate Representative (hereinafter referred to as "Members") appointed by each Contracting State to the Administrative Council (hereinafter referred to as the "Council") in accordance with Article 26, paragraph 1, of the European Patent Convention shall be notified by that State to the President of the European Patent Office. The President of the European Patent Office shall notify the Contracting States and Members thereof.
- (2) Members shall take up their duties on the day on which the President receives notification of their appointment.
- (3) Members may take part in all deliberations of the Council and may vote on behalf of their Contracting State.
- (4)² Any Member prevented from attending a meeting may arrange to be represented by another member of their delegation (Article 2, paragraph 2). Alternatively, in the case of a meeting with physical presence (Article 8, paragraph 2), a Member may, when prevented from attending in person, choose to attend remotely through electronic means. In either case, the Council Secretariat (Article 6) shall be informed of such arrangements in advance and in writing.

**Article 2
Delegations**

- (1) Unless the Council decides otherwise in a particular case, Members may be assisted by advisers or experts (Article 26, paragraph 2, of the European Patent Convention). The Council Secretariat (Article 6) shall be informed of their names in writing.
- (2) The delegation of each Contracting State shall be composed of its Members together with their advisers and experts.

¹ Revised by decision of the Administrative Council [CA/D 8/06](#).

² Revised by decision of the Administrative Council [CA/D 6/21](#).

Article 3
States with right of accession

Representatives of States which have the right to accede to the European Patent Convention in accordance with Article 166, paragraph 1, of that Convention may, until their ratification or accession takes effect, take part in those deliberations of the Council which do not relate to confidential agenda items (Article 9, paragraph 3).

Article 4
Chair

- (1) The Chairperson of the Administrative Council (hereinafter referred to as the "Chairperson") elected in accordance with Article 27, paragraph 1, of the European Patent Convention shall be responsible for the work of the Council and the exercise of its functions. In the exercise of this duty the Chairperson shall closely co-operate with the President of the European Patent Office. All the provisions of the present Rules of Procedure concerning the Chairperson shall apply mutatis mutandis to the Deputy Chairperson and to the ad hoc Chairperson referred to in paragraph 4 of the present article.
- (2) The Chairperson shall preside over the meetings of the Council. At any time during the discussion, Members may raise objections to the Chairperson's conduct of business. If the Chairperson does not uphold the objection, any Member may call for an immediate decision by the Council.
- (3) If the office of Chairperson or Deputy Chairperson of the Council falls vacant, the Council shall at its next meeting elect a new Chairperson or Deputy Chairperson, in accordance with Article 27 of the European Patent Convention.
- (4) In the event of neither the Chairperson nor the Deputy Chairperson being able to attend a meeting of the Council, the meeting shall be opened by the longest serving Member, who shall immediately invite the Council to elect an ad hoc Chairperson. The ad hoc Chairperson shall then preside over the meeting while the Chairperson and Deputy Chairperson are absent.

Article 5¹
Board

- (1) A Board may be set up in accordance with Article 28 of the European Patent Convention.
- (2) Without prejudice to the responsibilities of the Budget and Finance Committee, the duties of the Board shall be to assist the Chairperson in preparing the work of the Council.

¹ See Part III 2a.

- (3) Further details of the Board's function and working arrangements shall be laid down by the Council in its decision setting up the Board and in related subsequent decisions. This/these may in particular include further duties entrusted by the Council to the Board.

Article 6 **Council Secretariat**

- (1) Pursuant to Article 32 of the European Patent Convention, the President of the European Patent Office shall place a secretariat (hereinafter referred to as the "Council Secretariat") at the disposal of the Council.
- (2) The Council Secretariat shall draft the Minutes (Article 12), be responsible for all organisational aspects of the proceedings of the Council and advise the Chairperson on organisational matters.

Article 7 **Other participants**

President of the European Patent Office

- (1) The President of the European Patent Office shall take part in all the deliberations of the Council (Article 29, paragraph 2, of the European Patent Convention). Unless the Council decides otherwise in a particular case, he/she may be assisted by other employees of the European Patent Office.

President of the Boards of Appeal

- (2)¹ The President of the Boards of Appeal shall take part in the deliberations of the Council relating to the Boards of Appeal Unit and may take part in other deliberations of the Council that do not relate to confidential items. Unless the Council decides otherwise in a particular case, the President of the Boards of Appeal may be assisted by other employees of the Boards of Appeal Unit.

Observers

- (3) Unless the Council decides otherwise in a particular case, observers (Article 30 of the European Patent Convention) may take part in those deliberations of the Council which do not relate to confidential agenda items (Article 9, paragraph 3).

Board of Auditors

- (4) The Board of Auditors may take part in all the deliberations of the Council (Article 77, paragraph 4, of the Financial Regulations of the European Patent Organisation).

Staff representatives

¹ Inserted by decision of the Administrative Council [CA/D 6/23](#).

(5.1) Unless the Council decides otherwise in a particular case, and subject to sub-paragraph (2), up to four staff representatives may take part in those deliberations of the Council which do not relate to confidential agenda items (Article 9, paragraph 3).

(5.2) Administrative approval for their participation shall be at the discretion of the President of the European Patent Office.

Attendance of other participants

(6)¹ In the case of a meeting with physical presence (Article 8, paragraph 2), when other participants within the meaning of this Article are prevented from physical attendance, they may choose to attend remotely through electronic means. The Council Secretariat (Article 6) shall be informed thereof in advance and in writing.

Part 2: Procedure

Article 8² Convocation

- (1) The Council shall define its work programme and schedule its ordinary meetings for each calendar year in advance.
- (2) Under normal circumstances, Council meetings shall be held with attendance through physical presence. In specific situations, especially where the circumstances hinder the proper organisation of a meeting with physical presence, a meeting can be held with attendance ensured remotely through electronic means (the latter hereinafter referred to as an "e-Council meeting"). An e-Council meeting may also be scheduled in view of the planned short duration of the meeting and the agenda items expected to be discussed.
- (3) The Chairperson shall give notice of convocation of the Council at least fourteen calendar days before the beginning of the meeting. The notice shall indicate the format of the meeting. Where extraordinary circumstances require, the Chairperson may decide to transform a meeting scheduled with physical attendance into an eCouncil meeting. Notice of such change shall be given without delay and, where possible, no later than eight calendar days before the beginning of the meeting.
- (4) Meetings of the Council shall normally be held at the European Patent Office in Munich. An e-Council meeting shall be deemed to be held at the European Patent Office in Munich unless otherwise indicated in the notice of convocation.

¹ Inserted by decision of the Administrative Council [CA/D 6/21](#).

² Revised by decision of the Administrative Council [CA/D 5/20](#).

Article 9 Agenda

I. Provisional agenda

- (1) The Chairperson shall draw up the provisional agenda for each meeting and indicate the provisional order in which the agenda items are to be discussed. This information shall be circulated at least fourteen calendar days before the beginning of the meeting.
- (2) Requests for inclusion of items/submission of documents
 - (2.1) Subject to the limitations set out in this paragraph, the Chairperson shall include in the provisional agenda the items in respect of which a request for inclusion has been received at least sixteen calendar days before the beginning of the meeting from a Member, from the Chairperson of any Committee, Working Party or other subsidiary body established by the Council, from the Board of Auditors (Article 7, paragraph 3), from the Council Secretariat or from the President of the European Patent Office, and for which the necessary documents have been submitted. The Council Secretariat may only request to put items on the provisional agenda and submit documents when these relate to its responsibilities as set out in Article 6, paragraph 2.
 - (2.2) Requests to have items put on the provisional agenda and documents from:
 - (a) states with right of accession (Article 3) and observers (Article 7, paragraph 2) shall be submitted via the Chairperson or the President of the European Patent Office.
 - (b) the staff representatives (Article 7, paragraph 4) shall be submitted via the President of the European Patent Office.
 - (2.3) Requests to have items put on the provisional agenda and documents received:
 - (a) up to eight calendar days before the meeting begins shall be transmitted to Members and other participants without delay.
 - (b) after that date shall also be transmitted, but such items and documents shall be put on the provisional agenda for the following Council meeting or dealt with by written procedure (Article 10, paragraphs 4 to 9) unless the Council proceeds under paragraph 9 of the present article.
- (3)¹ The Chairperson shall allocate each item on the provisional agenda to Category A, B or C. Unless the Chairperson decides otherwise, category A shall be for items which the Budget and Finance Committee or another subsidiary body directly preparing the Council decision has already approved by a three quarters' majority and which the Council can adopt without

¹ Revised by decision of the Administrative Council [CA/162/10 Rev. 1](#).

discussion. Category A shall also comprise all items for which the supporting documents are submitted, within the applicable deadlines under Article 9(2.1), for information only. Category B shall be for items requiring discussion by the Council. Category C shall be for confidential items which the Council discusses and adopts in closed session comprising the Members, the President and the assisting employees of the European Patent Office (Article 7, paragraph 1), and the Board of Auditors (Article 7, paragraph 3).

The Chairperson may change the category of individual items on the provisional agenda at any time prior to the beginning of the meeting.

- (4) Each item on the provisional agenda shall also be accompanied by one of the abbreviations below to indicate the purpose for which a document is being submitted:

inf = for information

opn = for opinion

dec = for decision

II. Final agenda

- (5) At the beginning of each meeting, the Chairperson shall, where necessary, supply Members with a list of requests and documents received up to eight calendar days before the start of the meeting. Inclusion of such requests and documents in the final agenda shall be subject to the approval of the Council by a three-quarters' majority.
- (6) Any Member or the President of the European Patent Office may request that an item be transferred from Category A to Category B.
- (7) The Council shall adopt the agenda and the order in which the agenda items are to be discussed at the beginning of each meeting.
- (8) After decisions on A items not requiring discussion have been taken, Members, representatives of observers (Article 30 of the European Patent Convention), the Board of Auditors, the chairpersons of subsidiary bodies, and the President of the European Patent Office may make a statement for inclusion in the minutes.
- (9) With the unanimous agreement of the Council, at any time prior to the end of the meeting.
- (a) questions and documents that are urgent or in the special interest of the Organisation may be added to the agenda
and
- (b) items on the agenda may be deleted, carried over to a subsequent meeting, amended or reassigned to a different category (paragraph (3) of the present article) or position in the order for discussion.

Article 10¹ Voting

I. Voting at meetings

- (1) The presence of the representatives of the majority of the Contracting States shall be required for a vote on any decision to be taken (quorum). In the absence of such a quorum the vote shall be postponed.
- (2) Subject to Article 35, paragraphs 2 and 3, of the European Patent Convention and divergent provisions in these Rules of Procedure, the Council shall take its decisions by a simple majority of the Contracting States represented and voting.
- (3) Voting shall be by a show of hands, unless any Member requests either a secret ballot or a roll call before voting has commenced. Votes may be cast electronically.
- (4) Immediately after a first vote by a show of hands, the result of which shall be ascertained and made known by the Chairperson, any Member may demand a second vote by roll call, which shall then replace the first.
- (5) In the event of a vote by roll call, the Chairperson shall call the roll of the delegations in the alphabetical order of the names of the Contracting States in their respective languages, beginning with the delegation of the Contracting State whose name was drawn by lot.
- (6) Votes on elections and re-elections and on appointments, reappointments and extensions of terms of office shall be taken by secret ballot.
- (7) In exceptional circumstances, where a Member is unable to attend a meeting either in person or remotely through electronic means and where no representation by another member of their delegation is possible, they may choose to be represented by a Member of another delegation in voting proceedings at that meeting. In addition to their own vote, a Member may cast the vote of only one other Member. Any such representation shall be communicated to the Council Secretariat in writing, and the Chairperson shall ensure that the Council is duly informed thereof.

II. Written procedure

- (8) By derogation from paragraphs 1 to 7, on a proposal from either the Chairperson or the President of the European Patent Office the Council may take a vote by written procedure in accordance with the following provisions.
- (9) If a vote is to be taken by written procedure, the Chairperson shall communicate the wording of the proposal at issue to all Members and to the President of the European Patent Office. At the same time the Chairperson shall invite Members to inform him/her, within fourteen calendar days,

¹ Amended by decisions of the Administrative Council [CA/D 6/23](#) and [CA/D 7/24](#).

- (a) whether they agree to use the written procedure
and
 - (b) whether they approve the proposal.
- (10) A proposal submitted for voting by written procedure may not be amended; it shall be approved or rejected in its entirety.
- (11) The proposal shall be deemed to be adopted if
- (a) three quarters of the Contracting States have agreed to the use of the written procedure
and
 - (b) the Contracting States have approved the Chairperson's proposal by whichever majority is required under Articles 34 to 36 of the European Patent Convention.
- (12) If a proposal submitted for voting by written procedure fails to achieve the majorities required in accordance with the above provisions, it shall be included in the provisional agenda of the Council's next meeting.
- (13) The Chairperson shall maintain a list of decisions taken by written procedure. At the beginning of each meeting of the Council, the Chairperson shall inform the participants of any decisions taken by written procedure since its last meeting.

Article 10a¹ **Code of Conduct**

Members, advisers and experts (Article 2(2)) shall act in accordance with a Code of Conduct on the prevention and management of conflicts of interest. The Code of Conduct shall be established by a decision of the Council.

Article 11 **Interpreting**

Interpreting from each of the languages English, French and German into each of the other two languages shall be provided throughout each meeting of the Council, unless the Council unanimously decides to dispense therewith.

Article 12 **Minutes**

- (1) A summary of the decisions taken at each meeting of the Council shall be forwarded to Members no later than fourteen calendar days after the end of the meeting.
- (2) The draft minutes shall be approved at the following meeting of the Council, and the original copy of the minutes, as approved, shall be signed by

¹ Inserted by decision of the Administrative Council [CA/D 2/24](#).

the Chairperson. The signed copy of the minutes shall be kept in the archives of the Council Secretariat.

- (3) The final text of the minutes shall be forwarded to Members no later than 30 calendar days after its approval.

Article 12a¹ **Documents**

- (1)² Each document submitted to the Council shall be allocated to one of the categories designated in the policy for the publication of Council documents. The policy shall be established by a decision of the Council.
- (2)³ Council documents may be made accessible to third parties on request in accordance with the rules set out in the policy for access to Council documents. The policy shall be established by a decision of the Council.

Article 13⁴ **Confidentiality**

- (1) All persons taking part in meetings and receiving documents shall preserve the confidentiality of proceedings and votes relating to Category C items (Article 9, paragraph 3), of associated documents and of other documents marked confidential, regardless of the manner of their transmission.
- (2) Persons taking part in meetings shall, as such, have no right to inspect the files of, or to request any information concerning, European patent applications or patents, except insofar as they are available to the public.

Article 14⁵ **Committees, working parties and other subsidiary bodies**

- (1) The Council may establish committees, working parties or other subsidiary bodies to advise it on particular questions.
- (2) Unless provided otherwise in this article, each subsidiary body shall establish its own procedure on a proposal from its chairperson.
- (3) The President of the European Patent Office shall have the right to attend, or be represented at, any meeting of a subsidiary body.
- (4) Documents submitted to a subsidiary body and reports on its deliberations shall be drawn up in English, French and German.
- (5) Article 1, paragraph 4, Articles 2 and 4, paragraph 4, and Articles 6, 7, 8, 10, 10a, 11, 12a, 13, 15a, 16 and 17 shall apply, where possible, to subsidiary bodies *mutatis mutandis*.

¹ Inserted by decision of the Administrative Council [CA/D 8/23](#).

² See policy for the publication of Council documents adopted by decision [CA/D 9/23](#).

³ See policy for access to Council documents adopted by decision [CA/D 10/23](#).

⁴ Amended by decision of the Administrative Council [CA/D 8/23](#).

⁵ Amended by decisions of the Administrative Council [CA/D 8/23](#) and [CA/D 2/24](#).

Article 15

Specific tasks

The Council may request one or more of its Members or other delegation members (Article 2, paragraph 2) to undertake specific tasks and to make a report to the Council.

Article 15a¹

Data Protection Rules of the Council

The Council shall process personal data in accordance with its Data Protection Rules. These rules shall be established by a decision of the Council.

Part 3: Final provisions

Article 16²

Travel expenses

- (1) The travel expenses incurred by two delegation members per Contracting State in travelling to and from Council functions or in undertaking specific tasks within the meaning of Article 15 shall be reimbursed by the European Patent Organisation at the same level as that payable to permanent employees of the European Patent Office.
- (2) Their subsistence expenses shall likewise be reimbursed, in the form of a daily allowance at the same level as that payable to permanent employees of the European Patent Office. The allowance shall be calculated at a flat daily rate.
- (3) In addition, the Chairperson shall be reimbursed at the same level for such travel and accommodation expenses as he/she incurs in the performance of his/her duties.

Article 17

Communications

- (1) All correspondence with the Council shall be addressed to the Council Secretariat.
- (2) In the interests of rapid and efficient correspondence among Members and other participants, the Council shall whenever possible make use of generally available electronic communications facilities, especially electronic mail (e-mail) and the databases of the European Patent Office. The Council Secretariat shall maintain a list of all e-mail addresses and databases relevant to the work of the Council, and shall provide such information to Members and other participants.
- (3) Where notices of convocation, notifications, documents and other commu-

1 Inserted by decision of the Administrative Council [CA/D 2/23 Corr. 1](#). See Part III 2b.

2 Amended by decision of the Administrative Council [CA/D 21/09](#).

nications subject to deadlines have to be transmitted, the relevant deadline shall be deemed to be met if within the time limit any of the above is transmitted by e-mail or made available on one of the databases of the European Patent Office.

- (4) The Council Secretariat shall notify all Members by e-mail when such documents have been made available on one of the databases of the European Patent Office.
- (5) The Council Secretariat shall be responsible for ensuring access to such databases for delegations and subsidiary bodies of the Council.
- (6) Members, or members of their delegations, shall inform the Council Secretariat by e-mail of all documents not received relating to notified meetings, within three calendar days after the relevant deadline has expired.

Article 18¹

Specific provisions concerning the settlement of disputes relating to Council decisions [Title VIII (Settlement of disputes) of the Service Regulations for permanent and other employees of the European Patent Office]

- (1) Opinions on requests for review of individual decisions taken by the Council as the competent appointing authority shall be submitted by
 - (a) the President of the European Patent Office, or
 - (b) the President of the Boards of Appeal regarding requests for review of decisions taken by the Council upon their proposal or having consulted them.
- (2) The Council Secretariat shall inform the person concerned of the date of the Council meeting in which a decision on the outcome of the review is scheduled to be taken.
- (3) Taking into account the opinion referred to in paragraph 1, the Council shall take a reasoned decision on the outcome of the review in accordance with Article 109 of the Service Regulations for permanent and other employees of the European Patent Office (hereinafter referred to as "the Service Regulations"). Such a decision may be challenged through an internal appeal under the conditions laid down in Article 110 of the Service Regulations.
- (4) If, however, a request for review is submitted to the Council although it is not the competent appointing authority to deal with it, this request shall be referred to the competent appointing authority, namely the President of the Office, by decision of the Chairperson. The Council shall be regularly informed by the Chairperson of the number of requests referred and the reasons for these referrals in a written report.

¹ Article 18 of the Rules of Procedure as amended by decision of the Administrative Council CA/D 18/23 shall apply to requests for review submitted on or after 1 January 2024.

- (5) The Office shall represent the Council in proceedings before the Appeals Committee unless the Council decides otherwise in a particular case based on a proposal from the Chairperson. The Council shall then decide whom it is to be represented by and inform the President of the European Patent Office accordingly. Regarding decisions taken on opinions referred to in paragraph 1(b), the President of the Boards of Appeal shall be consulted on the representation of the Council and all ensuing steps to be taken in the proceedings before the Appeals Committee on the Council's behalf.
- (6) The President of the European Patent Office shall represent the European Patent Organisation (Article 5, paragraph 3, of the European Patent Convention) in any proceedings before the Administrative Tribunal of the International Labour Organization in relation to final decisions taken by the Council and shall inform the Council of any judgment delivered in such proceedings. Regarding decisions taken on opinions referred to in paragraph 1(b), the President of the Boards of Appeal shall be consulted on all steps to be taken in such proceedings on the Organisation's behalf.
- (7) Correspondence for the Council for the purposes of this Article shall be addressed to the Council Secretariat pursuant to Article 17(1) for submission to the Council by the Chairperson in accordance with Article 9, paragraph 2, where a decision is needed. Access to this correspondence held by the Council Secretariat, as well as to written submissions to the Administrative Tribunal of the International Labour Organization, shall be arranged for Council members at their request at every stage of the settlement of disputes. The Chairperson shall report regularly to the Council on pending disputes relating to its decisions and their resolution.
- (8) Correspondence for the Appeals Committee shall be addressed directly to the Appeals Committee.

Article 19
Entry into force

These Rules shall enter into force on 1 January 2007.

Done at Munich, 7 December 2006