

# BR/GT I/8 e/69

## Travaux Préparatoires EPC 1973

### Comment:

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The documents produced before 1969 cannot be provided in English as this was not an official language in the period before that date. These documents therefore are provided in French and German.

INTER-GOVERNMENTAL CONFERENCE  
FOR THE SETTING UP OF A EUROPEAN  
SYSTEM FOR THE GRANT OF PATENTS

Brussels, 15 July 1969

BR/GT I/8/69

- Secretariat -

WORKING PARTY I

WORKING DOCUMENT

PRELIMINARY DRAFT

FOR A CONVENTION RELATING TO THE ESTABLISHMENT OF A  
EUROPEAN SYSTEM FOR THE GRANT OF PATENTS

Articles 31 to 41

(Text drawn up by the Drafting Committee)

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PART III

THE EUROPEAN PATENT OFFICE

CHAPTER I

STATUS AND GENERAL ORGANISATION

Article 31

Legal status

(1) The European Patent Office is an organisation common to the Contracting States and endowed with administrative and financial autonomy.

(2) The activities of the European Patent Office shall be supervised by the Administrative Council.

Article 31a

Assignment of tasks by means of a special agreement

The European Patent Office may be given additional tasks by a special agreement within the meaning of Article 8a. Special organs common to the States entering into this agreement may be set up within the European Patent Office in order to carry out such additional tasks ; such organs shall be subject to the supervision of a select committee of the Administrative Council.

Article 32

Legal character

(1) The European Patent Office shall have legal personality.

(2) In each of the Contracting States, the European Patent Office shall enjoy the most extensive legal capacity accorded to legal persons under the national law ; it may, in particular, acquire or transfer movable and immovable property and may sue and be sued in its own name.

(3) The President of the European Patent Office shall exercise the legal capacity of that Office.

Article 33

Location and Branches for information and liaison

(1) The European Patent Office shall be located at ....

(2) By decision of the Administrative Council, branches of the European Patent Office may be created if need be for the purpose of information and liaison, in the Contracting States or with the International Patents Institute at The Hague or other inter-governmental organisations in the field of industrial property, subject to the approval of the Contracting State or organisation concerned.

(3) - deleted -



Article 34

Languages

(1) Subject to the following provisions, the languages in use at the European Patent Office shall be English, French and German.

(2) Persons having their registered place of business or ordinary residence within the territory of one of the Contracting States in which an official language other than the languages specified in paragraph 1 is used, and nationals of that State who are resident abroad, may file applications for European patents in that language. Nevertheless, a translation into one of the languages referred to in paragraph 1 must be produced within the period prescribed in the Implementing Regulations of this Convention.

(3) Subject to the exceptions provided for in the Implementing Regulations, the language of an application for a European patent or, in the case referred to in paragraph 2, that of the translation, must be used in all dealings with the European Patent Office. If a document has to be produced before the expiration of a time limit, paragraph 2 shall apply mutatis mutandis, provided that the translation is produced in the language of the proceedings within the period prescribed in the Implementing Regulations.

(4) Entries in the Register of European Patents shall be made in the three languages referred to in paragraph 1. In cases of doubt, the entry in the language of the application or in the case referred to in paragraph 2, in that of the translation, shall be authentic.

(4a) European patent applications shall be published in the language of the application or, in the case referred to in paragraph 2, that of the translation ; a translation of the claims into each of the other two languages referred to in paragraph 1 shall be attached.

(5) The printed specifications of European patents shall be published in the language of the application or, in the case referred to in paragraph 2, in that of the translation ; they shall include a translation of the claims into each of the other two languages referred to in paragraph 1.

(6) There shall be published in the three languages referred to in paragraph 1

- (a) the patent claims contained in the notification pursuant to Article 96, paragraph 2) ;
- (b) the European Patent Bulletin ;
- (c) the Official Journal of the European Patent Office(1).

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(1) The question whether a Contracting State for which a European patent is granted and whose official language is not that of the published patent may require the applicant to furnish a translation of the printed patent specification into the language of that State will be re-examined later.



Article 35

Privileges and immunities

The European Patent Office shall enjoy in the territory of the Contracting States the privileges and immunities necessary for achieving its tasks under conditions defined in a separate Protocol(1) (2).

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- (1) A special working party is to be entrusted with the task of elaborating this Protocol.
  - (2) Whether this article should be modified to include all the organs provided for by the present Convention, particularly the Administrative Council, will be examined later.

Article 36

Administration

(1) The President of the European Patent Office shall ensure that the Office is administered in accordance with the provisions of this Convention and its Implementing Regulations as also, in so far as the European Patent Office is given additional tasks on the basis of a special agreement within the meaning of Article 8a, in accordance with the provisions of such special agreement and its implementing regulations. He shall be responsible for the activities of the European Patent Office to the Administrative Council.

(2) To this end, the President shall have the following powers :

- (a) he shall take all necessary steps to ensure the functioning of the European Patent Office ;
- (b) he may place before the Administrative Council any proposal for amending this Convention and any proposal for general regulations or decisions concerning the European Patent Office which come within the competence of the Administrative Council ;
- (c) he shall prepare and implement the budget in conformity with the financial provisions ;
- (d) he shall submit each year the accounts, the balance sheet and a management report to the Administrative Council ;
- (e) he shall exercise supervisory authority over the personnel ;
- (f) he shall appoint the officials and employees other than those referred to in Article 37, and shall decide on their promotion ;

(g) he shall exercise disciplinary authority over the officials and employees other than those referred to in Article 37, and may propose disciplinary action to the Administrative Council with regard to officials referred to in Article 37, paragraph 3 ;

(h) he may delegate his functions to one or more officials or employees of the European Patent Office ;

(i) he shall normally take part in the discussions of the Administrative Council.

(3) The President shall be assisted by a number of Vice-Presidents. In his absence, he shall be represented by one of the Vice-Presidents (1).

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(1) This article will be re-examined in the light of the provisions relating to the Administrative Council.

Article 37

Appointment of senior officials

(1) The President of the European Patent Office shall be appointed by decision of the Administrative Council.

(2) The Vice-Presidents shall be appointed by decision of the Administrative Council after the President has been consulted.

(3) The Members of the Boards of Appeal and of the Enlarged Board of Appeal shall be appointed by the decision of the Administrative Council, taken on the proposal of the President.



Article 38

Duties of Office

(1) The officials and other employees of the European Patent Office are bound, even after the termination of their employment, not to disclose information which by its nature is a professional secret.

(2) The officials or other employees of the European Patent Office may not, in the course of their employment, file applications for patents either directly or through an intermediary.

(3) The Administrative Council shall adopt the service regulations of officials and the conditions of employment of other servants of the European Patent Office.

Article 39

Disputes between the European Patent Office and its staff

An Appeals Committee whose composition and procedure shall be laid down in a special statute shall be competent to adjudicate in any dispute between the European Patent Office and its servants within the limits and under the conditions laid down by their service regulations or conditions of employment(1).

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(1) The special statute relating to the Appeals Committee will be worked out by a special working party.



Article 40

Liability

(1) The contractual liability of the European Patent Office shall be governed by the law applicable to the relevant contract.

(2) In the matter of non-contractual liability, the European Patent Office shall be bound, in conformity with the general principles common to the laws of the Contracting States, to make good any damage caused by its employees in the performance of their duties.

(3) The personal liability of its employees towards the European Patent Office shall be laid down in their service regulations or conditions of employment.

(4) Disputes concerning the recovery of damages provided for in paragraphs 1 and 2 shall be decided by the courts with jurisdiction to decide such disputes in the place at which the European Patent Office is located.