

# BR/GT I/59 e/70

## Travaux Préparatoires EPC 1973

### Comment:

The collection represents purely an internal research tool for the purpose of Directorate Patent Law of the European Patent Office. No guarantee can be given for its completeness or correctness.

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

Luxembourg, 16 September 1970  
BR/GT I/59/70

"Implementing Regulations" Sub-Committee  
of Working Party I

WORKING DOCUMENT

Article 62 No. 2 and No. 3, Article 63 No. 1,  
Article 64 No. 1 and No. 2, Article 66 No. 1.

(Text drawn up by the Drafting Committee)

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Re. Article 62  
(Former Article 64)

Number 2

Communication of files to third parties by the Courts or  
Public Prosecutors' Offices of Contracting States

(1) The Courts or Public Prosecutors' Offices of the Contracting States may, in the course of their proceedings, communicate to third parties the files concerning European patent applications or European patents transmitted to them by the European Patent Office. Such communications shall be effected in accordance with the conditions laid down in Article 162 of the Convention, with the exception that the payment of the fees provided for in paragraph 3 of that Article shall not be required.

(2) The European Patent Office shall, at the time of transmission to the Courts or Public Prosecutors' Offices of Contracting States, indicate such restrictions as may, under Article 162, paragraphs 1 and 2, of the Convention, be applicable to the communication to third parties of a European patent application or a European patent.

Note:

Working Party I has not yet drafted the Article(s) of the Convention which relate to the communication of files.

Re. Article 62  
(Former Article 64)

Number 3

Expenditure in respect of communications between the European  
Patent Office and the authorities of Contracting States

Expenditure in respect of each communication effected pursuant to Article 62 of the Convention shall be chargeable to the body making the communication.

Note:

This Article entails no derogation from the provisions of Article 180 of the Convention, which apply to the communication of technical opinions.

Re. Article 63  
(Former Article 65)

Number 1

Procedure for letters rogatory

(1) Each Contracting State shall designate the national authority to which the European Patent Office is to address its letters rogatory and, subject to paragraphs 2 and 3, shall lay down the procedure to be applied in the carrying out of such requests.

(2) The European Patent Office shall draw up letters rogatory in the language of the Court in question or shall attach to such letters rogatory a translation into the language of the Court.

(3) The provisions of Articles 11 to 14 and of Article 16 of the Hague Convention of 1 March 1954 on Civil Proceedings shall be applicable.7

Notes:

1. It should be examined whether the Hague Convention has come into force for all the States taking part in the Inter-governmental Conference.
2. The attention of the representatives of the Ministries of Justice should be drawn to this Article.

Re. Article 64  
(Former Article 66)

Number 1

Filing of European patent applications

European patent applications may be filed with ~~the~~  
~~European Patent Office or with~~ the authorities referred to in  
Article 64, paragraph 1 ~~(b)~~, of the Convention either directly  
or by post.

Re. Article 64  
(Former Article 66)

Number 2

Date of filing of documents concerning  
European patent applications

(1) The authorities mentioned in Article 64, paragraph 1, of the Convention shall mark the documents referred to in Article 66, paragraph 1, of the Convention with the date of their receipt.

(2) These authorities shall issue without delay a receipt to the applicant which shall include at least the application number and the date marked in accordance with paragraph 1.

(3) The authorities referred to in Article 64, paragraph 1(b), of the Convention shall without delay transmit to the European Patent Office either a copy of the receipt mentioned in paragraph 2 or an extract from this receipt which shall include at least the indications referred to in paragraph 2.

Note:

Consistently with Rule 20.1 of the ECT Regulations, the provisions proposed in paragraphs 1 and 2 refer to the "date" of filing, without specifying, as did the 1964 Draft, the hour and minute of filing. For this reason, the question of filing outside working hours no longer arises.

Re. Article 66  
(Former Article 68)

Number 1

Form and content of the request for grant of a patent

(1) The request for grant of a European patent shall be submitted on a form drawn up by the European Patent Office. Printed forms shall be made available to applicants free of charge by the authorities referred to in Article 64, paragraph 1, of the Convention.

(2) The request shall contain:

- (a) a petition for the grant of a European patent;
- (b) the title of the invention, i.e. a precise and summary designation excluding all fancy names.
- (c) the name, address, nationality, of the applicant and the state in which his residence or registered office is located.

Names of natural persons shall be indicated by the person's family name and given name(s), the family name being indicated before the given name(s).

Names of legal entities, as well as companies considered to be legal entities by reason of the legislation to which they are subject, shall be indicated by their official designations.

Addresses shall be indicated in such a way as to satisfy the customary requirements for prompt postal delivery at the indicated address. They shall in any case comprise all the relevant administrative units, including the house number, if any. It is recommended that the telegraphic and teletype address and the telephone number be indicated.

- (d) if the applicant has appointed an agent his name and the address of his place of business under the conditions contained in paragraph (c);
- (e) where appropriate, indication that the application is directed towards obtaining a patent of addition or constitutes a divisional application - in such cases the request shall indicate the number of the patent application (or patent) to which the application in question refers;

Note:

The retention of the words in brackets would be justified only in the case where the Convention authorises division of the patent during opposition proceedings.

- (f) in cases covered by Article 16 of the Convention, the number of the earlier patent application;
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