

# **BR/GT I/96 e/71**

## **Travaux Préparatoires EPC 1973**

### **Comment:**

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

Brussels, 7th January 1971  
BR/GT I/96/71

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- Secretariat -

Working Document  
submitted by the Chairman of the "Implementing Regulations" Sub-Committee of  
Working Party I  
for the Preliminary Draft Implementing Regulations to the Convention  
establishing a European System for the Grant of Patents

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CORRIGENDUM UPDATING TO 31 DECEMBER 1970  
"STAGE REACHED IN THE WORK OF THE SUB COMMITTEE ON 17 NOVEMBER 1970"  
(Document BR/GT I/79/70)

BR/GT I/96 e/71 ett/KM/prk

STAGE REACHED IN THE WORK OF THE "IMPLEMENTING REGULATIONS" SUB-COMMITTEE  
OF WORKING PARTY I (BR/GT I/79/70)

CORRIGENDUM UPDATED TO 31 DECEMBER 1970

FIRST PRELIMINARY DRAFT PUBLISHED 1970 (FPD)	DRAFT IMPLEMENTING REGULATIONS	NOTES BY SUB-COMMITTEE AND OBSERVATIONS
Arts. 6 to 8	<p><u>PAGE 1</u></p> <p>- None -</p>	<p>Art. 6 FPD has been amended (BR/70/70)</p>
Art. 16 Patent applications by persons not entitled to apply	<p><u>PAGE 2</u></p> <p>Re. Art. 16, No. 1 - Suspension of proceedings for grant</p>	<p>See note 2 on review of Art. 16 FPD and Note 3 on possibility of implementing provision in event of assignment of application and choice between continuing proceedings and filing new application.</p>
"	<p>Re. Art. 16, No. 1 bis - Suspension of opposition proceedings</p>	<p><u>German deleg. proposal</u> on amendt. of Re. Art. 16, No. 1, § 2 to 4 (doc. 14, 26.11.70).</p>
"	<p>Re. Art. 16, No. 2 - Limitation of option to withdraw application for European patent.</p>	<p><u>BR/67 &amp; 68/70</u> imply amendt. to Art. 16 FPD on opposition. <u>German deleg. proposal</u> on amendt. to Re. Art. 16, No. 1 bis, § 3 and 4 (doc. 15, 26.11.70).</p> <p>See note on No. 1 above - Shd. option for applicant to dispose of appli- cation be further limited?</p>

"

Re. Art. 16, No. 2 bis - Limitation  
of option to surrender EP

Art. 17 - Right of inventor to be  
mentioned as such.

Re. Art. 17, No. 1 - Mention of  
inventor.

"

Re. Art. 17, No. 2 - Publication of  
mention of inventor.

"

Re. Art. 17, No. 3 - Rectification  
or cancellation of designation of  
inventor.

"

Re. Art. 17, No. 4 - Renunciation  
by the inventor of his designation.

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Art. 21 - European patents of  
addition

Re. Art. 21, No. 3 - Grant of a patent  
of addition to assignees of applicant  
for or proprietor of parent patent.

- None -

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- None -

Art. 22 - Unitary character of  
European patent application.

Arts. 35 to 52

Art. 54 - Examining Sections.

Re. Art. 54, No. 2 - Delegation of  
duties.

BR/67 & 68/70 - Implies amendt.  
to Art. 16 FPD on opposition - See  
note on No. 2 above - Align wording  
of No. 2 on 2 bis?

BR/67 & 68/70 - Implies amendt. to  
Art. 17 FPD  
Chairman's Proposal on applic. Art. 69a  
(new) Convention - (BR/GT I/93/70)

BR/67 & 68/70 - Implies amendt. to  
Art. 17 FPD

BR/67 & 68/70 - Implies amendt. to  
Art. 17 FPD

Chairman's Proposal (BR/GT I/93/70)

BR/67 & 68/70 - none -

Art. 22 FPD has been amended (BR/48/70)

Art. 40 FPD has been amended (BR/70/70)

German deleg. proposal (BR/GT I/90/70)

Arts. 55 to 58

- None -

Art. 59 - Register of European Patents.

Re. Art. 59, No. 1 - Particulars to be entered in R.E.P.

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Art. 66 - Requirements of application.

Re. Art. 66, No. 1 - Form and content of request for grant of a patent.

"

Re. Art. 66, No. 3 - Form and content of claims.

"

Re. Art. 66, No. 5 - Form and content of abstract.

Art. 55 FPD has been amended - a new Art. 55a has been added on "Opposition Divisions" (BR/70/70) - removal of [ ] in relevant articles of Implementing Regulations.

List ----- pending.  
Chairman's Proposal (BR/GT I/93/70).

BR/67 & 68/70 - It should be possible for some of the provisions laid down to be amended on instructions by President of the EPO - Provision to this effect to be laid down (BR/51/70).  
§ 2 (e) Question of division of patent during opposition proceedings, to be reviewed.  
§ 2 (j) Replace "summary" by "abstract"  
§ 3 - To be reviewed with Government Legal Experts - authorisation of representatives and of common representative ( Arts. 171/173-BR 48 & 49/70).  
Chairman's Proposal (BR/GT I/93/70)  
§ 2 c bis (new) on mention of inventor at time of filing.

§ (1) Implementing Regs. or Convention?  
§ (4a) - To be reviewed - (See BR/68/70 and Swiss deleg. proposal. Doc. 17, 27.11.70)

BR/67 & 68/70 - requirement for abstract to be confirmed.

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Art. 69 - Failure to pay filing fee or to provide a translation.

Re. Art. 69, No. 1 - Notification sent to applicant informing him that his patent application is deemed to be withdrawn.

BR/67 & 68/70 - General references to Convention to be extended to Implementing Regulations where contained in Arts. of Preliminary Draft?

Art. 69a - Naming of the inventor

- None -

New Preliminary Draft Article (BR/70/70)

Art. 70 - Unity of invention.

Re. Art. 70, No. 1 - Claims in different categories.

BR/67 & 68/70 - none -

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Arts. 77 and 78

- None -

Arts. 77 & 78 FPD have been amended (BR/70/70)

Art. 79 - Obtaining of report on state of art.

Re. Art. 79, No. 1 - Report on state of art.

BR/67 & 68/70 - none -

"

Re. Art. 79, No. 2 - Time limit for report on state of art

BR/67 & 68/70 - none -

Art. 85 - Publication of a European patent application.

Re. Art. 85, No. 2 - Publication of a European patent application.

Proposal by Chairman  
(BR/GT I/93/70)

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Art. 97 - Grant of the European patent.

Re. Art. 97, No. 1 - Grant of a European patent to joint applicants.

Proposal by Chairman  
(BR/GT I/93/70)

"

Re. Art. 97 - (Oral proceedings during grant proceedings).

Art. 97 FPD amended (BR/48/70)  
Note: Provision to be inserted ... proposal attached to Art. 97 for convenience.

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Art. 101 - Opposition.

Re. Art. 101, No. 1 - Form of  
notice of opposition.

Art. 101 FPD amended (BR/48/70) and  
further amended (BR/70/70). Question  
of transfer to Implementing Regulations  
of provision contained in Art. 101  
§ 1, 2nd sentence (notice of opposition  
given in writing) to be examined.  
Proposal by Chairman for § c of  
Re. Art. 101, No. 1 (BR/GT I/93/70)

"

Re. Art. 101, No. 1 bis - Entries  
in European Patent Bulletin  
concerning opposition.

Proposal by Chairman  
(BR/GT I/93/70)

"

Re. Art. 101, No. 5 - Communication  
to other opponents.

German deleg. proposal  
(BR/GT I/90/70)

Art. 105. Decisions in opposition  
proceedings.

- None -

Art. 105 FPD has been amended (BR/70/70)

Art. 105a. Effect of the decision.

- None -

New Article, Preliminary Draft  
(BR/70/70C)

Art. 106 - Hearings before the  
Examining Division.

Re. Art. 106, No. 1 - Participation  
of the other parties at a hearing.

Proposal by Chairman : Group together  
with Re. Art. 114, No. 1 under new  
article Re. Art. ... (BR/GT I/93/70)

Art. 111 - Time limit and form  
of appeal.

Re. Art. 111, No. 2 - Exemption  
from payment of fee for appeal.

German deleg. proposal  
(BR/GT I/90/70)

Art. 114 - Hearings on appeal.

Re. Art. 114, No. 1 - Conduct of  
hearings.

Proposal by Chairman :  
Group together with Re. Art. 106, No. 1  
under new article Re. Art. ...  
(BR/GT I/93/70)

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Art. 120 - Filing and transmittal  
of the international application.

Re. Art. 120, No. 1 - Transmittal  
of the international application  
to the EPO.

German deleg. proposal - (BR/GT I/90/70)

Art. 123 - Publication of the international application.

- None -

German deleg. Note  
(BR/GT I/90/70)

Art. 124 - Request for the application of national procedure.

Re. Art. 124, No. 1 - Form of the request for conversion.

Proposal by Chairman  
(BR/GT I/93/70)

Arts. 125 to 127

- None -

New Articles (BR/70/70) in Preliminary Draft.

Art. 128 - Application of national procedure in special cases.

Re. Art. 128, No. 1 - National publications in the event of conversions of a European patent application.

New Article in Preliminary Draft (BR/70/70)  
Proposals by Chairman  
(BR/GT I/93/70)

FIRST PRELIMINARY DRAFT NOT PUBLISHED, 1970  
(BR/48/70)

- Revocation of the European Patent -

Arts. 133 and 134

- None -

- None -

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COMMON PROCEDURAL PROVISIONS OF THE EUROPEAN PATENT OFFICE

Art. 155 - Time limits.

Re. Art. 155, No. 1 - Calculation of time limits.

BR/67 & 68/70 - None -

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Art. 159 - Reference to general principles.

Re. Art. 159, No. 7 - Interruption of proceedings.

BR/67 & 68/70 - None -  
German deleg. Proposal  
Dec. 16, 26.11.70.

"

Re. Art. 159, No. 8 - Belated observations.

BR/67 & 68/70 - None -



"	Re. Art. 159, No. 9 - Form of notices and other communications from the EPO	<u>German deleg. Proposals</u> <u>BR/GT I/90/70</u>
"	Re. Art. 159, No. 10 - Lapse	<u>German deleg. Proposal</u> <u>BR/GT I/90/70</u>

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BR/67/70 and BR/68/70 of 15 and 23  
December 1970

Art. 161 - Notification

"	Re. Art. 161 No. 1 - General provisions on notifications.	- None -
"	Re. Art. 161, No. 2 - Law applicable to notifications by post.	- None -
"	Re. Art. 161 No. 3 - Notification by post.	Discrepancies between the three texts of Art. 111 FPD.
"	Re. Art. 161 No. 4 - Notification by registered letter.	- None -
"	Re. Art. 161 No. 5 - Refusal to take delivery.	- None -
"	Re. Art. 161 No. 6 - Notification by delivery by hand.	- None -
"	Re. Art. 161 No. 7 - Notification by ordinary letter.	- None -
"	Re. Art. 161 No. 8 - Public notification.	- None -
"	Re. Art. 161 No. 9 - Notification to professional representatives.	See note on Re. Art. 66, No. 1, § 3

"	Re. Art. 161 No. 10 - Appointment of a common representative.	- None -
"	Re. Art. 161 No. 11 - Notification to the common representative.	- None -
"	Re. Art. 161 No. 12 - Irregularities in the notification.	- None -
Art. 162 - Inspection of files	Re. Art. 162 No. 1 - Inspection of the files without explicit consent.	This provision should appear in the Convention. Ambiguity in the text of § 3 of Art. 85 of the Convention.
"	Re. Art. 162 No. 2 - Parts of the file not for inspection.	- None -
"	Re. Art. 162 No. 3 - Procedures for the inspection of files.	- None -
"	Re. Art. 162 No. 4 - Communication of an item of information contained in the files.	- None -
"	Re. Art. 162 No. 5 - Publishing information concerning the bibliographic data of European patent applications.	- None -
Arts. 163 and 164	- None -	- None -
Arts. 165 to 169	deleted in Preliminary Draft	
Art. 170 - Enforcement of costs and fines.	Re. Art. 170 No. 1 - Waiving of enforced recovery procedures.	- None -
Art. 171 - Professional representation.	Re. Art. 171 No. 1 - Deletion of the representative from the list.	See note on Re. Art. 66, No. 1, § 3
Art. 172 - Compulsory representation.	Re. Art. 172 No. 1 - Exceptions to compulsory representation.	<u>Proposal by Chairman</u> (BR/GT I/93/70)

Art. 173 - Authorisations

Re. Art. 173 No. 1 - Authorisations

- None -

"

Re. Art. 173 No. 2 - Time limit for  
lodging authorisations.

- None -

# ACTION FOR INFRINGEMENT AND OTHER CIVIL PROCEEDINGS

Arts. 174 to 179

Deleted from Preliminary Draft

Art. 180 - Opinion by the EPO

- None -

- None -

Arts. 181 to 184

Deleted from Preliminary Draft

## TRANSITIONAL PROVISIONS

Art. 185 - Meetings of the  
Administrative Council.

FPD Art. is a matter for WP II

Art. 186 - Progressive expansion  
of the field of activity of the  
EPO.

Re. Art. 186, No. 1 - determining the  
areas of technology.

- None -

"

Re. Art. 186, No. 2 - Publications  
concerning restrictions affecting  
the examination.

Proposal by Chairman  
(BR/GT I/93/70)

Art. 187 - First accounting  
period of the EPO.

FPD Art. is a matter for WP IV

Art. 188

Deleted in FPD

Arts. 188a and 188b

- None -

- None -

Arts. 189 to 205

Deleted in FPD

## FINAL PROVISIONS

Art. 206

Deleted in FPD

Art. 207

- None -

- None -

Arts. 208 to 217

FPD Arts. are a matter for WP II