

# BR/GT II/20 e/71

## 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.



- Secretariat -

WORKING DOCUMENT

for the third meeting of Working Party II  
(30 November - 3 December 1971)

DRAFT PROTOCOL ON PRIVILEGES AND IMMUNITIES  
OF THE EUROPEAN PATENT OFFICE

Subject: List of the questions to be discussed by Working Party II in the light of the instructions given to it by the Conference (BR/125/71, point 150) and the observations submitted by certain delegations on the Draft Protocol.

Drawn up  
by: The Secretariat

The delegations taking part in the third meeting of Working Party II will find attached a table, drawn up by the Secretariat, indicating the observations submitted by certain delegations on each Article or set of Articles of the Draft Protocol. The observations have been submitted by the German delegation (BR/103/71), the Netherlands delegation (BR/104/71) and the United Kingdom delegation (BR/GT II/18/71).

In accordance with the instructions of the Conference, the Secretariat has also drawn up a note on the system of income tax applicable to officials of the European Communities (BR/GT II/17/71).

The attached table also refers to the Minutes of the fourth Meeting of the Conference (BR/125/71, points 149 to 155).

The table has been drawn up on the basis of the provisions of the Draft Protocol as submitted to the fourth Meeting of the Conference (BR/47/70).

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List of the problems to be examined by Working Party II

1. General problems

1. Re-examination of the Protocol in the light of the principle that the European Patent Office will have the privileges and immunities generally enjoyed by international organisations.

BR/125/71, point 150  
BR/GT II/18/71, page 1  
BR/104/71, page 6, first  
paragraph under heading  
"Protocol on Privileges and  
Immunities".

2. Question whether or not the Protocol should be an integral part of the Convention.

BR/125/71, point 151  
(cf. also Article 29)

3. Harmonisation of the Protocol's provisions on exemption from jurisdiction with Article 40 of the Second Preliminary Draft of the Convention as drafted by Working Party I with the assistance of the Government legal experts (annexed to this document).

Articles 3, 22, 23 and 24 of the Protocol.

BR/125/71, point 153  
BR/GT II/18/71, point 2.

BR/GT II/20 e/71 lor/Prk

4. Fiscal and financial privileges

- (a) Privileges of the European Patent Office, Articles 4 to 7 and Article 9 of the Protocol

BR/GT II/18/71, point 4

BR/103/71, point 16, page 11

- (b) Privileges of representatives of Member States attending meetings of the Administrative Council, of the President of the European Patent Office and of experts.

Article 12, paragraph 1(g), Article 13 and Article 15(c)

BR/GT II/18/71, point 4

- (c) Privileges of officials and other employees of the European Patent Office.

Article 14, sub-paragraphs (e) and (g) and Article 16

BR/GT II/18/71, point 4

BR/125/71, point 152

BR/103/71, point 17, page 11

BR/GT II/17/71.

B. Other problems

5. Title of the Protocol. Preamble and Article 12, paragraph 1, first sentence

BR/103/71, point 18, page 12

6. Article 1

BR/GT II/18/71, point 1.

BR/GT II/20 e/71 (Annex) lor/Prk

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7. Article 12, paragraph 1(b)

BR/104/71, page 6, fourth para-  
graph

BR/GT II/18/71, point 3

8. Article 14, sub-paragraph (b)

BR/103/71, point 9

9. Article 24, paragraph 3

BR/104/71, fifth paragraph

10. Article 29

BR/GT II/18/71, point 5

(cf. also question under A.2)

C. Observations relating to drafting

11. The United Kingdom delegation has reserved the right to submit observations relating to drafting at the meeting (cf. BR/GT II/18/71, point 6).

12. The German delegation has submitted observations relating essentially to drafting in BR/103/71, Annex II. These are set out below for the record.

Article 6	BR/103/71, Annex II, point 1
Article 7	" " point 3
Article 9	" " point 4
Article 11	" " point 1
Article 14	" " points 1 and 5
Article 17	" " point 1
Article 18	" " points 1 and 6
Article 19	" " point 1
Article 19, paragraph 2	" " point 7

BR/GT II/20 e/71 (Annex) lor/Prk

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Article 22, paragraph 1 BR/103/71, Annex II, point 8  
Article 23 " " point 1  
Article 24, paragraph 3 " " point 9  
Article 26 " " point 10  
Article 31, paragraph 3 " " point 11

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BR/GT II/20 e/71 (Annex) lor/Prk

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 to make good any damage caused by its employees in the performance of their duties in accordance with the provisions of the law of the State in which the European Patent Office is located, unless the damage is caused by employees attached to a branch referred to in Article 33, paragraph 2; in this event, the provisions of the law of the Contracting State in which such branch is located shall apply.

(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) The courts with jurisdiction to settle disputes under paragraphs 1 and 2 shall be:

- (i) for disputes under paragraph 1, the courts of the State in which the European Patent Office is located, unless the contract concluded between the parties designates another court;
- (ii) for disputes under paragraph 2, either the court with jurisdiction for the State in which the European Patent Office is located, or the court with jurisdiction for the State in which the branch is located, as the case may be.

