

# BR/GT I/82 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, 25 November 1970  
BR/GT I/82/70

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- Secretariat -

"Implementing Regulations" Sub-Committee  
of Working Party I

WORKING DOCUMENT

Re. Articles 155, No. 1  
161, Nos. 10, 11 and 12  
162, Nos. 1, 2, 3, 4 and 5  
170, No. 2

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(Text drawn up by the Drafting Committee)

Re. Article 155

No. 1

Calculation of time limits

(1) As in BR/59/70.

(2) Computation shall start on the day following the day on which the relevant event occurred, the event being either an act or the expiry of another period. Where the act is a notification, the event considered shall be the receipt of the document notified.

(3)

(4)

(5)

As in BR/59/70

Note:

Re. Article 161

No. 10

Appointment of a common representative

(1) If there is more than one applicant and the request for the grant of a European patent does not name a common representative, the applicant first named in the request shall be considered to be the common representative. However, if that applicant is obliged to appoint a representative under Article 172, paragraph 2, of the Convention, that representative shall be considered to be the common representative. The same shall apply where a request, opposition or appeal is filed by several persons.

(2) If during the course of proceedings transfer is made to more than one person, and such persons have not appointed a common representative, paragraph 1 shall apply. If such application is not possible, the European Patent Office shall require such persons to appoint a common representative within a period of two months. If this request is not complied with, the European Patent Office shall appoint the common representative.

Note:

The first paragraph proposed is based on Rule 4.8(b) of the PCT Regulations.

Re. Article 161

No. 11

Notification to the common representative

If several interested parties have a common representative within the meaning of Article ... (Re. Article 66, No. 1), paragraph 3, or of Article .... (Re. Article 161, No. 10), notification of a single document to the common representative shall be sufficient for all of the interested parties.

Note:

Paragraph 2 of Re. Article 161, No. 9, should be deleted.

Re. Article 161

No. 12

Irregularities in the notification

Where a document has reached the addressee, if the European Patent Office is unable to prove that it has been duly notified, or if compulsory provisions relating to the notification have not been observed, the document shall be deemed to have been notified on the date established by the European Patent Office as the date of receipt.

Re. Article 162

No. 1

Inspection of the files without explicit consent

[(1) Any person who can prove that the applicant for a European patent has availed himself of it in respect of him may obtain inspection of the files prior to the publication of that application and without the consent provided for in Article 162, paragraph 1, of the Convention.]

Note to paragraph 1:

The attention of the interested circles is drawn particularly to this provision.

[(2) Where a divisional application is published, any person may obtain inspection of the files of the original application prior to the publication of that application and without the consent provided for in Article 162, paragraph 1, of the Convention.]

Note to paragraph 2:

(To be drafted later)

[(3) The provisions of Article ... (Re. Article 162, No. 2) shall apply.]

Note:

The Sub-Committee considers that this Article, which forms a derogation from Article 162 of the Preliminary Draft Convention, should appear in the Convention itself.

Re. Article 162

No. 2

Parts of the file not for inspection

(1) The parts of the file which shall not be open to the inspection provided for in Article 162 paragraph 2 of the Convention, shall include:

- (a) the documents relating to the exclusion of or objections to members of the Boards of Appeal or of the Enlarged Board of Appeal, in accordance with Article 153 of the Convention;
- (b) draft decisions and opinions, and all other documents used for the preparation of decisions and opinions and which are not communicated to the parties.

(2) Subject to the provisions of Article 162, paragraph 2, of the Convention, the President of the European Patent Office may exclude other documents from inspection.

Re. Article 162

No. 3

Procedures for the inspection of files

(1) The inspection of the files of European patent applications and of European patents shall take place on the premises of the European Patent Office.

(2) On request, the inspection of the above-mentioned files shall take place on the premises of the central industrial property office of the Contracting State on whose territory the person making the request has his residence or place of business. Such inspection shall not be of the original documents.

(3) On request, inspection of the files shall be effected by means of issuing photocopies of file documents. Such photocopies shall incur fees.

Re. Article 162

No. 4

Communication of an item of information contained in the files

(1) The European Patent Office may communicate information concerning any file of a European patent application or European patent subject to the payment of the fee prescribed by the Rules relating to Fees adopted pursuant to the Convention. The provisions of Article 162, paragraphs 1 and 2, of the Convention and of Articles ... (Re. Article 161; Nos. 1 and 2) shall be applicable to such communications.

(2) The European Patent Office may, upon receipt of a request for the communication provided for in paragraph 1, require the exercise of the option to obtain inspection of the file itself should it deem this to be appropriate in view of the quantity of information to be supplied.

Re. Article 162

No. 5

Publishing information concerning the bibliographic data of  
European patent applications

The President of the European Patent Office shall determine whether and, where appropriate, in what form the data referred to in Article 162, paragraph 4, of the Convention, shall be communicated to third parties or published.

Re. Article 170

No. 2

Waiving of enforced recovery procedures

The President of the European Patent Office may waive action for the enforced recovery of any sum due if the sum to be recovered is minimal or if such recovery is too problematic.